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Editorial and Subscriptions Office:

Town and Country Planning Association
17 Carlton House Terrace
London SW1Y 5AS

t: +44 (0)20 7930 8903

Editorial: Nick.Matthews@tcpa.org.uk

Subscriptions: tcpa@tcpa.org.uk

Editor: Nick Matthews

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contents

Town & Country Planning

May–June 2023 • Volume 92 • Number 3

regulars features

- 146 **On the Agenda**
Fiona Howie:
Improving outcomes for people and the environment
- 148 **Time & Tide**
Celia Davis and Hugh Ellis:
Notes from Fantasy Island
- 151 **Bird's Eye View**
Catriona Riddell: Where have all the strategic planners gone?
- 215 **Going Local**
David Boyle:
Co-operation, actually?
- 216 **Legal Eye**
Bob Pritchard:
The funding conundrum

Special Issue on 20-Minute Neighbourhoods, pages 166–214. Cover illustration by Clifford Harper. chcliffordharper@gmail.com

Feature articles

- 155 **Levelling up in the UK**
Janice Morphet on Westminster's levelling-up ambitions and the Devolved Administrations
- 159 **England's proposed National Development Management Policies—potential lessons from Victoria**
Ben Clifford on lessons from Australia for the NDMP proposals

Special Issue: 20-Minute neighbourhoods

- 166 Guest Editor **Gemma Hyde:** **20-minute neighbourhoods**
- 167 **Chris Boardman:** **Incentives, instinct and intellect—aligning what we need to do with what we want to do**
- 169 **Samanthi Themini** and **Siân Whyte:** **Stats or stories? Why both matter in 15-minute neighbourhoods**
- 173 **Rob Holt** and **Joseph Carr:** **Active Design—encouraging the creation of active environments**
- 177 **Rosalie Callway** and **Sally Roscoe:** **Putting health at the heart of our homes and neighbourhoods**
- 180 **The TCPA's 20-minute neighbourhood project**
- 182 **Caglar Koksall, Florence Hewett** and **Graeme Sherriff:** **A 20-minute neighbourhood map of Manchester and Salford**
- 187 **Richard Dunning, Les Dolega** and **Andrea Nasuto:** **Who is ageing in what place? A classification of England**
- 191 **Elias Willberg, Christoph Fink** and **Tuuli Toivonen:** **Towards equitable 20-minute neighbourhoods**
- 195 **Gemma Hyde:** **Supporting health by taking a seat**
- 198 **Tim Evans:** **Whose place is it anyway?**
- 200 **Anna Barker, Helen Forman, Carl McClean, Susannah Walker** and **Sibylla Warrington Brown:** **Designing neighbourhood parks to foster women and girls' sense of safety**
- 205 **Robin Hewings:** **How 20-minute neighbourhoods can tackle loneliness—creating less lonely places**
- 208 **Sam Bodmer:** **School Superzones—their contribution to making healthy and safe neighbourhoods**
- 212 **Jemma Beedie:** **Living well locally—adapting the 20-minute neighbourhood in a rural context**

levelling up in the UK

With the prospect of increasing unification of UK policies, **Janice Morphet** considers the implications of the Levelling Up White Paper and the Levelling-up and Regeneration Bill for the Devolved Administrations of Scotland, Wales and Northern Ireland and the local authorities under them

Since the *Levelling Up in the UK* White Paper (LUWP) was published in 2022,¹ followed by the Levelling-up and Regeneration Bill (LURB), much of the public discussion about its purposes and content has focused on the implications for planning and for England. However, closer consideration of the White Paper indicates that much of its content applies to the Devolved Administrations (DAs) of Scotland, Wales and Northern Ireland and the local authorities under them. This is reflected in the separate publication *Levelling Up: Delivering for All Parts of the UK*,² where information on the UK Government's expenditure in the DAs is interspersed with similar pages for the English regions which have no legal entity or powers.

What is also interesting is that many of the proposed actions in the LUWP that have some effect on the DAs concern matters that are already devolved and have not been subject to policy on delivery from Whitehall and Westminster since devolution was implemented in 1999. However, there has been an increase in the ways in which UK central government has been changing the powers of the DAs since 2014. This has occurred both through legislation and through direct funding relationships between local authorities under the DAs and the Treasury in London. This broader scope of the LUWP, which is continued into the LURB, is worth some consideration for its wider implications of reducing the powers of the DAs and the increased centralisation from London across the governance scales of the whole of the UK, including local authorities.

Before looking at the LUWP in detail for implications for the DAs, it is interesting to note the scale of change which is being brought into the role and exercise of their powers. It is possible to see this in two ways. The first is through legislative or *de jure* changes which have been in operation since Brexit.

Here we see the powers of the DA Parliaments in Scotland and Wales and the Assembly in Northern Ireland being reduced through a range of legislation, which includes:

- the European Communities (Withdrawal) Act 2018;
- the Internal Market Act 2020;
- the Subsidy Control Act 2022; and
- the use of Section 35 intervention powers of the Scotland Act 1998 in relation to the Gender Recognition Reform (Scotland) Bill.

The effect of these legal changes is to override powers given to the DAs in 1999 and subsequently, by introducing powers for the same matters for the whole of the UK, such as those for the internal market. Furthermore, since 1999 the Sewel Convention³ meant that the Scottish and Welsh Governments could offer their views on legislation that would have implications for them. However, since Brexit the Convention has been largely ignored and shown to be powerless to uphold devolved decision-making through the Miller 1 case before the Supreme Court.

The second way in which Westminster has been reducing devolutionary powers is through changing the operation of DA powers by more *de facto* means. These include the introduction of deals between Whitehall and the local authorities under the DAs, starting with that for Glasgow City Region in 2014.⁴ Through these deals, like the deal frameworks in England, councils agree projects and additional funding which also require a commitment from the devolved governments. These deals last longer than those in England, which in general are for only five years. They also require the councils under the DAs to contribute their own funding as part of the deal. The deals are set within governance frameworks that



Both the Scottish and Welsh Parliaments have prepared Legislative Consent Memorandums contesting the UK Government's view that consultation or consideration through the legislative consent process is not required for the Levelling-up and Regeneration Bill

are determined in London, and each project has to be approved through a board which includes more members from Whitehall than local members. These deals now cover the whole territory of Scotland, Wales and Northern Ireland, with the last deals being concluded shortly before the publication of the LUWP.

In 2019, one of the last acts of Theresa May as Prime Minister was to instigate the Dunlop Review of UK Government Union Capability, which reported later that year.⁵ As recommended by the Review a new mechanism for discussing policies within the UK was established and was broadly welcomed at the time as a sensible way forward for intergovernmental relations. Between the publication of the Dunlop Review report and the LUWP in 2022, the reduction in DA powers through Brexit legislation continued. However, the publication of the LUWP suggests a greater step towards unification of UK policies for local authorities in ways that have not been in place since before 1999 if not earlier, and these appear to be carried forward into the LURB.

What does the LUWP include that will have implications for the DAs? First, there is a commitment to streamline funding arrangements across the UK at this level (p.128), although it is not clear what this might mean. Since 1978, the Barnett formula has been used to allocate funds to the DAs in proportion to that provided in England.⁶ Since devolution, this funding has been spent under the devolved powers of the administrations. But the introduction of a streamlined system suggests a uniform approach to funding streams across the UK.

The LUWP argues that this more centralised approach is to benefit the citizens in the DAs so that they are able to benefit from the 'scale' of the UK (p.137), again without indicating what this benefit might be. On these more general new operating provisions, the LUWP states that Westminster will work to ensure that 'what works' is shared by the UK Government across the DAs (p.155), again without indicating what evaluative mechanisms will be used to examine effective policy-making.

Other proposals in the LUWP that relate to the DAs concern more specific national initiatives such as the introduction of Freeports, a UK-wide strategy for creative industries (p.167), sharing digital skills experience (p.185), and establishing pathfinders for skills (p.195). The 2023 Budget added to these

initiatives by including proposals for Investment Zones across the UK. The LUWP also brings together place-based policies, including a pan-UK approach to high streets (p.211). The LUWP proposes to use an intergovernmental review to support regeneration and places (p.211), which may include more generic policies for the whole of the UK. The existing deals for local authorities in the DAs will continue.

For longer-standing devolved services, the LUWP states (on p.xx) that:

'Devolution settlements in Scotland, Wales and Northern Ireland recognise that devolved governments are best placed to deliver certain services, like health and education. But outcomes are a shared interest for the whole of the UK.'

Specific actions on these issues across the UK are proposed. In DA governance, the UK Government intends to create and insert a role for stakeholders which may dilute the democratic structures that were set up in 1999 and may be similar to those used more frequently in England. It also intends to introduce 'community covenants' (p.215). It is proposed by Westminster to introduce a joint delivery plan with the DAs, which could be similar in structure to those used for individual deals. There is also an intention to co-ordinate action on climate change across the UK.

At the local level, councils under the DAs will be expected to work within the 'missions' set out in the LUWP, although many of them are devolved. The 12 missions are also set within six 'capitals'. These are shown in Box 1. In England, there is to be a new Office for Local Government—Oflog—but at present it will not be extended across the UK. However, the Office for National Statistics (ONS) will be required to report on mission outcomes for each UK local authority. Every UK local authority will be required to demonstrate how it is performing against delivery of the 12 missions. The missions cover a range of issues that include wellbeing and 'pride in place', together with life expectancy, education, skills, and productivity. There is an objective that public transport access in England should reach the same levels of connectivity as that in London, and that broadband will roll out to 5G standard to most of the population across the UK.

There is technical guidance on the missions and the metrics to be used by the ONS.⁷ Reviewing this technical guidance in detail, it is clear that local

Box 1

Levelling Up White Paper missions

Living standards: To increase pay, employment and productivity in every part of the UK, with each containing 'a globally competitive city' and a smaller gap between top-performing and other areas.

Research and development: 'By 2030, domestic public investment in R&D outside the Greater South East will increase by at least 40%, and over the Spending Review period by at least one third. This additional government funding will seek to leverage at least twice as much private sector investment over the long term to stimulate innovation and productivity growth.'

Transport infrastructure: Local public transport connectivity across the UK to be 'significantly closer to the standards of London', including integrated ticketing and simpler fares.

Digital connectivity: 'By 2030, the UK will have nationwide gigabit-capable broadband and 4G coverage, with 5G coverage for the majority of the population.'

Education: A 'significant' increase in primary school children reaching expected standards in reading, writing and maths. For England (education policy is devolved) this will mean at least 90% meeting expected standards, with at least a one-third increase for this metric in the worst-performing areas.

Skills: A 'significant' rise in the numbers completing high-quality skills training across the UK. In England, the target is for 200,000 more doing so, including 80,000 in the lowest-skilled areas.

Health: A narrowing in healthy life expectancy between the UK areas where it is highest and lowest, with the overall average healthy life expectancy rising by five years by 2035.

Wellbeing: An improvement in perceived wellbeing in all parts of the UK, with a narrowed gap between areas with the highest and lowest levels.

Pride in place: A rise, across the whole UK, in 'pride in place', defined as 'people's satisfaction with their town centre and engagement in local culture and community', with a narrowing of gaps between areas with the highest and lowest levels.

Housing: An increase in the number of first-time home buyers in all UK areas. The 'ambition' is for a 50% fall in the number of rented homes deemed non-decent, including the biggest improvements in worst-performing areas.

Crime: An overall fall in homicide, serious violence, and neighbourhood crime, focused on worst-affected areas.

Local leadership: A devolution deal for 'every part of England that wants one', with powers 'at or approaching the highest level of devolution and a simplified, long-term funding settlement'.

Source: Table 2.1, 'Levelling up missions', in *Levelling Up the United Kingdom*¹

authority delivery on the missions will be dependent on central government activity and funding. In the main, mission delivery cannot be wholly in the gift of any local authority in the UK—private-sector expenditure on research and development, for example. Indeed, much of the discussion on measurement within the missions appears to be making good shortfalls in regional data sets for the private sector.

On specific educational attainments local authorities might be considered to have greater influencer and control, but now that the majority of schools are managed by academies there is little opportunity for local authorities to directly influence their performance. Wellbeing and pride in place missions relate to community cohesion, safety, and other factors such as housing and cultural provision. The government has made significant funding available to local authorities in England through short-term support for Town Fund schemes and Shared Prosperity Funding. However, this has not made any significant shift in improving the provision of non-market housing in

the face of growing needs in a decreasing rental market, although the government's objective of creating more first-time homeowners is a mission. The last missions are concerned with community safety and the establishment of deals across the whole of the territory of England to match the current position in the rest of the UK.

While referring to the whole of the UK, many of the missions in the LUWP appear to be more focused on England. The application of the content of the LUWP within the DAs has not been subject to consultation with them or subject to the legislative consent process across the DAs through the application of the Sewel Convention as, in the UK Government's stated view, this is not required for the LURB as it is acting in whole country's interest. This is not the view of the Scottish and Welsh Parliaments. The Scottish Parliament set out its view in a Legislative Consent Memorandum on 27 July 2022, which stated:

'In substance these provisions will, and are intended to, provide a legislative framework to underpin a role for UK Ministers in devolved areas.'

*Statements on the levelling-up missions would include matters within the devolved competence of the Scottish Parliament. These provisions are made for the purposes of education, health, housing and justice which are within the legislative competence of the Scottish Parliament.*⁸

The Welsh Senedd also prepared a Legislative Consent Memorandum 28 September 2022, which stated:

*'It is the Welsh Government's view that the Senedd could pass equivalent provisions to those contained within Part 1 and place on Welsh Ministers identical obligations to set out how they propose to 'reduce geographical disparities' in economic, social or other opportunities across Wales; supported by identical reporting, scrutiny, review etc. obligations as set out in Part 1 of the Bill.'*⁹

At present, the Levelling-up and Regeneration Bill is passing through Parliament and issues involving the more centralised adoption of powers currently operated by the DAs remain. The UK Government is using some of the arguments of the UK having a 'post code lottery', which implies that citizens are losing out if different approaches are used in different locations and that they cannot benefit from wider experience to be provided by central government—although it is not clear how this wider success is to be derived or measured. The LUWP is using the language of soft power and its practices to change operational relationships between Whitehall and the DAs without changing the *de jure* powers.

It is also using the intergovernmental apparatus—which was welcomed following the Dunlop Review as a more equal way of working, post-Brexit—to implement change in a way that was not anticipated at the time.

In terms of the deals, they seem to fall within the cracks of accountability between the National Audit Office and the devolved audit administrations as their content is entirely in the control of Whitehall.

So, what does all this suggest is the state of relationships between UK central government and the DAs? What effects will there be on policies for places if these are to be unified? Are the DA governments weaker than they were a few months ago, and will their powers be further undermined once the LURB has been passed? The local authority deals have shown that the DAs cannot exercise much power where central funds are provided. Furthermore, there is some indication that local authorities under the DAs are being redirected to prioritise the projects in the deals above their own priorities and those of their own devolved governments.

Much of this policy on the new relationship between central government and the DAs was led by Sue Gray when she was Second Permanent Secretary at Department for Levelling Up, Housing and Communities, with responsibility for these issues.

Now that she has resigned and may possibly joining the Labour Leader's team, will these re-centralising policies slow down or will they be transferred into Labour Party policy? In 1997, when New Labour was elected, it was assumed that competition for services would be abandoned or abolished by the incoming government, but a continuing competitive approach was introduced though Best Value. Would a change in government provide a similar, albeit softer approach, to reducing devolved powers?

Perhaps local authorities in the devolved administrations will ignore the levelling-up missions once they are enacted? However, if they are part of a national measurement reporting scheme through the Office for National Statistics and are possibly associated with deal funding or other centralised policy regimens, this may be difficult. The LUWP is creating a new relationship between the DAs and UK central government post-Brexit, undermining DA powers from below.

● **Janice Morphet** is Visiting Professor at the Bartlett School of Planning, University College London. The views expressed are personal.

Notes

- 1 *Levelling Up the United Kingdom*. Levelling Up White Paper. CP 604. HM Government, Feb. 2022. www.gov.uk/government/publications/levelling-up-the-united-kingdom
- 2 *Levelling Up: Delivering for All Parts of the UK*. HM Government, Feb. 2022. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1052710/Delivering_for_all_parts_of_the_United_Kingdom_Hi-res.pdf
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- 4 J Morphet: 'Deals and devolution: the role of local authority deals in undermining devolved decision making'. *Local Economy*, 2023 (forthcoming). First published online Apr. 2023. <https://journals.sagepub.com/doi/full/10.1177/02690942231172170>
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