

COMMISSION ON STRENGTHENING LOCAL DEMOCRACY

Local People. Local Power. Local Purpose.



The Commission will meet on Friday 11 October 2013 at 12.30pm in COSLA, Verity House, Edinburgh, EH12 5BH. Directions to the venue can be found [here](#).

A sandwich lunch will be available from 12pm

AGENDA

- 1. Welcome and Introductions**
- 2. Delivering the Work of the Commission**
(report and presentation by Commission Secretariat)
- 3. Local Democracy in Scotland: Some Initial Considerations**
(report and presentation by Colin Mair, Chief Executive, Improvement Service)
- 4. The Question of Evidence**
(report by Commission Secretariat)
- 5. Any Other Business**
- 6. Date of next meeting: Friday 8 November 2013, 1.30pm**

COMMISSION ON STRENGTHENING LOCAL DEMOCRACY

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DELIVERING THE WORK OF THE COMMISSION

Purpose

1. The purpose of this report is to outline the context and terms of reference driving the Commission and to ask Commission members to consider the working arrangements that will support their work. This report will be supplemented by a presentation at the meeting.

Recommendations

2. Commission Members are asked to:
 - a. Consider the context in which the Commission is undertaking its work and its relationship with the COSLA Vision;
 - b. Consider the Terms of Reference and working principles set out at Appendix 1;
 - c. Consider the proposed key phases of the Commission's work set out at paragraph 13.
 - d. Agree to the format and schedule of meetings outlined at paragraph 17.

Context

3. Before turning to the specific work that the Commission will deliver, it is perhaps first important to appraise the context in which it will operate. There are a number of dimensions to consider.
4. Firstly, regardless of the wider debates about Scotland's constitutional future, it is plain that the status quo will not prevail in Scotland. Yet it is also clear that the debate has focused squarely on decentralisation *to* Scotland rather than decentralisation and self-governance *within* Scotland. Very little has therefore been said about what this should mean for Scotland's local services and for local democracy.
5. One major opportunity facing the Commission is to turn that situation around, develop new thinking, and bring this to bear on the wider Referendum debate. In fact, this is the first time that a Commission has been brought together to look at issues around government in Scotland at local level, and to debate the kind of architecture and governance that could deliver positive change.
6. Secondly, since the 2012 local government elections, the COSLA President has been working to champion strong democracy and strong local government. In Spring 2013, that work led to Council Leaders in Scotland unanimously adopting a vision focused on improving local democracy as the route to improving outcomes. Commission members have already been able to consider this vision, which sets out 4 broad principles:
 - i. Empowering local democracy: *giving local decision making an unequivocal place in Scotland's constitutional future.*
 - ii. Integration not centralisation: *bringing power closer to communities not centralising it.*
 - iii. Outcomes not inputs: *flexibility to focus on what makes the biggest difference locally.*
 - iv. Local choice and accountability: *protecting local democratic decision making and making sure that services reflect what communities want.*

7. COSLA's view is that local democracy and local services are the solution to the difficulties and challenges that Scotland faces, not themselves the problem, and that the business of exercising local democracy ensures that local services are more sensitive, accountable and responsive to local requirements than centralised services or quangos. Importantly, however, in bringing together the Commission the President wants to expose that vision to a wide audience, and test and augment the thinking that it contains.
8. Finally, the Commission is operating in a context in which real change, not political theory is paramount. In other words, strong values about what good democracy should look like in Scotland will mean far less without being given a robust practical expression. In that regard the Commission will need recommendations and conclusions that go beyond simply statements of principle. An array of challenging questions will inevitably present themselves in this regard. How do services benefit from being locally rather than nationally controlled? How do local services, reporting democratically, combine to deliver an impact on inequalities? What checks and balances are needed to give local democracy the place we believe it should have?
9. Rather than attempt to come to partial conclusions, the President has convened the Commission in order to put in place the right processes to debate these kinds of issues, take evidence on the facts, and bring people together to build consensus.

Delivering the Commission

10. In the light of the above, the Commission has been established with an overall purpose to:

"Identify a route map to deliver the full benefits of a shift in power towards local democracy for people in Scotland"

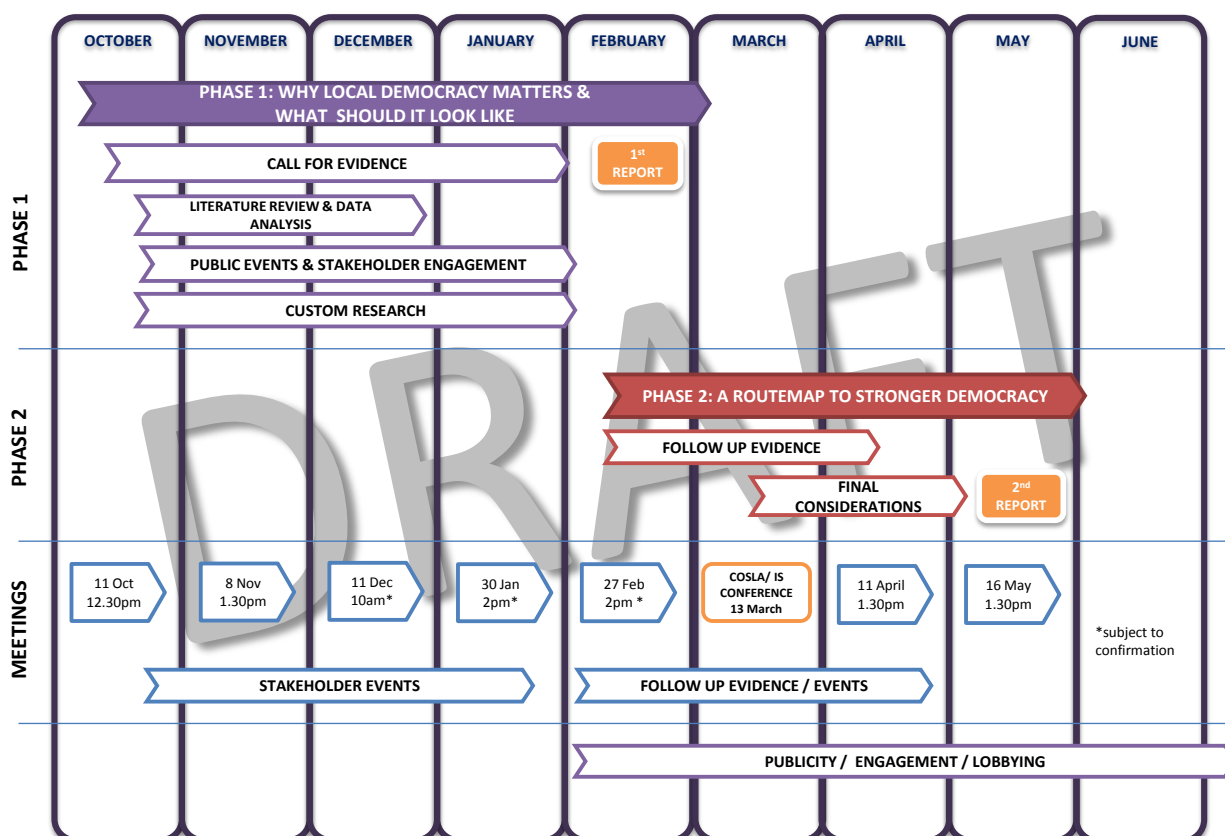
11. The detailed terms of reference are set out at Appendix 1, and set out three core objectives:
 - i. *Investigate a local approach to services and accountability that will improve outcomes in Scotland's communities*
 - ii. *Consider the current landscape of democracy in Scotland and how this could be strengthened and enriched to benefit local people most*
 - iii. *Make recommendations that set a course for putting stronger local democracy at the heart of Scotland's constitutional future.*
12. It is quite clear from initial discussions with Commissioners and more widely that there is a high level of expectation about what can be achieved, and how the Commission's work can influence the wider debates taking place about Scotland's future. However, in order to deliver that task effectively, and within the timescales open to us, the Commission is likely to benefit from an early discussion about how it will carry out its work.

Key activities

13. The Terms of Reference provide significant scope to explore themes, collect evidence, and make recommendations, including assessing the status quo and drawing conclusions about how it could be improved. The Commission will be able to look beyond existing systems and processes of government at all levels to more fundamentally reimagine what democracy might look like, and what would be required for this to happen. It is for this reason that the Commission has been set up to operate independently, will deliver its work outwith the formal decision making structure of any organisation, and will be serviced by its own secretariat.
14. In practical terms, however, the secretariat has proposed two phases of activity. If the Commission agrees to this approach, the starting point is to explore the value of local

democracy, compare this with other international models, and collect evidence from people and organisations. The purpose is to bring the evidence together about what is being achieved, and use this to make an initial assessment of what might be done to strengthen local democracy in the future. It is likely that a report setting out recommendations would be developed for March 2013.

15. The second phase of work would then mean further specifying what is required, the building blocks/ barriers to address, and specific conclusions about how to address these in Scotland. The Commission’s findings at both stages are likely to be influential in setting out a medium to long term route map for better local democracy and stronger local government in Scotland. It is also likely that the Commission will identify shorter term opportunities that can be taken forward more quickly, particularly in relation to the embedding local democracy in Scotland following the Referendum, funding arrangements, and policy making.
16. An indicative overall work plan is set out below. In order to make progress and to maintain momentum, the timeline is not linear, meaning that the secretariat will progressively feed ongoing outputs from the Call for Evidence into the next progressive element of work in the timetable. However, the Commission should also be clear that these proposals are not definitive and that they must be confident that the elements of work are both of value within the overall objectives of the Commission, and are achievable within the timescales set out.



Frequency and format of Commission meetings

17. There will be a key tension throughout the lifetime of the Commission between time available and the quality of the work we need to underpin the Commission’s findings. The Secretariat is therefore suggesting an intensive work programme which we will organise and deliver for the Commission over a 6 to 8 month window, including:

- 7 meetings of the Commission, on an approximately 6 week cycle between October 2013 and May 2014;
- Additional days between November and January to attend specific listening events, public meetings or other forums;
- A programme of follow up evidence gathering in March and April;
- A first report around March 2014 and second report around May 2014;
- A programme of awareness raising in relation to key conclusions prior to the Referendum.

18. Suggested meeting dates have already been forwarded to Commission members as follows:

2013		2014	
11 October:	12.30pm	30 January:	2pm
8 November:	1.30pm	27 February:	2pm
11 December:	10am	11 April:	1.30pm
		16 May:	1.30pm

19. It is proposed that the Commission generally receives evidence in public, but may choose to develop its conclusions in private. Relevant reports to the Commission, alongside submissions of evidence, will therefore be publically available on the Commission’s website, alongside a note of each meeting.

20. In addition to formal meetings, it is likely that Commission members will have an active role in gathering evidence as part of a focussed engagement strategy aimed at developing dialogue with key stakeholders and in different geographies. A detailed report on evidence gathering is provided at agenda item 4. Two elements will require particular support and engagement from Commissioners:

- *Public Meetings:* We anticipate establishing 5-6 public meetings across the country in winter 2013/14. While the Secretariat will be able to arrange for some specific groups to attend the sessions, to a large extent the success of these events will also mean tapping into the networks of contacts and pre-existing forums available to Commission Members, and access to local resources and venues that they can make available.

Other Commissions have found there to be real value in attending events of this kind, and we would therefore suggest that Commission Member agree to attend at least one public session. The secretariat will work to accommodate diary preferences and geographical limitations as part of the forward planning process.

- *Stakeholder Sessions:* The Commission may agree to a number of “Stakeholder Sessions” which would bring together specific groups to consider key themes and to allow for meaningful and robust consideration of these issues with a “panel” of Commission Members. Similarly to the Public Meetings, the Secretariat would suggest that each Commission Member agrees to attend at least one of these sessions.

Commission Secretariat
October 2013

APPENDIX 1: TERMS OF REFERENCE

Context

Scottish local government has adopted a vision that focuses on improving local democracy as the route to better outcomes, and is putting this at the heart of all of its work. The COSLA Convention has agreed to establish Scotland's first Commission on Strengthening Local Democracy to pursue that vision. It will bring people together with a common resolve to consider how local democracy and accountability in Scotland might be improved and empowered, and provide advice on what is needed for that to happen.

Remit

The overall purpose of the Commission is to:

"Identify a route map to deliver the full benefits of a shift in power towards local democracy for people in Scotland"

It will work to address three objectives:

- 1) Investigate a local approach to services and accountability that will improve outcomes in Scotland's communities
- 2) Consider the current landscape of democracy in Scotland and how this could be strengthened and enriched to benefit local people most
- 3) Make recommendations that set a course for putting stronger local democracy at the heart of Scotland's constitutional future

Outputs

The Commission will carry out its remit in two phases.

Phase 1: Why local democracy is important and what it can achieve

Key output: A clear statement of the benefit to communities of local delivery and democracy

Key questions to consider:

- Why should we do things locally in Scotland, and what benefit does this deliver?
- What can Scotland learn from other countries about their approach to local democracy?
- What do people in Scotland have to say about local democracy?
- What would better protected, empowered and supported local democracy look like in Scotland?

Phase 2: A route map to delivering stronger local democracy in Scotland

Key output: An assessment of the key building blocks for change

Key questions to consider:

- What are the building blocks we should focus on as part of Scotland's constitutional future?
- Who needs to take action to deliver positive change after the Referendum and what should they do?

Reporting

The Commission is expected to make interim reports throughout these phases and deliver a report to the COSLA Convention in Spring 2014. It is expected that the conclusions will include:

1. setting out why local approaches should be pursued and the benefits they derive
2. identifying the long term characteristics that should underpin better local democracy
3. establishing the building blocks or barriers to address, including:
 - i. improving the constitutional / statutory position of Scottish local government
 - ii. a funding process that improves democratic control and accountability locally
 - iii. ways of ensuring that there is a joint approach to policy making in Scotland

Guiding Principles

It is expected that all members of the Commission will be:

- Ambitious: take a long term view and not be restricted by the current landscape of democracy in Scotland
- Open: enable all views to be heard through evidence gathering and interaction, public reporting, and political debate
- Inclusive: reflect a broad range of interests and views from across communities, local and national government, and wider civic Scotland
- Questioning: provide a forum for debate but with a common purpose of improving local democracy and accountability in Scotland
- Practical: positively respond to challenges and shape action in pursuit of local government's vision for stronger local democracy
- Evidence based: support their findings, including by looking at relevant evidence from home and abroad and commissioning research where appropriate

STRENGTHENING LOCAL DEMOCRACY IN SCOTLAND:

SOME INITIAL CONSIDERATIONS

Colin Mair, Chief Executive, Improvement Service

Introduction

This paper was requested by COSLA as an initial overview of the issues and evidence the Commission may wish to consider in the course of its deliberations. It aims to set the scene and stimulate debate. It looks at four interrelated questions in turn:

- (i) What do we mean by “local democracy”?
- (ii) How does local democracy work internationally?
- (iii) How does Scotland compare with practice elsewhere?
- (iv) What does it mean for local democracy to “work”

It would be easy to write a book on any of these topics, and the approach is necessarily selective. It is based on a wide range of data sources and case studies, and the Improvement Service is happy to prepare more detailed evidence papers should the Commission want them. Much of the paper draws on work initially undertaken for SOLACE, and we are grateful for their cooperation.

Section 1 - What Do We Mean By Local Democracy?

The ideas of “local” and “democracy” look fairly self-evident. “Local” means close to where people live and “democracy” means that those who make decisions about tax, public spending, policies and service arrangements are elected by, and electorally accountable to, the people affected by those decisions. Clearly, decision making can be local without being democratic, and decisions can be democratic without being local. Taken together, however, “local democracy” would be decision making about what happens close to where people live, taken by representatives elected by and accountable to local people.

So far so simple but, unfortunately, too simple by far. “Close to where people live” is a relative, not absolute concept. Orkney Islands Council may be “closer” to where the people of Kirkwall or Stromness live than the Scottish or UK Parliaments, but not nearly as close as Kirkwall or Stromness Burgh Councils were. It may still be seen as “remote”. Indeed, the most common meaning of “local” in the terms “local democracy” and “local government” is simply not “national” or not “central”. It does not necessarily mean all that close to communities. Local councils in Scotland are certainly much less “close to where people live” than they were 50 years ago and Scottish councils are much less close to where people live than local governments elsewhere in Europe (see Section 3).

Decision making being democratic and accountable to local people is also more complex than it looks on first appearance. First, what range of democratic mechanisms are we talking about? A superficial look internationally will show systems (proportional and non-proportional) for electing representatives to a corporate body (e.g. a council), systems for electing single executive politicians (Commissioners, Mayors, etc.), systems for directly electing officials (e.g. Sheriffs, State

Attorneys, etc.) and systems that combine some or all elements of the above. In Scotland, we elect representatives to corporate bodies and that's it.

Second, what range of decisions are subject to local democratic control? Across Europe, many local government systems have a limited decision making range: local planning, regulation, markets, etc. In line with other North European countries, Scottish local government covers a wide range of significant functions in its decision making, including education, social care, roads, etc. However, its decision making powers in many areas are restricted by nationally decided statute law, standards, inspectorial and regulatory mechanisms. What precisely is locally democratically accountable and what should be nationally democratically accountable is often unclear and contestable. It is not only the range of functions that matters, it is the level of empowerment and therefore accountability for these functions.

Finally, local democratic decision making (and accountability) is meaningful only if those making these decisions locally can resource the decisions they make. Scottish councils are uniquely unempowered in Europe in terms of fiscal capacity: the ability to raise local taxes to fund local choices (see Sections 2 & 3). This distinction between taxation and spending decisions means that local accountability for the balance of taxation and spending locally is often obscure.

The ideas of “local” and “democracy” have been teased out by way of introduction because they pose interesting questions for the Commissioners. Can councils on the scale of Scotland's be regarded as “local governments” at all? Would directly electing Directors of Education or Public Health be “local democracy”? Can councils with as low a fiscal empowerment as Scotland's be meaningfully locally democratically accountable at all? These questions are pursued in more detail in the next two sections looking at how local government works elsewhere and how Scotland's trajectory for local government compares with elsewhere.

Section 2 - Comparing Local Government Systems and Practices

Local Government systems are not self-standing (although they have almost always preceded current national government arrangements historically). They are embedded in complex national, government systems and complex patterns of intergovernmental relationships. In comparing the role, empowerment and impact of local government in different countries, care needs to be taken not to ignore the wider institutional and government environment. (For example, the directly elected Police Chief of an American town functions within the context of state and federal police forces. Their role and jurisdiction is qualified by that and local safety outcomes could not be assessed without considering the impact of state Police and the FBI. The acceptability of directly elected Police Chiefs depends on that wider context as well).

Local Government systems are massively varied and it will be useful to tease out the key dimensions around which variation occurs. At minimum, five are worth noting:

- (i) Electoral mechanisms
- (ii) Functionalities and service responsibilities
- (iii) Empowerment: constitutional; fiscal, legal
- (iv) Uniformity or diversity of local government systems
- (v) The spatial scale and decentralisation of local governments

We comment on each briefly.

Electoral mechanisms are often ignored in Scottish debate because the “council” model (election of a corporate and collective body) is treated as self evident. Across the systems reviewed in the main report, we find direct election of executive politicians; direct election of officials; directly elected executive politicians and elected assemblies and the elected corporate body model. If we

are considering the future of “local democracy”, should innovation in democratic mechanisms feature in the Commission’s considerations?

Local governments vary hugely in their functionalities and service responsibilities. Some have responsibility for the delivery of major national programmes (education; health and social care; roads, etc.) while others have fairly limited local planning, registration and regulatory responsibilities. While major functionalities exist in all developed countries, their distribution across national/federal, state and local governments is remarkably variable. Only in smaller North European states are most major functionalities that are locally delivered integrated through single local governments. In other countries, functions are distributed across tiers of government and local governments often have smaller scale responsibilities. In many contexts (e.g. England, Sweden), local government itself is tiered. In looking at local government futures in Scotland, this poses questions about integration of related functions at local level and criteria for determining the proper distribution of functions between different levels of the state (democratic as well as technical).

“Empowerment” can take a variety of forms. Local governments rights and prerogatives, and citizen rights to local self determination through local government, are constitutionally protected in most of the international contexts examined. Legal empowerment (and constraint) varies depending on the specific functionalities of particular local governments. Where programmes directly linked to national or human rights are delivered by local government, legally specified duties and oversight exist in most contexts. In contrast to Scotland, and the UK, in most other contexts local governments are free to act in any way they choose on behalf of their communities and duties are in essence a constraint on that freedom. In the UK, and Scotland, until recently, specific duties and permissions were the sole basis for empowerment to act. (the “ultra vires” principle) Finally, local governments vary in their fiscal empowerment in terms of their right to tax, and the taxes available at local level. Scotland is at the lowest end of the spectrum of empowerment identified internationally, so consideration of future arrangements would usefully consider empowerment as well as issues of the number, the structure and the functionalities of local government.

Although Scottish councils vary in terms of the size of population served and operating context, the trend since the late 1960’s has been towards a uniform system: each council with exactly the same functionalities and empowerment. We can find no other context internationally where such complete uniformity exists. For example, arrangements elsewhere for the government of cities are often different than for the rest of the system because of the scale and distinctive economic role of cities. Remote rural and Island authorities also often have distinctive empowerments and accountabilities. Although Scotland had a two tier system up until 1996, uniformity was enforced within each tier. The international evidence at minimum suggests that the principle of uniformity should be reviewed as part of any consideration of future options.

The final variation between local government systems is in the number and population/geographical scale of local governments. For its size, Scotland has a uniquely low number of local governments covering unusually large populations and terrains in international terms. In comparison to Europe, it has the lowest ratio of local governments and elected local politicians to population. Clearly, “spatial decentralisation” needs linked to decentralisation of functionality and empowerment, but the international evidence is that there is not a necessary trade off between these different dimensions of decentralisation. For example, the Scandinavian countries have massively more spatially decentralised systems than Scotland, have a wide range of major functionalities like Scotland, but are significantly more constitutionally, fiscally and legally empowered (Argyll & Bute, if in Norway, would have 6 - 10 highly empowered local governments!). At minimum, the Commission may wish to consider whether the current scale of local governments is “local” enough and whether it creates a gap between “representative” and “participatory” democracy, that is hard to bridge.

In Section 3, we will look at Scottish arrangements more closely in the light of the variations noted above. Here, two general points are worth noting. First, different local government systems are products of different patterns of historical evolution and different cultural identities and perspectives. Second, they are part of wider governmental systems that have their own distinctive

histories and cultures. This suggests that simply plucking elements of other systems out of context will miss their dependence on other elements within their host system. It also raises a question of whether the debate about “futures” should be focused on “local democracy” in isolation or focused on the whole governmental system in Scotland which it is part of.

Section 3 - Scotland in Context

In terms of international comparisons, Scotland:

- (i) Has a very low number of relatively large local authorities.
- (ii) Is at the high end of comparisons in terms of the range and significance of the service responsibilities local government has, although unusual in terms of having no specific health responsibilities at all.
- (iii) Is at the lowest level of empowerment of local government with no constitutional status, very limited fiscal powers and a constraining legal framework built around specific rather than general empowerment.
- (iv) Has an unusually uniform system of local government with all councils having identical functionalities, empowerments and electoral mechanisms.
- (v) Has very restricted democratic mechanisms and relatively low participation rates.
- (vi) Has relatively good average outcomes, but among the greatest inequalities of outcomes of all countries examined.

We noted that current systems of local government are the product of historical evolution and culture but Scotland’s evolution is very unusual. Up to the 1960’s, Scotland was closer to the international norm: a large number of relatively small local governments, different functionalities and empowerment in different parts of the system, distinct arrangements for cities and local governments that on average raised over 50% of their own income locally. That rapidly gave way to merger and rationalisation resulting in regional and district councils, and then the 32 unitary councils. Between 1966 and 1996, Scotland moved from just under 200 elected local governments to 32. Although integration and aggregation of city government has been a trend internationally, no other system we can identify has experienced such a cull of local governments in such a short time.

As the historic trend and culture in Scotland was decentralist, this is also puzzling: if 200 made cultural sense in the 1960’s, why was 32 culturally acceptable by 1996? One answer might be that no one in Scotland was ever asked. Uniquely, the sequential rationalisation of Scottish local government proceeded without referenda or any systematic attempt to establish public preferences at all. (The view the public do not care who plans or delivers services as long as they are delivered may be result of this process, not a cause of it). A second possible explanation is that UK Government viewed local government as essentially a delivery vehicle for national policy, and rationalisation was driven by technocratic, not democratic considerations (appropriate planning scales; economies of scale, etc.).

That was made possible, however, by a third factor: local government in Scotland lacks any constitutional status at all, and central governments with a majority can restructure, or indeed abolish, local governments as they see fit. It is striking that it was easier to abolish Strathclyde Regional Council than it would be to abolish the very smallest Swiss or Norwegian commune. The latter would require special procedures, including referenda based agreement from affected populations.

While it may be unlikely the Commission would advocate a return to burghs, town councils, city corporations and counties, any assessment of future options for local government will have to take a view on whether this relatively recent process of radical delocalisation of local democracy needs reconsidered. What the international evidence suggests is that a massively more decentralised

system is possible and sustainable if other aspects of the governance and public service system in Scotland are changed.

Two key elements of this are examined below.

Fiscal Empowerment

The defining characteristic of local governments in many of the other systems reviewed is their capacity to fund spending decisions through local taxation. Scottish local government by contrast has very limited local tax capacity, high dependency on grants from Scottish Government, and is open to the latter being used to constrain or manipulate the former. As noted, the micro-economic efficiency of local government lies in balancing tax and spend against the preferences of local citizens. This cannot be done at present in Scotland.

This is both a question of the taxes available to local government (e.g. taxes on property; sales; pensions and corporate income), and the freedom to use them. In many of the jurisdictions reviewed, local governments levy property, sales and income taxes, whereas Scottish councils have only a single property tax. Equally, in some of the jurisdictions reviewed, different levels of government, including local, levy income and sales taxes.

If a more empowered, and accountable, system is wanted, a more far reaching review of the whole tax base, and how it is shared across the government system, would be necessary. This would potentially include the taxation of property transactions (as values are generated by local supply-demand pressures) and the ability to determine part of sales and income taxes, including those on alcohol and tobacco. All of the above happens across other jurisdictions reviewed and tax administration and collection issues have been resolved.

The core point is the link between a truly dynamic and accountable local democracy and a higher level of fiscal independence (and clear local accountability for both tax and spend), than is presently the case in Scotland. In international terms, we have an unusually fiscally unempowered local government system. Combined with the absence of constitutional protection and a constraining statutory framework, the Scottish system looks very directed by, and very dependent on, higher levels of government.

Centralisation and Decentralisation

A further observation from the international experience is that centralisation and decentralisation can be complementary, rather than contradictory, trends within government systems. Indeed, a stronger proposition may be justified: that the most extensive decentralisation is made possible by 'intelligent centralisation' or sharing of capacity between highly decentralised units of local government.

For example, communes serving 4,000 people can govern and oversee schools precisely because a shared employers functions for teachers is in place. Where 200 plus local governments serve 5 million people, as in Norway and Sweden, roads and highways function are delivered by a combination of urban authorities, upper tier authorities or co-operative bodies of smaller local governments. Simply put they cooperate within local government through sharing capacity rather than centralise functions away from local governments to more distant national level bodies.

The key distinction is between highly labour intensive services that can be produced and provided locally and efficiently, including schools where the asset base is local in location and scale, and services that depend on very large scale assets and equipment that cannot sensibly be provided at a localised level (e.g. hospitals, complex plant and equipment).

Arguably, all services that can be locally produced and delivered could be integrated into a single public service authority for each part of Scotland to create the scale necessary for a more decentralised system. This might include community health care and public health. This decentralisation and localisation might be supported by single national agencies where appropriate such as a national hospital authority, plus substantial required sharing of other functions across highly decentralised units of local government.

The above is purely illustrative but it captures the potential of such an approach. First, integration of all locally produced and delivered services into a single authority would diminish the need for the complex array of partnerships we have to build across and around the current fragmented agency structure of local services in Scotland. Second, the greater mass that would create for the single public service authority could allow a greater number of more “local” authorities. This would create clear and direct accountability to local communities, which, being more local, could enhance electoral participation. Finally, it would create an imperative for shared services that is lacking just now: a full employer’s organisation, payroll Scotland, etc.

Whatever the distribution of functions and accountabilities within and between levels of government, the reality is that some services will not be the responsibility of local government. In a Scottish context that will include services such as hospitals, prisons and colleges. Even in highly decentralised systems, services such as these will normally be organised at regional or national level. Some form of “Community Planning” will always be necessary but a more integrated core system will make that more limited and more focused.

It also flushes out a final point that Commission may wish to consider. Scotland’s recent history has been to address serious defects in the core architecture of public services by bolting additional bits on to it (strategic planning authorities, CPPs, criminal justice partnerships, shared services consortia). This clearly can be done and is sometimes effective, but it is very high maintenance in terms of the costs of servicing a complex array of partnership vehicles.

Long term, it may be better to sort the core architecture itself rather than adding further bits to it. It would be possible to envisage a single “whole system” redesign of the core architecture based on clear principles, clear outcomes and a 40 to 50 year horizon. The localised, integrated, democratic single public service authority model could sit at the heart of such a redesign.

Section 4 - What “Works” Internationally?

Within the qualifications suggested above, looking at other systems tends to be motivated by identifying “good practice”: things that work well. This is probably easier for particular service areas or programmes (preventative health, early years, etc.) than it is for comparing whole local democracy systems but it is worth reflecting what it might mean for local democracy to “work well”. There are a wide range of ways of exploring that but we suggest three criteria here:

- (i) That participation in and with the system is high.
- (ii) That local governments are effective in mobilising the revenue and capital necessary to deliver.
- (iii) Outcomes for citizens are comparatively good and inequalities in outcome relatively low.

The evidence on participation in elections is of significant international variation. It is harder to make the case for local democracy if a majority of citizens choose not to vote, so it is sensible to look at factors that seem to influence turnout. Two potentially positive factors are identifiable:

- (i) Turnout is higher where local government has high empowerment and delivers socially important functions.
- (ii) Where that is the case, turnout is higher in more spatially decentralised systems, i.e. systems with a larger number of smaller scale local governments.

These related criteria of the perceived importance and authority of local government and the “localness” of local governments could usefully be explored with respect to Scotland.

Fiscal and capital mobilisation can be examined with respect to local government alone (i.e. what percentage of local government income and capital are decided and mobilised locally) or with

respect to the wider governmental system (i.e. what percentage of total public income and capital is decided and mobilised locally). Internationally, it is relatively unusual for local governments to raise less than 50% of their own income and in many systems local government raises 40% - 50% of total public income. Many systems provide full empowerment with respect to capital through borrowing, bonds, etc. but always within requirements of prudence and sustainability. This forces the link for citizens between tax willingness, services and infrastructure, and political accountability for the balance decided. If an aim is a future system in Scotland that enhances local choice and accountability, fiscal empowerment would be an important consideration.

Two points follow from international comparisons. First, choices clearly do exist about the distribution of fiscal powers across government systems, and variations may have little impact at macro-economic level. The question of whether systems with highly fiscally empowered local governments are overall more effective in mobilising fiscal receipts is hard to answer because it is affected by ideology and culture as well as tax structures. So, local governments in the USA have a range of property and purchase taxes but raise a relatively small percentage of overall receipts: Scandinavian local governments, largely through income taxes, raise a much higher proportion. The balance of tax structure, particular taxes deployed and willingness to support tax and spend in explaining this variation is very hard to specify. The key point is that high fiscal empowerment could in principle be used to reduce taxation and public spending as much as to increase them. Culture and citizens preferences would be central to the outcome.

Second, however, there is a compelling micro-economic case for fiscally empowered local government. If the aim of local government is local self-determination based on local preferences, this cannot be achieved if local spending decisions are unrelated to equally local decisions about taxation. Preferences are about the level of spend local citizens are willing to fund. The more local spending decisions are funded locally the clearer the local accountability, and the greater the chances the tax / spend balance truly reflects local preferences. High statutory prescription and low fiscal empowerment in Scotland make it impossible to tell whether the end balance of taxation and spending on local services is what communities want or not. The purely technical point is that micro-economic allocation of resources to public services is likely to be more "efficient" with respect to preferences when tax and spend decisions are made locally.

The final way of assessing the impact of local government systems would be the outcomes achieved (health; education; safety; economic participation, etc.). This tends to be assessed in two ways: comparison of averages across populations (e.g. life expectancy or household income) and comparisons of inequalities of outcomes between population groups (e.g. top and bottom 10% SIMD). The problem here is that outcomes are affected by all levels of government and it is often impossible to isolate the impact of central government policies and local service choices on outcomes. Looking across the international evidence, it is possible to produce generalisations only about government systems, not local government systems in isolation, and even these are complex and convoluted. For example, outcomes on average tend to be best and inequalities lowest where:

- (vii) Central governments maintain an above average ratio of public spending to GDP and a below average percentage of spend on defence.
- (viii) Substantial income redistribution is achieved through tax and social security systems so that income inequality is below average.
- (ix) A highly spatially decentralised system exists with a large number of comparatively small local governments.
- (x) Local governments deliver major public service functions and are highly fiscally empowered (i.e. raise over 50% of income locally)

This is an extraordinary conditional generalisation, and tantamount to saying we would all be better off living in progressive, small, decentralised North European states. Isolating the impact on outcomes of each of the four factors above is extremely difficult and, indeed, most analysis suggests it is the combination that "works". The broader point is that it would be possible to frame

a discussion of futures in terms of whole government systems, including their level of decentralisation, rather than in terms of local government in isolation.

End Points

This paper raises questions but it does not supply answers. The key questions may be summarised as follows:

- (i) Is local democracy in Scotland “local” enough and, if not, what balance of change to the current system, and change within the current system is necessary?
- (ii) Is local democracy in Scotland “democratic” enough and, if not, what changes to democratic mechanisms and empowerment are necessary?
- (iii) Specifically, is the current level of fiscal empowerment for local government in Scotland capable of reflecting local preferences in decision making and accountability?
- (iv) Can a uniform system of local government accommodate the diversity of communities and contexts across Scotland?
- (v) Can local democracy in Scotland be strengthened without addressing the wider governmental system?
- (vi) If the focus is on outcomes, and inequalities of outcomes, does the framework for local democracy matter?

It should be noted that the paper does not address a wide range of questions, and it may be as helpful in focusing attention on these as in what it actually covers.



THE QUESTION OF EVIDENCE

Purpose

1. The purpose of this report is to allow Commission Members to discuss two vital questions in relation to the Commission's evidence gathering:
 - What evidence are we looking for?; and
 - How are we going to collect it?
2. It also asks Commission Members to issue an initial call for evidence as a precursor to the more detailed activities that will take place over the lifespan of the Commission.

Recommendations

3. Commission Members are asked to:
 - a. Note and discuss the variety of evidence collection methodologies available to them;
 - b. Approve the call for general evidence outlined at Appendix 1;
 - c. Agree the priority questions and issues they would like examined through evidence gathering so that a report on how that might best be done can be brought to the Commission's next meeting;
 - d. Consider the resources and networks at their disposal and how these might be made available as part of the evidence gathering process.

Background

4. One of the main characteristics of any effective Commission is to ensure that its work is informed by a robust assessment of the evidence base. The Commission on Strengthening Local Democracy will wish to be similarly sure that it is exposed to a wide range of evidence, information and opinion.
5. Before going onto the detailed questions of what and how this could be achieved, there are some general comments to make about the question of evidence and our experience of evidence gathering from other Commissions.
6. The first point is that in the case of this Commission, which already has a set of values that it wishes to test, the collection of evidence probably has two key objectives. The first of those objectives is to collect information, opinion, research, and other information that supports the values that we have gone into this Commission with and illuminates the way in which those values might be used in arriving at a final report on the future direction for local democracy. Equally important, however, is the second objective, which is to allow individuals, organisations, and others, who might wish to question the values that are driving this Commission, the opportunity do so. Not only is this because there is a possibility that evidence from this quarter might change our view of our core values, but also because the Commission's management of its own reputation for independence depends on the transparency that the evidence gathering process confers on it. Allowing for critical input will also allow for robust testing and help strengthen the thinking of the Commission. In other words, we must ensure that the process we adopt is capable of not just absorbing the evidence that adds value to our proposition, but also examines aspects that may challenge our thinking and lead it into new territory.

7. The second point regarding evidence gathering is to try and be clear about the difference between the Commission's call for evidence and the wider activities that will help deliver its work. For example, there is a detailed report on the agenda for the Commission's first meeting from the Improvement Service regarding trends in local democracy, both in Scotland and on a more international basis. This report has required the collection of information from all over Europe and is a combination of literature review and desk based research. Ensuring that the Commission has access to this type of information clearly requires specific activities beyond the traditional call for evidence that a Commission might make. It may be that there are therefore some issues that are more effectively dealt with in this way rather than through a conventional evidence gathering process. In addition, Commission members themselves joined the Commission on the basis of their experience, background, connections, and other skills, and will wish to bring these to bear when deliberating issues, addressing questions and arriving at conclusions. In short, therefore, formal evidence gathering through invitation will not be the only important element of the Commission's work. The Commission will need to consider how to ensure that its resources are therefore used proportionately to address all of the elements that will be necessary.
8. The third issue regarding evidence, in our case, is that however robust our processes, we are very unlikely to be able to produce empirical information that would constitute irrefutable evidence. In other words, given the scope of our Commission and the breadth of the propositions it is looking at, it is unlikely that we will be able to collect information that **proves** the causal relationship between specific systems of working and outcomes. It is unlikely, for instance, that we will be able to demonstrate beyond any reasonable doubt that greater degrees of localism and local democracy lead directly to better outcomes for local people. Given the difficulty of proving these sorts of propositions, it is likely that the Commission will be engaged in gathering and balancing views, but will still have to develop a well thought through and consistent set of theories that use the evidence to come to some conclusions.
9. Lastly, our experience of Commissions over time is that it is very difficult to make the best use of evidence. Quite often evidence gathering leads some people to feel they are excluded. Much of the evidence that is given to many Commissions is often not well sifted and so really important views may be lost just because insufficient attention was applied to them. Evidence gathering can also be a double edged sword for Commissions, with the potential for some people to challenge their conclusions based on the evidence that has been made publicly available. We therefore need to develop a comprehensive and dynamic process for both seeking evidence and handling it when it arrives that includes rather than excludes people in the process, that is reassuring about transparency, and that is dynamic enough to chase down opportunities that arise out of evidence so that they are not lost. All this takes time and resource, and so again the Commission must decide how extensive the call for evidence can be in order to achieve the quality of the evidence process that it would like to see.

The Evidence Process

10. We want to start the process of evidence gathering quickly, simply because it can take some time, and because if the evidence is going to be useable we have to gather it at the beginning of the Commission's deliberations so that it can actually inform its work and enable the Commission to filter and focus views at as early a stage as possible.
11. There are a variety of ways in which evidence can be collected. The specific processes required will be determined by the nature of the questions that Commissioners want to

explore. In thinking through this paper, officers have examined the traditional ways of gathering evidence and we outline below what those traditional routes are. We have also tried to give examples of the sorts of questions that we think are likely to be matched up with particular evidence gathering methodologies.

- **Initial Call for Evidence**

12. Many Commissions issue a wide call for evidence which simply outlines the general propositions that the Commission wishes to examine and invites the public or organisations, in the most general sense, to contribute any ideas they might have. Traditionally a Commission would invite these comments through written submissions. We can and should issue such a call for evidence, making use of website, social media and email, as it is certainly the first stage in creating a sense of involvement and transparency which will be important to the Commission's conclusions. In addition, many Commissions have found that this general call for evidence in and of itself generates lines of enquiry that the Commissioners believe sufficiently important to wish to pursue and which become the subject of more specific and more detailed evidence sessions. **IT IS PROPOSED THAT THE COMMISSION TODAY ISSUES A GENERAL CALL FOR EVIDENCE IN THE WAY OUTLINED IN APPENDIX ONE.**

- **Qualitative and Quantitative Research**

13. Many Commissions carry out survey activity, often through a specialist survey organisation, to objectively assess opinion and test certain propositions. For instance, if we wanted to examine the proposition that people in Scotland believe that decision making is more centralised now than it was prior to devolution, we could ask for that proposition to be surveyed in a careful, consistent manner so that the results of the survey would be credible and useable in the Commission's on-going deliberations.
14. There are also some questions that the Commission may wish to examine which are best explored through focus groups, public meetings and targeted engagements, particularly where a richer understanding and exploration of the issues is needed. For instance, these kinds of forums would be required to ask people whether or not it matters to them that decisions are made locally by locally elected representatives. We already know that there are Commissioners who have networks of contacts and access to pre-existing forums which could be used for these purposes. It is likely that quite specific issues are capable of being explored through these means. For example, if we wanted to examine issues of equalities, it is very likely that there are specific groups of individuals or interest groups that can be contacted to give a very direct and considered view of how local democracy affects either for good or ill the way in which they are supported.

- **Expert Witnesses**

15. Many Commissions also find a need for "expert witnesses" to provide evidence about particularly complex or technical issues. If we believe as a Commission that greater local powers, for instance for the Cities, would be a prerequisite for releasing economic capital, entrepreneurship and business development, then we would need to task someone with expertise in micro/macro-economics to explain how these processes work, and what is required to allow them to function effectively. There are likely to be other questions of this sort that the Commission would want to ask, and that commissioning expert witnesses will therefore be part of the evidence gathering process.
16. The Commission is also likely to wish to collate and synthesise existing bodies of research through literature review and data analysis in order to build its conclusions based on evidence that has already been developed, and in light of national and international

academic perspectives. Indeed, it may be that as the Commission develops conclusions, so too will it wish to expose these for peer review amongst other experts.

- **New research**

17. Finally, some Commissions have been in the fortunate position of being able to commission absolutely new research. This goes beyond opinion surveys or literature reviews and seeks to establish baseline information based on new investigations. There may be reasons for wanting this sort of research but the difficulty we will have as a Commission is that in the timescales that are available to us to reach conclusions, anything more than the simplest of new research would be almost impossible to commission, carry out, and report on in time.

Conclusions

18. There is no doubt that gathering evidence has become an accepted part of a Commission's work and that to some extent the evidence gathering process is an end in itself. It is clear that a general call for evidence, 'town hall' meetings, the use of existing networks and surveys all engage with a broad range of individuals and organisations who might otherwise not know that the Commission exists and have nothing to do with it. This exercise in itself therefore prompts and promotes just the kind of debate the Commission wishes to see develop country-wide.
19. However, other than the general call for evidence based on the propositions contained in Appendix 1, evidence gathering should focus on the two objectives outlined at the beginning of this report; firstly, what evidence can we find that supports the direction of travel that the Commission is promoting; and, secondly, how can we provide an opportunity for evidence to be provided that tests that direction of travel.
20. The general call for evidence can be issued today, with the approval of the Commission. However, the more specific evidence gathering around key questions can only be developed once the Commission has decided the questions it wants to examine. The primary function of this discussion paper is therefore to identify what evidence the Commission wants so that the secretariat can design specific evidence gathering opportunities which will allow these questions to be examined.
21. If the Commission can have that discussion at this first meeting and come to some conclusions, the specific evidence gathering processes and the questions they are going to examine can be designed and reported to the next meeting of the Commission, and implemented quickly thereafter. There is a real time imperative associated with these activities, and so having a conclusive discussion today regarding what evidence we want is crucial to meeting the overall timescales for the deliberations of the Commission.

Commission Secretariat
October 2013

Appendix 1: DRAFT Call for Evidence

This is an invitation to submit initial evidence to the Commission on Strengthening Local Democracy.

The Commission has been set up to identify a way of delivering a shift in power towards local democracy for people in Scotland. The Commission is chaired by Councillor David O'Neill and its membership is attached at [Annex A]. Its Terms of Reference are attached at [Annex B]. The Commission is being taken forward independently of any organisation. You can also find out more about the Commission's work at www.localdemocracy.info

The Commission wants its recommendations to inform what democracy in Scotland should look like in the future, whatever the result of the Referendum in 2014. We are clear that our remit asks us to be ambitious in our thinking about the kind of system that might be possible. We are looking beyond what happens now, although experience of the current system will inform our thinking.

To support this, the Commission wants to ensure that its recommendations are founded on evidence, and on the experiences and views of people and organisations in Scotland and beyond. That is why we are issuing this initial call for evidence. We want to use it to shape our thinking and provide us with ideas and suggestions that we can explore further.

We have deliberately not provided a long list of topics to answer, but we do want to hear what you have to say about some key questions - please respond to as few or as many as you wish.

1. It has been said that Scotland is becoming a more centralised country. To what extent do you agree?

Strongly Disagree/ Disagree/ Neither Agree or Disagree/ Agree / Strongly Agree

2. How important do you think it is to decide about services based on the opportunities and challenges that people face locally?

Very unimportant/ Unimportant/ Neither Unimportant or Important/ Important / Very Important

3. Do you think that there is a good enough local say in the way that government in Scotland works at the moment?

Strongly Disagree/ Disagree/ Neither Agree or Disagree/ Agree / Strongly Agree

4. To what extent do you think that people's lives would be better if more decisions were made locally?

Strongly Disagree/ Disagree/ Neither Agree or Disagree/ Agree / Strongly Agree

We'd also like more detailed feedback about some key themes. Please feel free to provide as much information as you wish.

5. Why is it important to do things locally in Scotland?

6. What does 'local' mean to you? Is the way of doing things in Scotland local enough at the moment?

7. **What do you think strong democracy looks like? Is our current system enough to represent what matters to communities?**
8. **How could local democracy be improved, and how would this improve people's lives? How should Scotland's system of government change to achieve this?**
9. **Do you have any concerns about making local democracy stronger?**
10. **Are there any specific changes that can happen now, for example in relation to different powers, funding or policy, or to address local democracy in Scotland's constitutional future?**

This call for evidence is only one of the ways in which the Commission will gather evidence and develop its thinking. Over the coming months we will be inviting people and organisations to take part in a range of other activities where you will also be able to make your voice heard and provide us with more in depth information about the issues you think are important. We will be building on the information that you provide us with in this call for evidence, and so what you tell us is genuinely important.

For that reason, we are also asking for you to respond quite quickly. We are keen to hear your views by **15 November** if possible, although we will not close this call for evidence until **20 December**.

To help us make the most of the information that you provide, please also tell us about yourself and how you want the material you provide to be used by completing the respondent information. Should you have any queries about the Call for Evidence please contact us using the contact details below.