



Report

To:	Executive Committee
Date:	19 December 2018
Prepared by:	Executive Director (Finance and Corporate Resources)

Subject:	Local Governance Review
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1. Purpose of Report

1.1. The purpose of the paper is to:-

- ◆ provide the Executive Committee with the background to the Local Governance Review, the stages involved, the current status of the Review and to seek approval of a Council response to the 2nd stage of the consultation.

2. Summary of Recommendation(s)

2.1 The Executive Committee is asked approve the following recommendation(s):-

- (1) that the update on the current status of the Local Governance Review be noted; and
- (2) that the response outlined in Section 6 of the Report be approved for submission to COSLA.

3. Background

3.1. In December 2017 the Scottish Government and COSLA jointly launched a Review of Local Governance. The purpose of the Review is to consider how powers, responsibilities and resources are shared across national and local spheres of government, and with communities. The Review is not simply about local government, as 'Local Governance' is much wider.

3.2. The Review has two strands. Strand 1 involves a programme of community engagement which invites people to join a conversation about community decision making, called Democracy Matters. The conversation was scheduled to take place over a period of six months, ending around November 2018. Strand 2 involves consultation with public sector bodies, such as local councils, to consider if increasing the powers they hold could improve outcomes for people. The deadline for Strand 2 written proposals and evidence is 14 December 2018. South Lanarkshire Council has received an extension to the timescale to allow the Council's response to be approved by Committee. In the event of legislative change being required, a Local Democracy Bill is provisionally scheduled for introduction later in this parliamentary term.

3.3. Key themes from both strands will be considered through the joint political arrangements in place between COSLA (a Special Joint Interest Group comprising Group Leaders and the Presidential Team) and the Government (Cabinet Sub-Committee). This will inform any Bill proposals.

3.4. The Scottish Government and COSLA jointly set out the five main themes of the Review to be as follows:-

- ◆ local and national government's shared commitment to subsidiarity and local democracy
- ◆ to strengthen local and community decision-making and democratic governance in ways that improve outcomes in local communities, grow Scotland's economy for everyone's benefit, support communities to focus on their priorities, and help new ideas to flourish
- ◆ an acceptance of increased variation in decision-making arrangements across the country: what is right for one place will not necessarily be right for another
- ◆ working creatively across traditional boundaries to deliver responsive services- how this can be strengthened and scaled up, whether there are new powers or other changes that are needed to make more progress and the benefits these would produce, and about opportunities to hardwire better local governance arrangements into the places we serve. How this landscape could be made to work better overall
- ◆ shared aspirations in light of the new National Performance Framework to tackle inequalities and drive inclusive growth

3.5. The Review draws on the findings of the Christie Commission on the future delivery of Public Services in Scotland which were published in 2011 and recognises the need for reform. It provides an opportunity to address issues identified by the Christie Commission. The Christie Commission identified several key principles as being core to public sector reform:-

- ◆ reforms must aim to empower individuals and communities receiving public services by involving them in the design and delivery of the services they use
- ◆ public service providers must be required to work much more closely in partnership, to integrate service provision and thus improve the outcomes they achieve
- ◆ priority should be given to expenditure on public services which prevents negative outcomes from arising
- ◆ the whole system of public services - public, third and private sectors - must become more efficient by reducing duplication and sharing services wherever possible

3.6. The Review also takes account of the findings of the Commission on Strengthening Local Democracy which brought together local government, civic society and a range of experts to consider what it would take to put local democracy at the heart of Scotland's future. The final report of The Commission on Strengthening Local Democracy was published in August 2014 and found that:-

- ◆ 50 years of centralisation has not tackled the biggest problems that Scotland faces
- ◆ for a country with Scotland's relative wealth and strength, the level of inequality today is simply intolerable, and has huge social and financial costs
- ◆ there is a link between the absence of strong local democracy and the prevalence of inequalities
- ◆ it is communities that empower governments at all levels, not governments that empower people

3.7. The Commission on Strengthening Local Democracy identified seven principles for stronger democracy in Scotland. The Review of Local Governance potentially provides an opportunity to take forward these principles:-

- ◆ the principle of sovereignty: democratic power lies with people and communities who give some of that power to governments and local governments, not the other way round

- ◆ the principle of subsidiarity: decisions should be taken as close to communities as possible and local governance has to be the right shape and form for the people and the places it serves
- ◆ the principle of transparency: democratic decisions should be clear and understandable to communities, with clear lines of accountability back to communities
- ◆ the principle of participation: all communities must be able to participate in the decision making that affects their lives and their communities
- ◆ the principle of spheres not tiers of governance: different parts of the democratic system should have distinct jobs to do that are set out in 'competencies', rather than depend on powers being handed down from 'higher' levels of governance
- ◆ the principle of interdependency: every part of the democratic system has to support the others, and none can be, or should seek to be, self-contained and self-sufficient
- ◆ the principle of wellbeing: the purpose of all democracy is to improve opportunities and outcomes for the individuals and communities that empower it

4. Review Structure

Strand 1 of the Review of Local Governance

4.1. To support Strand 1 of the review about community engagement, the Scottish Government established a Democracy Matters Fund and community organisations including community councils were encouraged to apply for funding to run their own local events or workshops to consider community decision making. The Government published a set of questions which could be used to stimulate the discussions at these events and communities were invited to feed back by 30 November 2018. Members were provided with information on Strand 1 and a link to the consultation materials in the report to Committee on 15 August 2018.

4.2. Communities were asked to consider the following five questions at these events:-

Q1. Tell us about your experiences of getting involved in decision-making processes that affect your local community or community of interest.

Q2. Would you like your local community or community of interest to have more control over some decisions? If yes, what sorts of issues would those decisions cover?

Q3. When thinking about decision-making, 'local' could mean a large town, a village, or a neighbourhood. What does 'local' mean to you and your community?

Q4. Are there existing forms of local level decision-making which could play a part in exercising new local powers? Are there new forms of local decision-making that could work well? What kinds of changes might be needed for this to work in practice?

Q5. Do you have any other comments, ideas or questions? Is there more you want to know?

4.3. Initial results suggest that over 100 events took place across Scotland with around 1,500 people participating in them. A Community Organised event was held in Lanark in November. Elected Members were also invited to attend a Regional Community Event held in Glasgow on 29 November 2018.

5. Strand 2

- 5.1. Strand 2 of the Review involves the Scottish Government, local authorities, Community Planning Partnerships and other public-sector organisations proposing approaches to governance, powers, accountabilities or ways of working that could improve outcomes, reduce inequalities, and improve democracy locally. Strand 2 was formally initiated through joint correspondence to councils and all public services from the COSLA President, Cabinet Secretary for Communities, and Deputy First Minister on 26 June.
- 5.2. A strategic approach has been adopted to Strand 2 which focuses on two components; individual authorities developing specific submissions to the Review based on their local circumstances and priorities, and COSLA working to create a common view from the local government community around key themes emanating from individual authorities' local 'asks', and national aspects of reform such as fiscal empowerment, powers and other issues.
- 5.3. Professor James Mitchell, a former Christie Commission member, has been appointed by the Special Interest Group to work on behalf of COSLA to build its submission. While these will continue to evolve, his initial analysis of the response that councils made to COSLA in August, and by the Scottish Cabinet Sub Committee in September could be grouped six themes:-
- 5.4. His analysis of the responses from councils to COSLA were:-
 - ◆ support for an asymmetric approach to governance – no 'one size fits all solution'
 - ◆ support for more collaboration and integration across public services
 - ◆ a significant appetite to broaden and scale up the empowerment and participation in local democracy – but not to the extent that we are at a tipping point
 - ◆ support to strengthen local democratic accountability and representation on a greater range of local public services that impact on communities
 - ◆ a diverse range of views on scale – exploring regional approaches, capturing economies of scale, allowing for flexibility at the local level
 - ◆ a necessary and high profile focus on fiscal empowerment. The initial responses focused on problems but latterly ideas are now being generated. The creation of ring fenced funding is seen as limiting autonomy and the potential to improve outcomes
 - ◆ the balance between representative and participatory democracy is seen as a work in progress
- 5.5. It was highlighted as significant that the Local Governance Review is taking place against a background for councils of increasing demand for services, a history of central constraints on local financial flexibility (e.g. ring-fencing, the Council Tax freeze etc.), and recurring reductions in grant. The clear message from Audit Scotland and others is that after 10 years of austerity it is no longer a realistic option for local government to target 'efficiency' savings or salami-slice and that transformative change is required. To the extent that the Local Governance Review seeks to address how resources are shared across national and local spheres of government, it has been stressed by councils that what matters is not just the total sum available for public expenditure but how it is allocated.
- 5.6. The current timetable for the Review is:-
 - ◆ Council submissions are due to COSLA by 14 December, however COSLA has advised that extensions will be granted to allow sufficient opportunities to respond

- ◆ in January 2019, COSLA's formal submission will be considered by all Council Leaders
- ◆ the evidence submitted from both Strands of the Local Governance Review will be jointly reviewed by COSLA and the Scottish Government
- ◆ a formal Local Democracy Bill may then be introduced to the Scottish Parliament in autumn 2019

6. The Council Response

- 6.1. As the Council response was due to be submitted to COSLA by 14 December 2018, in advance of the Executive Committee meeting and Council meeting on 19 December, Council officers have applied for and received an extension to the timescale for submission of the response to allow due consideration and approval by Elected Members. COSLA Officers advised that similar requests have been received from and extensions granted to other Councils.
- 6.2. Since his initial analysis, Professor Mitchel's thinking has developed and he considers that the Local Governance Review should be taken forward around three broad themes - Community Empowerment, Functional Empowerment and Fiscal Empowerment - whilst recognising that these three themes are interconnected.

THEME A - COMMUNITY EMPOWERMENT

- 6.3. In relation to the concept of community empowerment, the Council believes that Elected Members have an important role in community empowerment as they act as a voice for local residents and communities in influencing and setting the direction not only for the Council but also external bodies such as their local NHS Health Board, the Integration Joint Board and in respect of the Local Policing Plan and Fire & Rescue Plan. Representative democracy at a council level allow councils to act quickly to developing situations, take a 'whole systems' view of a situation, determine the best course of action and then take action. The Council engages with communities – of place, of interest and of identity - to identify priorities, improve outcomes and reduce inequalities to jointly determine the changes necessary to deliver them.
- 6.4. The Council welcomes the growth of participatory democracy which it believes complements representative democracy to allow a whole community approach to decision making. Through its work with communities, the Council believes that for community empowerment in its widest sense to be effective there needs to be a recognition and focus on how best to develop leadership at all levels that is focused on how to improve on outcomes, reduce inequalities and if appropriate identify and adopt collaborative approaches to maximise innovative service delivery with reduced resources.
- 6.5. The Council is concerned that the current debate has tended to focus on communities of place and is looking forward to the results of the COSLA workshop organised to look at specific communities of interest – health, young people, etc. – to ensure that the Local Governance Review is more universal in its impact and its ability to improve outcomes and inequalities for individuals and communities of interest and identity. It is interested in how this work will translate into actions and possible legislative change.
- 6.6. In relation to a possible Local Democracy Bill, the Council believes this provides an opportunity to increase the flexibility within the system to respect the ethos of community empowerment/participation and in relation to this aspect of the Local Governance Review, it supports:-

- ◆ incorporation of the European Charter of Local Self- Government into law in Scotland
- ◆ electoral law (schedule 6 of the Local Government (Scotland) Act 1973) to be amended to prioritise local geographical considerations and community cohesion over electoral parity
- ◆ deletion of the provision in section 57(3) of the Local Government (Scotland) Act 1973 which restricts the number of non-councillor Members on a Committee (but not a sub-committee) to one third. This is an impediment to partnership working
- ◆ amendment of section 56 of the Local Government (Scotland) Act 1973 which currently only allows delegation of functions to committees, joint committees or officers. The aim should be to give power to allow Councils to delegate functions to other partners or communities where desirable
- ◆ similar powers to be provided to other Community Planning Partners to facilitate joint working. This should include powers to join up services of different public bodies
- ◆ amendment of the requirement in section 62A of the Local Government (Scotland) Act 1973 to obtain the consent of Scottish Ministers to the incorporation of Joint Committees into Joint Boards. While a useful tool, this has been rarely used due to the bureaucracy and timescales in obtaining Ministerial consent and as a matter of principle this should be a decision for Councils, not Ministers. At present councils have the power to form companies, but not Joint Boards

THEME B - FUNCTIONAL EMPOWERMENT

- 6.7. Professor Mitchell's definition of Functional empowerment relates to the ability to create structures and ways of working that are capable of delivering community aspirations around choices, service design and service delivery that improves outcomes and reduces inequality. The Council is clear in its belief that there must be a firm move away from any idea that 'one size fits all'.
- 6.8. The Council believes in subsidiarity which requires that decisions should be taken as close to local communities as possible and that as the Council is at the heart of the community is therefore ideally situated to take the lead .The functions and responsibilities of Scottish Government and its agencies should be devolved wherever possible to local government.
- 6.9. The Council recognises that in some fields, such as *economic activity*, there are benefits from working closely with partner councils and other bodies to develop both its own local economy and the wider economy of the area. This is why it is committed to the Glasgow City Region Economic Strategy which provides a framework for all agencies to work to a single strategic document and set of objectives and the Regional Economic Partnership. As such the role of local authorities in leading on this approach should be recognised and the implications this has for national agencies and current ways of working needs to reflect this.
- 6.10. *Transport strategy* at the regional level is another area where national agendas impact on local authorities and on communities. Again, there are a number of agencies/bodies that have a role in setting the strategic frameworks for transportation and in turn how these are delivered at a local level. Each respective agency/body has its own specific strategies and objectives which may not always reflect the issues and objectives that have been identified at a council or community level. Whilst there are mechanisms for consultation and discussions on these strategies/objectives there is an absence of a formal forum at which all the agencies/bodies attend to ensure that a more 'joined up' approach can be achieved. The Council believes a City Region Strategic Transport Plan

focused on improvements to the links between communities, jobs and learning opportunities would provide a framework within which the issues and objectives identified at a Council or community level could be considered.

- 6.11. The Council believes that the Local Governance Review provides an opportunity to look at how to deliver a step change in the integration of *health and social care* covering all three systems – primary, secondary and acute – aimed at realising the ambition that health and social care services are firmly integrated around the needs of individuals, their carers and the community in ways that ensure that providers of those services are held to account jointly and effectively for improved service delivery and that priority is given to the needs of the people they serve.
- 6.12. The Council believes that it is important to ensure that community participation and empowerment is a positive experience and that communities are aware of all the opportunities that exist for them to engage and influence public sector bodies in the design and delivery of public services. In this context, it is important that they are made aware of the wider context within which services operate - such as health and safety legislation, staff terms and conditions, procurement law, etc. – to ensure that the proposals they come forward with are realisable.
- 6.13. The Council is aware of the work being undertaken elsewhere in Scotland on developing single integrated authorities in the islands and whilst it sees the merits of them it does have reservations over structural changes been seen as the only way to improve local governance nor achieve better outcomes. Issues of leadership and culture will still present challenges and there are dangers that the costs and bureaucracy of change such as rationalising terms and conditions, job descriptions, etc. may distract attention and focus from delivering improved outcomes and reducing inequality.
- 6.14. The Council believes that significant improvements can be delivered through existing structures by strong leadership and active measures to promote culture change, reduce silo working incentivise behaviours and ultimately improve outcomes and reduce inequalities.
- 6.15. In terms of possible legislative changes that could be incorporated into a Local Democracy Bill to improve Functional Empowerment, the Council would support:-
 - ◆ a Power of General Competence to replace the Power to Advance Wellbeing contained in Part 3 of the Local Government in Scotland Act 2003. This could be subject to the principle of Best Value, which the Council believes has worked well
 - ◆ a requirement that public sector audit and inspection activity are reframed to reflect the ethos of community empowerment and the diversity and challenges this brings to public service design and deliver. This can all take time and is unlikely to deliver immediate results and this can conflict with an expectation from auditors and inspectors that change happens at pace. If this change does not happen, then the danger is of a serious disconnect and a reduction in the ability of communities to exercise choice in service delivery and design
 - ◆ support for open data, the sharing of data between partners and with communities and better analysis of data to target allocation of resources and delivery of services to those most in need, and to identify duplication

THEME C - FISCAL EMPOWERMENT

- 6.16. In respect of Fiscal Empowerment and the Council, almost 85% of the council's income is decided and allocated by the Scottish Government through the Scottish Parliament. Council financial decisions are subject to substantial external direction and scrutiny. Grant funding can be "ring-fenced" for particular purposes prescribed by Scottish Government (e.g. pupil equity funding; attainment challenge funding), or subject to other conditions. Greater fiscal freedom is required in order for Councils, the public sector more widely and communities to determine how finances are best used to meet their identified and agreed priorities.
- 6.17. The Local Governance Review seeks to address how resources are shared across the national and local spheres of government but what matters is not just the total sum of money available for public expenditure but how it is allocated.
- 6.18. A key change that would enhance Fiscal empowerment would be a move to a three year budget settlement across the public sector and for all public sector bodies to be allowed to hold reserves. This would enhance the ability to deliver transformational change and remove a focus on dealing with the now rather than planning for the future.
- 6.19. The Council believes that it would be helpful if Scottish Government made a firm commitment to ensure that any new legislative duties imposed on local authorities is properly funded. Considerations on how to widen the local tax base is important but it believes that in many instances these powers will not deliver the scale of resources to support major and substantive changes that the Council and its communities will be seeking.
- 6.20. It needs to be recognised that in many instances communities can access resources that public sector bodies cannot. The Council operates an external funding function to support groups and projects to access funds from a wide range of resources and supports the necessary completion of forms, etc. It sees this as being an integral part of both its own financial strategy and how it can support local communities to deliver improved outcomes and reduce inequalities.
- 6.21. In terms of possible legislative changes that could be incorporated into a Local Democracy Bill to improve Fiscal Empowerment, the Council believes that there local tax raising powers should be part of a Power of General Competence.

7. Employee Implications

- 7.1. None.

8. Financial Implications

- 8.1. None.

9. Other Implications

- 9.1. There are no issues for risk or sustainability in terms of the information contained in this report.

10. Equality Impact Assessment and Consultation Arrangements

- 10.1. There was no requirement to undertake an Equality Impact Assessment or consultation in respect of this report.

Paul Manning
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7 December 2018

Link(s) to Council Values/Ambitions/Objectives

- ♦ Accountable, Effective, Efficient and Transparent

Previous References

- ♦ Executive Committee, 15 August 2018

List of Background Papers

- ♦ None

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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