
Local Governance Review/ Democracy Matters – Response to Consultation

1.0 INTRODUCTION

1.1 As reported to the Council in September, COSLA and the Scottish Government jointly launched the Local Governance Review consultation on 28 May 2018; also known as 'Democracy Matters', the consultation will close 14 December 2018. A report on the principal themes captured at our engagements events and officers key observations were submitted for the consideration of the Council on the 28 September 2018.

1.2 It remains unknown at this stage what the proposed Local Democracy Bill will contain however it is anticipated that it has the potential to have a) a long term impact on how decisions are made affecting our communities in Argyll and Bute and b) generate organisational or structural change or introduce the transfer of powers between or from spheres of government and communities.

1.3 A draft detailed response from Argyll and Bute Council is set out in Appendix 1 of this report for the consideration and approval of the Council.

2.0 RECOMMENDATIONS

2.1 It is recommended that Argyll and Bute Council:

- a. agree the Council's response to the Local Governance Review/ Democracy Matters consultation as set out in appendix 1;
- b. agree to request the Chief Executive to submit the agreed response before the deadline of 14 December 2018.

3.0 DETAIL

3.1 As reported to the Council in September, in December 2017 the Scottish Government and COSLA jointly announced the Local Governance Review consultation and it was launched in May 2018 and will close on 14 December 2018.

3.2 The consultation seeks to explore how decisions and their impacts are best taken at community level and review how powers, responsibilities and resources are shared across national and local spheres of government,

including national and regional public bodies.

- 3.3 In preparation, the Council embarked on a programme of engagement with communities across Argyll and Bute and online to inform the development of the Council's response to the Local Governance Review consultation.
- 3.4 A report on the principal themes captured at our engagements events and officers key observations were submitted for the consideration of the Council on the 28 September 2018.
- 3.5 It remains unknown at this stage what the proposed Local Democracy Bill will contain however it is anticipated that it has the potential to have a long term impact on how decisions are made affecting our communities in Argyll and Bute. It also has the potential to generate organisational or structural change or introduce the transfer of powers between or from spheres of government and communities. It is important that the Council (and any other public organisation, community group or individuals from the area) makes a full submission during this consultation phase to influence the best possible outcome for our communities.
- 3.6 A draft detailed response from Argyll and Bute Council is set out in Appendix 1 of this report for the consideration and approval of the Council.

4.0 CONCLUSION

- 4.1 The programme for Scottish government 2017-18 set out the intention to "decentralise power to a more local level in Scotland and launch a comprehensive review of local governance ahead of a Local Democracy Bill later in this Parliament".
- 4.2 Council officers embarked on a programme of engagement with communities across Argyll and Bute and online to inform the development of the Council's response to the Local Governance Review consultation.
- 4.3 It is unknown at this stage what the proposed Local Democracy Bill will contain however it is anticipated that it has the potential to have a) a long term impact on how decisions are made affecting our communities in Argyll and Bute and b) generate organisational or structural change or introduce the transfer of powers between or from spheres of government and communities.
- 4.4 A detailed response from Argyll and Bute Council is set out in Appendix 1 of this report for the consideration and approval of the Council.

5.0 IMPLICATIONS

- 5.1 Policy; The Council will need to develop policy to meet the provisions or duties associated with a Local Governance Act.
- 5.2 Financial; none at this stage.
- 5.3 Legal; The Scottish Government has intimated its intention to present a Local Democracy Bill to Parliament in 2019 that could contain new statutory duties or requirements for public sector organisations including local authorities. This intent will be informed by the conclusions reached through the Local Governance Review consultation.
- 5.4 HR; none at this stage.
- 5.5 Equalities; none at this stage.
- 5.6 Risk; There are unquantified risks to the role and function of local government and the exercise of local democracy that may arise from the Local Governance Review and related legislation.
- 5.7 Customer Service; none at this stage.

Cleland Sneddon, Chief Executive

30 October 2018

For further information contact: Stuart Green, Corporate Support Manger,
stuart.green@argyll-bute.gov.uk

APPENDICES

Appendix 1 – Draft Council Response to Scottish Government Consultation Local Governance Review/ Democracy Matters.



DEMOCRACY MATTERS

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

If you answered the questions as part of a community conversation, we would like to know a bit more about your community group or organisation:

1. In which town, village, or neighbourhood did your conversation take place?

Islands of Jura (Craighouse) Coll (Arinagour), Mull (Tobermory), Bute (Rothesay) and Islay (Bowmore) and the mainland towns of Campbeltown, Lochgilphead, Helensburgh, Dunoon and Oban plus one online webchat.

2. How many people were involved in your discussion?

220

3. Please indicate which category best describes you (tick one only).

Individual	<input type="checkbox"/>
Community group	<input type="checkbox"/>
Representative body for community organisations	<input type="checkbox"/>
Third sector/equality organisation	<input type="checkbox"/>
Representative body for third sector/equality organisations	<input type="checkbox"/>
Executive Agencies and NDPBs	<input type="checkbox"/>
Local authority	<input checked="" type="checkbox"/>
NHS	<input type="checkbox"/>
Other statutory organisation	<input type="checkbox"/>
Representative body for private sector organisations	<input type="checkbox"/>
Representative body for professionals	<input type="checkbox"/>
Private sector organisation	<input type="checkbox"/>
Academic	<input type="checkbox"/>
Other – please state...	<input type="checkbox"/>

4. If you are an individual, organisation, or community group

Full name or organisation, community group's name:

Argyll and Bute Council

01546 604253

Contact number:

Email:

Cleland.sneddon@argyll-bute.gov.uk
Kilmory
Lochilphead
Argyll

Postcode:

PA31 8RT

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

Publish response only (without name)

Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to the Democracy Matters consultation exercise?

Yes

No

Kilmory, Lochgilphead, Argyll, PA31 8RT

DX Number: LOCHGILPHEAD DX599700

Tel: (01546) 604350

Fax: (01546) 604349

Our Ref: CS

Your Ref:

Date:

If phoning or calling please ask for: Mr C Sneddon

E-Mail: cleland.sneddon@argyll-bute.gov.uk

www.argyll-bute.gov.uk

Angela Constance MSP, John Swinney MSP; Scottish Government; Cllr Alison Evison;
COSLA

Dear Sir/ Madam

Further to your letter dated 22 June 2018 regarding the engagement phase of the Local Governance Review, I am pleased to offer the following response from Argyll and Bute Council which was informed by a series of 'Big Listen' community engagement events on the islands of Coll, Mull, Islay, Bute, and Jura and also in Campbeltown, Lochgilphead, Helensburgh, Dunoon and Oban on the mainland plus an online 'webchat'.

In line with the questions set out in your consultation 'Democracy Matters; our focus groups discussed their experiences of involvement in decision making processes, explored the themes of increasing community involvement and specific areas of interest, what they mean by local and what changes some people would like to see. We received varying opinions on all the themes which informed the development of our response

At a policy level, it is our opinion that the principles outlined in the final report of the Commission on Strengthening Local Democracy appear still relevant to the current review. These are:

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 clean 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*

At an implementation level and further to the feedback we received at our Big Listen events and our subsequent analysis as presented to Argyll and Bute Council on the 27 September (and is a matter of public record), below are our observations for the benefit of your consultation.

Connection with Decision Making - In reviewing the complex nature of the public sector and the number and range of national, regional and local public bodies, there can be a sense of distance often felt by communities from organisations that take decisions about services that affect them. Some organisations are more recognisable to communities than others (e.g. the local council, police, fire and rescue or NHS) but others are largely unknown as is the means to influence their decision making yet their decisions can have a significant impact on communities. These arrangements have evolved over time and often reflect centralisation of powers or structures, sometimes but not always for efficiency reasons. It was highlighted by communities in our engagement events, if you were to design a public sector from scratch, it would not look this way and be populated with such a complex and impenetrable network of organisations.

Specific examples of complexity creating confusion for residents includes Argyll and Bute being split between two enterprise agencies with our Helensburgh and Lomond area covered by Scottish Enterprise with the remainder of Argyll and Bute under Highlands and Islands Enterprise. With regards to health, Argyll and Bute formally resides within NHS Highland yet many of the patient pathways are to NHS Greater Glasgow and Clyde.

It is critical that all areas of the public sector are considered by the review. Whilst local

government is one area within the scope of the review and has been the focus of engagement by Argyll and Bute Council, it is of concern that the same engagement efforts in terms of the review are not evident from the full range of public sector bodies in Argyll and Bute.

Asymmetry - Reflecting the principle of subsidiarity, a clear message from communities was that “one size does not fit all” – reflecting the need for a permissive approach to governance. Within Argyll and Bute alone, there is a diversity of island, rural and urban communities and it is important that public bodies can accommodate and satisfy the diversity of their needs, aspirations and capacity. When exploring existing and proposed models of governance, such is the variety of proposals, it is clear that any changes should enable a permissive approach to support different models of participation in different areas taking into account their unique circumstances. It is unclear how a proposed Local Democracy Bill will build on the provisions contained in the Community Empowerment Act which appear sufficiently broad in scope to help support these aspirations.

There is a concern that the reliance by local government for funding from national government, with increasing prescription and limited flexibility on expenditure decisions, has resulted in a perception that local government is accountable primarily to national government rather than to the communities that elected them. The perception that this forms “hierarchical tiers of government” is incorrect and the review of local governance will hopefully reflect on the respective roles as complementary spheres of government. In particular the development of an equal partnership approach across local and national government to policy development (e.g. in constructing the annual Programme for Government) would be welcomed.

This flexibility should not suggest a lack of ambition, for some areas that may enable consideration of a single public authority model should it reflect local needs and the business case be made for radical change. At the other end of the spectrum, it may focus on empowering communities to participate in decision making in areas. Each area in Scotland should be able to consider the most appropriate model on that spectrum and the pace of reform should reflect the ambitions and capacities of their communities. The key message was that these arrangements should be developed in conjunction with communities and from the bottom up. This may serve to address electoral apathy resulting in decreasing turn out of voters for community council elections or uncontested elections.

Community Planning - Substantial investment has been made in community planning partnerships (CPP) and effective CPPs are able to demonstrate a strong connectedness between communities and the strategic level decision makers. There is evidence on the ground that joint working across public bodies and communities is taking place and

supporting the achievement of improved outcomes. It is hoped that the local governance review will consider how these processes can be embedded further and support increased participation and influence by communities within community planning.

Community Control - From the engagement events, there was a great divergence of views on which areas of services that communities would seek to have increased control or influence. Areas of broad consensus where there should not be increased community control included Police Services, Scottish Fire and Rescue Services, town planning and child protection. In all engagement events concerns were expressed that, in time of significant financial challenge, communities should not be expected to take on unsustainable liabilities and the (potential lack of) resilience of services in community control needs to be considered. This was often characterised as the retreat of the public sector due to budget cuts. This is not a reason to ignore the potential of adding community capacity to improving communities but it is illustrative that it cannot be assumed that there is a consistent appetite and capacity to take on areas of services. There is significant risk potential and a tolerance of risk is necessary.

In particular there was a noticeable reticence by communities to take on commitments unless there were long term funding arrangements that ensured those areas were protected from any budget reductions and were the subject of inflationary uplifts. The contrast between that picture and the situation facing public services generally means that approach is unlikely to be sustainable.

Many of our residents appeared more interested in collaboration with local public bodies. This was often characterised as the public body retaining the core functions as a provider and commissioner and continuing to consider opportunities for partnership working between community/ third sector groups and all spheres of government where there is an agreed and specific objective (i.e. local project or issue).

Local democratic accountability; in developing a more participative democracy which advocates more involvement of community organisations and individuals, our engagement events indicated that people want to be able to influence decisions taken about their services but there are perceived barriers to participation. These included time constraints (people are very busy and traditional arrangements for participation are time consuming); rurality and remoteness (attendance at meetings, transport or connectivity issues) and frustration that complex structures (of both public sector and community groups) 'can get in the way'. Many of our residents are busy people raising families, running businesses, or already making significant contributions to their communities through the delivery of specific projects.

Concerns were expressed about the devolution of authority to small groups within their

communities who were more able to participate, who were not democratically accountable and carried no mandate for the decisions they would take. Caution and care was requested for reform that suggested devolution of powers but concentrated powers in a small group in communities that developed a democratic deficit compared with current arrangements.

In similar terms it was highlighted that many national or regional public bodies have an explicit accountability to national government and not to local communities served by them. Police Scotland, Scotland Fire and Rescue Service and Integration Joint Boards are examples where local plans and performance report routinely connect with local authority or community planning scrutiny arrangements however the vast majority of public bodies active in local authority areas generally report upwards only.

The community feedback highlighted that, although local government is often a convenient target for complaint, there is ultimately a high level of trust associated with councils and they are viewed as democratically accountable through visible and recognisable elected members.

From the feedback received – there are push pressures (delegate powers from local authority level) and pull pressures (increased centralisation of powers and limited flexibility on policy and service areas) impacting on democratically elected local authorities. It is unclear how this combination of policy directions serves to increase local democratic accountability.

Community Engagement - A recurring theme that was expressed is the need for public bodies to do more and be more creative and inclusive in terms of their engagement activity. Traditional public hall models of engagement exclude large sections of communities whilst providing a disproportionate influence to smaller groups or individuals. Equally online engagement and the expanded use of social media increased engagement with some sections of communities but can disempower others. Varying forms of involvement can often exclude willing participants i.e.– lengthy, complex and/or challenging topics are viewed as barriers to those who want to engage on more binary quick response questions (Yes/No; In/Out; Preferences from a List); etc. For others participation with preparation and large amount of explanatory information feels uncomfortable and limits their involvement. Particular efforts should be made to engage with sections of our communities whose voice has traditionally been hard to access. This theme has no easy answer as it needs to be manageable and proportionate, not paralyse the delivery of services but also use a range of channels to promote inclusion.

In particular, community feedback suggested an action bias would engage more

people to contribute to their communities. That sense of being able to get something done that would improve their community was substantially more preferred than formalised meeting structures on an ongoing basis. This lends itself to project type initiatives rather than standing committees however the models should be self-determining and developed from the bottom up. The action bias was however closely linked to have access to new resources that could be deployed on the project proposals and it was recognised the limits on public finances makes this difficult to achieve in practice.

Many residents attending our engagement events wished to maintain the representative democracy model and actually seek to increase their sense of connectedness to decision makers. Our elected members work hard to ensure they are fully engaged with our communities, however, given the electoral ward size and with 56 community councils spread out across the second largest geographical area in Scotland including 23 inhabited islands (including the entire Inner Hebrides), some residents are keen for greater local representation than there is currently. Scotland has one of the lowest elected representative ratios in Europe and this feedback would suggest an appetite for addressing this point. Blending representative democracy with participative democracy approaches involves the development of new models that provide balance, accountability and values the respective contributions of both.

The role of community councils should also be considered i.e. what is asked of them in terms of demonstrating their inclusion and connection to their communities, what powers and influence they have and what role they could play in improving participative democracy at a local level?

Community Capacity - It is clear that communities will need substantial support from public bodies to develop their capacity to participate and explore the opportunities for improving local governance. Community Development teams across public bodies have been impacted by the reduction in resources experienced over the last 10 years and this has paradoxically impacted on communities when they are being asked to step up in terms of their participation.

Fiscal empowerment; a recurring theme in our engagement with communities is for more fiscal autonomy. This relates both to increasing autonomy over local spend and discretionary local taxes including tourism tax, local freight tax and retention of a percentage share of tax at point of manufacture (e.g. whisky) to be invested in local infrastructure on which industry is dependent to maintain growth. The continued trend of one year budgets makes collaboration with community groups difficult and increased certainty of funding over longer periods aligned with opportunities for local discretionary taxes and autonomy could allow for new opportunities for investment in our communities.

The current model of reliance and prescription for almost 80% of local government funding does not reflect the local appetite for self-determination and delegation of powers. As the Commission on Strengthening Local Democracy report stated, “strong local democracy is a false promise without local fiscal independence”.

Control over the introduction of new forms of taxation or even local variation in taxation removes the opportunity for local control over service levels and expenditures. Consistent feedback from the engagement events focussed on ensuring public services are adequately resourced to deliver the range and quality of services that meets community’s needs. The results of the erosion of public service budgets has been expanding inequalities in our communities and an increased level of dispute over how reducing resources are distributed rather than the broader debate about how high quality public services are sustainably resourced.

Of particular concern highlighted in the engagement events was that powers repatriated from Europe post Brexit and delegated to Scotland should not automatically be held at Holyrood and should follow the principle of subsidiarity. An evident example is the replacement for EU structural funding (shared prosperity funding) which should be designed and administered at the most appropriate lowest level so that it reflects local needs and not a national framework.

European Charter - It is clear from the feedback received that the development of local governance should be a bottom up approach and not a reform applied by national government. It is particularly relevant that there is a current consideration of Scotland signing up to the European Charter for Self-Governance which, if approved by the Scottish Parliament, will set into law the rights of local government. It is incongruous with a drive to improve local governance that Scottish local authorities do not currently have the same rights as established in most other countries in the Council of Europe.

To summarise the key points of our response informed by our discussions with communities across Argyll and Bute, the seven principles established by the Commission for Strengthening Local Democracy remain valid today and should be central to any proposed changes specifically to Local Government.

Communities were clear that they find the wider Scottish public sector landscape complex with many organisations perceived to be impenetrable, particularly when they are explicitly accountable only to national governments. The Council would urge the Review to encompass public sector governance in the widest sense and not concentrate primarily on local government.

A general consensus with many stakeholders regarding pathways for more collective

decision making is that one size does not fit all and it is our opinion that any legislative changes needs to be permissive to prevent prescriptive reforms becoming an obstacle to change based on local needs and context.

Our engagement confirms there is less of a demand for increased control over decisions and a greater demand for increased influence and more opportunity for collaboration between the public sector and community groups. Based on the seven principles described above, public bodies can be a force to grow community participation and permissive legislation provides the flexibility for unique models and solutions to be developed for each place. However this requires resources, particularly to grow capacity within our communities to allow them to truly lead and develop socio economic growth opportunities. The role and resources of Community Councils and how they represent their communities needs to be considered as part of the review.

In the short to medium term there is a need to explore how local government can broaden its tax base, in the form of discretionary tax, tax at point of manufacture, council tax or other replacement. The continued trend of one year budgets creates uncertainty and makes collaboration difficult whilst local discretionary taxes and autonomy allows new opportunities for investment in our communities and strong local democracy requires local fiscal independence.

Finally and in conclusion, based on our engagement with communities across Argyll and Bute, it is our view that there an overwhelming desire for an increase sense of connectedness with the public sector and increased opportunities for collaboration and to influence outcomes.

I trust that this response is helpful and I would be pleased to offer any clarification or additional information that may be helpful.

Yours sincerely

Cleland Sneddon
Chief Executive