

Local Governance Review/ Stage 2 – Response to Consultation

1.0 EXECUTIVE SUMMARY

- 1.1 As reported to the Council in September and November 2018, COSLA and the Scottish Government jointly launched the Local Governance Review consultation on 28 May 2018. The consultation was separated into two overlapping phases; the findings of phase one, also known as ‘Democracy Matters’ which sought to engage communities and community organisations, was reported to Council in November 2018. The second phase sought to engage public sector leaders and public bodies. The findings from both phases of the consultation have been summarised in published summary documents.
- 1.2 The Scottish Government Programme for Government had intimated the intention to bring forward a Local Democracy Bill within the life of this Parliament. Whilst the exact terms of this legislation is unknown at this time, the consultation responses will influence the Scottish Government response. The resultant legislation 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. The timeline for the Bill may be deferred to the next Parliament following the statement by the Cabinet Secretary for Communities and Local Government.
- 1.3 A full copy of the published summary document is available online [here](#).
- 1.4 It is recommended that Argyll and Bute Council:
- a. Note the summary findings from phases 1 and 2 of the Local Governance Review consultation and the correlation with the submission made by Argyll and Bute Council;
 - b. Note the anticipated next steps and potential change to the timeline for the Local Democracy Bill.

Local Governance Review/ Democracy Matters – Response to Consultation

2.0 INTRODUCTION

2.1 As reported to the Council in September and November 2018, COSLA and the Scottish Government jointly launched the Local Governance Review consultation on 28 May 2018. The consultation was separated into two overlapping phases; the findings of phase one, also known as ‘Democracy Matters’ which sought to engage communities and community organisations, was reported to Council in November 2018. The second phase sought to engage public sector leaders and public bodies. Argyll and Bute Council agreed its submission to the review at its meeting of November 2018. The findings of both phases of the review have been summarised in published summary documents.

2.2 The Scottish Government Programme for Government had intimated the intention to bring forward a Local Democracy Bill within the life of this Parliament. Whilst the exact terms of this legislation is unknown at this time, the consultation responses will influence the Scottish Government response. The resultant legislation 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. The timeline for this legislation may be altered in line with the recent statement by the Cabinet Secretary for Communities and Local Government.

2.3 A full copy of the published summary documents are available online [here](#).

3.0 RECOMMENDATIONS

3.1 It is recommended that Argyll and Bute Council:

- a. Note the summary findings from phases 1 and 2 of the Local Governance Review consultation and the correlation with the submission made by Argyll and Bute Council;
- b. Note the anticipated next steps and potential change to the timeline for the Local Democracy Bill.

4.0 DETAIL

- 4.1 The Scottish Government and COSLA jointly launched the Local Governance Review consultation in May 2018. The consultation was split into two overlapping phases. Phase one was targeted at engaging citizens, communities and community organisations and was accompanied by a number of regional engagement events. Argyll and Bute Council also conducted an extensive engagement programme throughout the Council area during 2018 to raise awareness of the review, its scope and importance and to gather feedback from communities to help inform the development of its own consultation to phase two which was targeted towards public sector leaders and public bodies.
- 4.2 The feedback from each council run engagement event was reported to area committees and the Council's overarching response to the review was agreed at its meeting in November 2018.
- 4.3 A summary consultation findings document has now been published by the Review Group for phases 1 and 2. These are drawn from the 334 submissions to phase 1 (included in this number are the 127 attendees at 13 regional events) and 44 submissions received in phase 2 reflecting 20 local authorities, 6 from community planning partnerships, 16 from other public bodies and 2 individual submissions. The reports identify a series of main themes which are reflected below (a full copy of the summary document may be accessed online [here](#)).
- 4.4 Feedback from Phase 1 – Democracy Matters Consultation

The feedback from phase 1 is structured around the 5 questions posed by the consultation, these were:

- 1) Tell us about your experiences of getting involved in decision-making processes that affect your local community or community of interest?
- 2) 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?
- 3) 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?
- 4) Are there existing forms of 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?
- 5) Do you have any other comments, ideas or questions? Is there more you want to know?

The analysis of the feedback under each question is summarised as:

4.5 Experiences of Local Decision Making

There were a range of responses – many highlighting good examples of positive involvement where citizens felt directly involved and took decisions directly or that their voices were heard and influenced decisions. There were others who had a more negative experience where they felt there had been poor communication that their involvement was tokenistic, that they were unable to make change or nothing happened after giving their views.

There were a number of recurring themes around barriers to participation, which included:

- Lack of information about how to participate in decisions
- System is complicated and difficult to understand
- Decision making is inaccessible – either because of cost/ poor transport or time/location of meetings.
- Lack of support for engagement
- Style of participation – sometimes formal and rule bound discourage participation.

4.6 Community Control of Local Decisions

There was an overwhelming desire for a change to the status quo and expressed as wanting more control over local decisions that matter to them and/or may seem to impact directly on communities. However control means different things to different people and this ranged from a) being able to give views as part of the decision making process b) improving transparency and accountability, c) having power and resources to make decisions themselves. There were some respondents who felt that control should not be devolved. For some this was because of a worry about the responsibility involved or a concern about a lack of confidence in the capacity of communities to hold that responsibility, responding to local demands or being held to account.

Overall, respondents wished to be treated better by public bodies, be better connected, be able to participate in decisions and ultimately for decisions to be based on local knowledge and experience.

4.7 Describing “Local” Communities

Naturally a range of views were expressed; some spoke of physical locations

like “town”, “village” or “neighbourhood” whilst others reflected council or health board area or distance. For others it was a community of interest, an online group or a wider issue that could be regional, national or global. Regardless of how defined, that sense of shared sense of identity or social connection was important to them and they were keen to see changes towards a set of positive values that would guide public bodies enable their participation.

4.8 Types of Community Decision Making

Overall, responses described a broad array of changes that different communities wished to see to improve their ability to be involved or be responsible for decisions. The topic of community councils featured heavily in this section with some very negative views expressed and a strong resistance to empowering this sphere of governance. For others, there was support for providing more powers to community councils provided there were changes which addressed issues of representativeness/ diversity and accountability. Other forms of community bodies were featured including development trusts, housing associations, school boards, locality planning groups and many others.

4.9 Other Themes

Respondents made a number of suggestions that they felt would improve participation. These included:

- Learning about rights and responsibilities as citizens
- Provision of training to community groups to build confidence and capacity
- Greater power over decisions by public bodies and improve the ways they explain their decisions and put them into action
- Community participation in formal decision making like area community planning groups
- New types of community control – could be designing new decision making organisations.

4.10 Main Themes from Phase 2 Consultation Responses

Members will recognise a high level of consistency with the key points included in the Council’s submission to the review consultation and the following main themes:

- 4.11 “One Size Does Not Fit All“- there needs to be recognition that no two communities are the same and that approaches should be flexible to accommodate the local context. Asymmetrical government is often appropriate and desirable in order to reflect variable localised circumstances

and priorities.

- 4.12 The current landscape is complex – there is no wish to complicate this any further with new bodies or additional legislative requirements.
- 4.13 A few respondents suggested that the Local Governance Review presents opportunities to amend existing legislation to facilitate better local governance and partnership working.
- 4.14 There should be a continued focus on engagement and capacity building with local communities - proper funding from Scottish Government needs to be available to support this.
- 4.15 Several respondents indicated that their communities do not necessarily want control /responsibility, but generally do wish to have greater influence on decision making.
- 4.16 There was wide agreement from respondents that structural change, changes to governance or empowerment of communities cannot be made without additional funding from Scottish Government. Additional funding needs to be provided and/or greater fiscal control with regard to raising revenue given.
- 4.17 Many respondents highlight that progress is constrained by short term budgets. This has an impact on achieving significant change and partnership working, in general. It is difficult to involve communities in any long-term projects.
- 4.18 The majority of Councils commented that too much of Local Authority budgets are ring-fenced, particularly in regard to education and social care, which constrains innovation and flexibility. Fiscal autonomy is key for local decision making to be meaningful.
- 4.19 A number of Local Authorities indicated that there is considered to be too much centralised decision making and there is an opportunity to redress the balance of the Scottish – Local Government relationship.
- 4.20 In order to develop local governance and subsidiarity respondents highlighted that there are opportunities to build on existing Community Planning Partnership arrangements or develop Single or Integrated Public Authority models.
- 4.21 Shared data and evidence/open data is key to promoting understanding in communities, across public sector partners and in order to effectively target priority issues.

- 4.22 There is an appetite for the adoption of the European Charter of Local Self Government from Local Authorities.
- 4.23 There is an appetite from Local Authorities to replace the Power to Advance Wellbeing with a stronger / clearer Power of General Competence, which would include the responsibility for local taxation.
- 4.24 A few local authority responses highlighted that the role of Community Councils should be reviewed with potential for more devolution of power / budgets to them.
- 4.25 Consideration needs to be given to the right level of place for delivery of services – Local, Regional and National.
- 4.26 Additional Points to Note
- 4.27 In addition to the main themes highlighted in the summary document, there were a number of additional points featured in the report that may have importance in influencing the next steps. A number of responses highlighted opportunities to amend a range of existing legislation to help deliver on desired improvements in governance. I would choose to highlight the proposal to repeal the restrictions in the Local Authorities (Goods and Services) Act 1970 that prevents trading to generate income to fund services. An explicit repeal could be an important step to providing fiscal freedoms for local government and sits well with proposals to remove ring fencing and conditionality currently applied to local authority grant funding.
- 4.28 A number of detail comments were received seeking to extend duties currently applied to Councils or Community Planning Partnerships to a broader range of public bodies in the belief that this would provide a more equitable responsibility and impetus for joint working. Some comment was made on duties for establishing locality partnerships and locality plans (this may reflect our current Area Community Planning Group arrangements however it could be considerably more resource intensive dependent on what the duties would comprise).
- 4.29 The report sets out a range of views on the role and potential future role of community councils. The range of comments extend from views that community councils are generally non representative of their communities, hold a relatively small mandate given the absence of contest in elections and it is rarely evident how they involve their wider communities to views they could play a stronger role in participative democracy at a local level if they were fully funded and had access to resources.
- 4.30 Comment is made within the report of the role that technology could play in

increasing engagement. This is reflected in the Council feedback noting that traditional town hall style meetings or events are unlikely to engage the vast majority of citizens and we need to embrace the opportunities that social media and other communication channels offer.

4.31 The report notes that the balance between representative democracy (e.g. elected councilors) and participative democracy needs to be found so that a move towards greater participation does not erode the ability of a council to make strategic decisions.

4.32 Next Steps

4.33 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. In conjunction with the publication of the two summary consultation reports, the Cabinet Secretary for Communities and Local Government issued a statement which noted:

“Options are open as to what services are devolved, however throughout the process people have told us there will be a lot of detail to work out if we are to get this right. As a result we will not rush to introduce legislation in this Parliament. We have an exciting opportunity to shape the future of democracy so local communities can really flourish

4.34 This would suggest a change to the anticipated legislative timeline and a Bill may be deferred to the next Parliament to allow for further consideration.

4.35 Given the widely varying views expressed in the consultation, this would appear to be a sensible approach to ensure that any significant change is well thought through, resourced properly and most importantly tested. It remains the position however that the core ill that this exercise set out to cure (to increase community participation and influence over local decision making) was a feature in the consultation. Those who participated were largely those already engaged and who already had a “stake in the game”. It failed to mobilise mass public interest and the consultation feedback should to an extent be considered in that light.

4.36 It would be expected that there is a formal Scottish Government/ COSLA response to the consultation findings before any decision on the next steps towards new legislation. It is anticipated this will be presented through the COSLA structures (Strategic Board and Leaders meeting).

5 CONCLUSION

- 5.1 The findings from both phases of the consultation for the Local Democracy Bill have been issued and are summarised in this report for members to note.
- 5.2 The terms of any emergent legislation remains unknown at this time and 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.
- 5.3 Members are also asked to note the potential change to the time line which may now be deferred to the next parliament.

6.0 IMPLICATIONS

- 6.1 Policy; The Council will need to develop policy to meet the provisions or duties associated with a Local Democracy Act.
- 6.2 Financial; none at this stage.
- 6.3 Legal; The Scottish Government has intimated its intention to present a Local Democracy Bill to Parliament that could contain new statutory duties or requirements for public sector organisations including local authorities.
- 6.4 HR; none at this stage.
- 6.5 Equalities/ Fairer Scotland/ Islands; none at this stage.
- 6.6 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.
- 6.7 Customer Service; none at this stage.

Cleland Sneddon, Chief Executive
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