

REPORT TO: East Lothian Council

MEETING DATE: 17 December 2013

BY: Chief Executive

SUBJECT: Response to the Commission on Strengthening Local Democracy

1 PURPOSE

- 1.1 To seek Council approval for the response to the Commission on Strengthening Local Democracy.

2 RECOMMENDATIONS

- 2.1 It is recommended that Council approves the response to the Commission of Strengthening Local Democracy (Appendix 1).

3 BACKGROUND

- 3.1 The Convention of Scottish Local Authorities (COSLA) has established an independent Commission on Strengthening Local Democracy *“to identify a route map to deliver the full benefits of a shift in power towards local democracy for people in Scotland.”*

- 3.2 The Commission aims to address three objectives

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

- 3.3 The first phase of the work being carried out by the Commission involves seeking views on some key issues. The Commission issued an invitation to submit evidence. The original deadline for responses was 29th November but this has been extended to 20th December.

- 3.4 Officials have prepared a draft response from the Council (Appendix 1) which sets out a strong case for Local Government based on the key role that councils have in bringing government closer to people and putting place at the centre of policy making. The response highlights the tendency for central government to favour centralisation rather than decentralisation as evidenced by the range of services that have been taken out of local government control over the last two decades and the loss of fiscal autonomy. It argues for the principle of subsidiarity to be put into practice and also make the case for a fundamental review of the governance of all public services in Scotland.

4 POLICY IMPLICATIONS

- 4.1 The Council's response will contribute to the Commission on Strengthening Local Democracy deliberations on the future of local democracy in Scotland.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – none.
6.2 Personnel – none.
6.3 Other – none.

7 BACKGROUND PAPERS

- 7.1 Appendix 1: Response to the Commission on Strengthening Local Democracy
7.2 Commission on Strengthening Local Democracy call for evidence and other background information: <http://www.localdemocracy.info/>

AUTHOR'S NAME	Paolo Vestri
DESIGNATION	Corporate Policy and Improvement Manager
CONTACT INFO	pvestri@eastlothian.gov.uk 01620 827320
DATE	5 th December 2013

Appendix 1: Response to the Commission on Strengthening Local Democracy consultation

General Statement

This response is based on the fact that Local Democracy as delivered through Local Government has served Scotland very well over the last 150 years.

The value of local democracy stems from the fact that it provides for the dispersal of power and brings the reality of government closer to the people. The term 'local government' is used rather than local administration for a number of positive reasons:

- The members of a local authority are democratically elected and are accountable to their electorate, not to central government
- Local government has tax raising powers; powers which are shared only with central government
- Councils are responsible for the provision of a wide range of services which are delivered in ways which meet the needs of the locality
- Councillors are seen to be leaders in their communities.

Local Government has been at the centre of delivering the services that have provided significant improvements in the quality of life of our citizens since the Victorian era including free universal education, removal of slums from our cities and creation of public social housing, water and sewerage facilities and vast improvements in public health, libraries, public parks, museums, social services for the elderly and most vulnerable in society and police and fire and rescue services. Local Government has been instrumental in protecting communities against the worst excesses of economic downturns including the Great Depression of the 1930's and the current recession.

That is not to say that everything that local government does, or has attempted to do, has been successful and that mistakes have not been made. However, if there was an exercise in evaluating the impact of Scottish local government over the last 150 years then the positives would far outweigh the negatives.

Diversity is the key to local democracy. Government should be grounded in a sense of people and place which recognises and builds on the strengths of our different communities.

In the same way that the Scottish Parliament embodies the principle that there should be Scottish solutions to Scottish problems then local authorities encapsulate that principle at a more local level. Each area has different problems, different priorities and different ways of addressing and tackling those problems and priorities. Local priorities and local outcomes reflecting local needs. There cannot and should not be a unified approach to meeting the needs of our diverse communities. In short, 'no one size fits all'.

It is clear that, while some aspects of the relationship between local and central government have improved since the establishment of the Scottish Parliament,

local government has deep-seated problems that will not be solved merely by being relations with central government. The introduction of the duty of Best Value, the legislative framework behind Community Planning and the power of general competence have not provided the level of local government autonomy that the MacIntosh Commission suggested they would. Institutionalised under-funding and the loss of fiscal autonomy, increasing interference from the centre and the growth of nationally imposed policy initiatives are just some of the factors that erode the autonomy of local government.

1. Local Decision Making: Do you think that decisions about local issues and services are made locally enough in Scotland at the moment?

Local democracy has been weakened by the tendency of central government to favour centralisation rather than decentralisation. Central government views local government as its agent to fulfil its aims and objectives and carry out its policies.

Examples of the centralising tendency include:

- the transfer of water and sewerage services to a national organisation
- the loss of control over colleges which has been followed more recently by the amalgamation of colleges into regional or super colleges
- the loss of control over setting the Business Rate
- the creation of a national police force and a national fire and rescue service governed by a national Boards appointed by Scottish Ministers
- the proposal in the Public Bodies (Joint Working) (Scotland) Bill to give Scottish Ministers the power (by regulation) to prescribe local authority functions to be included in Health and Social Care integration.

All these changes have been imposed, or at least driven, by the centre rather than coming from below.

The nationalisation of important decisions about local services goes against the desire to develop a more holistic and unified approach to meeting the challenges faced by our communities

There are several recent very clear examples of how centralisation can lead to national considerations over-riding local interests. The recent flawed consultation on the police counter service and the decision to stop police traffic warden services show that the nationalised services can act against the wishes of democratically elected local authorities and local communities.

The decision by the Scottish Fire and Rescue Board to close the national training college in Gullane without any prior consultation with East Lothian Council or the local community shows that major decisions affecting local communities can be taken without any local consultation or input.

The rationalisation of property assets by the Scottish Government, Police Scotland and the Scottish Fire and Rescue services can take important

community assets from our towns, contributing to weakening local economies and undermining attempts to regenerate town centres.

East Lothian Council has not received adequate answers to questions it has raised about the decision to close Haddington Court by the Scottish Courts Service. The decision to close the Court was driven by the imperative to make financial savings for the Scottish Government and would not have been made if local interests and partnerships had been fully taken into account.

The court closure and closure and removal of traffic wardens are also examples of cost shunting from the centre to local government.

2. Local Accountability: How important do you think it is for locally elected people to be responsible for decisions about local issues and services?

Local accountability should sit at the heart of our democracy. Two issues need to be considered – fiscal accountability and subsidiarity.

Local accountability has been weakened over the last three decades by the continuing erosion of local government's fiscal autonomy which has significantly reduced the ability of Councils to raise income to meet local needs.

The Council Tax freeze has only been partly financed by subvention from the Scottish Government as it has not been increased to take account of inflation or the increase in the Council Tax roll. East Lothian Council has lost over £300,000 due to the Council Tax freeze compensation not being updated.

The Audit Scotland report, '*Charging for Services: are you getting it right?*' (October 2013) showed that local authorities now only have control over around 7% of their total income – the income they raise from fees, charges and rents.

Local accountability will only be restored if local government regains control over a greater proportion of its income and expenditure. Unless local government regains control over how much of its income it can raise it will become an administrative tool of central government

However, the debate around local government finance has to be more radical or imaginative than merely arguing for or against increasing Council Tax.

Schemes such as the Business Rates Incentivisation and the proposals being developed by Glasgow City Council and others around the City Deal (a welfare expenditure reduction incentivisation scheme) are worthy of exploring further. Incentivising councils to achieve key outcomes – supporting business growth and reducing the cost of welfare benefits – by using the income or savings generated rather than passing them on to central government.

Subsidiarity – a matter ought to be handled by the smallest, lowest, or least centralised authority capable of addressing that matter effectively – is the

principle that sits behind the devolution of power to the Scottish Parliament and also is central to the argument in favour of Scottish independence.

However, as was outlined above (section 1) the creation of the Scottish Parliament has exacerbated rather than reduced the tendency of central government to nationalise services and powers. Ministers are taking more powers to the centre rather than allowing decisions to be made at the lowest and most level. The principle of subsidiarity is key to the relationship between central and local government irrespective of the outcome of the referendum. This principle could be written into Scottish legislation now and need not wait until/ if there is a new Scottish constitutional settlement following the referendum.

Following the principle of subsidiarity local authorities should consider how to devolve power further to local communities. East Lothian Council has a good record of supporting and encouraging Community Councils, including devolving some funding for community priorities. The Council has recently adopted a framework for establishing six Area Partnerships with the intention of devolving decision-making and budgets to them (see report on Area Partnerships at: <http://www.eastlothian.gov.uk/meetings/meeting/5372/cabinet>)

3. Local Priorities: How well do you think that national and local government take account of communities' local priorities at the moment?

The Scottish Government set out the National Objectives and national performance framework without prior consultation with local authorities or local communities. The national objectives are broad enough to accommodate local priorities that are determined through the Community Planning process but the lack of consultation and engagement reflected a 'top down' centralist approach which does not necessarily take account of local priorities.

As was outlined above (section 1) the centralisation of key services such as police and fire and rescue can lead to national priorities over-riding local priorities and needs.

Another example of where national priorities can act against local interests is in relation to procurement. Procurement is an important tool that can allow local authorities to support local businesses, local jobs and the local economy. However, the trend towards national procurement, which has been extended further through the creation of the national police force and national fire and rescue service has weakened councils' ability to use procurement to support local priorities.

The evidence from East Lothian Council's most recent residents' survey (2011) is that by and large the Council does respond to and take account of the community's priorities. For example, the survey showed:

- 71% of respondents agreed that the Council gives residents good value for money and 77% agreed that the Council does the best with the money available
- 79% of respondents agreed that the Council provides high quality services
- Over 9 out of 10 respondents said they were very (57%) or fairly (36%) satisfied with the way the Council is running the area.

4. Strengthening Local Democracy: What do you think should be done to strengthen local democratic decision making in Scotland?

Restore a greater measure of financial autonomy to local government and adhere to the principle of subsidiarity.

Beyond that simple answer lies a whole range of difficult issues that need to be addressed.

Principle amongst these is the issues of what type of local governance system do we want.

It is worth reflecting on the fact that Scotland has fewer local authorities and fewer locally elected representatives than just about any other country in Europe.

If we accept that people and place should be at the centre of any system of government and that subsidiarity is a key principle then we should accept that diversity in structures and processes should overcome the innate desire of central governments for symmetry. Any changes in structure and governance arrangements will need to take account of the differences in the demography and communities of Scotland. A 'one size fits all' approach is not appropriate or desirable.

We are aware that there is increasing pressure on local authorities to develop shared services with neighbouring local authorities. This pressure will inevitably lead to calls for another review of the structure of local government and the number of local authorities.

East Lothian Council was successful in the early 1990's in arguing against merging East Lothian with parts of a neighbouring authority area and we are confident that there continues to be a strong case for a stand alone East Lothian Council.

However, there has been no fundamental study of local governance structures in Scotland since the Wheatley Royal Commission (1969) that led to the local government reorganisation that created the Regional and District Councils in 1975. Every reorganisation or change that has taken place since then has been piecemeal and has not looked at the public sector as a whole. This has led to a fragmented, fragmenting and fractured governance structure. The vast effort that is being put into developing an effective Community Planning framework

and creating an integrated health and social care service is a result of this piecemeal approach.

The recent Agreement and Guidance on Joint Resourcing is the latest attempt to make sense of the confused and confusing public sector landscape; imposing piecemeal solutions to the fundamental problem caused by the lack of a coherent local governance structure.

Therefore there is a strong case for a fundamental review of the governance of all public services. The debate should not be about the number of local authorities but about the responsibilities and structure of all public services and public bodies to ensure that people and place are at the heart of local governance and local democracy.

The review should consider the balance of service provision and accountability between local, regional and national levels and between democratically elected local government, non-elected public bodies and national government.

Who controls education is a key issue that needs to be considered as part of the comprehensive review of governance. There has been an increasingly centralised approach to education from the setting of pupil-teacher ratios and the number of school teachers, pay and conditions for teachers through to the national curriculum and how it is delivered. What role should councils play in education?

Any review of the governance of education would need to consider not only the role of councils in school based education but also the role of the further education sector and the relationship between schools and colleges. How can the transition between school based education and vocational training and preparing young people for employment be better managed? Which level of government is best placed to provide leadership and meet local priorities?

5. Scotland's Future: Has there been enough discussion about local democracy in the debate about Scotland's future?

The responses to the four questions above are not predicated on the debate around the Independence Referendum. Concerns about the erosion of fiscal accountability, the requirement to put the principle of subsidiarity into practice and the need for a comprehensive and fundamental review of governance structures are current and immediate. They need to be acted on irrespective of the result of the referendum.

6. Obstacles and Challenges: Do you have any concerns about strengthening local democratic decision making in Scotland?

No. The value of local democracy stems from the fact that it provides for the dispersal of power and brings the reality of government closer to the people. The term 'local government' is used rather than local administration for a number of positive reasons:

- The members of a local authority are democratically elected and are accountable to their electorate, not to central government
- Local government has tax raising powers; powers which are shared only with central government
- Councils are responsible for the provision of a wide range of services which are delivered in ways which meet the needs of the locality
- Councillors are seen to be leaders in their communities.

Diversity is the key to local democracy. Government should be grounded in a sense of people and place which recognises and builds on the strengths of our different communities.

In the same way that the Scottish Parliament embodies the principle that there should be Scottish solutions to Scottish problems then local authorities encapsulate that principle at a more local level. Each area has different problems, different priorities and different ways of addressing and tackling those problems and priorities. Local priorities and local outcomes reflecting local needs. There cannot and should not be a unified approach to meeting the needs of our diverse communities. In short, 'no one size fits all'.

7. We would like to keep the conversation going with you. Can you tell us about any events, networks or other ways in which we could help achieve this? Is there anything that we can do to support you?

N/A