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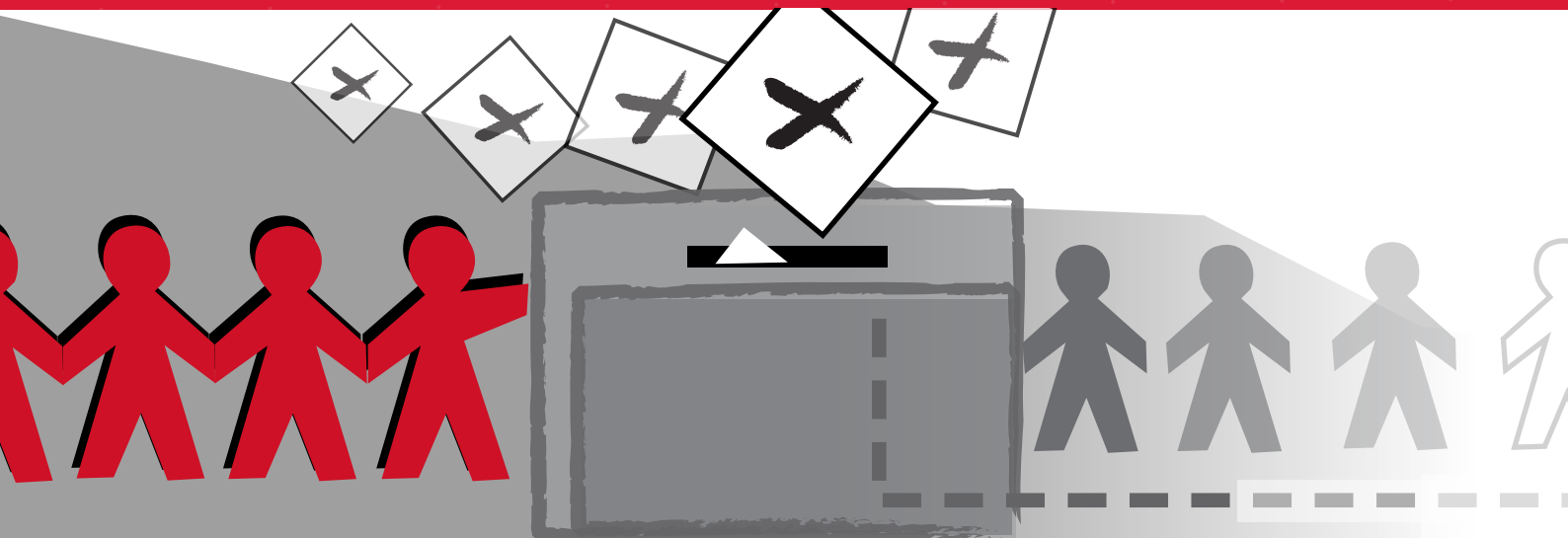
The Silent Crisis

Failure and Revival in Local Democracy in Scotland

Eberhard Bort, Robin McAlpine and Gordon Morgan

April 2012

Foreword

What's the average budget of a community council in Scotland? Go on. Guess. It's £400. That says almost everything you need to know about local empowerment in Scotland. Of course money can't buy you democracy any more than it buys you love. But the near zero budget for Scotland's "community tier" of governance matches its near zero powers and near zero number of contested elections. This is not local democracy.

Meanwhile Scotland's "local" government is composed of the largest councils in Europe – physically and socially remote from the meaningful places where we conduct the most important parts of our lives. This means folk in St Andrews cannot decide how to run day-to-day affairs in the world's home of golf. Andrew Carnegie and Adam Smith – known across the planet as capable, practical, visionary Scots – were Fifers whose descendants aren't trusted to mount a commemorative plaque without permission from distant council bosses. My mother's home town of Wick in Caithness is a three-hour drive from its "local" council headquarters in Inverness and that city itself is badly served by a Highland-wide council which cannot concentrate exclusively on the urban needs of Britian's fastest growing city.

Governance in Scotland is wrong-sized. And yet debate in the next two years in Scotland looks set to be dominated exclusively by the independence referendum. It seems to me that the two are strongly connected. It's hard to see how people deemed incapable of running their towns and villages – uniquely in Europe – will confidently vote to run their own country.

This thoughtful, well-researched, persuasive, provocative and long overdue report examines the fundamental building blocks of Scottish society and explores "self governance" in its most local and empowering context. The Silent Crisis shines a spotlight at the top-heavy location of political power in Scotland at a particularly important moment in our story.

Lesley Riddoch

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Introduction

Scotland, with its many diverse communities, is a nation with a rich and diverse local tradition. From the March Riding traditions of the Borders to the Viking-influenced traditions of Orkney and Shetland. From buzzing, cosmopolitan Glasgow to the slow pace of life on many of the islands. Edinburgh is a city very different from Aberdeen, and Aberdeen is different from Dundee. The Highlands and the Lowlands have their own very different histories, different religious traditions, different languages. Scotland may be a small country but it is in no way a homogenous country.

And so we might expect to find localism alive and kicking in Scotland. But we don't. Instead we find a country which by many measures has one of weakest local democracies in Europe. The distance between where people live and their first 'local' democratic structure is, in some cases, greater than the distance across entire EU nations. The number of people it takes to elect a single councillor is ten times the European average. When local government in Scotland builds a 'local' school, it seems never to build just one. Instead it waits until it can build half a dozen schools in one contract as if a 'big box' approach is inherently better for everyone by dint of not being a local solution.

The current local government structures in Scotland were in large party a Tory response to the ways that local and regional government sought to reflect the hostility of local communities and regions of Scotland to Thatcherite policies. The Tory approach took the big regional administrations and the small district administrations and merged them into the current medium-sized local authorities. While at the time many people agreed that the size and unwieldy nature of Strathclyde Region was unsustainable in a country the size of Scotland, there was real concern about losing that local element.

Political debate has moved on. Since the establishment of the Scottish Parliament, there has been a continuing centralisation of the power of local authorities to make their own decisions. This has been the collective impact of a string of moves from the ring-fencing of elements of local authority budgets to pressure to cede control of the Council Tax to the centralisation of functions such as police and education. Devolution has made local democracy weaker, not stronger.

People have identified a democratic deficit at the local level but the current dominant view is that 'empowering communities' can be some sort of antidote. And in the last two decades the relentless march of 'new public management' has questioned the need for real local democracy altogether. This report will argue that the scale of the democratic deficit has been underestimated and that 'voluntarist' approaches (enabling communities *which want* to organise small local initiatives) is no remedy. It will also argue that democracy matters and that the impact of turning our back on democracy at the local level will be the continued erosion of the kind of localism of which Scotland is proud. It will also undermine effective decision-making.

Scotland must stand up for the value of democracy and must recognise just how important localism is to the nation. National political debate has become detached from the interests of local communities and must reconsider its attitude to localism. And while the report fully accepts that 'local administration' (the efficiency with which local services are delivered) is pretty strong in Scotland and that any benefits of wholesale reorganisation of local government would be greatly

outweighed by the cost and disruption, the democratic deficit at a local level is an issue too great to be ignored.

So this report calls on the Scottish Government to set up a commission to devise a system of genuinely local democratic government which can be established beneath existing local government structures without creating unnecessary disruption. It also calls for a widespread reconsideration of the level of government at which key functions should be delivered, underpinned by the assumption that powers should be devolved as close to the ground as is practical and possible.

Scotland seems to have forgotten why local democracy matters. Unless we remember, we will progressively lose our sense of what makes local local and end up in a homogenised, characterless clone-town nation in which people feel alienated in and from their own communities.

Scottish local democracy – a brief recap

Some form of local governance has existed in Scotland since the Royal Burghs were created between the 12th and 18th century. However, Local Government in its modern form as a major provider and regulator of essential services largely evolved after the industrial revolution and particularly the growth of cities in the 19th century. This period also saw the construction of many of the buildings in which Councils continue to meet and the gradual extension of the franchise leading to representative local democracy.

There have been a number of reorganisations of Scottish Local Government:

- The 1889 act established County Councils with responsibility amongst other things for County Roads, Justices of the Peace and police powers assumed from very small Burgh Councils.

- The 1894 act established Parish Councils replacing parochial boards.

- The 1929 act abolished Parish Councils, amalgamated small Burghs into new County Councils and also amalgamated some County Councils into joint councils.

- The 1947 act rationalised local government into 33 Counties, four Counties of Cities, 27 large burghs and 172 small burghs. A total of 236 elected councils.The 1973 act abolished the previous set up and established nine mainland Regional Councils, three Island councils and 53 District Councils. It also established the right to set up community councils which were to be purely consultative bodies with no decision making powers. The effect was a reduction to 65 elected councils excluding community councils.

- The 1994 act abolished the previous set up and established 32 unitary authorities. This remains the current structure of Scottish Local Government.

- There are 1200 community councils whose members, although nominally elected, are mostly elected unopposed.

Following the creation of the Scottish Parliament, the 2003 act established an STV election system for council elections and also altered the duties and responsibilities of councils and councillors.

Other Scottish government Acts have also modified these. (For a short history of local government in Scotland see Midwinter, 1995).

Developments in the post-devolution era are more subtle but significant nonetheless. There have been three policy approaches from Holyrood which have impacted on the ability of local authorities to act independently according to local circumstances:

- **Ring-fencing.** This was an approach deployed largely by the Labour/Lib Dem administrations which formed the then Scottish Executive for the first eight years of devolution. This involved attaching conditions to local authority budgets meaning they were given a proportion of their funding on condition that they used it for specified purposes. This had the effect of significantly reducing the discretion of local authorities in how to prioritise their own budgets. Given that ring-fencing took place in some of the most resource-intensive areas of local authority provision (such as education) this meant that the ability to pursue distinctive local strategies was pushed into more marginal areas of the overall budget. The result was close to a de facto absorption of significant aspects of the policy role of local government into central government.

- **Concordat.** This was an initiative introduced by the SNP administration when it gained power in 2007. The approach – to agree a set of outcomes between local and central government and then to leave local government to get on with achieving them according to their own strategies – was widely welcomed at the time. However, the effect was different; because a key Scottish Government aim was to freeze the Council Tax, and because this policy was introduced during a period in which public sector budgets in Scotland were beginning to be squeezed after years of expansion, the effect was again to greatly reduce local authority discretion. Being required to deliver the same outcomes within a squeezed budget and with no scope for increasing resources locally in fact reduced the ability of local authorities to act independently.

- **Merging of services**. There has been a cross-party attitude in Scotland that has favoured aggregation as a general strategy on the assumption that the merger of smaller entities must inevitably increase efficiency and reduce duplication (despite much evidence to the contrary, for example Association for Public Sector Excellence, 2012). Currently proposals to amalgamate the existing police forces into a single national force, fire services into a single nation service and proposals to create a national education 'quango' are being considered. Both of these will simply reduce further the powers and responsibilities of local authorities.

The reduction of the powers and independence of local authorities 'from above' has also been matched by a process of internal 'hollowing out' of the functions of local authorities. Outsourcing of services has been a part of the Scottish local government environment since the 1980s but the last ten years have seen an increase in the outsourcing of core functions. The best known model for this is the creation of Arms Length Executive Organisations (ALEOs) which are private companies set up by a Council to carry out what where previously core functions of that Council. The ALEOs have little direct oversight by the elected local authority but instead are government by the appointment of individual councillors onto governing bodies (often with little democratic accountability and often involving additional financial reward for the councillors concerned). This process has further reduced the power and the democratic accountability of local government in Scotland, and has been exacerbated futher still by the increased use of party whipping in local government.

Is local government working?

Is local government in Scotland working? To answer this it is important to be clear what is meant in this context by local government. We take effective local government to be a combination of two things:

- Effective representation of the hopes, views and needs of the population served in the development of actions and strategies

- Efficient and transparent achievement of those actions and strategies

If the latter is not in place you risk corrupt and inefficient government which fails to secure the confidence of the population and fails to deliver. If the former is not in place you risk a managerialist administration which fails to reflect the interests and views of the population, also leading to a lack of confidence in government. While there are different possible terms for these two aspects, this report shall consider them in terms of the *democratic element* and the *administrative element*.

A key starting document for an assessment of whether local government in Scotland is working is the annual *Overview of Local Government in Scotland* report produced by Audit Scotland for the Accounts Commission. The 2012 report follows recent reports in suggesting that local government in Scotland is delivering well against auditable measures such as efficiency, financial management and internal governance. As a starting point, we find no disagreement with this broad assessment. We would express greater concern at some aspects of local authority performance in areas less easy to audit: for example, in some functions such as the legal negotiations around PFI contracts there are greater concerns about the capacity of local authorities (Cuthberts, 2011). Nevertheless, in general service provision any flaws are not fundamental.

However, this is an assessment almost wholly focussed on the administrative aspect of local government; while it alludes to 'strong leadership' and the role of councillors in representing constituents, the overwhelming emphasis is on the role of elected and unelected officials in ensuring good 'corporate governance'.

So how can the democratic element of local government be assessed? Below we put forward a series of possible measures which we believe collectively provide an effective picture of the comparative state of local democracy in Scotland. But the fact that so little attention is paid to the democratic element of local government when so much attention is paid to the administrative element is revealing in itself. This reflects a drift towards the 'New Public Management' approach to government which from the 1980s onwards attempted to 'professionalise' public management by encouraging it to behave like a system of market-orientated corporate governance.

Therefore, to set the scene it will be helpful to undertake a thought experiment to test the democratic credentials of Scottish local government:

> Consider your local community – however you define it. This might be the collection of streets around the one you live in in a large city or a larger subdivision. It might be part or all of a large town, the whole of a small town, the collection of villages around you. Now imagine that every single member of your community agreed on an issue. Perhaps you all want to create a 'fair trade' community or pursue a local carbon neutral strategy. Perhaps you want to renovate the high street and encourage more diverse, specialist local retailers to encourage people to come and shop. Perhaps you want to invest in facilities to boost local tourism or to pitch your community as an 'arts hub' with cheap access to resources for artists and writers. Irrespective of which community you consider or which collective goal you wish to achieve for that community, how could you do it?

A 'voluntarist' approach might be open – you could set up a local voluntary group and try and raise money. A 'lobbyist' approach could be taken – you could mount a campaign to make your local authority pursue the strategy. A 'commercial' approach might be possible – you could try and encourage a private sector company to lead the work for you. But is there a democratic route that you can imagine? Is there a way you could vote for it with a reasonable expectation that a successful vote would deliver a successful outcome?

It is likely that whatever you consider to be your local community, whatever idea or goal you imagine and irrespective of how much support you suppose, the greatest democratic power you will have is to elect one councillor (or perhaps a small group of councillors) to sit on a much larger local authority. Even if they have the full democratic mandate from your community to pursue the collective aspiration of that community, they will quickly be reduced to a lobbying role as a single member of or minority group within a much larger local authority. At the local community level it is difficult to identify a functioning democratic process.

This is mainly because Scottish local authorities are very large and are in no really meaningful sense 'local', certainly not at community level. In them there is no way to ensure the democratic wishes of any individual community. Below them there is virtually no democratic structure whatsoever, and where there are (elected community councils still functioning) those structures have very little power and virtually no budget.

This could be expected to have a knock-on effect: if you have no ability to shape or influence your community from inside that community, to what purpose is debate or discussion about what you would like to achieve? Since a local councillor is able to promise to achieve very little other than to 'fight for' (take a lobbying role), it is difficult for councillors to stand on a meaningful platform or manifesto for a local area. Since this provides no focus for community debate, the only real option for discussing the nature and future of a community is via some form of voluntary structure such as the community council or local campaigns or 'action groups'. However, by their very voluntary nature they cannot be properly democratic. This means that Scotland would be expected to demonstrate a very low degree of informed discussion about strategies for local areas. In turn, it is reasonable to expect that this would result in a low level of public confidence in local democracy to reflect their views or represent their interests as a result of the disempowerment of their community.

Flowing from this, if there is little public confidence in the ability of local democracy to 'change anything' or reflect the views of the community then you would expect to see a weak level of interest in entering or engaging with community politics. You might expect to find a dearth of people entering democratic community politics and little sense of 'active citizens' at the local level.

So weak local democracy might be expected to generate three results at the community level:

- A weak culture of debate and discussion of community issues and low levels of expectation of what local government will achieve

- A low level of public interest in local politics

- A poor rate of people standing for local elected politics

It would require a very significant piece of work to be able to make a meaningful statement on the qualitative issues of whether there is healthy debate about local politics or what level of expectations people have of Scottish local government. However, it is easier to make assessments of whether people are interested and engaged in local democracy either by voting or standing.

Comparing Scottish local democracy

To make a measured assessment of the health of local democracy in Scotland a number of indicators should be considered.

There is a lot of talk about 'localism' and 'empowering' of local communities. Yet, Scotland has "the largest average population per basic unit of local government of any developed country" (Michael Keating, 2005). Some European comparisons will show how out of kilter Scotland really is when it comes to local democracy (for a comprehensive review see Council of Europe 2007). Seven indicators will be compared:

- Population size of local authority area

- Geographical size of local authority area

- Turnout (as a proxy for the interest in local democracy from local people)

- Numbers of local and regional tiers of governance

- Number of electors per local elected official

- Number of candidates as a proportion of the population (indicating public interest in getting involved in politics)

- Number of candidates contesting each seat (as a measure of how plural 'competitive' local democracy is)

The following provides a snapshot of how Scotland compares to other European countries across these indicators.

Population size

Treated in isolation, a crude ratio of representative to electorate is an unreliable indicator of democratic quality" This is because there are other factors that are important; first and foremost the powers and responsibilities that come with the job of councillor, the qualifications councillors bring to the job, the funding of local councils, and the way representative democracy is augmented by ways of direct democracy and e-democracy to make it more participative, i.e. how councils share their power with the community. All these factors are important, but "comparative research, on Denmark, the Netherlands, Norway and the UK has shown that the amount of trust is related to the size of local government." In that respect, clearly, "the number of elected representatives is a key aspect of local democracy" (all references Kingsley Purdam et al, 2008).

Average Population Size of Municipality	
Austria	3,560
Denmark	56,590
Finland	15,960
France	1,770
Germany	7,080
Italy	7,470
Spain	5,680

UK	152,680
Scotland	163,200
EU Average	5,630
Council of Europe 2010, Scottish Government 2010	

Geographical size

Similarly, geographical size of municipalities on its own may reflect factors such as density of population and not just 'density of democracy'. However, it clearly affects how the electorate experience their local government.

Average Geographical Size of Municipality (sq km)	
Austria	36
Denmark	440
Finland	1,006
France	17
Germany	31
Italy	37
Spain	62
UK	601
Scotland	2,461
EU Average	49
Council of Europe 2010, Scottish Government 2010	

Turnout

When considering the issue of participation rates in elections it is important to bear in mind that lots of factors contribute to the ups and downs of turnout – how competitive the election is, the type of electoral system, sociological factors (wealth, education, etc), size (ie. what influence a vote has), what's on offer (i.e. is there real choice). However it is generally accepted that participation rates at elections vary according to voter perceptions of how 'important' that election is and many of these factors relate directly to the question of whether voters consider an election to 'matter'. Participation rates are therefore a reasonably proxy for how important an electorate perceives a given layer of government to be. (There are numerous academic references for this, including Edwards, 2006, Banducci and Karp, 2003. Fiorina, 1976 and Blais, 2006.)

It is a little difficult to make an accurate assessment of how participation rates in Scottish local government elections compare internationally because Scotland has been unusual in that over the last 12 years it has held local government elections at the same time as the national elections to the Scottish Parliament. This has clearly boosted participation rates beyond what might be expected in stand-alone local government elections. Nevertheless, even with this artificial boost to participation rates Scotland (and indeed the whole UK) have participation rates significantly below those of other European nations.

Voter Turnout at Local Election		
Austria	(2004)	73%
Denmark	(2005)	69%

Finland	(2008)	61%
France	(2004)	64%
Germany	(2008)	60%
Italy	(1999)	75%
Spain	(2007)	73%
England	(2009)	39%
Scotland	(2007)	54%
Adapted from David Wilson and Chris Game, 2011		

Tiers of governance

Another way of looking at it is to compare the number of local and regional tiers of governance in a selection of European countries:

Number of sub-national governments			
	Local tier	Borough/County	Regional tier
Federal States			
Austria	2,357	99	9
Germany	11,553	301	16
Unitary States			
Denmark	98	5	
Finland	336	2	
France	36,697	101	27
Italy	8,094	110	20
Spain	8,116	52	17
UK	406	28	3
Scotland	32		
Council of Europe, 2011/12			

Ratio of electorate

With the aforementioned caution that the ratio of citizens to politicians is not in itself an indicator of greater responsiveness of local government, nevertheless the ability to engage with an elected councillor is clearly affected.

Ratio Elected Councillors – Citizens Represented	
Austria	1 : 200
Denmark	1 : 2,000
Finland	1 : 500
France	1 : 125
Germany	1 : 400
Italy	1 : 600
Spain	1 : 700
UK	1 : 2,860
Scotland	1 : 4,270
Adapted from David Wilson and Chris Game, 2011	

Participation in local politics

Effective local politics is about people getting involved as candidates as well as people getting involved as voters. Data on the proportion of the population which stands for election (and competition for elected position) is not as routinely collected as some of the other data used above. However, if we look at a smaller sample of comparators we find:

Proportion of the population standing in local elections			
Country	Population (million people)	Candidates in all local elections	Proportion of population standing as candidate
Finland	5.4	38, 509	1 in 140
Norway	4.8	59,505	1 in 81
Baden-Württemberg	10.7	75,726	1 in 141
Sweden	9.4	64,810	1 in 145
Scotland	5.4	2,607	1 in 2,071
References for Norway and Baden-Württemberg as case studies below. Sweden Statistiska Centralbyrån 2012, Finland: Statistics Finland, 2012			

Competition for elected position

It is also important to consider how competitive an elected post is to identify the degree of contest and debate required to gain a seat.

Number of candidates contesting each seat			
Country	Candidates in local elections	Number of seats	Number of candidates contesting each seat
Finland	38, 509	10,412	3.7
Norway	59,505	10, 785	5.5
Baden-Württemberg	75,726	21,279	3.6
Sweden	64,810	14,631	4.4
Scotland	2,607	1,222	2.1
References for Norway and Baden-Württemberg as case studies below. Sweden Statistiska Centralbyrån 2012, Finland: Statistics Finland, 2012.			

Some conclusions on the indicators

None of these indicators in and of themselves 'prove' anything conclusive. Some are more telling than others – a geography measure is a reflection of population density while a population measure is more proportionate. Some individually demonstrate a clear problem (if only two candidates stand for each seat there is little real competition), while some don't (there is no 'correct' number of tiers of government).

However, it is impossible not to note the cumulative story told by these indicators: excepting the turnout indicator (which as noted is disproportionately high in Scotland because of the track record of holding local and national elections on the same day), Scotland comes bottom in every single indicator of local democracy. We have the fewest councils, the fewest councilors, the largest constituencies (even including somewhere as sparsely populated as Norway or Finland), the highest ratio between the population and councillors, the lowest

proportion of the population engaged in local politics, the least competitive elections and (barring England and even with the distorting effect of dual elections) the lowest turnout.

There is no indicator this report was able to identify which *does not* suggest that Scotland is Europe's least democratic nation at the local level. And this appears to demonstrate that the chain of consequences outlined above is indeed demonstrated – there *does* appear to be a weak culture of debate and discussion of community issues, there *does* appear to be a very low level of interest in local politics and the population as a whole *does* appear to be removed from active local politics.

A note about 2012

All the data required to update these statistics for the 2012 local elections is not yet available (particularly a turnout rate which will not be distorted by dual elections). However, there is reason to believe that there will be a further decline in indicators. In the recent past the 1,222 council seats were contested: in 1999, by 3,934 candidates, in 2003, by 4,195 candidates, in 2007, after the introduction of STV, by 2,607 candidates (Denver and Bochel, 2007). In 2012 there are 2,497, a drop of another 110.

The 2012 election will involve even fewer candidates per seat on average - there are 2,497, a drop of another 110. By city, Edinburgh (486,000 pop.; 58 councillors) is fielding 127 candidates and Aberdeenshire (245,000 pop; 68 councillors) has 129 candidates. Only Glasgow with the high-profile 'battle for the city' and the split in the Labour Group looks to be moving significantly in the other direction with 225 candidates for 79 councillors (for a city with a population of 592,000)

It will therefore be worth revisiting these indicators when that additional data is available.

How does this match to perceptions of local democracy in Scotland?

It would be possible to fill a report of this size with quotations alone - from people indicating there is a crisis in local democracy. The following is a small selection:

Over the last 20 years, turnout in local elections has averaged around 40 per cent. Not only does this put the country at the bottom of the European Union league table for turnout in sub-national elections, it means that it is the only country in the EU where sub-national elections regularly engage the active interest of less than half its citizens. Moreover, in recent years turnout has fallen to an even lower level, with only around 30 per cent of voters turning out to vote in local elections held in 1998 and 1999. In short it does not seem to be an exaggeration to talk of a crisis of local democracy in Britain." (Curtice, 1999)

"The powers and functions of UK local government have been steadily eroded over the past fifty years ... Voters are not sure that local elections decide anything. But then they are not sure that they want local councils to have much freedom to decide anything anyway. Until and unless local government can persuade its citizens that it should have a degree of autonomy from the central state, it is likely to find it difficult to persuade them that the

local democracy that helps justify the exercise of any autonomy is worth their attention."
(Loughlin, 2001)

"The [2012] campaign has drifted along almost unnoticed ... " (Macdonell, 2012)

"[the] drab dowdiness of Scotland's local government elections seems to put Scots off from participating ... something has to change for the Scottish council elections to capture the public's imagination." (Peterkin, 2012)

"The 'concordat' between the councils and the SNP government was supposed to set councils free again after decades of servitude to the central government. They were to be allowed to spend more of their allotted funds as they saw fit, not have it ring-fenced around the government's priorities. But instead we have them tied into 'single outcome agreements' covering all sorts of central government targets, including a council tax freeze. The result is that councils are left paring away at their services, not able to make one bold cut – like closing under-utilised schools, or pulling out of nursery provision or care homes. Nor are they able to go the other way and increase taxes." (Knox, 2010)

"Take Highland Council, which covers an area the size of Belgium with a population the size of Belfast. Councillors drive hundreds of thousands of miles a year to create a sense of connection through meetings, surgeries and local events. Despite such superhuman efforts, many remote communities feel largely negative, reduced to questioning, suspecting and vetoing whatever emanates from Inverness." (Riddoch, 2010)

"We have a situation in my constituency where councillors can decide planning applications for projects hundreds of miles away and where spending decisions are made by officials with little or no knowledge of the places they are affecting. Ordinary folk in the Far North feel disconnected from their council, and many businesses and voluntary groups feel frustrated by the lack of local involvement in Council matter. This must be addressed." (Gibson, 2011)

"Local government is dying in Scotland, as turnout falls and central government increasingly diverts the local revenue and tells councils what to do. The only thing that will keep local government alive is democratic engagement – the active support of the people." (Macwhirter, 2011)

There appears to be something approaching universal concern about the state of local democracy in Scotland.

Does local democracy matter?

Overall, there appears to be a significant problem. But rather than identifying this problem and seeing it as a priority issue for action, the mainstream debate has tended towards the erroneous view that 'since no-one seems to be interested in local democracy there must be no problem'. This is accompanied by two statements that are made often. The first is that there is 'no appetite for restructuring' and the second is that 'the public does not want more politicians'. However, both these statements represent only the views of centralised politics and media. The lazy anti-democratic idea that because politicians are not always popular that equates to a public desire not to have them is simply like suggesting that because people don't like the 'big six' energy

suppliers that they don't want gas or electricity. And while there is a good case for not completely redesigning local government in Scotland from scratch, that position is a long way from one that suggests that nothing should be done. So lack of political will is in itself no argument for the status quo.

But if local administration is working while local democracy is failing, does this collectively amount to a problem that requires action? After all, one of the fashionable viewpoints of recent politics is that 'what matters is what works' – if people are getting the services that they want, how those services are specified and delivered doesn't matter. We would put forward seven important reasons why local democracy very much does matter:

- **Perspective.** It is very important to recognise that the evidence that local administration is working well comes from the broad perspective of a business accounting model. It has assessed that means of organisation, patterns of spending, overall financial management and so on are successful. It makes no claims that local needs are being met, that what is being done are the things that should be done, that people are happy with the choices being made. The perspective of an auditor is to consider administration 'from above'; this offers no guarantee that the actions match need or aspiration. So it is possible to audit the pumping of large amounts of pollution into public waterways and conclude that it was done efficiency and effectively. The only real means we have to gain the alternative perspective (from below) is elective democracy. Without some form of effective local democracy it is simply impossible to make any meaningful, rounded judgement on whether local government is working for local people.

- **Effectiveness.** It is widely accepted that effectiveness has to be a combination of doing the right things and doing them well; it is impossible to consider effectiveness only in terms of actions and not in terms of outcomes. But in the field of local government outcomes must serve the population. It is therefore impossible to consider whether actions are effective without being able to inform them by identifying the desired outcomes. If those desired outcomes are not informed by the people the outcomes are supposed to serve then it is not possible to have confidence that they are the correct outcomes. Both public and private sector administration is littered with actions that proved to be pointless because they bore no relation to the interests of the 'customer'. In the private sector this leads to bankruptcy; in the public sector it is more likely to result in civil service promotional documents explaining why failures are not really failures at all. Local democracy is central to effective decision-making which in turn is central to effective outcomes.

- **Efficiency.** It is widely accepted that there is a conflict between democracy and efficiency – the approaches which are most resource-efficient may be unpalatable by an electorate with a different self-interest. However, we must recognise that the reverse is also true – the most resource-efficient approaches may lead to outcomes which are useless for the users. Thus it is that across Scotland it is easy to gather many examples of 'efficient delivery' of public buildings that produce buildings not suited to their purpose (hospitals with no parking, underspecified schools, libraries with insufficient space, planning decisions that blight people's lives and so on). A project which comes in under budget but produces an outcome that doesn't work is not efficient. Local democracy is a crucial way of ensuring that the care that is put into financial management is matched by adequate care in specifying projects in a way that means they will function when completed.

- **Localism.** If methods of effective corporate governance are taken as a substitute for local democracy, it follows that the same corporate governance methods will be equally applicable everywhere. This would lead inexorably to a homogenisation of Scotland. If we are to accept that people choose to live in different places for reasons linked to the places themselves then we in turn must accept that different places have their own ethos and character. This is localism – the idea that different places are, well, different, and that they will want to do things differently. This is only possible if it is possible to articulate in an inclusive way what exactly is different about a place and it is then possible to act on that difference. Local democracy (and powers which reside locally) is the only way to ensure such an inclusive expression of localism. Without it there is only central planning by professional administrators.

- **Pluralism.** There is more than one way to skin a cat; a small town might attract tourists by encouraging interesting and diverse retailers, or by making easily accessible surrounding natural beauty, or by investing in local leisure infrastructure. Public sector management is not renowned for its inventiveness or creativity – and, it is reasonable to argue, nor should it be given its role in delivering democratic priorities. But if there is no proper democratic debate about these priorities then the risk is that we revert to a single way of skinning a cat. Local democracy encourages pluralist debates about what to do and how to do it. This in turn generates creative and innovative thought. If we lose the pluralism, we lose the creativity – and the ability of people to express their own views.

- **Political resilience.** As with any 'industry', in politics there needs to be some form of 'supply chain' if there is to be a resilient industry. In most democratic countries there is a process through which it is possible to map a route from participants in local and community politics through to the national political stage. But in Scotland there is such a small and hollow local democracy that it is no longer seen as a route to national politics – and this is reflected in the profile of many of the politicians emerging at the national level. It now seems much more common to find politicians emerging from within the existing national system, progressing from political researcher to politician with little engagement with other forms of democratic politics. This does not offer a resilient structure for refreshing and renewing national politics. If elected politics is distant, disconnected and insular, then we should expect distant, disconnected and insular politicians.

- **Principle and precedent.** Above all, if we are to accept the argument that 'yes, this is a democratic failure but we've learned to live without democracy', where does the argument end? With a minority of the population expressing a meaningless say in national government which is run by professional classes on the basis of their own priorities? Democracy must be protected for its own sake. The alternative is not attractive.

What does the alternative look like: two case studies

It is rare for those interested in policy and politics in Scotland to have much knowledge about local government arrangements in other European countries. To demonstrate the extent to which Scotland is minimalist in its commitment to local democracy it is worth looking at two case studies.

Case Study: Norway

Norway – with a population of 4.7m, a comparable population size to Scotland's 5.2m – currently (as of 1 January 2012) has 429 municipalities. There are also 21 county councils with 787 county councillors overall. The average Scottish council serves, as we have seen, over 163,00 people; the average Norwegian municipality has 11,000.

Municipal councils, elected for a period of four years, are the foundation of Norwegian democracy. For decades the devolution of central powers to local governments aimed to focus as much as possible on the municipal level. The philosophy behind this was that decentralisation is an expression of applied democracy, that it brings decision-making closer to those who are affected and promotes popular participation in local political affairs. In Norway's three-tiered structure of governance, "elected regional governments (regional councils) are very weak ... and have few administrative tasks. It is the central state and the 435 municipalities that are important" (Overbye, Vabo and Wedde, 2006).

Voters in Norway elect representatives to the municipal councils and county councils (according to the Representation of the People Act (Act N0. 57 of 28 June 2002)) on a proportional list electoral system. Lists must contain a minimum of seven candidates, they may contain a maximum of six names more than councillors to be elected in the municipality. The Local Government Act specifies the minimum number of representatives to be elected:

A municipality with a population under 5,000 is to have at least 11 members in its council – with a population from 5,000 to 10,000 at least 19 representatives are required. An equivalent system determines the size of the county council. But it is then up to the municipal council and the county council to determine whether to increase the respective number of their representatives beyond the legal minimum. Quite often, they opt to do so.

The capital Oslo is the largest municipality with 599,230 residents, while Utsira in Rogaland is the smallest with 216 residents. The average size of municipalities in Norway is just under 11,500 residents. More than half the municipalities have fewer than 5,000 residents. Kautokeino in Finnmark is the largest municipality in area at 9,704 square kilometres while Kvitsøy and Utsira in Rogaland are the smallest at six square kilometres. The municipalities are a fundamental part of the infrastructure of the Norwegian welfare state and they have a wide-ranging responsibility for public welfare services. What lies behind this is the principle that tasks shall be performed as close as possible to the residents:

The Government bases its policy on the principle that, as a system of government, democracy means influence and power being spread as widely as possible. A vibrant and decentralised democracy based on broad participation is crucial if we are to address the challenges facing society.

Variations in size, both geographically and in number of residents, give the municipalities different conditions in which to exercise their role as service provider, social developer, local authority and arena for local democracy. The municipal sector is constantly facing

challenges connected with the need to coordinate municipal activities across administrative boundaries for the benefit of residents. One challenge the municipalities face is covering the lack of specialist expertise and keeping people in key positions. This applies in particular to the smaller municipalities. The lack of expertise and manpower can be a challenge for all the municipality's roles. Inter-municipal collaboration or the merging of municipalities could be a solution to these challenges. But overall, as the Norwegian Minister for Local Government and Regional development recently again emphasised:

> "The government wants municipalities and counties with room to manoeuvre. Good and effective social welfare services and vibrant local communities require a strong municipal sector with plenty of freedom. (...) The variations between municipalities and regions are substantial, and this is often the case for the challenges as well. It is therefore important to ensure that it is the local democratically elected representatives who make the decisions for the individual citizen, as they know the local conditions best."

As a result, 'civic participation and support for local government still is high in Norway.' Although, here too, there have been changes:

> "Support for local government as a political institution has declined, whereas people now tend to stress the service delivery function of local authorities. This development also signifies a change in people's role orientations towards local government, from the role of citizen to the role of user or consumer. People's participation turns from broad civic involvement in local affairs to greater single issue orientation." (Aars and Offerdal, 1998).

In the last local elections in Norway in September 2011, 10,7812 councillors and 787 county councillors were elected – Scotland has 1,222. In Norway one out of 800 citizens is an elected member of local or regional government – in Scotland the ratio is in excess of 1 : 4,000. Norwegian local councils raise 40 per cent of their revenue, Scottish councils 20 per cent – and they are further curtailed in their power by the ongoing Council Tax freeze. Turnout in Norway in 2011 was 63.6 per cent - will we get more than 30 per cent in May?

(All references other than where stated: Norwegian Ministry of Local Government and Regional Development)

Case Study: Baden-Württemberg

Baden-Württemberg in the south-west of Germany is one of the 16 Länder of the Federal Republic, with a population of 10.7m people (almost exactly twice the population of Scotland). Below the Landtag (the Baden-Württemberg Parliament in Stuttgart with currently with 138 MPs), there are 35 boroughs and nine city districts, and below that 1101 municipalities – each with an elected town council (and an elected mayor). In addition, the Greater Stuttgart region elects – since 1994 – the Regionalversammlung Stuttgart, 84 councillors representing over two million residents.

At the latest local elections, in 2009, the total number of elected town councillors was 19,006; 2,273 councillors were elected to the *Kreistage* (borough/county councils). The number of candidates for the local elections was 60,182 for the former and 15,544 for the latter – on lists, with the possibility for voters to cumulate votes (up to three per candidate) and transfer candidates from one list to another, or put new names on the lists – all up to the number of councillors to be elected.

Councils consist of eight to 60 elected members, depending on the size of the municipality:

Ratio of councillors to population in Baden-Württemberg	
Municipalities	**Council members**
under 1,000 people	8
1,001 – 2,000	10
2,001 – 3,000	12
3 001 – 5 000	14
5,001 – 10,000	18
10,001 – 20,000	22
20,001 – 30,000	26
30,001 – 50,000	32
50,001 – 150,000	40
150,000 – 400,000	48
over 400,000	60

Two-thirds of Baden-Württemberg's municipalities have a population of less than 20,000; 100 have more than 20,000 people; 23 have over 50,000 people (Witt, Krause and Ritter, 2009).

Let us look more closely at some examples. Stuttgart, the capital, with just over 600,000 residents, has 60 councillors. At the last elections, nine lists competed, with a total of 420 candidates. In addition, Stuttgart has 23 sub-districts (*Stadtbezirke*), with a total of 322 *Beirksräte* (roughly equivalent with Scottish community councillors). In bigger town they could be elected, but no town in Baden-Württemberg has availed itself of that right yet. They are proposed by the groups and parties represented in the council, and then installed by the lord mayor (who is directly elected). Their role is to advise and make recommendations to council and administration. Turnout in Stuttgart for the council elections in recent times have fallen from 57.5 and 64.3 per cent in 1989 and 1994 respectively to 47.7 per cent (1999), 48.7 per cent (2004) and 48.7 per cent (2009). Overall, the turnout in 2009 was 50.7 per cent (a record low, down from 52 per cent in 2004).

Freiburg (230,000) had eleven lists, with 528 candidates competing for the 48 seats on the council (Freiburg also has 41 districts). Heidelberg (147,000) has 40 councillors, elected from 10 lists (400 candidates), and registered a turnout of 48.8 per cent. Heilbronn, a town of 120,000, has 40 councillors, elected in 2009 on eight lists, with 320 candidates. The turnout was 42.9 per cent. Öhringen, a smaller town with 23,000, has 38 councillors. At the last election, there were five lists with 139 candidates – the turnout was 38 per cent.

Lauffen (Neckar), with 11,000 residents, has 22 councillors, elected from five lists with 110 candidates – the turnout in 2009 was 53 per cent. Ilsfeld (8,500) has 20 councillors, elected on two lists (40 candidates), on a turnout of 59.2 per cent. Abstatt, a small town with 4,500 residents, has 14 councillors, elected from four lists (56 candidates) – the turnout here was 57 per cent. Mundelsheim, just 3,150 residents, has 12 councillors, elected from four lists (48 candidates) – the turnout was 62.6 per cent.

The smaller the municipality, the higher tends to be the turnout; conversely, the bigger the municipality, the greater the percentage of women councillors. 28.8 per cent of all candidates were women; 22 per cent of the elected councillors in Baden-Württemberg are women. In 1984, the female percentage had been nine per cent.

Ratio Elected Councillors : Population	
Stuttgart	1 : 10,000
Freiburg	1 : 4,800
Heidelberg	1 : 3,675
Heilbronn	1 : 3,000
Öhringen	1 : 605
Lauffen am Neckar	1 : 480
Ilsfeld	1 : 425
Abstatt	1 : 320
Baden-Württemberg	1 : 560

(All references other than where stated: Hin and Eisenreich, 2009)

A note on the Scottish Government Community Councils Short Life Working Group

It is important to note at this point that the Scottish Government has recognised some of these issues and has set up the Community Council Short Life Working Group. The remit of this group is:

- Supporting Community Councils to play an active role in their communities (including exploration of current legislative status) and to work together to share experience and good practice;

- Strengthening the role of Community Council Liaison Officers in supporting Community Councils, including in the provision of training and development;

- Increasing diversity of representation on Community Councils (including exploration of wider public perception and awareness of Community Councils);

- Strengthening the link between Community Councils and Community Planning: and

- Role of Community Councils in project/asset management and service provision.

These are all valuable aims, but they fall short of full democratic representation of local communities. It is also worth noting that the Association of Scottish Community Councils (ASCC) announced in July 2011 that it was to close down. Its last president Vincent Waters noted that community councils "are dying off". He warns that the 9,000 community councillors have very little support, are ageing and that membership is dwindling (Shannon, 2011). It is also often the case that while nominally elected, community councillors are very often simply appointed uncontested.

There are many problems with the community councils we have. With a few exceptions (usually where wind farm money has become available) they have virtually no money, power and are even legally prevented from owning an asset, hence the trend for local community facilities to be owned and managed by development trusts. Community councils might be an effective size of representation for a small rural town but they may not be an effective decision-making unit

in a city. And as is argued throughout this paper, effective local democracy must be more than 'consultative' – aspirations should go beyond something which appears more like a 'sounding board' for existing local authorities. The primary problem with community councils is that they are mainly consultative bodies and the local authorities has no duty or requirement to reflect what they are told by community councils.

This work is valuable and strengthening community councils will be a valuable interim exercise. However it is not a proper solution to the democratic deficit identified in this paper and the weakened state and partial coverage of community councils suggests they may not be the best starting point for reviving local democracy.

It is also worth noting a this stage the Scottish Government's planned Community Empowerment and Renewal Bill which is due in Parliamentary session 2013-14. This Bill will put forward proposals for communities to have rights to buy, posses and manage derelict and unused assets for the benefit of the community. The principle is welcome and these powers could be used imaginatively by local communities, but it has also to be pointed out that powers without democracy are as incomplete as democracy without powers.

A democratic structure for Scotland

As we can see from the above case studies, there are a wide range of options for exactly how a new layer of local democracy might be implemented and many valid arguments one way or the other on each. It is for this reason that this report recommends that a Scottish Government commission should be established to resolve these and develop a complete proposal. However, it is possible to outline the skeleton on which a new structure should be devised, outline some key principles on which it should be based and to identify some of the main questions that must be resolved.

As has already been pointed out, there is no major failing in the way that existing local authorities operate (other than in failing to reflect the diversity of local democratic opinion). Any reorganisation that resulted in upheaval of infrastructure or employment would be massively costly, time-consuming and demoralising; since there is no evidence of administrative failure, even attempting that sort of wholesale reorganisation is entirely unjustified.

However, wholesale reorganisation is not what is required to address the issue. What is needed is a more democratic means of informing the operation of local government. It is therefore entirely possible to maintain the existing structures of administrative delivery but to increase the democratic means through which that function is specified and monitored. What is required is a layer of democracy below the current local authority level. It would require little additional bureaucracy; rather, the existing bureaucracy would simply be governed by different elected bodies according to the allocation of powers and functions.

This layer of additional democracy would lie below existing local authorities (although it should be pointed out that for the four big cities – Glasgow, Edinburgh, Dundee and Aberdeen – the current structure is similar to the one that would be expected in most European systems of local democracy). There are many options for organising it, from something that looked more like the old District Councils to something more like properly empowered and democratic Community Councils (although as noted above the flawed nature of the current community council

arrangements do not make them a particularly promising starting point). And the experience from European comparators (and as can be seen in the case studies) is that there is no problem in accommodating different sizes and types of local council if that variety best suits the specific local conditions. For example, the local democratic body which was elected by a group of rural villages could look very different from the local democratic body elected by a large regional town.

Depending on how powers and responsibilities were allocated across different levels of government, it might also make sense to create a structure for some regional-level planning (for example in education and policing). However, it is less clear at this stage that there would be substantial benefit in seeking additional elections for this layer at this time. Rather this might be constituted by a 'coalition' of the existing local authorities.

There are a number of principles which should underpin the development of a more detailed plan for such a reform of local democracy:

- Above all it is imperative that **local democracy should be universal** and not reliant on a community 'opting' for democracy. A 'voluntarist' approach favours communities where people have time, self-confidence and experience – often this means affluent communities.

- There must be a clear recognition that **elected politicians are central to democracy**; while modern technologies may offer new ways to gauge public opinion they do not offer a means of holding democratic institutions to account.

- **Ultimate responsibility must lie with the democratic body** and not with paid officials. The instinct of professionals to prevent elected officials 'making mistakes' must be curtailed; communities must be free to make their own decisions and live with the consequences.

- We should accept that **consistency is not the primary goal** and that different kinds of democratic bodies suited to different areas and communities is fine.

- Similarly, **diversity of outcome** is an inevitable and desirable result of democracy and 'managing out' difference should be avoided wherever possible

- The assumption that homogeneity and size are synonymous with efficiency must be rejected. **Outcome must come first**; the role of efficiency must be in delivering democratic outcomes as well as is possible.

- The principle of subsidiarity should be adhered to; **powers should lie as close to the affected communities as is possible**.

- However, it must also be recognised that there will also be a right to expect some national standards of quality and that the **nationally elected government has a clear locus to set national priorities and policy frameworks**

- **Local units of democracy should not undermine the principle of collective social cohesion** and must not become a means of promoting greater inequality between poorer and richer communities. As in long-establishrd precedent, a mechanism for redistribution according to social need must be a central part of the system.

There are then a number of key issues relating to structure which should be considered:

- A means must be found of constructing constituencies for the new layer of democracy. There are some existing sub-local authority structures such as community councils

and local area committees which may or may not contain a democratic element. However, these are currently certainly not universal and it may not be easy to 'build up' from these structures to create a universal system. Other approaches should also be considered, for example by building constituencies out of existing 'jurisdictions' with universal geographical coverage such as primary or secondary school catchment areas. In terms of the size of electorate there is extensive data from European countries to provide a basis for discussion. For example, there are many councils in France and Germany with fewer than 1,000 electors but few of that size in Belgium or the Netherlands. However, across Europe it is clear that there are wide variations on the size of electorates at the local level.

- A means for identifying the number of politicians for each constituency should also be considered. Again, there is a wealth of experience of this in Europe where the variations can be significant.

- In the UK there has been an increasing focus on the question of 'elected mayors' (or provosts in the Scottish context). When we look at the European picture it becomes clear that the UK concept of a 'mayor' is only a single possibility. A 'town leader' can be anything from a sort-of 'chief executive' selected for the ability to administer local functions to a sort of 'charismatic figurehead' role in promoting the town. And they can be directly elected or elected from within the local council. Or of course there may be no 'town leader' at all. There are benefits and dis-benefits to each. However, while an elected figurehead may form part of a reform of local democracy it is important to state that a personal popularity contest is no substitute for proper local democracy.

- While as a matter of principle local democracy must recognise and expect diversity of outcome, nevertheless there are certain core services and service levels that must be guaranteed irrespective of which community you live in. Means of identifying ways to ensure minimum service coverage and quality (such as a binding service contract) should be explored.

- The means of ensuring that a single bureaucracy working to different elected bodies does not mean duplication and confusion should be explored. However, this problem must not be exaggerated and the clear division of powers and responsibilities should be the major way in which this issue is resolved.

Finance

It is generally accepted that the current fincial mechanisms for funding local government are flawed. For example, the report of the Local Government Finance Review Committee which reported to the then Scottish Executive in 2006 concluded:

"First, there is the fundamental question about what the relationship between central and local government should be. There is long-standing and unresolved debate about their respective roles. The Committee's view is that it is essential that the Scottish Parliament, the Scottish Executive and local authorities grasp the nettle and resolve what appears to be a corrosive argument about their relationship." (Burt et al, 2006)

The incoming SNP Scottish Government rejected the recommendations of that report in favour of the establishment of a Local Income Tax but was unable to secure a parliamentary majority for that proposals. The issue therefore remains unresolved.

The excessive reliance on central government grants to fund local government in Scotland is problematic and should be resolved. However, it is beyond the scope of this paper to explore what that resolution might involve. For the present, this report would simply suggest that an additional tier of local democracy might easily be accomodated within the central grant mechanism for funding local government until a more comprehensive solution was achieved.

There would of course need to be a system of distribution of resource (or responsibilty over resource) to any additional tier of government. This would need to have an element of 'sufficient supply' (for example, if childcare arrangements are devolved to the local layer, sufficient resouce to make that possible is required) and redistribution according to social need. However, these are factors already embedded in local government finance.

There are many possible options for financial arrangements and quite a few models to draw from. Generally, it is preferable for elected councils to be responsible for raising as much of their own resource as is practical (subject to a redistribution mechanism to deal with transfers to areas with greatest social need). A power of General Competence would in itself open up a number of possibilities such as being able to introduce parking charges, litter fines, 'bed tax' for hotels or to enter into commercial partnerships.

However, this report would want to emphasise a particular principle: it does not propose a 'libertarian' method of finance which would enable wealthier communities to raise more from within themselves at the expense of poorer communities with less capacity to raise income internally. As above, two mechanisms should be explored to resolve this:

- A means of ensuring minimum quality and coverage of service, such as a binding service contract

- A means of redistribution according to need

Above all, local democracy must not become a means for exacerbating the already unacceptable levels of inequality in society – quite on the contrary, it must become a mechanism for addressing them.

Powers

The powers wielded and services provided by Local Government have changed dramatically over the past 25 years and continue to change. Apart from reorganisation and a moving of responsibilities between tiers of government there have been several main drivers of change:

- **Sell off** by Local Authorities, for example Strathclyde Buses and Glasgow Airport (sold by Glasgow Corporation in 1975).

- **Removal of services** from local authorities by the Scottish Government; for example the 'forced' ballot to transfer Glasgow housing to GHA and its subsequent dismemberment into local housing associations. At one swoop a major component of councillor's

surgeries - housing matters - was removed. The earlier removal of Further Education from councils had a similar effect. Frequent changes to the economic development regime have hampered councils economic development. Proposals over Police and Fire could further reduce local accountability to elected members.

- **Technological change**; for example computers, have made many tasks more efficient thus requiring fewer staff, but also allowed services to be shared between councils, carried out in different ways and also created the scope for new services to be provided.

- **Competitive tendering and its successor best value** which was imposed as a duty in the 2003 act. Best value is defined as a "continuous improvement in the performance of the authority's functions". Although "effectiveness" is given as one parameter of the definition, the key measures are cost and the aim was the out-sourcing of services. There was no mention in the definition of democratic oversight. Where out-sourcing has occurred, either to private companies or council ALEOs this has often resulted in effective monitoring and democratic control being restricted by 'commercial confidentiality'

- **New targets, monitoring and feedback requirements** imposed by Holyrood, Westminster or Brussels. The list is long but class sizes targets and the wide range of 'guidance' targets set by Holyrood restrict flexibility in funding.

- **Financial restrictions** such as ring fencing, Concordat, grant cuts and removal of Non Domestic Rates have restricted councils freedom to both raise and spend money in line with local needs. Given that savings from technological innovation and 'rethinking' services have largely been done these budget restriction mean most councils have little choice but to impose arbitrary cuts in services not designated "essential" or already subject to commercial contracts e.g. PPP/PFI schemes.

- **Changes to Regulatory Powers.** The denationalisation of electricity, gas, rail and telecoms and the reorganisation of Scottish Water and NHS Scotland have changed the regulatory framework, mostly by removing powers from local authorities. Bus deregulation has had a similar effect. With regard to transport and utilities, frequent service disruption (particularly to roads) and public frustration appears the main consequence.

In most European countries, local government has the power (general competence) to act on behalf of their community's citizens, while in the UK local government is given certain powers to undertake specified activities and to deliver clearly defined services. In most European states, the position and status of local government are guaranteed in the national constitution, defining their right to look after the affairs of their citizens and run and regulate their community, in compliance with the principle of subsidiarity.

Town planning, water supply and sewage, waste management, childcare and primary education and social services are the main areas of local responsibility in most European states, although great differences arise in the scope of local authorities' responsibilities. In Norway, for example, the responsibility for primary healthcare is devolved to the municipalities. These cover health promotion, primary health care, care of the elderly, care of the handicapped and mentally handicapped, childcare and primary school education, social work (child protection and social protection), water, local culture, local planning, and local infrastructure. By giving local authorities both the autonomy to set the level of service provision and the economic means to provide the services, the aim was that this decentralised model would provide a more efficient service provision and serve local needs better than a centralised model. That is why the Norwegian

law leaves a large mandate for local health care services to take part in shaping the local social structure.

A Council of Europe Report on the relationship between central and local authorities (Council of Europe, 2007A) came to the following conclusions on the main areas of local responsibility and trends in the relationships between central and local authorities:

- Legislation and setting of criteria is a central (State/regional) responsibility.

- Funding is, in many cases, a central responsibility, although municipalities can raise taxes and there is joint-funding for some issues.

- Supervision of legality is also a central (State/regional) responsibility and there are frequent budgetary compliance controls.In shared responsibilities there are sometimes central performance controls.

- Mandatory consultation with municipality associations in relation to local statutes, budgets and other significant issues concerning local responsibilities exists in most States.

- Formal consultation structures (general or sectoral) exist in many member states to facilitate interlocution in those areas.

- De-concentrated central bodies are usually in charge of information and supervision interactions.Information and advice to municipalities in the main areas of responsibility is the most frequent form of interaction.

- Local authorities usually feed-back information to central authorities thus delivering performance indicators and other data.Information relationships tend to be more informal and to be held by civil servants and individual local authorities.

- Co-operation mechanisms are established especially in areas where the nature of local tasks or the amount of investment needed goes beyond the municipalities' possibilities.

- Central-local agreements to promote efficiency, improve performance or define funding are starting to be set up in some countries.

More detailed information on how powers are distributed in different countries can be found in the Council of Europe report on local authority competences (Council of Europe, 2007B).

Clearly a new structure of democracy will require some consideration of the allocation of powers. This may involve legislative change but equally it involves a change in the relationship between the Scottish Parliament and Local Authorities and changes in the relationship of councils and their constituents. Scotland is part of the EU and the principle meant to be at the heart of EU decision making is subsidiarity; i.e."Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level".

Applying this principle to the Scottish Parliament, the Scottish Government should only take action if it is clearly impractical for councils acting individually or collectively to achieve the same objective. Because there is a shared competence between Local Authorities and the Scottish Government in so many areas, the onus should be on the Government to ca' canny where it acts.

If a proper additional layer of elected democracy is put in place below the level of the current local authorities, the same principle must apply to the relationship between those two tiers. The onus should be on local authorities to allow the lower tier of government to lead on issues directly relating to local communities unless there is a demonstrable reason for that role to be carried out at a higher level.

The second principle is a 'power of general competence', so that councils can do anything they are not expressly forbidden to do. English councils since 18th February 2012 have this power which was established in the UK Localism Act 2011. Under the UK Bill councils are specifically allowed to:

- carry out any lawful activity;

- undertake any lawful works;

- operate any lawful business; and

- enter into any lawful transaction.

Scottish councils should have the same power, and indeed the Community Empowerment and Renewals Bill which is under preparation may encompass this. A power of General Competence is one which should apply to the lower tier of local government as much as it should to current local authorities.

Some aspects of the 2003 Local Government Act and its statutory instruments require looked at and changed as the whole aim of the Best Value regime appeared to many of us to restrict the actions of local government. This seems the antithesis of General Competence. The powers of councils to invest were relaxed in April 2010, to take account of Prudential Borrowing. However, even this guidance should be reviewed.

Finally the Scottish Government should look critically at the financial strictures and targets imposed on local government, particularly Council Tax freezes and retention of NDR. If localism means anything, councils wishing to modify taxes should be able to do so freely and answer to their constituents.

Cost

One of the most common arguments against reform of local democracy is the assumption that it would be prohibitively expensive (whether the cost of democracy is an acceptable reason to circumvent it is a separate question, but it is important to consider the cost of reform).

The first thing to make clear is that as has already been pointed out, the range of different possible structures and arrangements for local government is virtually endless. This means that making any kind of meaningful estimate of the running cost of a reformed system of local democracy in Scotland is open to an enormous number of possible factors. However, since the last reform of local government in Scotland cost coming on for £1 billion it is worth making clear that the kind of reform proposed in this report would cost nothing like that to run.

To make an estimate, let us consider the details of the case study of Baden-Württemberg (all references as above). If we pick out Öhringen and build it from there we discover that the 38

councillors receive a monthly basic amount of recompensation of €50 (£42), plus €30 (£25) for every council or committee meeting. There are ten to 12 meetings of the council, and roughly the same number of committee meetings – which gives us a total of just over €70,000 per year. The monthly allowance for councillors varies slightly, from a basic rate of €20 per month in Sigmaringen to the top rate in Stuttgart of €1,200. On top of that, there are payments per council or committee meeting, of €20 to €120.

Bearing in mind that of the 1,101 Baden-Württemberg municipalities nearly 1,000 have below 20,000 residents, this gives us a grand total of €50m for all municipal councillors; we may add another €3.5m for the county councillors, and another (generous) €300,000 for the Greater Stuttgart regional assembly. That would make it, say, €55m for 21,363 councillors.

There are, of course, also 1,101 directly elected mayors and lord mayors in Baden-Württemberg. Their period of office is eight years. In municipalities with a population of under 2,000, the mayoralty can be a honorary position, if the council does not decide to make it a full-time salaried post. As from municipalities of 20,000 residents and more, the post is that of a lord mayor. The pay scale for elected mayors runs from €3,120 per month for the smallest to €10,950 per month for the largest (mayors get paid more during their second term in office). However, in Baden-Württemberg, the directly elected mayors have a strong position – not only as chair of the council and all council committees, but also as head of the administration. They are also the legal representatives of the municipality they serve. Thus in this context mayors would not be comparable to elected councillors as they are full-time and part of the executive.

As we have seen, Baden-Württemberg has a ration of elected councillors to population of 1:560 while Scotland has a ratio of 1:4,270. To match the Baden-Württemberg ratio (admittedly at the top end of the scale) would require something like an additional 8,000 councillors. Scotland's councillors – all 1,222 of them – earn a total £22.8 m per year and also claim more than £3m a year between them on top of their taxpayer-funded wages. The difference between Baden-Württemberg and Scotland is, of course that, in Germany as in most parts of Europe (and in England, for that matter), councillors are unsalaried, only receiving expense allowances, while being a Scottish councilor is a full-time occupation.

While there may be a number of options for how to structure compensation for the new tier of local democracy, we would argue that there is certainly no case for full-time councillors at the community council level. If a compensation rate similar to that of Baden-Württemberg was used it might proportionately result in a total cost of sustaining councillors of approximately an additional £19m. As this proposed structure does not imply an automatic or inherent increase in the volume of services provided by local government any change in volume of service would result in the democratic decisions of the new democratic structures which would in turn mean reprioritisation of existing resources or that a council would be elected on the basis of proposals to generate additional income. So the only remaining running cost would be any additional administrative support required by the new structures. However, as these are new structures of decision-making and not of administration or service delivery, it is important not to overstate any likely cost of additional administration. As one academic study put it:

> "Clearly a greater number of councillors is likely to increase the administration support costs, however this may lead to savings in the longer term as a result of more effective policymaking and use of resources as councillors are more likely to be in close contact with residents and have a greater understanding of their views and concerns." (Kingsley Purdam et al, 2008, p.15))

At this point it is important to make clear that we are not suggesting there are no cost implications of democracy. A local community might choose to improve or make more efficient certain

elements of service provision or to add new services or undertake additional projects. These would all potentially have positive or negative financial implications. However, it would be for the electorate to vote according to the proposals and the cost of the proposals which would generally fall on that community to bear (or to reprioritise budgets accordingly). These are costs resulting from the ouctomes of democracy and while it is to be expected that communities generally will not want to organise (for example) their own bin collections at much greater cost due to diseconomies of scale, that democratic option would be open to them. This section refers to the cost of the administration of democracy, the price for it to exist.

So, to put this all into perspective, if Scotland wished to become one of the most democratic countries in Europe and to provide fairly generous expenses for those in the new tier of government, even at this top end the cost of running such a system might be no more than two to three times the current running cost of the Scotland Office or less than the current salaries bill of chief executives and senior directors of existing local authorities.

Conclusion

It is time we fully recognised the state of democracy in Scotland. Below the national level, Scotland is the least democratic country in the European Union; some have argued that it is the least democratic country in the developed world. We elect fewer people to make our decisions than anyone else and fewer people turn out to vote in those elections than anyone else. We have much bigger local councils that anyone else, representing many more people and vastly more land area than anyone else, even other countries with low density of population. In France one in 125 people is an elected community politicians. In Austria, one in 200. In Germany one in 400. In Finland one in 500. In Scotland it is one in 4,270 (even England manages one in 2,860). In Norway one in 81 people stand for election in their community. In Finland one in 140. In Sweden one in 145. In Scotland one in 2,071. In Norway 5.5 people contest each seat. In Sweden 4.4 people. In Finland 3.7 people. In Scotland 2.1. In every single indicator we were able to identify to show the health of local democracy, Scotland performs worst of any comparator we could find.

In most of Europe community politics is 'normal' – people you know, your friends and family or neighbours will routinely contest elections to represent your community. In Scotland we have created a system where community politics is 'strange and distant' – you probably don't know many if any people who are involved in local politics. You probably don't vote. You certainly end up with a council which is by far the most distant and unrepresentative of your community of any comparable country. And you wonder why confidence in local democracy is low?

This is an existential crisis for local democracy. If we do nothing to address this very clear problem we will end up with a nation in which politics is the preserve of a tiny cadre of professional politicians who are separate from the rest of society. We will continue to live in a country where professional managers make decisions *for* your community with little reference *to* your community, and they will continue to do it in 'job lots' – not building a school for you but building half a dozen schools for a standardised notion of what a community is. And these blanket policies applied across diverse communities will simply dilute diversity and create homogenous 'clone towns'. Disillusionment and alienation will continue to rise and the gap between politics and the people will continue to widen.

In Scotland we have been kidding ourselves on that a few successful audits of local authority bureaucracy have shown there is no problem. But worse than that, the letters pages of many newspapers suggest that we aren't even widely aware of our status as the least locally democratic nation in the developed world. This cannot be allowed to continue indefinitely.

So there are three core conclusions from this report:

- Local democracy is important in principle and in practice

- There is a clear democratic deficit in Scotland at the local level

- To resolve this the Scottish Government should set up a Commission to devise a layer of democracy which can be established below the level of the existing local authorities

In considering how that might be done the report recommends:

- There is no justification for any major restructuring of the administrative bureaucracy of existing local authorities; what is needed is not an extra layer of bureaucracy but an extra layer of democratic decision-making to guide and instruct that bureaucracy

- There are some core principles that must be adhered to in devising that layer of democracy, central among which is that democracy must be universal and not 'voluntarist'

- The proposals should be bold in following the principle of subsidiarity – we should trust communities to make as many as possible of the decisions which impact on them themselves, which means making sure they have the maximum possible power

- However, it is important to also make clear that national government does have an important role in establishing national policy frameworks and in ensuring national minimum standards.

It also seeks to set the debate in context:

- Cost should not be seen as a deterrent: as there is no proposal for restructuring the administrative function of existing local authorities the cost of introducing democratic councils should be no more than a few tens of millions of pounds at most

- Fear of 'competence' must not inhibit the debate: the tendency of some professional politicians and administrators to assume communities are not capable of managing their own affairs is clearly contradicted by the experience from across Europe

- This is not a low-priority issue: the current structure which sees politics and decision-making take place distant from and with little reference to the people the decisions affect lies at the very heart of many of the major problems of disillusionment with democracy that are regularly identified in Scotland and the UK as a whole

We believe that this is a matter that should command strong cross-party support and urge politicians of all parties to support these calls for reform.

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