

1. Introduction

This report sets out the findings of an international review which analyses the local governance systems in a diverse range of case studies from around the world, and looks at the ways in which citizens are able to participate in those local governance systems.

This first section provides some explanatory background and context to the review; sets out the aim of the review; and describes how the review was undertaken: how case studies were selected; and the case study approach that was applied.

Background

The work described in this report was undertaken to contribute evidence and analysis that would help inform the Local Governance Review (LGR), established to meet government commitments set out in successive Programmes for Government.

The LGR was launched in December 2017 and is being undertaken by the Scottish Government in partnership with the Convention of Scottish Local Authorities (COSLA), and working closely with the community sector in Scotland. The LGR is concerned with governance arrangements in Scotland and the decentralisation of power and decision-making. It is considering how powers, responsibilities and resources are shared across national and local spheres of government, and with communities. The review is being taken forward through three inter-connected streams of work looking at community, functional and local empowerment.

The Local Governance Review follows earlier work by the Scottish Government focused on community empowerment. The [Community Empowerment \(Scotland\) Act 2015](#), made changes to powers and responsibilities relevant to community planning, communities' right to buy land and take ownership of public assets, and participation of communities in local service delivery through the specific use of participation requests. Alongside the implementation of the legislation, Scottish Government and COSLA have worked together with the community sector to establish and build the application of [participatory budgeting](#) approaches in Scotland.

The issues of concern for the Local Governance Review have been the subject of repeated appraisal over the last twenty years by a number of commissions and independent reports, including:

- Report of the McIntosh Commission, 1999
- [The Silent Crisis: Failure and Revival in Local Democracy in Scotland](#), 2012, a report for the Jimmy Reid Foundation
- Report of the COSLA-backed [Commission on Strengthening Local Democracy](#), 2014
- [Renewing Local Democracy in Scotland](#), 2016, a report by Andy Wightman, MSP

The issues that have been commonly set out in these reports include:

- a concern with government centralisation
- the quality of local democracy
- the lack of a constitutional/legal position for local government
- the fiscal position of local government, and
- the quality of citizen participation.

The reports and commissions also often draw unfavourable international comparisons between Scotland and other countries, particularly our neighbours in Europe, based on quantitative measures such as the average geographic size of local authorities and the size of the population they serve, the number of local authorities, and the ratio of elected councillors to local electorate.

The aim of the international review

This review is international in scope; it draws on examples not just from Europe but also from North and South America and Australasia. It takes a predominantly qualitative approach to produce in-depth case studies which offer a rich profile of local governance in each instance. It looks not simply at governance structures but at building an understanding of local governance as a system, recognising that the operation of governance involves inter-connections and dependencies vertically between levels of government and horizontally between similar local governance structures. And the review looks also at participative democracy; whether and how citizens can participate in local governance: the means and mechanisms available to them to influence or take part in local decision-making beyond voting in elections.

The review considers the case studies comparatively, to identify where there are common issues and challenges and patterns in the ways in which systems are designed and function, and where systems differ or diverge. Profiles of each case study describe the system of democratic and public service governance, including the different spheres of government and their functions, and mechanisms for public participation and offer an appraisal of each country's system of governance. The results of this review complement and add to the picture provided by the reports listed in the previous section.

The review does not identify an 'ideal type' of local governance that can be simply transferred and applied to Scotland. Instead, the review contributes to a deeper knowledge and a richer understanding of different local governance systems. In that way, it aims to act as resource for learning and reflection that can inform ongoing discussions about governance and democracy in Scotland.

It is difficult to capture the complexities of governance in a simple definition. The literature on governance proposes several definitions, but most rest on three dimensions: power/authority, decision-making and accountability. The Institute of Governance working definition of governance reflects these dimensions: governance determines who has power, who makes decisions, how other players make their voice heard and how account is rendered.¹

1 What is Governance? | Institute on Governance (iog.ca)

SCOTLAND

Scotland is one of the four nations that make up the United Kingdom (UK). The original parliament of Scotland was created in the early 13th century and was the national legislature of a then independent nation. In 1603, the English crown passed to James VI, King of Scotland. The two nations then had the same monarch – an arrangement known as union of the crowns. The *Union with England Act 1707* established parliamentary union between Scotland and England. Scotland retained autonomy over several key areas – its distinct legal system remained intact and its Church stayed independent from the Church of England.

In a referendum in 1997, a majority of voters agreed there should be a Scottish parliament with tax-varying powers. The *Scotland Act 1998* established a single-chamber Scottish parliament that could pass primary and secondary legislation. The devolution settlement dictates that any powers not set out in legislation as the responsibility of the UK Parliament (reserved matters), are *de facto* considered to be the responsibility of the Scottish Parliament (devolved matters). The Scottish Variable Rate enabled the parliament to increase or decrease the basic rate of income tax by up to three pence in the pound.³⁴ However, the overwhelming majority of the Scottish Executive's budget

was to be funded through a 'block grant'³⁵ from the UK Government.

A referendum on Scottish independence was held in 2014 but rejected by voters.³⁶ New financial and social security powers were subsequently devolved from the UK to the Scottish parliament in the *Scotland Act 2016*. The Scottish Government estimates that its budget may vary by up to six percent by 2022/23,³⁷ which would be a significant change from the level of variation through the UK Government's block grant.

There are 129 Members of Scottish Parliament (MSPs); 73 constituency MSPs, elected through First Past the Post³⁸ and 56 additional members selected from regional party lists under proportional representation. Ordinary elections for the Scottish parliament were due every four years, however legislation has subsequently amended this to be every five years.³⁹

34 This power was never used; now replaced in *Scotland Act 2012* by the power to set Scottish Rate of Income Tax (SRIT).
35 The block grant was calculated using the 'Barnett Formula', which adjusts the funds allocated to Scotland in proportion to spending in other parts of the UK by the UK Government. Since the devolution of fiscal and social security powers to Scotland through the *Scotland Act 2016*, Block Grant Adjustments are used to tailor Scottish Government's funding.
36 55.3% to 44.7% voted against independence, turnout was 84.6%.
37 Scotland's Fiscal Outlook, Scottish Government, May 2018.
38 The First Past the Post voting system elects the candidate with the highest number of votes in a constituency.
39 Scottish (Elections) Reform Act 2020.

Historical development of local governance

In the 12th century, Scotland was split into counties, parishes and burghs. Counties evolved from sheriffdoms and stewartries, while parishes were used as a way of dividing the country into small regions, each with their own local church and clergy. Burghs were towns that enjoyed a certain level of autonomy and special privileges over the regulation of trade and industry. From the 17th until the mid-19th century, local government in Scotland was characterised by the regime of church and gentry (in parishes and counties) and by oligarchy in the burghs. Social, economic, political and religious transformation in Scotland all impacted the evolution of local government in the 18th and 19th centuries.

Between 1889 and 1975, Scotland was made up of 37 county councils (with some minor reforms taking place during this period). This included four 'counties of cities' covering the nation's largest cities: Aberdeen, Dundee, Edinburgh and Glasgow. The other 33 counties were made up of 21 large burghs (an area with a population of 20,000 or more), 176 small burghs and 196 landward districts. Large burghs were largely independent of county councils, with the exception of major services such as police and education. Counties of cities united the powers of the burgh and the county council. Small burghs provided services such as street cleaning, housing, lighting and drainage. The landward districts had more limited powers such as maintaining public pathways and parks.

Key reforms in local governance

During the 1960s, a general consensus emerged for reform of the structure of local governance. The Royal Commission on Local Government in Scotland (the 'Wheatley Commission') put forward a proposal for a two-tier structure in 1969. This was introduced in the *Local Government (Scotland) Act 1973* and came into effect in 1975. The Act abolished all former burghs (their powers were passed on to district councils) and divided Scotland into eight large regional councils, 53 smaller district councils and three unitary councils for the Island Areas. The top tier of eleven regional councils⁴⁰ had responsibility for functions such as education, health, social care and roads. Each regional council contained several district councils within it, each district council being responsible for functions such as planning, housing and leisure.

The *Local Government etc. (Scotland) Act 1994* introduced the current structure of local government in Scotland, which has been in place since 1996. The new 32 unitary local authorities combined the functions of the old regional and district councils but covered smaller geographical areas.

Most recently, the *Public Bodies (Joint Working) (Scotland) Act 2014* established Integrated Joint Boards for Health and Social Care delivery, which came into force in 2016. NHS and council care services came together under a partnership agreement for each local authority. They are jointly accountable for the health and care needs of local residents who access these services.

40 Borders, Central, Dumfries and Galloway, Grampian, Highland, Lothian, Orkney, Strathclyde, Shetland, Tayside, Western Isles.

Structure and function of local governance

Since 1996, local government in Scotland is organised into 32 local authorities which represent a geographical area and are accountable to voters in their area. The three island local authorities – Orkney, Shetland and Na h Eileanan Siar (Western Isles) – retain the form set in place in 1975. Each local authority is made up of multiple wards.

Local authorities in Scotland differ significantly in size and population⁴¹ but all are commonly responsible for the delivery of a specific range of public services in their area. This includes education, social care, waste management, road maintenance, parking related issues, public transport, council housing and the provision of business licenses or permits. The powers of local authorities are legally binding and can be split into three categories. Mandatory duties that local authorities are obliged to fulfil (such as schooling for 5-16 year olds); permissive powers which aren't required but are allowable (such as economic development); and regulatory powers to monitor business operations (such as licensing of taxis).

The *Local Government (Scotland) Act 1973* established many of the processes and responsibilities that are still in place in local government. Two prime examples are the statutory power to borrow money and the delegation of decision-making powers to

(sub-) committees. The Act placed a duty on local authorities to introduce Community Council schemes in their localities and gave them statutory oversight over these community bodies. The legislation also made provisions for local authorities to tailor schemes to local circumstances, in consultation with Community Councils.

Recent policy and legislative changes around improving outcomes, community empowerment, regional economy and wider national policies require local authorities to strive towards achieving local priorities and improving outcomes for their communities. The *Local Government in Scotland Act 2003*, for example, introduced a requirement for Scottish councils to work in partnership with local bodies to provide services, within the framework of community planning. The act also imposed an obligation on councils to pursue 'best value' and promote wellbeing.

Financial arrangements in local governance

The Scottish government provisionally sets the budget for local authorities over a three-year period to help them plan for the longer-term. In practice, in recent years the government has set single-year budgets. On average, councils receive around 56% of their funding through the government's General Revenue Grant,⁴² around 22% from Non-Domestic Rates income⁴³ and the other 22% from Council Tax.⁴⁴ These proportions vary significantly between local authorities. Councils can apply for additional support

41 As an illustration, Dundee City is the smallest council territory, covering 60km², while Highland is the largest, covering 25,659km². Glasgow City has the largest population of 621,000 and Clackmannanshire has the smallest with 51,500.

42 The *Police and Fire Reform Act 2012* transferred the police and fire services from local to central government and the funding was transferred out of the local government settlement.

43 Non-domestic (business) rates are taxes paid on non-domestic properties in Scotland. Rates are based on the value of the property, as determined by independent assessors. A review of business rates, the 'Barclay' review, published its findings in 2017. Its recommendations were taken forward through the *Non-Domestic Rates (Scotland) Bill* currently going through the Scottish parliament.

44 The *Local Government Finance Act 1992* introduced a system of domestic property taxation, known as council tax, based on a property's value, assigned in bands. A commission on Local Tax Reform, established by Scottish Government and COSLA, concluded in 2015 that council tax should be abolished and replaced with an alternative that is "fairer, more progressive and locally empowering." The *Council Tax (Substitution of Proportion) (Scotland) Order 2016* made amendments to the existing model.

through the discretionary Bellwin Scheme in cases of large-scale emergency. Scottish Government and other public bodies also provide capital grants to support local authorities' capital expenditure.

Each local authority sets the rate of their council tax and decides how the raised money is used to support and deliver local services. A cap of 3 per cent set by the government applies to changing council tax rates in a financial year. In 2017 the Scottish Government lifted a ten year freeze on council tax increases. In 2018/19 all councils in Scotland increased their council tax to the maximum allowed amount, with many simultaneously increasing fees and charges to raise income. In 2019/20 Scottish Government increased the cap to 4.8 percent in cash terms, or 3 percent in real terms. Twelve councils increased their council tax to the maximum, thirteen increased by 3 percent, and the other seven increased their council tax between 3.9 to 4.5 percent.

Non-domestic rates, also called business rates, are taxes paid on non-domestic properties. Scottish Government are responsible for the policy and legislative framework and set the tax rates, but individual councils administer and collect the tax. The rates are based on the rateable value of a property, determined independently. The amount paid is calculated by multiplying the property's rateable value by a pence in the pound tax rate known as the poundage.

In 1999, the McIntosh Commission recommended an independent review of local government funding, and called attention to worries over the power of general competence for councils, ring-fencing and financial disempowerment of local authorities. A Concordat was signed in 2007 by Convention of Scottish Local Authorities (COSLA) and Scottish Government, which removed many formerly ring-fenced grants. The agreement introduced no structural

changes in local government but it gave councils more control over their budgets and how they manage their services.

Recently, additional means for local revenue raising have been taken forward. The *Transport (Scotland) Act 2019* made provision for an optional Workplace Parking Levy which councils can choose to introduce. Scottish Government also launched a consultation on the introduction of a local discretionary transient visitor levy (often known as a 'tourist tax') in 2019. An independent analysis of the responses was published in 2020. Further work is currently halted due to COVID-19.

Local democracy and politics

The local government electoral system changed in the *Local Government in Scotland Act 2004*. Under this legislation, local elections take place every four years. In practice, since 2012, elections have occurred after five years, to avoid being held at the same time as Scottish Parliamentary elections. Residents of each ward directly elect three or four councillors to represent them through proportional representation. Prior to the change in electoral system, councils were generally led by a single majority party. Coalitions between two parties and independents, or sometimes minority coalitions, have become the norm.

There are 1,227 councillors in Scotland. The number of elected councillors on each local authority varies from 14 to 77, depending on the number of wards in its territory. Each local political party appoints its own leader. The leader of the largest party becomes Leader of the council and the *de facto* political authority. There is also a civic leader (the Provost or Convenor) who chairs meetings and acts as a figurehead, elected at full council meeting. The full council serves as a governing body, bringing together all elected councillors to make key decisions such as setting the annual budget and

council tax level, appointing committees and electing a Convenor and deputy Convenor.

Decision-making in Scottish local government is mainly through committees of the full council, predominantly made up of elected councillors. Teachers, business leaders and others can be appointed to relevant committees as expert non-voting members. Local authorities also have a number of officer posts, which are largely administrative and performed by non-political staff, determined by individual councils. There are several statutory officer roles prescribed by the government, such as the council chief executive.

Citizen participation

Councils in Scotland can hold advisory referenda on their services, financial provision, and other local issues.⁴⁵ Voting in such referenda is one way citizens can participate in local decision-making. Local authorities are also required to consult residents before implementing a road charge scheme.⁴⁶ Such referenda are not frequently used but there are some illustrative examples. In 2005, the City of Edinburgh council held a referendum to test whether local people supported a new transport strategy, which included a congestion charge. The proposal was rejected and the charge was not introduced. In 2012, Aberdeen City council held a referendum on plans to redevelop the city centre's gardens. The referendum result approved the plans but they were subsequently voted against by the council.

At present, there are around 1200 community councils⁴⁷ in Scotland. These community bodies serve as an intermediary between communities and local authorities in Scotland and represent the interests of local people. They are run by elected volunteers from the community. Local authorities have a statutory duty to consult community councils on planning, development and other issues that directly impact on local residents.

The *Community Empowerment (Scotland) Act 2015* requires Community Planning Partnerships (CPPs: partnerships locally involving local authorities, health, police, fire and rescue services and other bodies) to consult community organisations at every phase of community planning. Particular focus is given to addressing inequalities during this process. In addition to area-wide Local Outcome Improvement Plans, CPPs are required to put together locality plans at a smaller scale, for areas affected by disadvantage.

The legislation also makes provisions for community asset transfers, which enable communities to take responsibility for land and buildings in their area. Community bodies can request to purchase, lease, manage or use land and buildings owned by councils, public bodies or the government. Available land and buildings are published on a register. Community bodies need to outline their plans for the land or building and the related benefits for their local area. The request needs to be agreed, unless there are valid reasons for refusal, such as larger benefits resulting from another proposal.

45 *Local Government (Scotland) Act 1973*

46 *Transport (Scotland) Act 2001*

47 Provisions for Community Councils in Scotland were introduced under the *Local Government (Scotland) Act 1973*.

The *Community Empowerment (Scotland) Act 2015* also introduced Participation Requests. These requests allow a community body to begin dialogue with their council over local issues and service delivery. In cases where the community body feels it could contribute to improving an outcome, they have the right to request to participate in that process. This could include offering volunteers, suggesting alternative approaches, or even proposing that the community body takes responsibility for delivering said service. The relevant public body has a duty to agree to the request and begin a process, or provide a good reason why that should not happen. Once the process is complete, the public body is required to publish a report, disclosing whether local outcomes have been improved and what the role of the community body has been in achieving this result.

Finally, the Participation in Public Decision-Making section of the Act gives Scottish Ministers the power to mandate Scottish public authorities to encourage and facilitate the participation of local people in decision-making over local issues and activities. This includes the allocation of local resources, a practice known as participatory budgeting. Scottish Government and COSLA are working with local authorities to reach a target of having at least 1% of their budget allocated through participatory budgeting. If realised, this would give local people a say in how almost £100 million will be spent in Scotland each year.

Selected Bibliography

Gov.scot. 2020. *Local Government*. [online] Available at: <<https://www.gov.scot/policies/local-government>> [Accessed 8 June 2020].

House of Commons Library, 2014. *Scottish Independence Referendum 2014 Analysis Of Results*. 14/50. London: The House of Commons.

[Scan.org.uk](https://www.scan.org.uk). n.d. *Knowledge Base - Scottish Local Government*. [online] Available at: <https://www.scan.org.uk/knowledgebase/topics/local_government_topic.htm> [Accessed 8 June 2020].

Scottish Parliament Information Centre (SPICe), 2016. *Subject Profile - Local Government In Scotland*. 16/69. [online] Edinburgh: The Scottish Parliament. Available at: <https://www.Parliament.Scot/Researchbriefingsandfactsheets/S5/SB_16-69_Subject_Profile_Local_Government_In_Scotland.Pdf> [Accessed 8 June 2020].

SPICe Spotlight, 2019. *Local Government since Devolution - local governance or local administration?*. Available at: <<https://spice-spotlight.scot/2019/11/14/local-governance-since-devolution-local-governance-or-local-administration/>> [Accessed 8 June 2020].

The Accounts Commission, 2019. *Local Government In Scotland: Challenges And Performance 2019*. [online] Edinburgh: Audit Scotland. Available at: <https://www.audit-scotland.gov.uk/uploads/docs/report/2019/nr_190321_local_government_performance.pdf> [Accessed 8 June 2020].

Torrance, D., 2020. *"The Settled Will"? Devolution In Scotland, 1998-2020*. 14/50. [online] London: House of Commons Library. Available at: <<https://commonslibrary.parliament.uk/research-briefings/cbp-8441/>> [Accessed 8 June 2020].