

## HOUSE OF COMMONS

### COMMUNITIES AND LOCAL GOVERNMENT COMMITTEE

#### THE BALANCE OF POWER: CENTRAL AND LOCAL GOVERNMENT

Memorandum from the Institute of Local Government Studies (INLOGOV)

#### SUMMARY

Ø Local Governments need to be seen as local democratic political institutions rather than the delivery arm for central government policy at local level.

Ø Proposals for change need to be judged in terms of the degree to which they will enhance the democratic governance of local communities. Local leadership is exercised by a wide range of people through a variety of different processes and at its best a local authority is the unifying and representative local parliament.

Ø Local Councillors should have real political power to represent their constituents and to influence the strategic direction of local policy and services.

Ø Political power should grow up from citizen to government with power of political decision-making resting at institutional points as close as possible to citizens and local communities.

Ø Local Governments require significant legislative and taxation powers if they are to represent the views of local individuals, communities and citizens and translate their aspirations into effective service delivery outcomes.

Ø Such powers are necessary for Local Governments to embrace place shaping as the central aspect of their political and strategic roles.

Ø This will necessarily mean that different places will develop different policy and service delivery solutions reflecting their local circumstances and preferences. The 'post-code lottery' criticism will be replaced by a 'post-code democracy' which recognises and responds positively to diversity.

Ø Councils representing smaller geographical areas (e.g. parishes, towns, districts) with real and substantial powers would enable people and communities to reconnect with their Councillors and their Local Government.

Ø Local Governments should be able to raise locally democratically accountable taxes such as a local income tax.

Ø The central-local concordat could be a force for change if it was implemented in spirit as well as to the letter.

## 1 FURTHER DEVOLUTION

- Does local government need greater autonomy from central government? If so, in what ways?
- Do local government's role and influence need to be strengthened in relation to other public services, such as policing and health?

1.1 There is a tension between local government as a delivery arm of central government policy and local governments as local democratic political institutions. Increasingly, the former role has been emphasised by central government to the detriment of the latter. At Westminster, the role of Parliament is to hold the Executive to account and to pass legislation: Acts of Parliament that define the legal framework through which the country is governed, and above all the annual Finance Act that determines levels of taxation. In contrast, Local Governments have limited powers to legislate or raise taxation and are held to account for their performance predominantly by central government rather than local councillors and the communities they represent.

1.2 Underpinning the argument throughout this paper is the view that proposals need to be judged in terms of the degree to which they will enhance the democratic governance of local communities. Local leadership is exercised by a wide range of people through a variety of different processes and at its best a local authority is the unifying and representative local parliament. (INLOGOV 2007)

1.3 Local election turnouts will rise if people feel that voting will make a real difference. This is more likely to happen if councils have clear responsibilities, control the budgets to deliver them, and have the confidence to take new initiatives and experiment - with the implication that some councils will do things that others will not. Responsibilities and challenges should be exercised by local councils - in line with the doctrine of subsidiarity to which the Government committed itself in 1997, when it signed the European Charter of Local Self-Government. This would entail sharing or passing down many of the resources for regeneration, economic development, skills training, transport and housing held at regional or national levels, and some of the responsibilities of primary care trusts.

1.4 A radical devolution would require a settlement that gave local authorities the responsibility for raising a substantially greater share of their income than at present, with central government block grants used to provide equalization. The result would be different kinds and levels of provision around the country - the outcome of local democratic choice. In effect the fear of different councils providing different services with differing standards, sometimes disparagingly termed 'a post-code lottery', would be replaced by 'a post-code democracy' with communities determining what they want local governments to do and not to do. It would also mean that legal restrictions could be removed. A symbolic act would remove the restrictions that prevent local authorities building new housing for rent, in situations where they could demonstrate that, with prudential borrowing, they could manage that new housing profitably.

1.5 Recent white papers and legislative changes have begun to recognise the case for giving limited new powers to local authorities, for example the powers for councils to create bye-laws, levy spot fines and license public bus routes. This is disappointing, given earlier talk of "double devolution" the first part of which was more devolution from central or regional government to local. In the opening paragraph of the Strong and Prosperous Communities White Paper, the Secretary of State wrote of "a rebalancing of the relationship between central government, local government and local people." Such a rebalancing must involve significant shift of powers, or at the very least of discretion; yet there is no clear indication of either. If anything, the move to Local Area Agreements and some of the provisions of the Police and Justice Act 2006 take powers away from local government and redirect them partly to government regional offices.

1.6 Some of the ways that this could be done are relatively clear - the powers to invest in council housing, or to purchase houses where banks or building societies are about to evict residents who can no longer pay their mortgages; investment in youth work and facilities for young people; support for innovative forms of public transport; environmental wardens; means of opening up schools and other facilities to make them centres of community life. In addition, local councils should have a much greater say over the built environment and its uses, through the planning and licensing systems and the encouragement of small-scale energy saving or creation. Such powers would enable local governments to embrace the opportunities and challenges of place shaping, defined by Lyons (2007 p.3) as "the creative use of powers and influence to promote the general well-being of a community and its citizens".

1.7 Fewer and fewer services are provided directly by councils. Housing is the obvious example. But 120 councils have transferred services to leisure, arts or sports trusts - and more to private companies. Schools are run by governing bodies, or their head teachers, or the private interests that support academies. Buses are run by private companies, no longer by councils. Many important decisions are taken in partnership bodies, such as Local Strategic Partnerships, or their sub-committees that agree the targets for Local Area Agreements, that involve one or two councillors at most, and are heavily influenced by the professional officers. The result of all these changes is that councillors are far less involved in the fabric and detail of local decision-making than, until comparatively recently, they were.

1.8 This is compounded by the pressure to make savings - the Gershon process - which is leading to almost identical services across the country, and is a strong disincentive to take initiative, e.g. using the well-being powers now available.

1.9 Central government often appears to understand local councils as delivery arms of the welfare state. In that case a small number of large councils makes sense, and backbench or non-executive councillors may seem at best a luxury, at worst individuals who get in the way of efficiency savings. But this perspective gives far too much emphasis to the levels of council tax, and far little value to civic pride, initiative to organise for local improvement, and the single-mindedness though which councillors and local residents often defend what is dear to them.

1.10 If we want a revival in local democracy, reflected in turn-outs in elections, enthusiasm in opinion polls, and real diversity and imagination across our country, then we have to have smaller councils and give them more power. UK citizens are under-represented in terms of the ratio of councillors to public. Taking England alone, which is significantly more generously represented than Scotland or Wales, our average of over 1,300 persons per councillor even before the reorganization of the 1970s was higher than that for all other comparably sized European countries. After reorganization the figure rose to over 2,000, and today it stands at over 2,550 - between three and four times the average for Western Europe and far higher than that of any country except Ireland.

1.11 Findings from some of the recent officially commissioned research on public attitudes to local government - e.g. for the Lyons Report (BMG, 2007) and the Councillors Commission (2007) - make disquieting, if familiar, reading. Most people understand little about local government. They have only a fairly hazy knowledge of the services it provides and how it works, and even less about how it is financed. Their views of councillors are frequently cynical and contemptuous, even though they rarely meet one in person. They mostly have minimal awareness of what councillors do and how they spend their time, but accompany this with a vague sense that most of what is done locally is effectively determined by ministers and central government, and that voting in local elections is therefore largely a waste of time. All these widely held perceptions can be argued to stem directly

or indirectly from one feature that characterises the almost unique way in which we 'do' local government in the UK - namely, its quite exceptional scale.

1.12 What most people think of as local government - not 'their' local government, as they rarely have any sense of identification with it - is today about as remote from their daily lives as it is possible to be while still daring to call itself 'local'. For many it is geographically remote, but for even more it is remote emotionally. Their district or unitary authority is as likely as not named after a river, Anglo-Saxon settlement, or compass point as after a real place. Its perhaps 45 councillors attempt to 'represent' collectively a population of well over 100,000 and individually electorates of several thousand. And the local media revel in telling them that, whatever may be their personal experience, theirs is officially only a 2-star council anyway.

1.13 Table 1 presents measures of the UK's scale of local government, and of one of its consequences - its exceptional representational ratios: average population per council and average number of persons per councillor. The figures are for principal councils only, and it may be asked why the 10,000 or more parish, town and community councils are excluded. It is no slight at all on their important representational role or on the range of services they provide at what is often called the first tier of our local government. But, with only about a third of England's population living in an area with one of these local councils (Jones et al., 2005), they are far from universal. Nor are they statutorily part of the nation's local government structure of principal councils; and, regrettable though it may be, they are responsible for services that in total amount to under half of 1% of all council spending (CSPL, 2005, Appendix D, para. 1.5). They are not, in short, seriously or fairly to be compared with, say, French communes or German Gemeinden with their extensive arrays of major service responsibilities and their powers of general competence.

1.14 The 'scale factor' impinges upon just about every aspect of our local government. By effectively determining the numbers of councillors we have, it influences the roles they adopt, the time they can give to them, the ways in which they perform them, the nature and frequency of their contact with their electors and constituents. From the public's perspective it similarly influences their relations with their local government and the likelihood of their knowing personally or living in the same neighbourhood as the councillors for whom they are asked to vote. Further, as was mentioned almost in passing in a recent article on French politics in the journal, *Parliamentary Affairs*, it affects their level of political trust:

"A poll conducted in 1990 showed desperately low ratings for political parties and 'politicians in general', but confidence levels of 73% for mayors and 70% for the 36,500 local councils (assembling over half a million elected councillors) which form the bedrock of democratic representation in France. Proximity clearly constitutes an important factor in the retention or breakdown of political trust." (Shields, 2006, p131)

1.15 Scale too provides one of the necessary preconditions for UK central government's uniquely detailed concern with, intervention in, and control of the activities and, above all, the finances of individual local authorities. Such central control, regularly criticised by bodies like the Council of Europe and the Congress of Local and Regional Authorities of Europe (CLRAE), requires not only a politically centralist mindset, suggesting that this degree of micro-management is both desirable and appropriate, but a scale of 'local' government to make it a feasible proposition. As can be seen from Table 1, even if national politicians in other comparably sized European countries possessed the mindset and interventionist instincts, the scale on which their local government is organised would thwart them. In this country, successive governments of both parties have shared the mindset and utilized the scale.

1.16 David Miliband, in his term as a DCLG Minister, infused his speeches with fascinated references to French local government and its 36,000 communes. He made similar comments about the county of Norfolk, with its seven district councils and 21 market towns (see Wilson and Game, 2006, pp. 384-85). 12 of these market towns have populations of over 5,000 and, not just in France but in most other European countries, would be communes or municipalities with a full range of local government powers and responsibilities. Instead, their 'local self-government' is confined to the limited functions exercisable by a sub-principal town or parish council, while their identities are otherwise suppressed within 'compass point' or amalgam districts - North Norfolk, South Norfolk, King's Lynn and West Norfolk, Breckland - which themselves are likely soon to be merged into some even more amorphous 'Rest of Norfolk' unitary authority with perhaps, in total, a quarter of their present councillors.

**Table 1 - Local government scale and representational ratios - Britain and Europe**

	<b>Population (millions)</b>	<b>No. of tiers of sub-national government</b>	<b>Number of lower/lowest tier  (most local) principal councils</b>	<b>Average population per council</b>	<b>Total number of councillors</b>	<b>Persons per councillor</b>
<b>France</b>	60.7	3	36,782 Communes	1,650	515,000	118
<b>Austria</b>	8.2	2	2,380 Gemeinden	3,440	40,570	201
<b>Spain</b>	40.3	3	8,108 Municipios	4,970	65,000	623
<b>Germany</b>	82.4	3	12,434 Gemeinden	6,630	198,000	418
<b>Italy</b>	58.1	3	8,101 Comuni	7,170	97,000	597
<b>Greece</b>	10.7	2	1,033 Dimoi, Kinotites,	10,360	18,600	573
<b>Finland</b>	5.2	1	444 Kunta	11,710	12,400	418

<b>Belgium</b>	10.4	3	589 Communes	17,660	13,000	800
<b>Sweden</b>	9.0	2	290 Kommuner	31,000	46,240*	195*
<b>Portugal</b>	10.6	2	309 Municipios	34,300	9,000	1,200
<b>Netherlands</b>	16.4	2	467 Gemeenten	35,120	9,600	1,713
<b>Ireland</b>	4.0	2	88 Towns, boroughs	45,000	744	5,375
<b>Denmark</b>	5.4	2	98 Kommuner	55,000	2,520	2,142
UK 1975	56.0	2	547 ALL principal councils, incl. counties	102,000	26,280	2,130
<b>UK 2008</b>	<b>60.8</b>	<b>2</b>	<b>468 ALL principal councils</b>	<b>130,000</b>	<b>22,270</b>	<b>2,730</b>
UK 2009	60.8	2	433 ALL principal councils	140,000	20,970	2,900

Main source: Wilson and Game, 2006, p. 263 Notes: \* includes 'alternates', elected at the same time

1.17 Miliband also floated the idea of a new role for parish and town councils, and it is arguable that, were that role to be genuinely enhanced and with it that of these councils' elected members, it could prove perhaps the most powerful boost of all to local empowerment and civic engagement. However, the structural reform that Miliband actually set in motion - the drive towards more and larger unitaries - takes us, in these terms of scale, even further out of line with the rest of Europe. With a net total of 35 councils due to disappear in 2009, there will be approximately 1,300 fewer councillors. In this new generation of unitaries, roughly 760 councillors in 9 county-based councils (i.e. excluding Ipswich and Exeter) will endeavour to represent over 3 million residents, or more than 4,000 per councillor.

1.18 The 'democratic deficit' arising from this continuous enlargement and de-localisation of our local government is inestimable, but not unquantifiable. In Northumberland, to pick a single example, there were, in the comparable area prior to the nationwide reorganization of local government in the early 1970s, 22 councils with a total of 647 elected members. From 2009 there will be one council of 67 members - a reduction of nearly 90% - for what in area is the seventh largest county in England. Devolved government it might be; local it most certainly is not.

1.19 Do local government's role and influence need to be strengthened in relation to other public services, such as policing and health? NHS Foundation Trust staff can become members of the trust, and can elect governors from their membership. This presents a danger of trusts becoming to a certain extent provider led. One way of combating this problem would be to replace this element of governance with a greater local authority involvement. The NHS would have a much stronger

motivation to satisfy local needs if it were locally funded through local taxes and subject to local democratic control. A local income tax would facilitate this. The same solution could be used to make the police more accountable to local concerns. In the USA police forces are much smaller and more concerned to respond to local needs.

## 2 FINANCIAL AUTONOMY

- To what extent do the current arrangements for local government funding act as a barrier to local authorities fulfilling their 'place-shaping' role? In particular:
- Does local government need greater financial freedom? If so, in what ways?
- Should local government be able to raise a greater proportion of its expenditure locally?
- What effect does the capping of council tax rises have on local accountability?

2.1 The high level of central funding is at the root of problems with local democracy, and the solution is to give local governments control of local democratically accountable taxes such as a local income tax.

2.2 Local government should have more freedom to decide its policies in relation to local residents' preferences. However, the present balance of funding, whereby central government finances around 75 per cent of local current expenditure means that central government understandably desires to control and direct local government.

2.3 This desire for control manifests itself in central inspection, comprehensive performance assessment and the forthcoming comprehensive area assessment, requirements for efficiency savings, council tax capping, and the shift to a much higher proportion of specific grant - with dedicated schools grant a notable recent example.

2.4 Although this desire for central control is understandable, resulting from the high proportion of central finance, it is also dysfunctional, leading to all the problems of central planning, where decisions made centrally suffer from a lack of the necessary information to make the decisions, as the information is situated locally (Watt, 2004, 2006, Hayek, 1948)

2.5 If the balance of funding problem were redressed by giving local government powers to raise a greater proportion of their finances locally, through local taxes subject to accountability to those paying, the motivation for the mechanisms of central accountability and control described above would wane, to be replaced by stronger and more informationally efficient mechanisms of local accountability.

2.6 To achieve this, the pressure for ever greater "efficiency" savings will need to come off, and councils will need to find their own resources. Examples of local taxes would be sales taxes on electricity, gas, or fuel (the latter having the advantage that those who visit an area and use its roads and other facilities will pay - all too often it is people from outside an area that use the subsidised arts or community facilities that are available). Of course such taxes will be unpopular - and may lead to some councillors and their parties being voted out of office. But if they really believe that an action is right for their community, then they will persuade the public that it is right



to pay, and the result will be the revival in community spirit that politicians from all parties talk about, while few seem to have a clue as to how it might be achieved.

2.7 Capping is motivated by the high proportion of central funding, as when council tax rises it is difficult for local voters to distinguish whether the cause is lack of central grant or high local spending. As central government is a likely to get the blame for council tax rises as local government, it feels compelled to control such rises through capping (Watt, 2004, Fender and Watt, 2002). Capping is bad for local accountability. Local voters should be free to vote and pay for a high level of local services, or alternatively low local taxes and low services.

### 3 EXISTING POWERS

- To what extent are local government services a product of national or local decision-making?
- Does local government make adequate use of its existing powers, such as its well-being, charging and trading powers? What scope is there for greater use of those powers?

3.1 It has been argued above firstly that central government policy has resulted in fewer and fewer services being provided directly by local government and secondly, that local government has increasingly become the delivery arm of central government for those services that have remained. This section will focus on the existing powers of councillors to effect and influence local policy and service delivery.

3.2 The Local Government Act 2000 brought in major changes to the roles of councillors. A minority became cabinet members, meeting regularly to take decisions and to co-ordinate their council's activities. The rest, often described, slightly disparagingly, as "backbench councillors" lost their positions in committees where legally and sometimes with real influence they took decisions and moulded their council's policies.

3.3 Committees were a very successful form of training. Newly elected councillors would observe what was happening, go on visits or to conferences, learn from the questions asked by their colleagues and the - generally helpful - answers given by the council officers. After a time, they would contribute themselves, and after a year or so, by which time they would have been involved in difficult decisions about their department's budget for the next financial year, they would have a very good grasp of what that part of the council's work involved.

3.4 This also meant that they were taken seriously by council officers who knew that a disaffected councillor could cause them all sorts of problems in committees or full council meetings. Conversely, council officers realised that these councillors, whatever they age, background, gender or ethnicity, were serious people, with something to contribute, who had not been elected by their ward for nothing.

3.5 The situation now is that non-executive councillors are much less well informed than they were, while officers know that they do not need to treat them so seriously. Indeed many third tier officers and below hardly meet councillors, because it is their superiors who attend cabinet and scrutiny meetings.

3.6 The scrutiny system works well where there are good relationships with the Executive and sympathetic officers. It has been able to contribute useful policy development work on narrow fronts - picking up areas where co-ordination with other departments or agencies is needed, or where policy can be improved, but finding it very hard to keep up with the detail across the whole front of a department's working. It is very dependent on effective chairing - and often it is the chairs who become well informed but much less so the remainder of their scrutiny committees.

3.7 Non-executive councillors are involved in Development Control, Licensing, Environmental Health, Standards, and sometimes other regulatory committees. But much of the work of these committees is delegated to officers, and, nominally at least, they are not involved in policy development. Increasingly these committees follow the advice of officers - most notably in planning matters, where councillors are increasingly advised of the risks if they go their own ways and reverse officer advice. A performance indicator of the percentage of routine planning applications dealt with in eight weeks is a further disincentive to imaginative rethinking of planning proposals.

3.8 Since councillors are less well informed, and officers less inclined to take them seriously, the amount of casework coming to councillors has declined. This is also partly because councils have opened other avenues through which the public can raise issues or get access to services, but also because the council is now often not the provider as it was in the past, e.g. of housing services. Much of this advice work has also moved to MPs - who now nearly all have local offices, regular surgeries, and often professional case-workers.

#### 4 IMPROVING THE RELATIONSHIP BETWEEN CENTRAL AND LOCAL GOVERNMENT

- What difference has the central-local concordat made to central-local relations?
- Should an independent commission be established to oversee the financial settlement for local government?

4.1 The Concordat contains a number of welcome statements, including

"there should be a presumption that powers are best exercised at the lowest effective and practical level" (HM Government, 2007)

and a recognition that the government will

"work towards giving councils greater flexibility in their funding, to facilitate the wide degree of autonomy referred to in the European Charter of Local Self-Government (HM Government, 2007)"

4.2 Not surprisingly, the two signatories of the Concordat were effusive in assessing its importance. The LGA sees it as "a significant and ground-breaking step ...in freeing councils from control from the centre and allows them to represent better than ever before the people they serve." The Government was to be congratulated "for the courage and commitment shown in making such public commitments to the further development of a new way forward between central and local government."

4.3 Some of the language is indeed ground-breaking, particularly if taken at face value - the commitments to subsidiarity and greater flexibility in council funding; the acceptance of an equivalence between local electoral mandates and the demands of national government; the recognition of the inadequacy of the council tax system because of its lack of transparency and accountability; the admitted unacceptability of much of central government's way of working and of the need for change.

4.4 On the other hand, there is an imprecision about some of the key terminology that could be said to match its lack of any legal or statutory basis and the absence even of any kind of independent monitoring or enforcement mechanism, such as a parliamentary committee. For example, who, (apart from the partners to the Concordat), decides what "the lowest effective and practical level" of service delivery is? Or when central government's interest becomes "over-riding"? Or when the "last resort" is reached, prior to central government intervention? Or how fast "progressively" is, when it comes to the removal of obstacles? Or how much, if any, increase in funding flexibility needs to result from the process of merely working "towards" it?

4.5 Favourable comment has been made about the several references, both explicit and implicit, to the European Charter for Local Self-Government signed by the government in 1997. Signing, and even ratification (1998), however, are not the same as implementation, and the Government has come under increasing criticism for its failure to deliver the degree of devolution to which it supposedly committed itself. It would be odd to draw attention to this particular implementation gap, if Ministers had no intention of addressing it.

4.6 The current Secretary of State described the Concordat as the first step towards enshrining the role of councils in a constitutional setting - in other words, in something like Japan's Local Autonomy Law. Such a setting would, its advocates claim, do things like:

- establishing a legal framework giving local government a clear basis and a general competence for the benefit of its citizens and other inhabitants;
- clarifying the distinction between powers delegated to local government by national government, as compared to local government's own powers;

- extend significantly local government's financial capacities by increasing substantially its proportion of income from local taxation and reducing the proportion from central government grants, and by abolishing practices like expenditure and tax 'capping'.

If the Concordat is a first step towards actions like these, it appears at present to be at most a small step.

4.7 An independent commission along the lines of the Australian Commonwealth Grants Commission could be an attractive mechanism for resolving much central-local strife.

## 5 THE CONSTITUTIONAL POSITION

- Given the UK's constitutional settlement, what protection should be placed in law to ensure local government's ability to fulfil its responsibility as a balance on the powers of central government?
- What role should Parliament have in the protection of local government's position within the UK's constitutional settlement?

5.1 As a creature of Statute, British local government is subject to constant change emanating from a superior constitutional source: central government. Much of the change that is imposed upon local government because of the need for governing institutions to respond to two competing sets of requirements: those that drive and are driven by either, technocracy or democracy. In all major re-organisations of local government, the attempts to find a structural fit between these two mutually antagonistic factors have seen the latter lose out to the former. The question of local government size is part of the clash between technocracy and democracy that has been played-out in various reforms of local government in Britain. Indeed, current discussions about unitary councils and city-regions will ultimately result in larger, more remote and technocratically driven units of local government

5.2 Copus (2006) set out a construct for British local government that would rest on the creation of a new constitutional settlement between the centre and the localities. It explored the role of newly empowered local government within the context of a federal UK, and addressed how the politics of these new councils should be conducted.

5.3 Key to this role is the radical shift from local government being seen as predominantly administrative bodies which provide central government with the mechanism by which they can

communicate with, and control, sub-national political communities to "units of government in their own right that have emerged from, and represent some clearly defined communities of place and that are powerful mechanisms of self-government".

5.3 In particular, the paper explored what new forms of political accountability would be required in this new constitutional settlement and to whom local government should be accountable. It also examined the mechanisms by which that accountability can be secured. The paper set out a radically new context for central - local relationships resting on a new balance of political power, responsibility and accountability.

5.4 A principal feature of this argument is that political power should grow up from the citizen to government with power of political decision-making resting at institutional points as close as possible to the citizen and to local communities. This may be parishes, towns or districts with the shape, size and boundaries of councils set and decided by local people themselves.

5.5 Thus rather than it being seen as Parliament's role to protect local government's position within the UK's constitutional settlement, the suggestion here is that political power should be seen as resting with the citizen "who can overturn the decisions of a council, enforce particular acts and actions on the council and, remove councillors and mayors from office" (Copus 2006).

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Items in bold are appended in full to this evidence

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