

Society of Local Authority Chief Executives (SOLACE Scotland)

Submission to the Commission on Scottish Devolution

SOLACE (Scotland) is pleased to have the opportunity to contribute its views to the Commission on Scottish Devolution.

The comments contained within this submission are naturally constrained by the fact that, while SOLACE (Scotland) works directly with the Scottish Government and - to a lesser extent - the UK Government, we have little direct experience of the interface between the two.

Before answering the Commission's specific questions, we would wish to highlight some issues relating to electoral administration, which we consider to fall within the remit of the Commission.

The first of these issues relates to the variations between the boundaries and voting systems used in the different electoral systems in Scotland. For the European Elections, Scotland is a single Region, while there are 58 Westminster Constituencies and 73 Scottish Parliament Constituencies. There are many cross-boundary issues where constituencies cut across local government boundaries and even wards. Voting systems for local, Scottish, UK and European elections all differ and this presents ongoing challenges in ensuring that all voters are fully apprised of each system. It is acknowledged that the current situation has arisen as a consequence of very detailed consideration of the most appropriate voting system for each tier of government as the system has developed since devolution, but this has led to ad hoc decisions. The result is an overall system of governance that is unnecessarily complex. There would therefore be merit in considering an overall review of the current arrangements with a view to achieving better alignment of constituency boundaries and a reduction in the number of different electoral systems operated across each of the current tiers of government.

Additionally, we would wish to highlight our concern that the Scottish Parliament has the power to introduce other types of statutory elections – e.g. National Park Boards and Crofting Boards – without any obligation to conform to current election practices and electoral registration procedures. The current Health Boards (Membership and Elections) (Scotland) Bill, for example, proposes that the franchise include 16-18 year olds, and possibly all-postal voting, but neglects to mention the safeguards against fraud introduced as part of the Electoral Administration and the Local Electoral Administration and Registration Services Acts 2006. SOLACE (Scotland) would emphasise the importance of all elections being managed to the same rules and standards. Any deviation from current electoral practices could only increase voter confusion.

1. In general, how successful have the new structures created by devolution been – both in terms of delivering effective Government in devolved areas, and in providing effective Parliamentary scrutiny and oversight?

SOLACE (Scotland) is of the view that the new structures created by devolution have been generally effective, in that they have provided adequate opportunities for

communication with the Scottish Parliament and Scottish Government, at both political and official levels.

Local government welcomes the opportunities for direct communication between local authorities and Scottish Parliament. The accessibility and proximity of MSPs and Senior Civil Servants has resulted in a higher degree of trust and confidence between partners and improved partnership working between individual councils and national bodies. In addition, MSPs' knowledge of local circumstances and issues results in a more informed and more efficient dialogue. The increased accessibility and visibility of decision-makers has resulted in improved civic engagement: Ministerial visits to local authorities, for example, offer councils a valuable means of showcasing their services and making representations on issues of concern.

The enactment of the Local Government in Scotland Act in 2003 strengthened the role of local government. More recently, the relationship between central and local government has been further developed by the Concordat signed by COSLA and the Scottish Government in November 2007. The Concordat sets out the terms of the new relationship between central and local government, and provides councils with welcome flexibility to fund their own service priorities. The Concordat has enhanced the perception of parity of esteem with central government.

SOLACE (Scotland) is of the view that the Committee system established by the Scottish Parliament is comprehensive and active, providing effective scrutiny and oversight of public service delivery in Scotland.

2. Can you give examples of where devolution has produced results that better serve the people of Scotland than would have been likely or possible under pre-devolution arrangements?

Since devolution, there has been increased investment in health and social services. Significant extra resources have been invested in enabling the balance of care for people with community care needs to be shifted away from institutional settings to care and support at home. The introduction of legislation to strengthen the rights of carers has been similarly welcome.

In addition, community planning relationships and the working arrangements between national and local government are characterised by a joint agenda and genuine cooperative working. It is noteworthy that Northern Ireland has been looking at a range of models to develop community planning, and is focussing on Scotland's approach as the one to follow.

The direct engagement with Ministers, described above, has had many positive impacts on the ground. In the response to the Foot and Mouth outbreak, for example, relevant authorities benefited from direct Ministerial support and engagement in a way that may not previously have been possible. This direct engagement has also been a feature of the Broadband pathfinder projects in north and south Scotland, where the Minister has provided significant resources and a leadership role to local authorities.

3. Are there any particular features of the 1998 Act that you think should be changed or reconsidered, on the basis of experience since 1999?

SOLACE advocates the principle of subsidiarity: i.e., that issues should be dealt with at the most local level possible. We would therefore recommend that the Commission recognises the requirement for a commitment to the principle of subsidiarity, with devolution to the most appropriate level of local decision-making.

4. Do you believe the people of Scotland would be better served if any matters currently reserved to Westminster were now devolved to the Scottish Parliament?

We would suggest that a number of issues remain to be resolved regarding welfare benefits. Tensions can arise between the reserved nature of the UK's welfare benefit system, and the application of Scottish policies and initiatives. Efforts to tackle worklessness are particularly relevant here. While the Scottish Government's employability strategy 'Workforce Plus' has been welcomed by organisations across Scotland, its application is constrained by the fact that policy and practice operate within the reserved welfare benefit system.

Similarly, since the introduction of Free Personal Care for the Elderly in Scotland, anomalies have emerged with regard to the availability of Attendance Allowance from the Department of Work and Pensions. Attendance Allowance is available to help meet the personal care needs of older people living at home, but not those who live in care homes. This again illustrates the tensions that can arise when the implementation of UK national legislation and Scottish legislation is not sufficiently integrated.

SOLACE (Scotland) is not advocating the devolution of welfare benefits to the Scottish Parliament, for this could clearly result in inequity and different jurisdictions on both sides of the border. We would, however, strongly recommend that consideration is given to how national policies and legislation and Scottish initiatives can be more effectively integrated.

5. Do you believe that the people of Scotland would be better served if any matters currently devolved to the Scottish Parliament were now reserved to Westminster?

There is no evidence to suggest that the people of Scotland would be better served if any matters currently devolved to the Scottish Parliament were reserved to Westminster.

6. Irrespective of which particular matters are reserved and which are devolved, do you support the reserved/devolved distinction as the best way to define the respective responsibilities of the UK and Scottish Parliaments? Would there be merit in an intermediate category, involving some form of shared or concurrent competence, with suitable checks and balances to avoid conflict?

Clarity of responsibility is of the utmost importance in constitutional settlements involving devolution of powers. It is therefore difficult to envisage how such an intermediate category may operate.

7. Do you support the current financial arrangements for devolution, where the Scottish Parliament receives a block grant, based on the Barnett formula, to spend on devolved services as it chooses, but (apart from the power to vary the basic rate of income tax, and devolved control over local taxation) has no responsibility for raising revenue from Scottish taxpayers to pay for those devolved services?

The current Block Grant arrangement provides a degree of certainty to the funding available to the public sector in Scotland. The basis for the allocation is the 30 year old Barnett formula, which is based on population but not on need and the formula provides Scotland with a higher grant per head of population than most parts of the UK (London being the most notable exception). Scotland's reducing share of UK population means that it gets a relatively lower share of increased funds at each Spending Review but this reduced share has, however, not impacted materially on Scotland's grant share per head of population.

With the Barnett formula, there is no transparent link between need and grant received. A move from the present arrangements to an alternative needs-based assessment may, however, present considerable risk to Scotland's finances, as there is little guarantee that the current level of grant would be maintained.

8. Do you believe that the Scottish Parliament should be responsible for raising a greater proportion of its income by having increased taxation powers? If so, which taxes should be devolved and should there be corresponding changes to the existing funding arrangements from the UK Government?

If the present Block Grant arrangements prevail then there is no pressing need to review tax raising powers, although this will be necessary if the local income tax, as proposed by the Scottish Government, is introduced.

It is clear, however, that tensions are building across the UK about the Barnett formula. If the Barnett formula were to be replaced, then Scotland would see more of a need to have increased tax raising powers to ensure that total funding was maintained at an adequate level. A change in funding arrangements is therefore likely to require tax raising powers, rather than funding changes being triggered by increased tax powers, as the question suggests.

9. How effective do you believe inter-Governmental relations have been since 1998, including in the context of the respective roles of UK and Scottish Ministers in their dealings with the European Union?

We would suggest that consideration could be given to how communication in policy areas that cross the boundaries of both reserved and devolved matters (e.g. renewable energy policy) can be given greater structure and coherence.

The Efficient Government agenda is also relevant here. Significant progress has been made in this area in Scotland, as a result of effective joint working between local authorities and the Scottish Government. A seeming lack of engagement with the UK Government regarding the Efficient Government agenda does, however, point towards potential missed opportunities. There is a clear need for effective partnership working across the entire UK public sector, in order to ensure that opportunities for

efficiencies are maximised. Again, this suggests a need for more coherent and structured communication on matters of common policy interest.