

RENEWING LOCAL DEMOCRACY:

THE NEXT STEPS



SCOTTISH EXECUTIVE

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FOREWORD



The key task facing local government in Scotland is the delivery of effective and efficient services for the communities it serves. People want their councils to provide better schools for their children; efficient, reliable local transport systems; a well-maintained local road network; and safer, cleaner streets.

The Executive is committed to strengthening local governance and improving public services. We want local authorities to have the flexibility to respond to local needs and circumstances. This paper is a vitally important step in delivering this agenda, particularly as it impacts on the role of elected members.

We recognise that councils are crucial to the public service delivery agenda, but they are about much more than that. Councils provide a vehicle for making local choices and setting local priorities. Councils represent their communities to the Executive, to the Scottish Parliament, to Westminster and to Europe. We understand the important and responsible role of councillors within their local communities, and that the demands and pressures placed on them have changed and increased rapidly, in a short period of time.

This document looks at who councillors are, how they are rewarded, how they are elected and how they provide community leadership. It reaffirms the importance of local government in the Executive's overall policy framework, and aims to modernise and enhance the good work already carried out by local government.

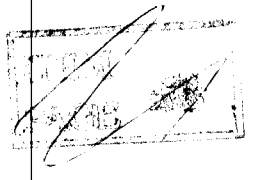
I want to emphasise that this document is not prescriptive – we want to hear views on its contents. We have deliberately chosen to have a lengthy period of consultation on the issues raised. My Ministerial colleagues and I will be meeting with interested parties throughout Scotland over the coming months to discuss the questions raised in the paper. We hope that all those with an interest in the future of local government will comment on the issues raised. It is vital that the conclusions reached as a result of this process command wide support throughout Scotland.

I invite you to join us in taking forward the process of renewing local democracy by giving us your views on the questions posed in this document. I look forward to hearing them.

A handwritten signature in dark ink that reads "Andy Kerr". The signature is written in a cursive, slightly slanted style.

ANDY KERR MSP

Minister for Finance and Public Services
March 2002



CHAPTER 1: INTRODUCTION

1. Local government delivers vital public services across Scotland. It also provides visible local democracy and democratic accountability for the decisions made in relation to those services. Local government is key to Scotland's success. It provides local representation, the delivery of many vital services, a large element of local choice in service delivery and a strong framework for community initiatives, leadership, governance and accountability. Within the still new devolved arrangements in Scotland, the Executive wishes to put in place the conditions to see vibrant local representation and to see local government flourish. In particular, Ministers wish to see councils represent the communities they serve and to have elected representatives from diverse backgrounds enabled to take part in the governance of their community.

2. The importance of local government was underlined by the establishment of the Commission on Local Government and the Scottish Parliament under the chairmanship of Sir Neil McIntosh. The report of that Commission was the subject of the first substantive policy debate in the Scottish Parliament on 2 July 1999, and made a total of 30 recommendations about councils' relations with Parliament and Ministers, the electoral system, the conduct of council business and community councils. (The report can be found at <http://www.scotland.gov.uk/library/documents-w10/clg-00.htm>).

3. The Partnership Framework drawn up by the Executive and the Convention of Scottish Local Authorities (CoSLA) in May 2001 sets out the respective roles and functions of the Executive and local authorities:

'The Executive is responsible for developing public policy at a national level, for bringing appropriate legislation before the Parliament as necessary, and for the discharge of the functions assigned to Ministers by legislation.

Councils have a democratic mandate to ascertain the needs of their communities and the priorities of their electorates; to plan, co-ordinate and ensure the delivery of local services accordingly within the legal framework laid down by the Parliament.'

4. Local government has already benefited from the partnership approach adopted by the Executive. Significant new flexibilities, freedoms and powers have been, or are about to be, gained by Scottish local government. Legislation has been passed to provide Scottish local authorities with a 4-year term to allow for effective planning over a longer timescale. A Bill is currently being introduced to provide for a power of well-being – which the McIntosh Commission referred to as a power of general competence – and to provide a statutory underpinning for community planning. In addition, expenditure guidelines have been removed and firm grant distribution figures provided in a 3-year settlement stretching up to 2003-04.

5. Alongside issues to do with powers and resources, the Executive has also been considering carefully the issues of governance which arose out of McIntosh, and which were the work of subsequent groups in the form of the Renewing Local Democracy Working Group (the Kerley Group) and the Leadership Advisory Panel (LAP). (The relevant reports can be found at <http://www.scotland.gov.uk/library3/localgov/rlap-00.asp> and <http://www.scotland.gov.uk/library2/doc16/rldw-00.asp>).

6. This is a working document, which provides an opportunity for the Executive to propose new policy, and listen to the views expressed in response. It also provides a platform for the Executive to be explicit about what it does not intend to do. In this respect, Ministers wish to make clear that they are not proposing to make changes to either council boundaries or the number of councillors. Ministers are aware that many councils are still feeling the effects of the 1996 reorganisation of local government and need a period of stability to allow them to concentrate on their key task of delivering effective and efficient services. Consequently **Ministers wish to take this opportunity to make clear that they are not planning a review of council boundaries or a reduction in the number of councils in the foreseeable future.**

7. The question of ward boundaries is a little different. The Kerley Group made a number of recommendations in respect of ward boundaries, on the assumption that there would be a change to the electoral system for local government. The question of the most appropriate electoral system for local government is considered in Chapter 3 of this document. The possible implications for the number of council wards are noted there.

8. The Kerley Group also made a number of recommendations aimed at reducing the number of councillors across Scotland. **Ministers have concluded that they do not wish to make a wholesale reduction in the number of councillors at this time.** If, however, individual councils wish to bring forward proposals for a reduction in the number of councillors in their own area, Ministers would be willing to consider these sympathetically.

9. The purpose of this paper therefore is to emphasise the importance of local government in the Executive's overall policy framework, and to provide an Executive response to the issues of governance covered in previous reports. The timetable which the Executive published in December 2001 for the next steps in taking forward the principles of Kerley is attached at Appendix A. This document is the next step in that process.

10. The Executive's views are not prescriptive. Views are sought in response to the analysis given and the questions posed. The Executive wishes to see an extensive debate on the issues raised in this paper and hopes that all the relevant interests in Scotland will contribute. Local government is vital to the future of Scotland and for the delivery of high quality public services. It is important, therefore, that any proposals on governance command as wide support as possible. The Minister and Deputy Minister for Finance and Public Services will be meeting with interested parties throughout Scotland over the coming months to discuss the questions raised in this paper. It is intended that the Executive's views on the next steps in relation to legislation and the future governance of councils will be published shortly after Parliament reconvenes in September.

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CHAPTER 2: REMOVING BARRIERS

Introduction

11. In bringing forward the proposals set out in this paper, the Executive has had 2 broad aims in view:

11.1 Ministers desire to make councils more representative of the communities which they represent, both by doing what they can to encourage people from groups which are currently under-represented to seek election, and by considering whether the current electoral system is the most appropriate one for achieving this aim. This chapter considers ways in which people from under-represented groups can be encouraged to stand for election, while the electoral system itself is considered in detail in Chapter 3.

11.2 Ministers wish to support those who have been elected to serve their local communities in carrying out that important task, and to enable them to take on additional responsibilities, if they are invited and choose to do so, over time. Some ways in which councillors can be supported are covered in this chapter. The specific issue of councillors' remuneration, and proposals for the way in which councillors should be remunerated in future, are set out in Chapter 4.

12. In seeking to achieve these broad aims, Ministers have concluded that the key factors of which they wish to take account in considering options for change are:

- 12.1 Encouraging the widest possible range of people to serve as councillors;
- 12.2 Recognising that people will have diverse personal circumstances;
- 12.3 Removing any inappropriate barriers to serving as a councillor;
- 12.4 Ensuring that councils are representative of the communities they serve; and
- 12.5 Allowing for progression to enable councillors to assume more responsibilities over time.

There are other additional factors of which Ministers wish to take account when considering the most appropriate electoral system for local government, and the system of remuneration for councillors, and these are set out in the relevant chapters.

The Case for Change

13. Research suggests that the motivations behind people's desire to serve as a councillor vary, but the majority of councillors cite a desire to do good in the community as their prime motivation. The decision to seek election as a councillor is not therefore the same as any other career choice. Often people decide to seek election while pursuing their chosen career. Over time, their involvement in the work of the local authority grows. This is particularly true of those who choose to take on additional responsibilities within the council, whereupon being a councillor becomes akin to a full-time occupation, inevitably leading to a conflict with their original career. Indeed, the long hours involved, and the difficulties in juggling

home, work and council responsibilities are some of the main reasons which ex-councillors give for ceasing to serve. (Others include decreasing opportunities to make a difference, lack of privacy, and negative public perceptions and media coverage.)

14. According to the joint Scottish Local Government Information Unit/CoSLA report, published in September 1999, 'the average Scottish councillor is white, male, aged 53, lives in his own house, owns a car, has a degree or professional qualification, and works in a professional or managerial job'. Although this is a description of the 'average' councillor, and there is, in fact, wide variation in both the age and the career patterns of serving councillors, this summary does highlight the fact that a substantial proportion of the community is under-represented on councils. This is most striking in the case of women (22% of councillors, but 52% of the Scottish population in 1999), but is also true of younger people, people from minority ethnic backgrounds and people with disabilities.

15. It seems clear that councillors are not motivated by the level and type of remuneration available to them. However, it is also clear that more needs to be done to encourage the many, very capable, people from groups which are under-represented in councils, to stand for election as councillors. It is important therefore that the level and type of remuneration available does not actively discourage people from serving, and that it is sufficient to support councillors both in carrying out their day to day activities, and, where appropriate, in choosing to take on additional responsibilities within the council.

Encouraging People to Serve

16. A significant amount of work has been done in recent years on ways of encouraging individuals in under-represented groups to serve as councillors. In June 1999, the McIntosh Commission recommended that 'councils should carry out a close and critical examination of the nature, volume and timing of business; all with a view to organising business so that a wider cross-section of the community could realistically consider taking on the responsibilities of council membership.'

17. Ministers therefore asked the Kerley Group to 'consider ways in which council membership could be made attractive to a wider cross-section of the community, and councils could become more representative of the make-up of the community'. The Kerley Group's report included 21 detailed recommendations aimed at widening access to council membership. These range from reviewing the level of administrative support provided to councillors to reviewing councils' business arrangements to facilitate the involvement of an increased number of councillors who may have other responsibilities as well as their council activities. Most of the recommendations made were the responsibility of councils, Convention of Scottish Local Authorities (CoSLA), political parties and equalities groups, and are not therefore considered in detail here (the recommendations which were the responsibility of the Executive are included in the specific proposals set out below).

18. Ministers wish to take this opportunity to stress the importance they attach to making councils more representative of the communities they serve, and to encourage those with the lead responsibility in this area to take these forward. Some progress has already been made in this area. For instance, councils' business arrangements are being reviewed as part of councils' ongoing reviews of their political management structures. Individual councils are also making progress with reviewing the administrative support and training provided to

councillors. Much more needs to be done. **The Executive intends to discuss with CoSLA, local authorities and other bodies ways in which progress can be stimulated in this area.**

Removing Barriers

19. As well as encouraging people from currently under-represented groups to seek election, Ministers have been considering whether there are other practical ways in which they can assist women, young people, people with disabilities, and those from minority ethnic groups who wish to stand for election as a councillor. They are aware that some existing pieces of legislation prevent specific groups of people from standing for election as a councillor, and hinder councillors from making efficient use of their time. Some action has already been taken. For instance, the Sex Discrimination (Election Candidates) Act 2002, which has just completed its passage through the Westminster Parliament, will allow political parties the freedom to introduce positive measures to encourage women when selecting candidates for election. In Scotland, this legislation will extend to elections to the European, Westminster and Scottish Parliaments and to local government elections.

20. The Kerley Group also noted the inconsistency between the current voting age (18) and the age for standing as a councillor (21) and recommended that these be brought in line. Ministers recognise that there are a number of reasons why young people are not actively involved in local politics, and some of the Kerley Group recommendations were aimed at addressing these. This inconsistency may not therefore be a major factor in involving young people. **Ministers are, however, keen to remove what is essentially an artificial barrier to their involvement, and are committed to amending the existing legislation, when a suitable legislative opportunity arises.**

21. The current legislation also restricts the political activities of council employees in two ways:

21.1 All local government employees are prohibited from standing for election to the council which employs them. If they wish to stand for election, they must resign from their job when they are nominated as a candidate; and

21.2 Local government employees in certain politically restricted posts are also barred from standing for election to any local authority, and from engaging in a range of political activities. Any post above an index-linked salary threshold is politically restricted, as are certain specific posts, and members of staff deemed regularly to give advice to councillors or to speak to the media on behalf of the council.

22. Ministers recognise that many local government officials may well have the skills and abilities needed to become effective councillors and that, in certain parts of Scotland where the local authority is a major employer, these restrictions may artificially limit the field from which candidates for election may be drawn. It is understandable that many council employees are reluctant to seek office as a councillor, when they are, in effect, being asked to gamble their job against the uncertainties of the ballot box. In a Consultation Paper published in November 2000, Ministers therefore proposed to revise the first of these restrictions by providing that council employees, other than those in politically-restricted posts may stand for election to the council which employs them without first having to resign on selection or nomination as a candidate. They would, of course, have to resign upon election as a councillor. Ministers also proposed to relax the second restriction by providing

that the content of a post should be the sole determinant of whether it is politically restricted, rather than using an arbitrary measure such as a salary threshold.

23. Responses to the Consultation Paper showed wide-spread support for this approach. **Ministers are therefore committed to repealing the legislation establishing a salary threshold and amending the legislation dealing with the requirement to resign on nomination as a candidate when a suitable legislative opportunity arises.** They do not propose to amend the provisions which designate specific posts as politically restricted. These provisions are not, however, being interpreted consistently across Scotland at present. **Ministers therefore intend to draw up non-statutory guidance providing advice in this area and establishing criteria for defining "posts providing policy advice" to ensure a consistent approach in future.**

24. A small number of those who responded to the Consultation Paper also suggested that council employees who have had to resign their employment in order to become councillors should have the right to return to employment within the council at the end of their period in office. At present S67 of the Local Government (Scotland) Act 1973 Act prohibits all retiring councillors (not just those who are former council employees) from taking up employment with the council for one year after ceasing to be a councillor. This is a difficult area. There is a danger that people may question whether councillors can scrutinise the work of a council effectively and objectively if they might be employed by the council in the relatively near future. It might therefore be difficult simply to lift this restriction. At the same time, Ministers are aware that, particularly in areas where the council is a major employer, this restriction may cause real difficulties for retiring councillors seeking employment. There may therefore be a case for amending the existing legislation to alter the period over which former councillors are ineligible for employment by the council.

25. Ministers are also aware that other groups of public sector employees are subject to political restrictions, and are concerned that this may also be artificially restricting the field of candidates for election as a councillor.

26. The Kerley Group also highlighted the restrictions which current legislation places on the way in which councils conduct certain aspects of council business. In particular, Schedule 7 of the 1973 Act requires councils to issue certain papers by post rather than by more modern means of transmission, and requires councillors to be physically present at meetings, rather than using video or tele-conferencing facilities. These restrictions make it difficult for councillors, particularly those in remote areas, to conduct their business in the most efficient way. **Ministers are keen to support councillors in the vital role they play in their communities and have therefore decided to remove these restrictions.** It is intended that the necessary legislation will be brought forward in the Local Government in Scotland Bill due to be introduced to Parliament shortly.

Ministers would therefore be grateful for views on:

The issue of former councillors who wish to seek employment with the council after their period of service comes to an end; and

Whether the political restrictions relating to other groups of public sector employees are also artificially restricting the field of candidates for election and, if so, whether public bodies should be encouraged to adopt a similar approach to that proposed for council employees.

CHAPTER 3: ELECTORAL REFORM

Introduction

27. One of the key issues addressed in the Kerley Group's report was that of the electoral system used to elect Scotland's councillors. At present, local government elections, like elections to the Westminster Parliament, are conducted on the basis of First Past The Post (FPTP). However, there are supporters of alternative electoral systems, and, in particular, various forms of proportional representation (PR).

Recent Developments

28. Significant consideration has been given to the most appropriate voting system for elections to local government in recent years. In June 1999, the McIntosh Commission recommended that 'Proportional Representation should be introduced for local government elections. A review should be set up immediately, to identify the most appropriate voting system for Scottish local government.' The Commission also recommended that 'The criteria to be used in determining the system or systems of PR to be adopted for Scottish local government should be:

Proportionality;

The councillor-ward link;

Fair provision for independents;

Allowance for geographical diversity; and

A close fit between council wards and natural communities.'

29. The Commission also recommended that 3 systems of PR – Additional Member System (AMS), Single Transferable Vote (STV) and Alternative Vote (AV) top-up – be given particular consideration.

30. Ministers therefore asked the Kerley Group to advise on the most appropriate system of election, taking account of the criteria identified by McIntosh. The Group examined a number of electoral systems against these criteria, although they attached greatest importance to the first two. The Group rejected the Alternative Vote system (AV) because they believed it to be a majoritarian system and not a proportional system. The majority of the Group concluded that STV best met the requirements of their remit, but a minority disagreed, and had their views recorded separately in the Group's report which was published in June 2000. (Two members of the Group simply recorded their disagreement with the conclusion that STV best met the requirements of their remit, while a third member recorded her support for AMS, rather than STV.) The detailed conclusions on STV reached by the Kerley Group are included at Appendix B.

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The Executive's Position

31. The Executive has consistently emphasised its commitment to making progress on electoral reform in line with the principles of the Kerley Group's report. The Partnership Agreement between Labour and the Liberal Democrats in 1999 stated that the Executive would bring forward a 'programme of change including progress on electoral reform.' In the second Programme for Government, published in 2001, the Executive stated that 'We are committed to continuing to make progress on electoral reform and the wider modernisation of local government.' This commitment was repeated in September and November 2001. In December 2001, the Executive published its timetable for progressing the Kerley recommendations, including electoral reform. That timetable can be found at Appendix A to this document.

32. As well as the Reports published by the McIntosh Commission, and the Kerley Group, Ministers have had regard to the views expressed by those who have commented on those reports and the wide body of literature published on electoral reform. Ministers have considered the arguments advanced on different systems and have concluded that the key factors of which they wish to take account in considering the introduction of a new electoral system are:

32.1 The extent to which a system retains the councillor-ward link. Ministers regard this as a key element of local democracy, and one which is vital to the crucial role of councillors and local authorities;

32.2 Any new system should ensure that voters' preferences are clearly reflected in the result of an election, should be capable of being used throughout Scotland, and would need to be responsive to the views of voters in both urban and rural council areas. A new system should not unduly favour either larger or smaller parties, nor unduly act for or against the interests of independent candidates;

32.3 Any new system must manifestly be seen to have clear support; and

32.4 Ministers are unconvinced of the need for a significant change in the number of councillors. The issues of councillor numbers and boundary changes are covered elsewhere in this document, but, in general, Ministers are not attracted to changes in the voting system which might imply significant changes in councillor numbers.

33. Ministers have therefore considered a number of electoral systems against both the criteria adopted by the Kerley Group, and the key factors identified above which build on those criteria.

The Current System

34. Since 1975, all councillors in Scotland have been elected on the basis of FPTP. Supporters of FPTP argue that it is easy for voters to understand. Parties put up one candidate in each ward or constituency, and the elector casts only one vote. The system also maintains a clear link between individual councillors and the wards they represent, and voters should be in no doubt as to the identity of their local councillor. Supporters of FPTP therefore argue that voters can easily express their dissatisfaction with a serving councillor by voting against them at the next election, thus ensuring that councillors are clearly accountable

to their electorate. In some circumstances, FPTP gives the largest party an overall majority of seats which means that that party forms the administration. This is the case in more than half of Scotland's councils.

35. Opponents of FPTP emphasise, however, that the largest party and, on occasion, some of the other parties, often secure a larger proportion of the seats available to them than that to which their share of the votes would entitle them. Opponents of FPTP argue that in some cases a party with a minority of votes has a majority of seats thus enabling it to form the administration without a truly democratic mandate. This also means that a majority of the electorate has often voted against the winning candidate in any given ward. Opponents of FPTP argue that the candidate elected is not therefore representative of the electorate as a whole. There are relatively few marginal wards where seats regularly change hands, or where tactical voting may result in a change in incumbent. In most wards therefore people know that unless their vote is for the incumbent candidate, it is likely to be irrelevant. Opponents of FPTP believe that many people feel that the use of FPTP means that their votes do not count, and do not vote. This is said to contribute to the low turnout in local government elections. More generally, while FPTP can sometimes give a single party a majority, no single party has overall control of more than one third of Scotland's councils.

36. There are, of course, variations on FPTP. The Alternative Vote system (AV), which is described briefly in Appendix C, is used in Australia to elect the House of Representatives. Advocates of AV argue that it has similar features to FPTP, while supporters of proportional electoral systems oppose AV for the same reason. The Kerley Group rejected AV because it was a majoritarian, rather than a proportional, system.

Proportional Representation

37. The Scottish electorate is already familiar with two forms of PR. First, elections to the Scottish Parliament are conducted on the basis of the Additional Member System (AMS); and second, elections to the European Parliament are conducted on the basis of a closed party list. There are, however, numerous forms of PR in use elsewhere in the democratic world.

38. The main argument advanced in favour of PR by its supporters is that under those systems the number of seats secured by a party reflects more accurately the number of votes cast. Supporters argue that councils elected using PR are more likely to represent the full spectrum of views expressed by their electorate and every vote is felt to count for the purposes of determining who should be elected. Supporters of PR also maintain that the councillor-ward link can be maintained by particular PR systems, and that any complexities resulting from the introduction of, say, multi-member wards are more than compensated for by the fact that the members are more likely to represent the full spectrum of opinion within individual wards. The case they make is that PR can, therefore, be seen to offer voters more choice and more flexibility.

39. Opponents of PR argue that, unlike FPTP, PR systems can prevent the party with the largest number of votes forming a single-party administration and delivering its full manifesto. They also have concerns that some systems of PR can weaken the member-ward link.

40. As significant work has already been carried out on PR systems, Ministers have limited their consideration of possible options for change to those recommended by the

McIntosh Commission and considered by the Kerley Group (STV, AMS and AV top-up). This document does not set out to define in exact detail how individual models would operate, although a brief description of each of the options under consideration is set out in Appendix C. There are, of course, variations on all of these – the appendix simply sets out the common understanding of each basic scheme. The arguments for and against each option have also been rehearsed elsewhere but the factors which Ministers have concluded are key to their consideration of a new electoral system are summarised below.

Additional Member System (AMS)

41. AMS offers a high degree of proportionality. It was used for the first elections to the Scottish Parliament in 1999. AMS also retains the councillor-ward link by ensuring that every elector has a single councillor who represents the ward. These wards would though become significantly larger as, in addition, each elector would have a number of other councillors representing the wider area in which they live. This would increase the probability that those voters whose preferred candidate was not elected as the single ward member should have at least one councillor available to represent them with whom they felt some rapport. There is a possibility, however, that voters would be unclear about the roles and status of the 2 different types of councillor, though this could be counteracted by a voter education campaign and effective publicity, and there is little evidence of such confusion in relation to the Scottish Parliament elections. Research following those elections found that 90% of voters described the new system as “not very difficult” or “not at all difficult” to understand.

Alternative Vote+ or Alternative Vote Top-up (AV+ or AV Top-up)

42. AV+ or AV top-up is, in effect, a variant of AMS, and the arguments for and against the system are exactly the same as those for AMS set out above. The number of top-up seats can be determined to bring about the degree of proportionality sought.

Single Transferable Vote (STV)

43. Supporters of STV, which is used for local government elections in both Northern Ireland and the Republic of Ireland, claim that it maximises the use made of each vote cast, and therefore ensures that those elected represent the spread of opinion within a ward. The number of seats per ward, however, affects the extent to which that holds true. The greater the number of seats per ward, the more accurately it reflects voting patterns. STV also retains the councillor-ward link but, instead of a single ward councillor (as under FPTP or AV) or a single ward councillor plus wider area members (as under AMS or AV+), STV would create multi-member wards where the members would be elected under the same system. This would avoid the risk of confusion about the status and role of different councillors. Multi-member systems using FPTP existed in Scotland prior to 1975, and are still used in parts of England.

Ministers would therefore be grateful to know:

respondents' views on the issues raised in this chapter.

whether respondents agree with the principles recommended by the McIntosh Commission and adopted by the Kerley Group?

whether respondents agree with the priority which the Kerley Group attached to the first 2 principles?

whether respondents agree with the Kerley recommendation of STV?

CHAPTER 4: REMUNERATION

Introduction

44. Chapter 2 of this document sets out in broad terms the ways in which Ministers aim to renew local democracy, and some specific proposals for encouraging people from groups which are currently under-represented to seek election as councillors, and removing barriers to their so doing. Chapter 3 deals with the electoral system under which councillors are elected. This chapter looks at one very specific way in which Ministers wish to support the councillors elected to serve their local communities, and to enable them to make the career choices which will inevitably arise if they wish to take on additional responsibilities within the council.

45. The available evidence suggests that councillors are not motivated by the level and type of remuneration available to them. There is no real way of knowing whether the current system of remuneration discourages some people from standing for election. It is clear, however, that many councillors are finding it increasingly difficult to combine their role as a councillor with other activities, and this may be a factor in some people's decision not to seek election. It is certainly a factor in some councillors' decision to stand down from office, and may be a factor in preventing some from taking on more responsibility.

46. Ministers value the important role which councillors play in their local communities, and recognise that councillors often have to face difficult choices between their chosen career, their families, and their role as a councillor. They are aware that an increasing number of councillors are spending a significant amount of their time on council business, and that the number of councillors doing so has grown since the reorganisation of local government in 1996. Indeed the expectations of the role which councillors fulfil have developed even since the Kerley Group report. While some councillors do need to spend a significant amount of their time on council business, Ministers believe that the majority of council positions should be capable of being occupied by people who choose to undertake council work while having other responsibilities, and they wish to encourage councils to facilitate this approach. At the same time, Ministers wish to ensure that people are adequately recompensed for the important responsibilities they undertake. They therefore wish to ensure that the level and type of remuneration available does not actively discourage people from serving, that it recognises properly the responsibilities they carry, that it is sufficient to support councillors in the valuable role they perform and that, when necessary, it is sufficient to enable councillors to take on additional responsibilities as an elected member.

Recent Developments

47. In considering the question of councillors' remuneration, Ministers have had regard to the work which has been done by others in this area in recent years. In June 1999, the McIntosh Commission recommended that :

47.1 All councils should produce a job description for members; and

47.2 A pay and conditions package for councillors should be drawn up for the approval of the Parliament, to be implemented on completion of councils' internal reviews. Remuneration for councillors should in future be subject to independent review.

48. Ministers therefore asked the Kerley Group to advise on an appropriate system of remuneration for councillors, taking account of available resources. The Group's report included a number of recommendations in respect of remuneration. In particular, the Group recommended that all councillors should be paid a salary of £12,000 per annum, and that council leaders, and councillors with significant additional responsibilities should be paid larger salaries, based on the roles they carried out and on the size of their local authority. The largest salary would be paid to the leaders of the Glasgow and Edinburgh councils and would be equivalent to the salary of an MSP. All of these salaries would include an element for pension provision and for personal expenses, such as childcare.

49. The Kerley Group also prepared outline role descriptions for councillors which were intended to provide a framework for councils in developing job descriptions for councillors and proposing information on the skills, experience, aptitudes and training required for carrying out the role of councillor effectively. These role descriptions made a clear distinction between councillors, those with significant additional responsibilities and leaders of councils. (Role descriptions based on those prepared by the Kerley Group are included at Appendix D.).

50. Ministers have concluded that outline 'role' descriptions are a more appropriate way of seeking to outline the many and varied activities which councillors carry out, rather than 'job descriptions'. They are also clear that any system of remuneration should be sufficiently flexible to recognise the different roles which councillors fulfil.

51. It is worth noting that some of the Kerley Group's recommendations appear to have been made in the expectation that most councils would be adopting a cabinet style of operation in future, following the reviews carried out with the assistance of the Leadership Advisory Panel. In practice, six councils have done so. One of the consequences of the Cabinet approach or any other streamlined decision making process would be that a minority of councillors would have particularly heavy responsibilities, and would need to give more time to their council role, while the remainder would, primarily, be engaged in scrutinising the work of the executive and/or council. The remuneration options considered in this chapter should be seen against that background, though decisions about a council's structure are, of course, a matter for each individual local authority.

The Executive's Position

52. Chapter 2 of this paper sets out the key factors of which Ministers wish to take account in bringing forward proposals for change. These factors are equally important when considering the most appropriate system of remuneration for councillors in future, and it is worth repeating them here:

- 52.1 Encouraging the widest possible range of people to serve as councillors;
- 52.2 Recognising that people will have diverse personal circumstances;
- 52.3 Removing any inappropriate barriers to serving as a councillor;
- 52.4 Ensuring that councils are representative of the communities they serve; and

52.5 Allowing for progression to enable councillors to assume more responsibilities over time.

53. In addition, there are a number of other, specific factors of which Ministers wish to take account in considering possible options for councillors' remuneration. These are:

53.1 That any system of remuneration should be fair, transparent and applied consistently across Scotland;

53.2 That any system of remuneration should be sufficiently flexible to take account of the different roles councillors undertake, including the varying time commitments required of them; and

53.3 That the remuneration available should support councillors while carrying out the valuable role which they play in their communities and enable them to realise their full potential, and to progress through the ranks of council membership if they choose to do so.

54. The question of whether being a councillor is a part-time or full-time activity is obviously key to this consideration. Ministers believe that as more councils move to a more streamlined style of decision making, fewer councillors will be undertaking the significant levels of additional responsibilities which have resulted in many of them spending all their time on council business in the past. Ministers wish to encourage councils to facilitate this approach. Any system of remuneration needs to be flexible enough to take account of current and future differences in the degree of responsibility which councillors undertake.

The Case for Change

55. Councillors are currently remunerated by a system of allowances. The key elements are a basic allowance which is paid to all councillors, and additional allowances, particularly Special Responsibility Allowance (SRA), which are paid to many, but not all, councillors. The level of basic allowance paid varies according to the size of the council, and the level of SRA varies according to the detail of councils' own allowance schemes. This system has been in place for a considerable period of time, and councillors and local authority staff are familiar with the way in which the system operates.

56. The system of allowances, and, in particular, the level of allowances paid clearly do not encourage people to stand for election as a councillor. Nor do they appear adequately to recompense many councillors for the role which they now play. Many councillors believe that the level of basic allowance paid is too low, and that those councillors who do not receive SRAs are not paid enough for the activities they undertake. Conversely, about two-thirds of councillors now receive SRAs. This proportion seems very high, and it appears that some councils may be using SRAs to compensate councillors with limited additional responsibilities for the fact that the basic allowance is too low. Indeed, the Kerley Group noted that the number of councillors receiving SRAs varies significantly, ranging from one third of councillors in some areas, to all councillors in others. It seems clear that the allowance system is relatively unstructured, there is no clear progression, and the level and number of allowances paid varies from council to council. It is also far from ideal that it has been left to individual councils to determine the levels of SRA which councillors should

receive. The Kerley Group suggested that the SRA system may be perceived to influence the way in which responsibilities are allocated within a council. As the Group's report highlighted, the level of SRA paid ranges from £250 to £29,750. This degree of variation seems unhelpful. The levels of allowance paid at the upper end of the spectrum may be relatively generous in some cases, but may also be insufficient to recognise the very heavy responsibilities which a small number of councillors undertake. **Ministers are therefore committed to changing the current system of allowances for councillors.**

Options for Change

57. Ministers have considered a number of options for introducing a new system of remuneration. These options are set out below. One or more of these could be introduced: they are not mutually exclusive. Ministers recognise that the wide variation in the levels of SRA paid under the current system have in part arisen because decisions about councillors' remuneration have in the past been left to individual councils. In order to ensure that decisions about the level of remuneration to be paid to individuals are perceived to be fair and consistent, it might be appropriate to introduce local or national remuneration committees.

An Allowance Based System

58. While the current system of allowances is clearly flawed, there are a number of ways in which the system could be improved in the short-term. These include:

58.1 Retaining the current allowance system but standardising the amounts paid across all council areas. The functions performed by councillors in each area are broadly similar and they should be remunerated at the same rate wherever they serve. Any variations in the level of allowance paid would therefore reflect any additional responsibilities which a councillor has, rather than the fact that the council area is larger or smaller. This would make the system more transparent and ensure its consistent application across Scotland, but the system would still do nothing to encourage people to stand as councillors, nor would it have a clear element of progression to support those moving through the ranks of the council.

58.2 Retaining the current allowance system but adjusting the amounts paid and/or the numbers receiving each allowance. The current basic allowance could be increased to recognise the role which all councillors are expected to play. At the same time, more stringent criteria for the payment of SRA, or a cap on the number of councillors who can receive it would reduce the number of councillors receiving this allowance. This would remove some of the inconsistencies of the current system, and might encourage some people to stand for election to the council. But again, it would do little to support those taking on additional responsibilities within the council.

58.3 Abolishing the current system of allowances and introducing a new one. This would afford an opportunity to address the inconsistent application of the current allowance scheme, and to introduce an element of progression to support those moving through the ranks of the council. It is, however, difficult to see how any system of allowances can avoid paying some form of basic allowance to all councillors, and an extra allowance or allowances to councillors who have significant

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additional responsibilities. There is therefore a limit to how fundamentally different a new system could be.

58.4 Introducing a Financial Loss Allowance as an addition to the current system of allowances in recognition of income foregone as a result of undertaking council duties. Councillors did receive such an allowance in the past, but it was paid as an alternative to Attendance Allowance, was subject to a strict upper limit, and councillors had to prove that they had lost income as a result of undertaking council duties before they received any payments. As a result, far more councillors claimed Attendance Allowance, and the Financial Loss Allowance for councillors was abolished (it is still available to co-opted non-councillors). Such an allowance on its own would do little to tackle the problems with the current system, but, coupled with another option, it could serve as some form of recompense to those losing income as a result of their activities as a councillor, and meet the particular circumstances of some elected members.

Salary Options

59. Ministers recognise that some councillors currently spend so much of their time on council business that they cannot realistically share council activities with full time employment. Ministers believe that more councillors should be able to take on other (non-council) responsibilities in future and that the number of councillors spending most of their time on council business should decrease. Regardless of the time which individual councillors spend on council business, Ministers believe that they should be recompensed properly for whatever level of responsibility they undertake. It is also important that the level of remuneration available is sufficient not to discourage people from standing for election, and to allow councillors who choose to do so to progress their careers within local government. The Kerley Group recommended that all councillors should be paid a salary, with council leaders, and councillors with significant additional responsibilities being paid larger salaries, based on the roles they carried out and the size and population of the authority.

60. It would be possible to devise a salary system for councillors which could either take account of the size of each council, or introduce standard rates of pay across Scotland. There would be 2 main elements:

60.1 A basic salary for all councillors, with an additional element or elements for those councillors with significant additional responsibilities; and

60.2 A further additional element for those with particularly heavy responsibilities, such as the leaders of councils.

61. A salary scheme of this sort should encourage people to serve as councillors, provide adequate recompense to councillors for the responsibilities they undertake, and provide a method of progression for those taking on additional responsibilities. The real difficulty would be in determining which councillors should receive additional salary elements, and inevitably there would be a danger that some councillors who currently receive significant amounts of SRA could lose out financially. Local or national remuneration committees could have a key role to play here. It might also be necessary to limit the number of councillors who receive additional elements of salary in recognition of the additional

responsibilities they undertake. This could be done as an absolute number, or as a proportion of the number of councillors overall.

Combined Salary and Allowances Option

62. An alternative approach would be to recognise the very different role which council leaders and the small number of councillors with heavy additional responsibilities play by creating 2 different remuneration systems. The simplest way of doing so would be by paying a salary to those with particularly onerous responsibilities but retaining a (revised) system of allowances for the remainder. It is difficult to know whether such a scheme would do anything to encourage or discourage people from seeking to serve as councillors. It would recognise the heavy burdens a small, but significant, group of councillors carry, and recompense them accordingly, without unduly complicating the position for all councillors. Again, it would be important to ensure that such an approach was applied consistently across Scotland, and seen to be fair.

Pension Options

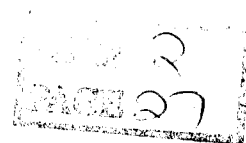
63. At present, councillors do not receive any form of pension, and the allowances they receive are not intended to enable them to purchase a private pension. Some councillors will, of course, have accrued rights in pension schemes, either before or while serving as a councillor. Those who have served for a long time, or who have spent the majority of their time on council business are, however, unlikely to have done so. Some councillors will also have lost pension rights as a consequence of taking time away from work to fulfil their role on the council. The Kerley Group recommended that the salaries paid to councillors should include an element for pension provision. In England and Wales, DTLR have consulted on a proposal that a small number of councillors (determined by an independent panel) should be entitled to join the pension scheme which covers local authority staff. If some or all councillors are to be paid a salary in future, then the issue of pensions will also have to be considered.

64. **Ministers are committed to establishing some form of pension provision for councillors**, and are considering 2 options as set out below:

64.1 Including an element for pension provision in the salaries paid to councillors, as proposed by the Kerley Group. This would enable councillors to choose the level and type of provision which best suited their individual circumstances. It would also recognise that some people will be long-serving and/or full-time councillors, with no other form of pension provision; while others will serve for a short period of time, or on a part-time basis, and may well have accrued pension rights elsewhere; and

64.2 Giving councillors access to the Local Government Pension Scheme. This is the simplest way of enabling councillors to accrue rights in an existing pension scheme, and is the approach being adopted for some councillors south of the border where the necessary primary legislation is already in place. This approach may not be sufficiently flexible to take account of the wide range of councillors' personal circumstances, and might complicate matters for people who have also accrued rights in other pension schemes. If this approach were adopted, it might therefore be helpful to enable councillors to opt out of the pension scheme if they prefer to do so.

Severance Pay



65. A number of groups have suggested to Ministers that there should be some form of severance pay scheme to recognise the contributions which long-serving councillors have already made to their local communities. The scheme used in the Republic of Ireland has been cited as a possible model.

66. Ministers recognise that many long-serving councillors have been inadequately rewarded for the work they have done and that the allowances they have received will not have enabled them to make appropriate pension provision. They are also aware that a number of councils would welcome the introduction of a severance pay scheme. Ministers are, however, reluctant to see large numbers of experienced councillors standing down at one time. Nor would they wish to enter into an open-ended arrangement which could be very expensive for the taxpayer. Ministers are not yet persuaded that in the current climate there would be public support for any such scheme.

Ministers would therefore like to know :

whether respondents are in favour of the possibility of introducing local or national remuneration committees in future, independent of councils;

whether respondents agree that the current system of allowances needs to be overhauled;

whether any of the allowance based options set out above should be adopted in the short or long term.

whether councillors should be paid a salary in future, and the level at which any such salary should be paid;

whether the salary paid should vary according to the size and population of the council area, or whether the amounts should be standardised across Scotland;

whether a salary should be paid to all councillors, or whether there is a case for distinguishing between those with less onerous responsibilities who are therefore paid allowances, and those with particularly heavy responsibilities who are therefore paid a salary;

whether an MSP's salary provides an appropriate comparator for those councillors who carry the greatest responsibilities as the Kerley Group suggested, or whether there are other more appropriate comparisons to be made;

whether decisions about which councillors should receive additional elements of salary should be the responsibility of a remuneration committee, at local or national level;

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whether there should be a 'quota' set for the number of councillors who should receive additional salary elements.

whether pension provision for councillors should be made through salary or through the Local Government Pension Scheme; and

whether respondents have views on the issue of severance pay.

CHAPTER 5: POWERS, RESOURCES AND STRUCTURES

Introduction

67. The preceding chapters of this document are focused primarily on issues of governance and participation. This chapter highlights forthcoming changes to the powers available to councils, and considers key aspects of the resources available to councils, the framework in which they operate, and the way in which they interact with the communities they serve, and offers a number of options for change.

Powers

68. The framework within which local authorities operate is constantly changing and evolving. Devolution has developed the relationship between councils, Ministers and Parliament. Other recent changes have provided councils with a 4-year term of office to allow for effective planning over a longer timescale, and the introduction of 3-year grant settlements.

69. The forthcoming Local Government in Scotland Bill will bring further change. The Bill takes forward a shared agenda for local government, with the overall aim of providing a framework to enable the delivery of better, more responsive public services. The measures in the Bill are designed to make it easier for councils to do their jobs, giving them more responsibility to act within a sensible framework, to work in partnership with other bodies and the communities they serve, and to embed a culture of improvement.

70. The Bill has 3 main components:

70.1 A duty of best value;

70.2 A power of well-being; and

70.3 A statutory basis for community planning.

71. The duty of Best Value and associated provisions are intended to give a statutory foundation to the comprehensive Best Value framework that has been developed in partnership with local government over the last 3 years. The main objective of Best Value is to deliver better, more responsive public services. The basic duty will oblige local authorities to pursue continuous improvement in their performance while ensuring that services are delivered with the appropriate balance between quality and cost. This will be supported crucially by a duty to ensure that local authorities are proactive in consulting and engaging with their communities on their performance.

72. The power of well-being is a new power which is designed to allow local authorities to work in a more innovative and flexible way in the interests of their communities. It will provide clarity for Scotland's local authorities and encourage a 'can-do' approach in delivering customer-focused services. The power of well-being will re-affirm the Executive's commitment to councils' strong community leadership role and enable joint working with communities and other agencies.

73. Community Planning provides a process through which a local authority, the local community and other organisations come together to plan, provide and promote the well-being of their communities. Joint collective action carried out effectively will result in better use of public money. The overall intention is to provide a basis for the delivery of better, more responsive services, services designed around the citizen and the user, not the provider. The Community Planning process provides a vehicle to enable joined-up working and to engage communities in the decisions that effect them.

Resources

74. Ministers also wish to consider other ways in which they can make it easier for councils to do their business, and encourage councils to take forward the modernisation agenda contained in the Bill. To achieve this, local government needs to invest in the future – in new and improved forms of service delivery; infrastructure that meets the needs of the 21st century; information and communications technology to enhance their accessibility to citizens.

Capital Expenditure

75. Ministers want to provide a framework for capital investment which supports the power of well being and the duty of Best Value; gives local authorities more flexibility and responsibility; enables them to make real choices and to make full use of the various options for financing improved services, including private finance; and requires authorities themselves to account for their decisions about the level and nature of the capital investment they undertake.

76. For many years local authority capital expenditure has been controlled by central government. Local authorities require the consent of Scottish Ministers before they can incur capital expenditure. The system in place is largely concerned with limiting the amount of capital expenditure.

77. **Ministers therefore propose to abolish the existing system of capital consents.** It will be replaced by a system under which:

77.1 Local authorities would have the power to decide their own capital investment subject to certain conditions, principally that they make those decisions in a manner prescribed in regulations made by Scottish Ministers.

77.2 The regulations would require local authorities to set local prudential indicators (within a centrally agreed framework which would draw on the Chartered Institute of Public Finance and Accountancy's Prudential Code for Capital Finance in Local Authorities) establishing what they could afford to spend and borrow; to publish these indicators; and to limit their investment and borrowing to what could be afforded having regard to these indicators.

77.3 The setting of the indicators and the consequent decisions on spending and borrowing would be audited and publicly reported.

77.4 Ministers would have a reserve power to limit capital spending in certain circumstances, for example if an authority failed to apply the self-regulating approach properly; or to prevent an unsustainable surge in total local authority borrowing.

77.5 Ministers would have powers to support national priorities through the award of capital grant.

78. Subject to Parliament enacting the necessary changes to the law in the Local Government in Scotland Bill, Ministers will introduce these new powers and responsibilities at the beginning of 2004-2005. The Executive will work closely with councils, with Audit Scotland and other interested parties in preparation for implementation, and will consult further on the details.

Housing

79. These proposals for a new system for encouraging capital investment come at a time when there is much change in housing. Local authorities are currently preparing for new responsibilities with regard to housing. These include the preparation of local housing strategies, homelessness strategies, supporting people and the transfer of responsibility for development funding. Communities Scotland, in its role as regulator, will be starting to assess councils' performance on housing management. In addition, a number of councils are preparing proposals for the transfer of their stock to community ownership. We believe that this is not the right time to introduce such a fundamental change to housing finance. We are continuing to look at ways to ensure the most effective way of supporting capital investment in social housing, including community ownership.

Supporting Improvement

80. This paper highlights a number of measures which Ministers are taking to help to empower local leaders and remove barriers to the improvement of services. But Ministers want to do more. They wish to provide positive support to those in the front line; to councillors and council officers. They also wish to do what they can to make sure that councils have access to the best information advice and support; that they exchange ideas and disseminate best practice; and that they have the means to benchmark themselves against their peers and other service providers in the public and private sectors.

81. There are, of course, plenty of examples of excellent practice in individual services in individual councils. Ministers believe that the communities which councils represent have a right to expect good ideas and the best practice available to be taken up quickly, and councils and other public agencies will soon have a duty to pursue continuous improvement. But to achieve that councils need to work together to ensure that they share experience; bring fresh perspectives to bear and challenge outdated or inefficient ways of working.

82. Ministers recognise that organisations such as CoSLA, and the Society of Local Authority Chief Executives already have a central role in co-ordinating views and disseminating information between the leadership and senior management of councils. There are a number of other organisations which already play a part in supporting improvement, for example Quality Scotland, the Association of Public Sector Excellence and the Scottish Local Authority Management Centre. The Executive itself has an interest in securing the improvement of public services.

83. Ministers see a strong case for the development of a new service which would support improvement by, for example:

83.1 Providing information and advice for councils pursuing performance improvement;

83.2 Helping councils to undertake peer reviews;

83.3 Providing support to help implement improvement plans;

83.4 Providing access to a comprehensive database on council performance; and practice and innovation throughout the United Kingdom; and

83.5 Developing training for members and officers.

84. It is important that such a service has credibility with councils and that they see it as a genuine resource to support improvement rather than an imposition. It is also important that any such service capitalises on the skills and knowledge of those already engaged in improving services themselves, and those who have already have expertise in supporting service improvement.

85. Ministers are clear that this is not an appropriate role for the Executive to fulfil. Instead they believe that the Executive should work with CoSLA, councils and others with an interest in this area.

Structures

86. Ministers have also been considering a number of issues relating to the way in which councils carry out their business. The question of councils' political management structures is considered below, while the way in which councils can involve the communities they serve in the work they do is considered towards the end of this chapter.

Follow-up to the Leadership Advisory Panel (LAP)

87. The LAP process encouraged councils, on a voluntary basis, to examine their decision making and scrutiny processes. As a result of the LAP process, councils have introduced a range of new political management structures. Ministers wish to do what they can to encourage councils to maintain this process of self review. Some councils are further down the road of change than others, and for a small minority of councils the process is still at an early stage. There would be little or no point in carrying out a major review of the work done so far, and the success of the changes introduced as many changes are very recent.

88. Ministers emphasised throughout the LAP process that the development of councils' own scrutiny role would be the area which presented the most challenges and the greatest opportunity for innovation. The concept of a formal scrutiny mechanism, separate from the decision making process is a relatively new one for some councils. Some of the councils which introduced streamlined committee structures in response to LAP included separate scrutiny functions as an important element of their new structures. All of the councils which moved to an executive structure established a separate scrutiny function, sometimes chaired

by a member of an opposition party. As part of the follow-up to LAP, Ministers wish to support local authorities in evaluating the work they have done on scrutiny so far, developing their approach to scrutiny still further, and building on their initial experiences of that work. Where scrutiny arrangements have not yet been introduced, Ministers wish to encourage councils to consider introducing appropriate mechanisms at an early date.

89. Ministers also recognise that the introduction of such scrutiny arrangements requires a significant change in the way in which councillors are supported by officials, and that joint officer/member training has a useful role to play. They wish to establish what progress has been made in this area, and to assist councils in promoting and sharing best practice. They recognise that the introduction of a statutory duty of Best Value, which requires councils to make a fundamental commitment to continuous improvement, will pose further challenges for working relationships at the heart of the decision making process.

Links with Communities

90. The forthcoming Local Government in Scotland Bill is designed to assist councils to work in partnership with the communities they serve. Ministers also attach importance to encouraging councils to find new and innovative ways of involving the communities which they represent in the work of the council. There are a number of ways in which this can be done. These include mechanisms such as area forums and citizens' juries and panels. Ministers do not wish to be prescriptive about the methods which councils should adopt, particularly as local needs and circumstances will vary from council to council, and the approach which is appropriate in one area may not be suitable in another. They do, however, wish to take this opportunity to encourage all councils to consider ways in which they can make their processes more accessible to the communities they represent. Many councils are already doing so, and Ministers would like to encourage councils to share best practice in this area.

91. Community councils are one particular example of a mechanism which works well in some areas. Ministers attach considerable importance to the role which community councils can play, and to the contribution they can make to local well-being. In many parts of the country, community councils provide a key link between local communities and the local authority, and the Association of Scottish Community Councils (ASCC) also has a useful role to play in representing its membership at a national level.

92. In some areas community councils do not play such a strong role and area forums and citizens' juries and panels have an important role to play here. Indeed, area forums are already successful in many areas and Ministers would like to encourage the development of such mechanisms across Scotland.

93. Ministers are also keen to encourage councils to consider imaginative ways in which specific groups within the community, such as young people, can be involved in the work of the council and their elected members.

94. There is one specific way in which councils can already encourage people with a stake in the quality of council services to make a more direct contribution to the work of the council. Councils can already co-opt community representatives onto council committees, although the majority of these co-opted members do not have voting rights. Ministers are

aware, however, that the changing structure of councils may mean that the opportunities to involve co-opted members without voting rights may be more limited in future.

Ministers would therefore welcome views on:

whether there is an obvious lead body (or bodies) to provide an improvement service;

whether a new body should be created to provide such a service;

whether a partnership or consortium of existing agencies would be the best way forward;

if so, which agencies should be involved in such a partnership;

whether individual providers should be asked to bid for work to be carried out as a result of the provision of an improvement service;

possible options for continuing the LAP process;

the timing of such further work;

best practice in joint officer/member training;

ways in which specific groups of people can be involved in the work of the council; and

any possible implications for the co-option of non-elected members to the new decision making structures which councils are adopting as a result of the LAP process.

CHAPTER 6: EXECUTIVE SUMMARY

Chapter 1: Introduction

95. Ministers are not planning a review of council boundaries or a reduction in the number of councils in the foreseeable future, and they do not wish to make a wholesale reduction in the number of councillors at this time.

Chapter 2: Removing Barriers

96. Ministers :

96.1 intend to discuss with CoSLA, local authorities and other bodies ways in which progress with making councils more representative of the communities they serve can be stimulated;

96.2 are committed to bringing the age for standing as a councillor (21) into line with the voting age (18) when a suitable legislative opportunity arises;

96.3 are committed to repealing the legislation establishing a salary threshold for politically restricted posts within local authorities, and amending the legislation dealing with the requirement for council employees to resign on nomination as a candidate, when a suitable legislative opportunity arises;

96.4 intend to draw up non-statutory guidance providing advice on, and establishing criteria for, defining 'posts providing policy advice' to ensure a consistent approach in future.

96.5 will bring forward legislation to remove the existing restrictions on the use which councils can make of electronic communications for arranging and conducting meetings in the Local Government in Scotland Bill shortly to be introduced to Parliament.

97. Ministers would be grateful for views on:

97.1 the restrictions which apply to former councillors who wish to seek employment with the council after their period of service comes to an end; and

97.2 whether the political restrictions relating to other groups of public sector employees are also artificially restricting the field of candidates for election and, if so, whether public bodies should be encouraged to adopt a similar approach to that proposed for council employees.

Chapter 3: Electoral Reform

98. Ministers would be grateful to know:

98.1 respondents' views on the issues relating to electoral reform raised in the chapter;

98.2 whether respondents agree with the principles for determining the most appropriate electoral system for local government recommended by the McIntosh Commission and adopted by the Kerley Group;

98.3 whether respondents agree with the priority which the Kerley Group attached to the first 2 principles; and

98.4 whether respondents agree with the Kerley recommendation of STV as the most appropriate electoral system for local government in Scotland?

Chapter 4: Remuneration

99. Ministers are committed to changing the current system of councillors' allowances, and to establishing some form of pension provision for councillors. They would also like to know:

99.1 whether respondents are in favour of the possibility of introducing local or national remuneration committees in future, independent of councils;

99.2 whether respondents agree that the current system of allowances needs to be overhauled;

99.3 whether any of the allowance based options set out in the paper should be adopted in the short or long term;

99.4 whether councillors should be paid a salary in future, and the level at which any such salary should be paid;

99.5 whether the salary paid should vary according to the size of the council area, or whether the amounts should be standardised across Scotland;

99.6 whether a salary should be paid to all councillors, or whether there is a case for distinguishing between those with less onerous responsibilities who are therefore paid allowances, and those with particularly heavy responsibilities who are therefore paid a salary;

99.7 whether an MSP's salary provides an appropriate comparator for those councillors who carry the greatest responsibilities as the Kerley Group suggested, or whether there are other more appropriate comparisons to be made;

99.8 whether decisions about which councillors should receive additional elements of salary should be the responsibility of a remuneration committee, at local or national level;

99.9 whether there should be a 'quota' set for the number of councillors who should receive additional salary elements;

99.10 whether pension provision for councillors should be made through salary or through the Local Government Pension Scheme; and

99.11 whether respondents have views on the issue of severance pay.

Chapter 5: Powers, Resources and Structures

100. Ministers propose to abolish the existing system of local authority capital consents in the forthcoming Local Government in Scotland Bill. They would welcome views on:

100.1 whether there is an obvious lead body (or bodies) to provide an improvement service;

100.2 whether a new body should be created to provide such a service;

100.3 whether a partnership or consortium of existing agencies would be the best way forward;

100.4 if so, which agencies should be involved in such a partnership;

100.5 whether individual providers should be asked to bid for work to be carried out as a result of the provision of such a service;

100.6 possible options for continuing the Leadership Advisory Panel process;

100.7 the timing of such further work;

100.8 best practice in joint officer/member training;

100.9 ways in which groups of people, such as young people, can be involved in the work of the council; and

100.10 any possible implications for the co-option of non-elected members to the new decision making structures which councils are adopting as a result of the LAP process.

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APPENDIX A

TIMETABLE FOR THE NEXT STEPS

Today we are setting out a timetable for the next steps to take forward the principles of Kerley, as detailed below:

- Before the Parliament's Easter Recess, the publication of a White Paper on the future of local government based on the principles of Kerley including future governance, councillors' allowances and options for electoral reform. This will be followed by a consultation period lasting 4 months.
- Following publication of the White Paper the Executive will instruct the drafting of appropriate clauses to reflect the options contained in the White Paper.
- During the summer the Executive will analyse the results of the consultation on the White Paper, and prepare its response, in consultation with the Labour and Liberal Democrat backbench groups.
- Shortly after Parliament reconvenes in September 2002 the Executive will set out the next steps in relation to legislation and the future governance of Councils.

The First Minister and Deputy First Minister intend to ensure that this debate will be set in the context of renewing and supporting local government as a vital part of our democratic system. They will emphasise the crucial role of local elected councillors.

18 December 2001

APPENDIX B

KERLEY GROUP'S CONCLUSIONS ON STV

The Kerley Group concluded that STV best met the terms of their remit. The reasons for their conclusions are set out below:

'On the two principal criteria – proportionality and the councillor-ward link

STV is a proportional system. It also ensures that each member has a ward – all are elected on the same footing. However, each elector has a number (two or more) of ward representatives to turn to: this has both advantages and possible drawbacks.

We turn now to the other criteria which we have to consider - fair provision for independents, allowance for geographical diversity, and a close fit between council wards and natural communities – and review the systems that satisfy the two principal criteria of proportionality and the councillor-ward link – STV and AMS – against them.

Consideration of these final three criteria suggests that there is little between STV and AMS in respect of them. Returning to consideration of our two primary criteria – proportionality and the councillor-ward link – we do consider that the two classes of member that AMS would produce, with the possible disadvantages which we have noted above, are distinctly less attractive than the single type of member that STV provides.

Accordingly we, consider that STV best meets the requirements of our remit.

Any consideration of size and boundaries has implications for proportionality and the recognition of natural boundaries. We consider that 4 member wards will usually balance these requirements: they will be large enough to achieve proportionality, and also offer a sound link between the electorate and its communities.

We consider it highly desirable that wards should reflect natural communities and, accordingly, we recommend that there should be flexibility in ward sizes – ranging from 3 to 5 member wards – to allow natural communities to be maintained within wards.

However, we recognise that in sparsely populated parts of Scotland, four member wards would cover very large geographic areas. Such very large wards might be to the detriment of some of the electorate who could be geographically remote from their councillors; it would also be difficult to map such very large wards onto a natural community.

Accordingly, in sparsely populated parts of Scotland we recommend that, exceptionally, wards comprising a minimum of 2 councillors may be appropriate.'

APPENDIX C

BRIEF EXPLANATION OF ALTERNATIVE ELECTORAL SYSTEMS MENTIONED IN CHAPTER 3

Alternative Vote (AV)

Like FPTP, AV operates on the basis of one member per ward. Under AV, however, instead of casting only one vote, voters rank the candidates on the ballot papers in order of preference. If a candidate receives more than 50% of the first preference votes cast, he or she would be elected. But if no one candidate wins more than 50% of the vote, the votes cast for candidates with the fewest first preference votes are redistributed to the other candidates on the basis of the second preferences on those ballot papers. This process is repeated until one candidate has acquired more than 50% of the vote.

Additional Member System (AMS)

Under AMS, each elector has 2 votes – one to cast for a single ward member using FPTP, and a second to cast for a wider area member. The percentage of votes obtained by each party determines their overall number of representatives. Each party ranks its wider area candidates on a published list. Those lists are then used to allocate additional seats to parties so that the total number of seats gained by each party is in proportion to the number of votes cast for its members.

Alternative Vote + (AV+)

AV+ (also known as AV top-up) is a variant on AMS under which AV, rather than FPTP, is used to elect the single ward member.

Single Transferable Vote (STV)

STV uses multi-member wards. Electors can vote for as many candidates as they wish and rank them in order of preference. If a voter's first choice candidate does not need their vote (either because they are elected without it, or because they have so few votes that it is impossible for them to be elected), then that voter's second choice candidate is given that vote. This process is repeated until the required number of candidates has been elected.

OUTLINE ROLE DESCRIPTIONS FOR COUNCILLORS

The outline role descriptions below are based on those prepared by the Kerley Group. The Group referred to 3 types: the councillor; the councillor with significant additional responsibilities; and the leader of the council. The revised versions of the role descriptions below have been adjusted to take account of the distinction which Ministers wish to make between the majority of councillors and those with particularly heavy responsibilities. The descriptions are cumulative: councillors with particularly heavy responsibilities will perform most or all of the functions outlined below.

Councillors will perform most or, in some cases, all of the following roles:

- ◆ Represent constituents;
- ◆ Represent ward/constituency;
- ◆ Take specific decisions eg planning, licensing;
- ◆ Hear appeals;
- ◆ Make appointments;
- ◆ Serve on joint boards;
- ◆ Community leadership and involvement;
- ◆ Represent the views of the council to the community;
- ◆ Policy development and approval;
- ◆ Monitor, review and comment on performance;
- ◆ Scrutinise effectiveness of the council;
- ◆ Develop effective working relationships with councillors, officers and relevant partner organisations;
- ◆ Support the creation of an inclusive working environment;
- ◆ Involvement in devolved area/local policy and service delivery; and
- ◆ Maintain highest standards of conduct.

Councillor with Significant Additional Responsibilities

- ◆ Provide leadership in significant area of responsibility (including leader of major opposition group);
- ◆ Fulfil Executive or equivalent responsibilities as appropriate to Council management structure (including chair of full council);
- ◆ Encourage participation and debate;
- ◆ Representative for the council and area;
- ◆ Lead council working groups and appropriate committee activities;
- ◆ Represent council nationally and provide national direction;
- ◆ Develop effective relationships with national bodies such as the Scottish Parliament, the Scottish Executive, and the Westminster Parliament;
- ◆ Chair major meetings;
- ◆ Provide leadership of council;
- ◆ Overall responsibility for promoting and overseeing policy development and implementation;
- ◆ Primary representative for the council;
- ◆ Promote policies and programmes within and outwith the council;
- ◆ Commission reports and advice from officers;

- ◆ Ensure public confidence in council services;
- ◆ Develop relationships with partner organisations;
- ◆ Scrutinise performance of senior officials; and
- ◆ Liase with other elected members.

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RESPONSES TO CONSULTATION

Comments on this document are invited by **31 July 2002**. Responses should be sent to

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Local Government Constitution and Governance Division
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A summary of this document is also available in Arabic, Bengali, Chinese, Gaelic, Hindi, Punjabi and Urdu, and in large print, from the same address.

Responses to this document will be acknowledged, and will be made available to the public unless respondents ask for their comments to remain confidential. All responses may be included in non-attributable summaries of comments received and views expressed.

| Chapter 2: Removing Barriers Questions | |
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| | Question |
| Q | 1. Ministers would be grateful for views on the restrictions which apply to former councillors who wish to seek employment with the council after their period of service comes to an end? |
| A | 3 or 6 months are suggested as alternatives to the current period of 1 year. |
| Q | 2. Ministers would be grateful for views on whether the political restrictions relating to other groups of public sector employees are also artificially restricting the field of candidates for election and, if so, whether public bodies should be encouraged to adopt a similar approach to that proposed for council employees? |
| A | Members are invited to respond to this question. |

| Chapter 3: Electoral Reform Questions | |
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| | Question Note: these are the questions the COSLA meeting is to consider |
| Q | 3. Ministers would be grateful to know respondents' views on the issues relating to electoral reform raised in the chapter? |
| A | Members are invited to respond to this question. |
| Q | 4. Ministers would be grateful to know whether respondents agree with the principles for determining the most appropriate electoral system for local government recommended by the McIntosh Commission and adopted by the Kerley Group? |
| A | Members are invited to respond to this question. |
| Q | 5. Ministers would be grateful to know whether respondents agree with the priority which the Kerley Group attached to the first 2 principles? |
| A | Members are invited to respond to this question. |
| Q | 6. Ministers would be grateful to know whether respondents agree with the Kerley recommendation of STV as the most appropriate electoral system for local government in Scotland? |
| A | Members are invited to respond to this question. |

| Chapter 4: Remuneration Questions | |
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| | Question |
| | Ministers would like to know:- |

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| Q | 7. whether respondents are in favour of the possibility of introducing local or national remuneration committees in future, independent of councils? |
| A | Should Councillors salaries be linked to MSPs?. If this is the case, then there is a strong argument for national arrangements. Also, if Councillors salaries stem from decisions on MSPs salaries then there would be no need for a separate Committee |
| Q | 8. whether respondents agree that the current system of allowances needs to be overhauled? |
| A | Yes. It has been debated for some considerable time and early action is now needed |
| Q | 9 whether any of the allowance based options set out in the paper should be adopted in the short or long term? |
| Q | 10 whether councillors should be paid a salary in future, and the level at which any such salary should be paid? |
| A | In future, should payments to Councillors, both basic and additional responsibility, be regarded as salary payments?. It is arguable that the complexity of running and politically managing the Council is far more involved than ever has been in the past. If this is justified this needs to be suitably reflected by payment of the salary linked to MSPs salaries |
| Q | 11. whether the salary paid should vary according to the size of the council area, or whether the amounts should be standardised across Scotland? |
| A | It is understood boundaries and wards have been set up so that Councillors across Scotland serve a similar workload. It is therefore appropriate to apply a standard basic salary for all Councillors across Scotland. Additional responsibility elements could vary across Scotland dependant on responsibilities locally |
| Q | 12. whether a salary should be paid to all councillors, or whether there is a case for distinguishing between those with less onerous responsibilities who are therefore paid allowances, and those with particularly heavy responsibilities who are therefore paid a salary; |
| A | Arguably such an arrangement would be divisive and demean the role of Councillors. There should be an increased basic salary for all Councillors with an additional element(s) for those Councillors with significant and additional or heavy responsibilities |
| Q | 13. whether an MSP's salary provides an appropriate comparator for those councillors who carry the greatest responsibilities as the Kerley Group suggested, or whether there are other more appropriate comparisons to be made; |
| A | A direct link with MSP salaries should be introduced (see above), however, this should be applied to all Councillors and not only those undertaking additional responsibilities |

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| Q | <p>14. whether decisions about which councillors should receive additional elements of salary should be the responsibility of a remuneration committee, at local or national level;</p> |
| A | <p>Should a national framework be established to assist in local decisions? Otherwise should local responsibility rest with the Council rather than establishing a separate remuneration committee?</p> |
| Q | <p>15. whether there should be a 'quota' set for the number of councillors who should receive additional salary elements;</p> |
| A | <p>If the basic salary is set at an appropriate level, then this could provide the means of reducing the number of SRA's. Should guidance in this area be prepared and issued by local and central government on the basis that there should be an increased basic salary and a limit on the number of Councillors receiving additional salary elements, whether that be a fixed number or a proportion?</p> |
| Q | <p>16. whether pension provision for councillors should be made through salary or through the Local Government Pension Scheme; and</p> |
| A | <p>There should be entitlement for all Councillors to join the Local Government Pension Scheme if they so wish. Similar to the position for employees, Councillors pension arrangements should be transferable to/from other schemes. Councillors contributions to the pension scheme should be supported by an employers contribution.</p> |
| Q | <p>17. whether respondents have views on the issue of severance pay.</p> |
| A | <p>Should severance pay arrangements should be linked to those for MSPs?</p> |

Chapter 5: Powers, Resources and Structures Questions

| Chapter 5: Powers, Resources and Structures Questions | |
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| | Question |
| | Ministers would welcome views on:- |
| Q | 18. whether there is an obvious lead body (or bodies) to provide an improvement service; |
| A | COSLA would appear to be the obvious body. |
| Q | 19. whether a new body should be created to provide such a service; |
| A | No. Certainly not until there is clarity over the ranking of Best Value; PMPs; Public Performance Reports; National and local Performance Indicators; the Code of Corporate governance; the forthcoming "Prudential" Code and the respective roles of the various Committees, bodies and organisations involved in these processes created to achieve service improvements |
| Q | 20. whether a partnership or consortium of existing agencies would be the best way forward; |
| A | This could be part of the process of clarification of the roles and remits of various Committees and agencies involved in service improvement already. |
| Q | 21. if so, which agencies should be involved in such a partnership; |
| A | COSLA, the Scottish Executive and the Accounts Commission/Audit Scotland are suggested |
| Q | 22. whether individual providers should be asked to bid for work to be carried out as a result of the provision of such a service; |
| A | This approach appears to be at odds with one of partnership |
| Q | 23. possible options for continuing the Leadership Advisory Panel process; |
| A | It is considered the Panel has ran its course for the time being. With reference to the answer to question 19 above it is considered appropriate for there to be a period of consolidation to enable local authorities to work with the emerging Standards Commission for example and the soon to be implemented Code of Conduct. The work of the local authorities in establishing Standards Committees and Audit and Performance Committees needs to be consolidated and evaluated. |
| Q | 24. the timing of such further work; |
| A | The timing should be consistent with the time required to clarify roles and remits of the various committees and agencies involved already in service improvements and allow for a period of consolidation and review of the effectiveness of the processes put in place by local authorities as a consequence of the Leadership Advisory Panel Report |

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| Q | 25. best practice in joint officer/member training; |
| A | Moray Council Standard's Committee established under the auspices of the leadership advisory panel is addressing this subject |
| Q | 26. ways in which groups of people, such as young people, can be involved in the work of the council; and |
| A | the Moray Council's Community Council Scheme makes provision for young people to be nominated, with full voting rights, for membership of Community Councils; the Councils Educational Services Committee has pupil representatives on it and much work is being done currently by the Moray Council's Social Inclusion Partnership to involve young people in the work of the Council |
| Q | 27. any possible implications for the co-option of non-elected members to the new decision making structures which councils are adopting as a result of the LAP process. |
| A | There could be a school of thought that co-option of non elected members increases the democratic deficit. |

