Dear Kevin

I am very pleased to attach a copy of the Commission on Strengthening Local Democracy’s Final Report for consideration by the Committee. Over the last year, the Commission’s work has led it to consider a number of issues that the Committee has also focused on in its recent inquiries, particularly in relation to its work around the Flexibility and Autonomy of Local Government, and its current scrutiny of the Community Empowerment and Renewal Bill.

As a Commission we have endeavoured to be evidence led, and think holistically about the opportunities to strengthen local democracy in Scotland. Our final report tries to emulate that approach, and for that reason the Committee may wish to consider the report as a whole.

Our focus has not been on any particular Governments or Ministers, but on tackling a 50 year trend in how we ‘do’ democracy here in Scotland. As a country we have tried taking power to the centre over that period, and the evidence that I have received suggests that this has failed to address the deep rooted social problems facing Scotland, and has led to substantial disaffection with our current democracy. As a Commission, we believe that a major transformation is therefore now required if we are to turn that situation around.

COSLA is not scheduled to consider the report until late October, and the following comments are therefore made in my capacity as Chair of the Commission. COSLA will also be providing separate written evidence to the Committee in relation to its call for evidence.

**General Comments**

The Community Empowerment and Renewal Bill is, in many ways, part of a growing movement that recognises that a different approach to power and decision making is required in future. I welcome its development as a refreshing decentralising step in
contrast with the centralising mind-set that has become the dominant policy driver of recent decades.

The Bill itself contains a number of interesting ideas that are designed to push change forward within the system of democracy that we have in Scotland and the UK. However, there are also some key points where its approach stops short of the kind of local democracy that I want to see in this country.

In particular, it is important that we do not lose sight of the fact that Scotland is on many measures now the most centralised country in Europe. In our report, we set out 7 principles around which democracy in Scotland can be made stronger, alongside a number of options where we believe the vital preconditions can be put in place.

Above all, we are clear that democratic power must lie with people and communities, who give some of that power to governments and local governments, not the other way round. To us, strengthening local democracy is therefore firmly about empowering (a subsidiarity mind-set) not “decentralising” (a centralist mind-set). While I support the aspiration of the Bill, it is built on a relatively centralist approach to democracy in this regard. For example, communities have the right to take proposals for asset transfer or outcome improvement to national or local government, but it is for them to decide. In other words, communities have to persuade government and local government to “cede” powers.

For that reason I am anxious that we do not allow ourselves to believe that bringing forward legislation that allows some power to be ‘handed down’ by the centre is sufficient to challenge the overall direction of travel that has taken place in Scotland over the last 50 years. Ultimately that do little to fundamentally transform democracy in Scotland.

While the Commission was not remitted to review the provisions of the draft Bill in detail, it may also be useful for me to set out some specific observations that may assist the Committee:

**National Outcomes**

I welcome the Bill’s emphasis on embedding outcomes not inputs and processes as the basis for improving lives effectively in Scotland. So too do I recognise that nationally elected government has a clear locus to set out the national priorities and rights that everyone in Scotland is entitled to. This very much reflects our work as a Commission.

However, the Bill provisions appear to be less clear about the wider interdependencies that are needed for this system to flourish. In my view, the ability to set national outcomes is only one part of the end to end focus on outcomes that is
required. To be delivered effectively, communities and their representatives must be much more empowered to address local priorities in ways that suit their local needs and preferences. Indeed, the international evidence we collated suggested that outcomes are best, and inequalities lowest, where national policy interacts effectively with highly localised, empowered and participative democratic arrangements. In our vision for democracy, both are necessary to improve wellbeing and reduce inequalities for the whole of Scotland.

I believe that this means looking at the whole system of governance, not parts of it in isolation. As it stands, the Bill is focused on improving national choice and control around outcomes, but is not equally weighted towards handing over the levers required for effective local decisions and choices around these.

A further element of the Commission’s work may be relevant to the Committee in this regard. Internationally, it is clear from the evidence we gathered that macro-economic and fiscal policy has a critical impact on inequalities and outcomes. It follows that developing these policies, and the national outcomes that drive them, requires significant analysis and scrutiny. Our suggestion has been that an Office of Wellbeing, akin to the Office of Budget Responsibility, is created to independently monitor and report on the wellbeing impacts of fiscal and macro-economic policy in this regard. “Wellbeing” would be defined in social, economic and environmental terms, with a particular focus on inequalities of wellbeing. I believe that this is necessary to ensure transparency and accountability for national decisions at local level.

Community Planning
As a Commission, we have recognised the helpful shift towards local outcomes and partnership working that community planning has sought to put in place. The strengthening of Community Planning has focused on the need for public services to come together to focus on local outcomes, and usefully created Health and Care Partnerships, Community Justice Partnerships, and other developments that are challenging pre-existing silos between different public services, albeit sometimes at the cost of creating organisations that lack a clear line of sight to local democratic accountability. Our report makes a number of recommendations about how participation and accountability around community planning partnerships can be improved now.

Nevertheless, as a Commission our objective has also been to push subsidiarity as far as it can go, and for local governance to be empowered by, and accountable back to, local communities in ways that are not possible at the moment. For that reason we have also suggested that the current architecture of public services and governance in Scotland is out of alignment, and recommended a fundamental review of the structure, boundaries, functions and democratic arrangements for local governance of all public services in Scotland. We believe that this review should be based on
strengthening local democratic accountability, subsidiarity and public service integration in order to localise and simplify how all public services are governed and accountable to local communities. Our ambition would be for such a review to create an integrated system of local democratic governance built around the opportunities and identities of different parts of Scotland.

**Participation Requests**
Notwithstanding my overarching ambition for a much more significant shift in power, I support the principle of a ‘right to challenge’ to take on new responsibilities where this would reduce costs or improve outcomes for communities. However, I believe that the same logic should run throughout the democratic system; including the right for local government to challenge for functions currently delivered by national agencies where it can be shown that doing so will improve local outcomes more effectively or efficiently.

I am also clear that these kinds of processes need to enable the effective participation of every community Scotland, not just the wealthy or articulate. One of the issues that concerned the Commission most in its own evidence gathering was the unequal capacity of individuals and communities across Scotland to participate at the moment. The danger is that if requests are simply dealt with according to demand, affluent communities who may already be relatively well ‘heard’ could gain the most, rather than those communities that could derive the greatest benefits. Enacting the provisions of the Bill will therefore need to be done in ways that actively guard against this and ensure that those facing multiple social and economic challenges, particularly in terms of deprivation, are able to get extra support to help them release their potential. Without effective capacity, delivering the policy aspirations of the Bill may well be compromised.

**Non Domestic Rates**
The evidence generated in the Commission’s work repeatedly drew attention to the weak state of local fiscal empowerment in Scotland at the moment. We found that national governments, not communities, tend to have held the purse strings in Scotland. The key issue is not only that this disempowers local government, but that it disempowers communities.

I believe that much greater local fiscal empowerment is therefore vital if we are to strengthen local democracy in Scotland, and I support the steps set out in the Bill to allow councils to create localised relief schemes for non-domestic rates in this regard. I believe that doing so is one of the ways in which greater fiscal empowerment would help boost local economies and jobs.

It is important to note, however, that this is far from the only step that is required. In our report, we outline a suite of options that we believe would give local communities the democratic power to look after their own financial affairs, stimulate
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Economies, and bring new thinking and capacity to bear on improving outcomes. Fundamental change is required, and I look forward to working with the Committee to deliver that over the coming period.

**Other Issues**

My final observation is that the Bill does not contain the legal or constitutional underpinnings that I believe are required to strengthen local democracy in Scotland, and which would provide communities with the rights that other countries have long enjoyed in this regard.

Rather than depend on powers being handed down from ‘higher’ levels of governance, I am committed to a system of democracy that is based on spheres not tiers of governance, and in which different spheres have distinct jobs to do that are set out in ‘competencies’. Of course, this is insufficient if it stops at local government: subsidiarity is ultimately about communities’ right to be full partners in local democracy and to be actively involved in local decision making about the places in which they live.

It seems to me that the Bill presents an ideal opportunity to develop this approach and guarantee a commitment to subsidiarity, local choice and control, and community empowerment, not least of all by putting the European Charter on Local Self Government on a statutory footing in Scotland. Again, the Commission’s report makes a series of recommendations in this regard.

I hope that this information is helpful, and as always I would be pleased to discuss the work of the Commission, or any of specific points with you in further detail.

Yours sincerely

David O’Neill

Chair of the Commission