

Briefing for the Citizen Participation and Public Petitions Committee on petition PE2056: calling for the introduction of legislation allowing Scottish Ministers to intervene on the hire of public land, lodged by Stephen Gauld.

Brief overview of issues raised by the petition

The petitioner operates an events-related business. He is frustrated at local authorities refusing his requests to use council-owned land for events he would like to run. As such, he wants to see legislation introduced to the Scottish Parliament which would enable the Scottish Government to intervene in cases where local authorities refuse to hire out land to private companies.

Background information

Since 1999, the Scottish Parliament has had legislative competence over local government and is able to enact primary and secondary legislation which impacts local authorities. However, councils are also separate entities with their own democratic mandates and local priorities; they are not delivery agents of the Scottish Government.

As it stands, it is generally up to local authorities to determine how they use their land and property. There is no legislation in place which compels councils to hire out their facilities to private businesses if they choose not to do so.

Since the 1878 Public Parks (Scotland) Act, local authorities have owned, maintained and ensured public access to green recreational space. The petitioner specifically mentions Edinburgh

and Glasgow councils. More information is available below on the terms and conditions, and prices, of hiring venues and land for events:

[Parks and Greenspace | Culture Edinburgh Events - Glasgow City Council](#)

There are some situations in other policy areas where communities and individuals can appeal to the Scottish Government when decisions made by councils are contested. For example, with community asset transfers, the [2015 Community Empowerment Act](#) includes provision for community transfer bodies to appeal to Scottish Ministers should local authorities refuse asset transfer requests (after an internal review process has been followed). All such appeal cases are listed here: [Scottish Government - DPEA - Case List \(scotland.gov.uk\)](#)

Furthermore, the petitioner uses the term “to call-in”. Section 46 of the [Town and Country Planning \(Scotland\) Act 1997](#) allows Scottish Ministers to direct that a particular planning application, or particular class of planning application, be referred to them for their decision, a process known as ‘calling-in’ an application. Scottish [Ministers issued a statement in June 2023](#) setting out the circumstances under which they would consider calling-in an application for planning permission, typically where “...the application raises significant issues for planning policy or the operation of the planning system.”

The relevance of the Verity House Agreement

The petitioner is calling for legislation which would allow the Scottish Government to override decisions made by councils in the running of their day-to-day business. In the [Scottish Government’s response](#) to the petition, the Minister for Local Government Empowerment mentions the [Verity House Agreement](#) and states that:

“As long as they act lawfully, it is up to each democratically-elected council how it manages its day-to-day business and decision-making processes. Scottish Ministers have very little power to intervene and this is not a situation where they could do so. Ultimately, it is for locally elected

representatives to make local decisions on how best to deliver services to their communities.”

The Scottish Government and COSLA signed the Verity House Agreement in June last year. This endorsed the maxim “local by default, national by agreement”. The Scottish Government’s submission states that local and national government are committed to respecting each other’s democratic mandates. However, [as the petitioner points out](#), the Verity House Agreement is not a legally binding document.

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27 February 2024

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot

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