

F/T: 0300 244 4000
E: scottish.ministers@gov.scot

Convener of the Local Government Housing
and Planning Committee

Sent via email:
localgov.committee@parliament.scot

28 October 2025

Dear Convenor

Following a number of representations from COSLA and Local Government, I provided a commitment to explore the introduction of a general power of competence for local authorities in Scotland, to provide parity with existing legislative provisions in England, Wales and Northern Ireland. A general power of competence is commonly defined as a statutory power to do “anything that individuals may generally do”, providing freedom for local authorities to act without reference to specific enabling legislation.

A public consultation took place between 1 January and 31 March 2025 that sought to understand what functions, beyond those already conferred by statute, local authorities in Scotland wish to pursue and whether new legislation or amendments to existing legislation would best deliver those additional functions.

Ultimately, the consultation did not deliver a definitive preference for the next steps. 16 of 32 local authorities responded to the consultation and only a third of all respondents (43 in total) expressed a preference for the introduction of a general power of competence. The remaining respondents were divided between those open to alternative legislative options and those who opposed greater legislative freedoms for local authorities in Scotland.

Further, since its introduction in other UK administrations, there has been a continuing reluctance to rely on the general power of competence by a large number of local authorities due to continued concerns as to scope and potential interpretation by the courts. It is therefore far from conclusive that introducing a general power of competence in Scotland will deliver the freedoms sought by local authorities.

Interim legislative amendments

While my officials continue to fully explore longer term options, in the shorter term I intend to respond to the representations from COSLA and Local Government by taking steps to expand local authority flexibilities through some interim measures.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

As such I intend to progress an amendment, via Scottish Statutory Instrument, to the Local Authority (Goods and Services) Act 1970 to introduce a statutory limit on the supply of goods and services to any person. The draft Scottish Statutory Instrument will be laid in Parliament on 19 December and will provide greater commercial freedom for local authorities whilst further consideration is given to a primary legislation option to deliver greater local empowerment.

For background, the Local Authority (Goods and Services) Act 1970 provides a local authority with a power to provide goods and services to statutory bodies and those performing statutory functions without limit. However, a local authority can only provide goods and services to non-statutory bodies up to a limit set by the Scottish Ministers by Order. No limit has ever been set and therefore local authorities are precluded from pursuing trading operations with non-statutory bodies by the absence of a limit. This was frequently cited as barrier to local authority aspirations in consultation responses and the introduction of a statutory limit will resolve this barrier.

I have also asked my officials to explore the possibility of widening the scope and meaning of the 'power to advance wellbeing' contained in section 20 of the Local Government in Scotland Act 2003. This could be delivered in secondary legislation and therefore again could provide a more immediate measure to support local authority innovation. I will provide an update to the Committee once I am in a position to confirm a proposed laying date for this amendment.

Yours sincerely



SHONA ROBISON

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot

INVESTORS IN PEOPLE™
We invest in people Silver

