

EAST AYRSHIRE COUNCIL

POLICY AND RESOURCES COMMITTEE - 2 OCTOBER 2003

DRAFT LOCAL GOVERNANCE (SCOTLAND) BILL

Report by Chief Executive

1. PURPOSE

- 1.1** The purpose of the report is to (i) advise the Committee of a Scottish Executive consultative exercise in respect of the Local Governance (Scotland) Bill; (ii) advise the Committee of action taken by Officers to comply with the consultation deadline; and (iii) submit for consideration, the Council's responses to specific proposals contained in the Bill.

2. BACKGROUND

- 2.1** The Bill is the Executive's next stage in the proposed legislative changes in the Executive's aim of "strengthening local democracy" in Scotland.

- 2.2** The Bill builds on a number of earlier documents that have been subject to public discussion. The most recent was the Local Government White Paper "Renewing Local Democracy: The Next Steps" which was published in March 2002. This White paper built on the report of the Mackintosh Commission on Local Government and the Scottish Parliament which was published in June 1999 and the subsequent recommendations in the report of the Kerley Renewing Local Democracy Working Group which was published in June 2000.

- 2.3** Following the consultation exercise on the Local Government White Paper in 2002 the Executive confirmed in 24 September 2002 that it would publish a Local Governance Bill which would include the Single Transferable Vote for Local Government Elections. On 19 November 2002, the Executive announced that the Local Governance Bill would also include a number of other issues intended to improve local democracy. The draft Local Governance (Scotland) Bill was published in 4 February 2003.

- 2.4** The Scottish Executive Partnership Agreement published on 14 May this year made clear that the Executive was committed to renewing local democracy by:-

- introducing for the next local government elections the proportional Single Transferable Votes system of election;
- removing unnecessary political restrictions on standing for local Authority elections;
- lowering the age limit for local government candidates to 18; and
- establishing an independent Remuneration Committee for Councillors.

- 2.5** Following on from the consultation exercise in respect of the Local Government White Paper "Renewing Local Democracy: The Next Steps",

which focused on the principles of the proposed change, the Scottish Executive are now seeking views on the way in which the Executive intend to give effect to the above mentioned commitments and to allow issues to be raised in respect of the practical implementation of the Executive's proposals as set out in the Bill.

3. CONSULTATION TIME SCALE

3.1 Comments on the draft Bill were required to be submitted to the Scottish Executive by 30 September 2003 and the following approaches have been taken:-

- (i) due to such issues covered by the Bill regarding remuneration, pension and severance arrangements it was considered that Members may wish to make, independent of any Council response, submissions and accordingly, a copy of the Bill and CoSLA briefing note were circulated to all Political Groups within East Ayrshire Council in July; and
- (ii) in advance of the closing date for submissions, officers submitted a draft Council response on the Bill on the condition that it would be subject to the response being approved by this Committee at its meeting today.

4. CONTENT OF THE BILL

4.1 The Bill provides for:

- the introduction of the Single Transferable Votes System for local government elections in Scotland. The number of members in multi-member wards has been specified as either 3 or 4 members depending on local circumstances.
- amendments to existing legislation to bring the conduct and administration of local government elections further into line with Scottish Parliamentary elections;
- Changing the age for standing as a Councillor from 21 to 18;
- The repeal of the legislation establishing a salary threshold for politically restricted posts within local authorities but retaining the provisions which identify particular posts as politically restricted;
- The amendment of current legislation so that Council employees have to resign on election as a Councillor, rather than on nomination as a candidate;
- The reduction to three months of the period during which former Councillors are unable to take up employment with the Council after their period of service comes to an end. The current 12 month period for politically restricted posts is retained and will also apply to Councillors who have been involved in the appointment of Council staff;
- The abolition of the current system of basic and special responsibility allowances and the introduction of a new system of remuneration, supplemented by a limited number of payments to reflect members' additional responsibilities; and

- Powers to introduce a pension scheme for Councillors to allow future service to count for pension purposes; a severance arrangement for Councillors and the establishment of an independent committee to be involved in deciding on the detailed arrangements for and the level of, the remuneration package for Councillors.

5. WORKING GROUPS

5.1 In order to progress the practical issues surrounding the measures in the draft Bill, the Executive is establishing three independent working groups. Each working group will have a life span of around a year and will have an independent chair and a small membership comprising of key stakeholders who will be able to bring a degree of expertise to each of the groups. The groups are expected to seek views and evidence from a wide range of sources.

- The Single Transferable Vote Working Group (Chair to be confirmed) will examine the procedures necessary to facilitate Council elections being held using the single transferable vote, how multiple members ward will operate in practice, will commission research and other information as required.
- The Councillors Remuneration Progress Group (Chair, Lord Sewel) will consider options for and associated costs of a new system of remuneration for Councillors. The group will also consider the remit of the Remuneration Committee which the Local Governance (Scotland) Act will establish and the key skills and experience needed by its members.
- The Widening Access to Council Membership Progress Group (Chair: Rowena Arshad) will take forward work on making Council membership attractive to a wider cross-section of the community within the current legislative framework, including preparation of non-statutory guidance on the definition of politically restricted posts, and will make recommendations on the training, development and support given to Councillors.

5.2 CoSLA is represented on each of the Working Groups:

- Single Transferable Vote Working Group - Councillor Jim McCabe
- Councillors' Remuneration Progress Group - Councillor Pat Watters
- Widening Access to Council Membership Progress Group - Councillor Corrie McChord

CoSLA has established three task groups with members drawn from relevant professional associations and a small number of Councillors to provide advice and support to the CoSLA representatives on the Groups.

5.3 Although the Working Groups are to be independent, Ministers have given a direction to the Remuneration Group that it should firstly have regard in their consideration of the remuneration package to the "predominantly part-time nature of the Councillor's role" and, secondly, to the fact that the severance arrangements should be a one-off scheme, available to cover the period before pension arrangements can be introduced and only in the run up to the next Local Government elections.

- 5.4 CoSLA's President has already made the point that the deliberations of the Remuneration Working Group should not be pre-empted by Executive directions based on a misunderstanding of the workload of Councillors.

6. TIMESCALE

- 6.1 The Executive is aiming to have Royal Assent of the Bill by autumn 2004 allowing the Local Government Boundary Commission for Scotland's review of ward boundaries to be before the end of 2004. The Remuneration Committee would be established before the end of 2004 and report on its findings by the end of 2005. Further work (including secondary legislation) on implementation and introduction of the pay pensions and severance; revised elections rules; training for election staff and voter awareness campaign would be taken forward during the period from the beginning of 2006 through to spring 2007.

7. CONSULTATION

- 7.1 The Scottish Executive are seeking views on the proposed legislation and particularly welcome views on any practical issues surrounding the implementation of the legislation including;

- any view about the practical implementation of STV;
- whether there are particular election procedures which might be streamlined to ease implementation, for example by the introduction of electronic rather than manual counting;
- the role of the remuneration committee;
- bring election practices and procedures for Scottish Parliamentary and local government elections further into line;
- whether it would be appropriate for the Local Government Boundary Commission for Scotland to consider joint agreed proposals from 2 or more local authorities for changes to their local government areas - in particular to change shared boundaries or even merge their local government areas.

8. CONSULTATION RESPONSE

8.1 Introducing the Single Transferable Vote System for Local Government Elections in Scotland based on Wards of 3 or 4 members

One of the key recommendations from the prior work of the review of political leadership structures by the McIntosh Commission was that the current system for Local Government Elections in Scotland (first past the post) should be changed to one of Proportional Representation (PR). The Kerley Renewing Local Democracy Working Group recommended STV.

STV is a multi-member system electoral process where the voters are invited to rank individual candidates in order of preference. Preferences may be expressed for candidates of more than one party. In order to determine who is elected a quota is determined and all candidates whose tally of first preference votes matches or exceeds that quota are deemed elected. If fewer candidates

meet the quota than there are seats to be elected, votes that exceed the quota and/or votes cast for bottom placed candidates are redistributed in accordance with their voters next preference until sufficient candidates have reach the quota.

STV is used in both Northern Ireland within local elections and also the Republic of Ireland. STV is intended to maximise the use that is made of each vote cast and so provides that the representative elected within a ward more or less reflects voting patterns. It is argued that the greater the number of seats per ward, the more proportionate the result is likely to be.

CoSLA's majority position is that STV cannot deliver maintenance of the member-ward link as it is a multi-member ward system. In addition such wards tend to be larger than wards under the current electoral system and they consider that this is not in the best interest of rural areas. CoSLA contend that a further disadvantage is that while PR may deliver proportionality at ward level it results in disproportionality at Council level. CoSLA maintain that the First Past the Post system provides for strong political leadership of a Council with a clear mandate to carry through the programme of measures put to the electorate. It also provides a clear member-ward link and gives a fair opportunity for independent Councillors to be elected.

It is suggested that the Council supports CoSLA's majority view and submissions in this regard have been made in response to the consultation exercise.

8.2 Views about the Practical Implementation of STV

There are a number of concerns about the practical implications of introducing STV for Council elections:

- The complexities of conducting elections and counts in a combined election where three different voting systems will be used - First Past the Post, the List system and STV.
- The need for a substantial voter awareness campaign to explain the complexities of STV (Kerley recognised that a programme of voter education would be an essential component in the successful introduction of any new electoral system for local government)
- STV is a time consuming process which will increase the time required to conduct counts.
- It would be difficult, if not impossible, to have a manual count for the two Scottish Parliament papers on the night of the election and then proceed to an STV count the next morning. If STV is introduced and there continues to be combined polls with manual counts there will be no prospect of all the processes being finalised the day after the poll. There would have to be a reasonable gap between the Parliament and Council elections, with the latter starting, at the earliest, on the Saturday after the day of poll.
- Increased concerns in regard to the introduction of several major changes to electoral processes at the one time.

- With the introduction of STV there is a need for major boundary changes to create multi-member wards with three or four members. The creation of multi-member wards will result in geographically very large wards and wards which merge very distinct and different communities. These issues will be of great concern in all Councils but especially in rural and islands authorities which already have large wards. The work of the Local Government Boundary Commission will be very complex and could lead to a substantial number of appeals and Local Inquiries.

It is suggested that the Council intimate to the Scottish Executive that it shares the above concerns and supports the proposal that SOLACE and SOLAR should be asked to provide their professional views on the practical implications of introducing STV for Council elections.

8.3 Change in the Age for Standing as Councillor from 21 years to 18 years

CoSLA welcomes the proposal to reduce the qualifying age at which citizens can seek election to a Council to 18.

It is suggested that the Council should also support the proposal as it would be a positive step toward engaging young people in local democracy.

8.4 Repealing the legislation establishing a salary threshold for politically restricted posts but retaining the provision which identified particularly posts as politically restricted. Amending legislation so that Council employees have to resign on election as a Councillor rather than on nomination as a candidate

CoSLA supports the proposal to repeal the legislation establishing a salary threshold for politically restricted posts and dealing with the requirement for Council staff to resign on nomination as candidate.

It is suggested that the Council should welcome these proposals as a further step in encouraging greater participation and diversity in elected members representation, in so far as officers interested in becoming Councillors can go forward for nomination to stand for election and will not have to resign from their posts until the outcome of the ballot has been decided. It is considered much more apposite that the job content of local government posts should be the criteria on which any political restriction is based in the future.

8.5 Reducing to three months the period during which former Councillors are unable to take up employment with the Council after their period of service comes to an end

CoSLA supports the proposal to review the existing legislation prohibiting all retiring Councillors from taking employment with the Council for a period of one year.

It is suggested that the Council should also support the proposal as the existing restriction can cause real difficulties for retiring Councillors seeking employment in an area where the Local Authority is a major employer. In some cases such as teachers and social workers, the Council is either the only employer or the major employer.

8.6 The Role of the Scottish Local Authorities Remuneration Committee

The Bill provides for the establishment of an independent Remuneration Committee made up of seven members appointed by Scottish Ministers. The Members are to be appointed following consultation with local authority associations and other interested parties. The main functions of the Committee are:

- collecting information on matters relating to Councillors Remuneration, allowances, pensions and severance;
- giving advice to Scottish Ministers in relation to those matters as the Scottish Ministers may require; and
- such other functions as may be conferred on them in regulations.

The Bill also provides that the Committee shall comply with any directions made by Scottish Ministers in relation to the discharge of its functions.

In regard to the role of the Remuneration Committee CoSLA has suggested that the remit of this Committee should be to set a standardised basic salary for all Councillors across Scotland. The Committee should also be charged with setting a broad national framework for additional responsibility and salaried payments, with this framework giving flexibility for individual Councils to introduce the most appropriate arrangements locally.

It is suggested that the Council may wish to support this view in terms of a consultation response.

8.7 Whether there are practical election procedures which could be streamlined to ease implementation, eg by the introduction of electronic rather than manual counting.

The introduction of electronic voting/counting for both Council and Parliamentary elections would be welcome. Electronic voting/counting would automate the outdated and time consuming manual counting processes. However, there are concerns that the introduction of electronic voting in the same election as introducing STV would be too big a step. Both concepts, STV and electronic voting/counting will be new to candidates, electors and election administrators as well as the general public and there may be some nervousness about the impact of two significant innovations at the same time, particularly in relation to the visibility and intelligibility of the process.

It is suggested that the Council may wish to support this view in terms of a consultation response.

8.8 Whether it would be appropriate for the Local Government Boundary Commission for Scotland to consider joint agreed proposals from two or more Local Authorities for changes to their local government areas - in particular to change shared boundaries or merge their local government areas.

The issue of local government areas and boundaries and the number of Councils is fundamentally important to local government. Whilst Councils should have the power to promote mutually agreed boundary changes and merges of local government areas, this issue should not be tied to consideration of new electoral systems.

It is suggested that the Council may wish to support this view in terms of a consultation response.

9. POLICY/LEGAL/FINANCIAL IMPLICATIONS - Nil in respect of the contents of this report, however, with regard to future financial implications, these will be assessed following the introduction of new legislation with regard to any improvements in technological equipment to assist in the carrying out of any new electoral processes.

10. RECOMMENDATION

10.1 The Committee is invited to approve or otherwise the comments contained within the paper as the Council's response to the Scottish Executive's consultation exercise; and.

10.2 That the Chief Executive advise the Scottish Executive accordingly.

David Montgomery
Chief Executive

15 September 2003

BW/FM

BACKGROUND PAPERS

1. Draft Local Governance (Scotland) Bill Consultation Paper July 2003.
2. CoSLA Briefing Notes.

Any person wishing to inspect the background papers relative to this report should contact Bill Walkinshaw, Administration Manager on 01563 576135. Any person wishing further information on this report should contact David Montgomery, Chief Executive on 01563 576002.