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Rethinking Central Local Government Relations in Scotland: Back to the Future?

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Carl Mills has a BA Hons from De Montfort University and M Phil in Urban Policy which started his long association with Glasgow University's Department for Urban Studies. He has also worked on the impact of Right To Buy Sales in Scotland (in the University of Paisley) for the Joseph Rowntree Foundation, with the Scottish Centre for Infection and Environmental Health and the Centre for Drug Misuse Research at Glasgow on treatment of heroin users, and on two major studies connected with local services, *The Use of Possession Actions and Evictions by Social Landlords* and *Cleaning up neighbourhoods: Environmental problems and service provision in deprived neighbourhoods*.

Foreword

We at the David Hume Institute were all delighted when Professor Jim Gallagher agreed to speak at one of our seminars in the autumn of 2006. On 23rd November he spoke alongside Professor Charlie Jeffery of Edinburgh University, on issues related to the devolution agenda in Scotland. Following that seminar, Jim Gallagher determined to further develop his thoughts on the central-local government relationship. We maintained contact, given the interest that his remarks had generated at our seminar, and were very pleased to agree to publish this substantial paper, written with his colleagues Professor Kenneth Gibb and Carl Mills.

Jim Gallagher is exceptionally well placed to comment on the whole set of issues surrounding the central-local government relationship. As a senior civil servant in both the Scottish Executive and Whitehall he has participated in the debate from within and gained a wealth of practical experience and understanding. He can truly empathise with those involved. Now, as an academic researcher, he specialises in public policy issues, bringing his experience and expertise to bear from a different direction.

In the paper the authors rehearse the history in recent decades of local government re-organisation, north and south of the border. However, they emphasise how little has changed following, or indeed as a consequence of, the re-commencement of a Scottish Parliament in 1999. As they note, it is by no means self-evident that the central-local relationship that pertained pre devolution remains appropriate after such a seminal governance change as took place in the late 1990s. In addition, local government across the UK is now embedded in what they term ‘a wider system of local *governance*’, with more local service providers, including quangos reporting directly to the centre. All-in-all some re-balancing, or at least some assessment of whether re-balancing might be appropriate, would appear well overdue.

Of course some careful consideration of local authority issues continues in Scotland. The authors acknowledge the important role played by the Accounts Commission. The Burt Committee looked at issues of financing local government. Accountability will be enhanced when the Executive delivers its improved set of key performance indicators. In addition COSLA's recent paper on ‘transforming public services’ is an excellent, forward-looking, document which challenges central government to step up to the mark. And Lorne Crerar’s review of the scrutiny landscape is by all accounts making good progress.

Nevertheless the fact remains that there has been little change of substance to reflect either the fact of Scottish devolution or the change in local governance across the UK. As the 2007 elections approach, we await not just the election of a new parliament at Holyrood, and the scope for new alignments that may potentially bring, but also challenging changes as a result of the introduction of the single transferable vote in local authority elections. This change, as recommended by the McIntosh Committee back in 1998, will be crucial in helping to set the basis for central-local relations in the years ahead.

Perhaps the changing local authority landscape following these first STV elections may drive careful reconsideration of future central-local government relations and indeed the optimal organisation, accountability and funding of broader local governance in Scotland. In looking at possible options for change in this relationship, Gallagher et al focus on two key issues. The first is how some of the key services delivered at a local level can best be organised, and how much local locus is feasible given the 'ambiguities' resulting from the predominance of central (Holyrood-based) funding and central (again Holyrood-based) policy making. The second equally important issue is how to further the drive towards enhanced local democracy.

Jim Gallagher and colleagues set out a number of options for our consideration, based upon these and other relevant factors. These include the radical option of giving to Scottish Ministers explicit responsibility for the provision of education and community care, funded from the central Executive budget, but with a co-incident decentralisation of decision-making, finance and policy control for all other council services. Would this provide an appropriate basis for both efficient delivery of key services, with accountability where it should best sit, and the furtherance of local democracy founded upon true local authority control of policy areas which, in their turn, sit most readily at the local level?

But this is just one option among six. This paper raises a host of important questions and I am sure that the authors would not wish to be seen as in any way rushing to judgement. The role of the paper, like any high quality policy-related research document, should be to inform and provoke reasoned policy debate. The public sector in Scotland is such a major element of our economy that such debate is essential. The services delivered at a local level are critical to all who live in Scotland. This encouragement of informed debate in such a significant – albeit perhaps neglected – area has to be welcomed. These are issues to which we at the David Hume Institute expect to return soon.

In closing this foreword I must note that the Gallagher/Jeffery seminar last November was sponsored by our excellent friends at the Economic and Social Research Council. Our sincere thanks go to Lesley Lilley and her colleagues at the ESRC. Their support of the David Hume Institute continues to be critical to our ability to contribute to the research-based policy debate in Scotland.

I must also note that while the David Hume Institute is committed to stimulating the policy debate and believes that the topics in this paper, and the seminar last November, fully merit analysis, discussion and debate, as a charity it holds no collective view on the subject matter or the policy implications.

Jeremy Peat
Director
February 2007

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*'It is our view that a decision needs now be taken to place responsibility firmly either with the government or with local authorities. That means either adopting a financial system which frankly recognises a need for strong central direction or taking positive steps to increase the ability of local authorities to manage local affairs'.
Layfield Report (1976, page 74).*

1. INTRODUCTION

This paper re-examines the relationship between central and local government in Scotland, local government finance, their history over the last 30 years, and their future. It asks what choices now exist for the purposive reform of Scottish local government in terms of finance, services delivered and governance structures, considered jointly, and what the implications of those choices are.

Why is this timely? First, there is clear interest in reform of Scottish Public Services. Tom McCabe's recent consultation paper and discussion process on 'Transforming Public Services' (Scottish Executive, 2006) addresses modernisation and change in public services generally. At the same time, there continues to be less well structured discussion on the future of local government and, in particular the number of local authorities. Indeed there remain questions about the future of local government and its relations with the Scottish Parliament unanswered since 1999, despite the Macintosh Commission on that subject, and unanswered questions about local finance even after the outcome of the controversial Burt review published in November 2006. Questions remain about the balance of funding between central and local government (which, as the Lyons review currently going on in England recognises, is logically prior to the preferred form of local tax), whether funding is of a system which is essentially centralist or localist, and how that plays out in individual services.

These issues were at the heart of Report of the Layfield Committee in the mid-1970s. They were not decisively resolved then and, something of a middling, muddling way has followed ever since. They underlie the debate about the delivery and governance of Scottish public services today. Finally this issue is pertinent today because the generous fiscal environment that has been enjoyed since 1999 by local government, as by other public services, is changing, and the pressures of lower real spending increases may well resurface those questions and tensions submerged since devolution.

Local government finance is often seen as a specialist subject, important but technical, and in the public mind barely comprehensible. Nonetheless, it is crucial to see financing local government and local services as a part of the bigger picture of what local government is for and how it is organised, and not as a distinct piece of financial technology. Too often, review of local finance is done in isolation, and the outcome risks being either minor technical fixes, or, more worryingly, changes to the local taxation system alone without reference to the expenditure being financed by it. Setting up the Burt Committee on local finance with a relatively narrow remit ran precisely this risk: the committee themselves recognised this, describing the issue of central local relations as ‘corrosive’ but nevertheless proceeded to answer those questions about local taxation only which had been set on their exam paper.

This paper is in five main sections. We start in section 2 by asking what happened in the last 30 years, what lessons are there for future central-local relations, and whether we are at risk of repeating the errors of the past. Next, in section 3, we explore the analysis offered in the literature and identify contemporary themes in the debate about local governance in Scotland. Section 4 advances the argument that different models of structure, functions and finance should be considered systematically as an alternative to continuing to intervene selectively, muddle and otherwise tinker with arrangements. It sets out possible options for policy reform.

2. HISTORY: REPEATING TRAGEDY AS FARCE?

There are interesting parallels now with the situation in the late 1970s. There has been a long period of growth in local spending. Local government remains heavily dependent on government grant (indeed more so nowadays) and the resultant gearing effect has meant big rises over time in local taxation levels, to the extent that some commentators are worried about the sustainability of the tax and many complain about the fairness of distributing the local tax burden according to property values. And government in both cases set up a committee of enquiry (Layfield by the UK Government in the 1970s and Burt by the Scottish Executive today).

So it is worth reviewing what has happened to local government and its relations to central government over the last 30 years. That period covers the life of the modern institutions of Scottish local government, following the Wheatley reorganisation from 1975, and the single tier councils of 1995. It is also, as one commentator put it, the history of the biggest missed opportunity in relation to British local government, in the form of the Government's response to the Layfield report (Stewart, 2003).

Below, we first review the Layfield report and the then Government's response. Second, we look at the subsequent period of spending cuts, reduced discretion and tensions between central and local government that characterised much of the late 1970s and 1980s. Third, the ruptures caused by the poll tax system leading to the council tax are set out, alongside the re-reorganisation of Scottish local government that followed in the mid-1990s. Finally, we consider these relationships after 1997 and the impact of establishment of the Scottish Parliament in 1999.

Layfield: centralism, localism and the middle way

When Layfield reported in 1976, Scottish local government had just been restructured. Following the recommendations of the Wheatley Royal Commission in 1969, the Local Government (Scotland) Act 1973 had set up a new Scottish council structure from May 1975. This two-tier system of 9 regional councils and 53 district councils applied until 1996.

Regions ran the big services: Education, Social Work, Police, Fire, Water and Sewerage, Strategic Planning, Roads Transport. District councils dealt with Housing, Cleansing, Development and Building Control, Libraries, and Leisure & Recreation (in 3 rural areas some district functions were delivered regionally). The 3 Islands Councils - Orkney, Shetland and the Western Isles - were responsible for all local council services. (For fire, police, and valuation purposes they were members of joint boards.)

But if the structure was well ordered, local government finance across the UK was by that time widely perceived to be in a mess. Rising expenditure on housing, education and personal social services after 1945 had added significantly to the burden on the pre-welfare state local tax base. It was simply incapable of bearing the whole cost of redistributive services (Foster et al, 1980).

John (1990, pp.7-8) argued that the 1970s reforms set the pattern of change for the future. The biggest source of tension was finance. Tighter central government control over the level of central grant began in the mid 1970s with the introduction of cash limits for rate support grant in 1976. These continued through to the mid 1980s and disputes about the levels of spending were the main cause of conflict between central and local government. Pressure from the Treasury to control expenditure in cash terms conflicted with local government's desire to maintain spending in real terms, or increase it to meet demand.

The immediate catalyst for the Layfield examination of the council finance system was the rates rise of over 30% in 1974-5. Travers (1986) attributes this '*shocking jump*' to re-organisation and the period's double-digit inflation.

Layfield reported in 1976 (DOE, 1976) and invited central government to choose between a model of public finance where councils were little more than agents of the centre, and an alternative where councils were made far more autonomous by the introduction of new taxes and freedoms.

The Layfield analysis was magisterial:

'If local authorities are to be accountable they should be responsible to their electorates for both the expenditure they incur and the revenue they raise to finance it' (p. 245) and 'Local responsibility requires that grant should not be preponderant ... if grants predominate ... the government must accept the main responsibility for accountability' (p. 281).

They (or at least their majority) concluded that it was not sensible to make a decision about local government finance, and local taxation in particular, without greater clarity in the structure of the central local relationship: either there should be centralism with the government calling the shots explicitly, or genuine localism, with local accountability supported by a local income tax. This reflects the obvious fact that a financing system should not be designed in isolation from the organisations and activities it supports.

The committee's choice was however dismissed by the Environment Secretary, Peter Shore, in favour of a '*middle way*' (Department of the Environment, Scottish Office 1977). This decision was, John Stewart suggested, the most significant missed opportunity for local government in the whole period starting from 1945 to the start of the 21st century. Travers (2005) described this as tragic. Stoker (2004, p178) concluded that the Layfield debate about the proportion of local government revenue raised from local taxation, the '*balance of funding*', has continued to dominate subsequent discussion about the future of local government. Certainly the history of the next 30 years is that of the '*middle way*' – and its ambiguities.

Retrenchment and control

The late 1970s and early 1980s were a time of fiscal retrenchment. Public expenditure concerns were about control not planning (Wright, 1977). Controlling local spending became a central political objective of British governments after the fiscal crisis of 1976 (Midwinter, 1995). Under the Thatcher Government, the overriding issue in public services was control of spending.

The Labour Party had required expenditure cuts to balance the books (though Tony Crosland's memorable phrase '*the party's over*' suggests a certain relish for the task), but the Conservative commitment to reductions in public spending derived from ideological belief that the frontiers of the state were to be rolled back.

1979 to 1990 has been described a period in which there was '*all out war*' over local taxation, spending, grants and virtually every other aspect of central-local relations (Travers, 2005, p.152), as well as persistent complaints from some about the burdens of the rating system. At first central government used exhortation and grant reductions to induce local government to cut expenditure (John, 1989) - for example, council budgets were planned to reduce by 3% in 1979-80 and 5% in 1980/81 (HM Treasury 1979). But there was more to come.

The Local Government Planning and Land Act 1980 introduced (for England and Wales) new block grants based on government assessments of individual council spending requirements as well as new capital controls. The 1980 Act also gave government a new power over the reformed grant system – the power to vary the formula used in distributing grants to councils – allowing them to alter the amount of grant to groups of authorities. The Act also introduced a penalty system, which meant that if a council increased its expenditure above a certain level it lost grant, the loss increasing as spending increased (John 1989). The Act gave central government selective powers; it had the power to withhold grant from certain authorities for a transitional period if the rates were above a specified level.

In Scotland current expenditure guidelines for individual councils had been in place from 1976-77 onwards. These were initially said to be designed to help councils plan expenditure. Grant distribution powers were already flexible. From 1979 the Conservative Government sought initially to incentivise spending reductions through general grant reductions (Midwinter, 1995). Councils made some reductions, but passed on some of the shortfall as rate increases. In the Local Government (Miscellaneous Provisions) (Scotland) Act 1981, powers to reduce the level of grant if the Secretary of State was satisfied that expenditure was excessive and unreasonable were strengthened. Action was taken against individual councils, although decisions were challenged in courts.

Financial limits were also placed on rate fund contributions to the housing account, and these were subsequently eliminated altogether. The Local Government and Planning (Scotland) Act 1982 introduced rate capping in Scotland and gave the Secretary of State the power to reduce the rate poundage of a council if he considered its spending excessive and unreasonable. This 'selective action' was taken against 7 councils in 1981-2 and in 1982-3, and in 1983-4 against 5 councils. Under the pressure of concerns about the total of public spending, the middle way of Peter Shore had developed into a form of centralism, at least in terms of total local spending, and with it substantial political and institutional conflict.

The argument however was not only about the total of public spending but was also about the efficiency and value for money of council services. So the Local Government Planning and Land Act 1980 also introduced Compulsory Competitive Tendering (CCT) for some Council services throughout Britain. CCT applied however – despite the political rhetoric surrounding it – to only a few 'blue-collar' council services, where direct competition with private suppliers was readily achievable. Councils were required to run these activities in a business-like way (separate accounts, not cross-subsidised) and to subject them to regular competition. Tying together these reforms was the concept of Value for Money - sometimes summarised as economy, efficiency and effectiveness - which McConnell (2004, p155) argues became in the 1980s the dominant orthodoxy regarding the delivery of public services.

Revolution: the poll tax

While these fiscal and efficiency drives dominated local-central relations, no change was made to the rating system; a Green Paper in 1981 on alternatives to the rates led nowhere. There remained however the need to maintain the local tax base through regular revaluation. The last, highly controversial, rating revaluation had taken place in Scotland in 1978. The Government were statutorily required to ensure revaluation and in the mid 1980s were caught unawares by the effects. The 1985/86 revaluation impacted on Scottish domestic rate payers, particularly in Conservative areas, some of whom faced rate increases of 30%.

The Government's swift political response was to assure its protesting supporters that, in Scotland at least, substantial reform legislation would be introduced before the next general election, and that a comparable revaluation in England and Wales was out of the question.

The strategy of expenditure restraint through grant reduction had loaded the burden on to local taxes and sought to enforce restraint through ratepayer pressures (Midwinter, op. cit.). These pressures were perceived to have failed because of the inadequacies of the taxation system. Marginal spending by councils (that is above needs assessment) was funded by business rate payers and a (at least apparently) minority of citizens; this was perceived to be encouraging free-riding voting for overspending by non-ratepayers.

The government's answer to this problem was a very radical one. The underlying issue was seen as a shortfall in the accountability offered by domestic rates. So that unpopular tax should be abolished and replaced by one which would make councils genuinely accountable to the electorate. Kenneth Baker as Environment Secretary made a universal flat rate poll tax or community charge the centre piece of a 1986 Green Paper. There would be rebates for low income households (but only to a maximum of 80% - all would make a minimum contribution). Business rates would become a national tax. This would provide electors with a '*clear incentive to consider the costs and benefits of extra local spending*' (DOE 1986).

More than ever before, grant would be driven by (weighted) population and fixed so that marginal spending would be met fully by the new domestic tax – ratcheting up the gearing effect as an explicit design feature of the system that would heighten inter-council comparisons and put downward pressure on spending. This was given effect in Scotland – driven by the opportunity presented by the revaluation – a year ahead of England, in the Abolition of Domestic Rates Scotland Act of 1987. How did this leap into the dark come about?

Revaluation had provided the opportunity. Midwinter et al (1987) demonstrate that the 1985 revaluation adversely affected some businesses and, more importantly, middle class home owners in Conservative heartlands.

Monies (1996) notes that as a result of the revaluation rental values leapt considerably (up to 3 times in 1985). The result was a storm of protest. Ironically, according to Midwinter (p32), by 1986, local spending as a whole had been reduced as a percentage of GDP, revenue spending had been held broadly stable in volume terms. The degree of overspending had settled at around 3-4% above government plans. In economic terms this was a situation under control, but the political significance of rates – an unpopular tax with the Conservative voter – trumped any more moderate reform plans for local taxation. The government responded to this by reverting to its pre-election ambition (of 1979) to abolish domestic rates.

Wilson and Game (2002) argued that an additional factor was intellectual respectability: the tax's champions included Douglas Mason - a policy advisor at the Adam Smith Institute, an influential right wing think tank. He argued that a per capita tax would involve everyone paying effectively a user charge for the services they had chosen through the ballot box (the accountability argument) (Mason 1985 pp23-25). These were essentially public choice economic arguments which were also influential in other areas of public policy.

Reality of course did not conform to this school of economic dogma. The first year of the poll tax was 1989/90. What had originally been seen as a relatively small per capita charge (comparable to the television licence in size) grew in the planning to a larger sum, and in actuality to an even more substantial impost to be paid by a different set of people from the domestic rates. In the first year there was little incentive for councils to reduce expenditure in Scotland. The unpopularity of the tax, the absence of a 'base year', the ending of grant penalty, the discrediting of central government's estimates of community charges and the level and distribution of central grant meant that many Scottish authorities included growth of services in their budgets for 1989-90 (John 1989).

The Council Tax

There is no need to rehearse here the history of the political meltdown that followed the poll tax and its effect on the Conservative Government. In the aftermath of the change of Prime Minister in November 1990 Michael Heseltine led a review by Government Departments (Midwinter (1995, p34.)). The outcome was the pragmatic political fix of the council tax – a new local tax that combined property and personal tax elements. A banded capital value tax, with bills set as a proportion of the average tax bill, limited the penalising effect of living in a valuable home. Single adult households were given a discount and 100% rebates were reinstated for the poorest.

The tax was made more digestible by cross-subsidising from a permanent increase in VAT to 17.5%. Most of the rest of the system remained the same: grants, gearing and non-domestic rates operating effectively as a per capita grant to local government. Most important, however, the council tax was not the poll tax and addressed the now critical problem of acceptability and non-payment.

Announcing the application of the proposals to Scotland, Scottish Secretary Ian Lang argued that council tax would be easy to administer, spread the tax burden as widely as possible, and enable councils to remain accountable to their electors (Hansard 23rd April 1991 col 927). But thereafter capping council spending was comprehensive and a matter of routine: government effectively determined the total spending and council tax levels for all Scottish councils.

Restructuring Scottish Local Government

At the same time as announcing the council tax the Government announced its decision to re-organise Scottish local government into single tier (as well as removing responsibility for FE colleges).

This was seen not as a way to address accountability issues but to simplify Scottish local government, making it more efficient, and as a response to the pressure for constitutional change in Scotland. (FE Colleges were removed from council control in England but no comprehensive reorganisation of local government was proposed.)

The case for single tier local government was argued in Scottish Office Consultation Papers in 1991 and 1992: for the government, the idea of a single tier was non-negotiable, but the issue left for consultation were how many authorities would operate in the new system. By the time a White Paper was produced and the Local Government etc (Scotland) Act 1994 had been passed, the number of authorities was 32. Shadow authorities came into operation in 1995 and complete changeover to the new unitary system occurred on 1 April 1996.

The structure consists of 29 unitary authorities, replacing the 1975 District and Regional Councils. The 3 Islands Councils remain unchanged. The 32 councils are responsible for most of the same services as their predecessors. Although one of the aims of reorganisation was to produce integrated local service delivery, not all local services were in fact effectively transferred to single council control. A few former regional services continued, for a period at least, to operate across borders.

More substantively police forces and fire brigades remained within former regional boundaries, most governed by joint boards of council members nominated by constituent authorities. So, too, did valuation for rating, and a few ad hoc joint bodies such as the Strathclyde Passenger Transport Executive, and the joint boards running the Forth and Tay Road Bridges.

For many commentators, structural reform was opportunistic and in part politically motivated. McConnell (2004) identifies the criticisms of Scottish Office Ministers in how the case for change was made and the manner of the policy making process. In contrast to the deliberative, evidence based approach of Wheatley, the consultation documents (especially the first) were slight. No research evidence was put forward on the two tier system or the rationale for unitary authorities. Much attention was devoted to drawing boundaries and Conservative Ministers were accused of preserving potentially supportive council areas on flimsy evidence: certainly some boundaries look hard to justify in purely managerial terms, such as dividing Ayrshire into three, or the odd outcome in the (admittedly awkwardly laid out) areas of Stirling, Clackmannan and Falkirk.

The Major Government continued to express concern about value for money in local Government services. Its main means for addressing this question was continued CCT, to be extended to a slightly greater range of services including some white collar work (something which in the end never came into effect in Scotland). Although CCT was suspended during the Scottish restructuring, it was always planned to return. (After a successful court action by Scottish local government, its reintroduction was delayed till after May 1997, leaving an awkward dilemma for the new administration). The Major Government also introduced the 'Citizen's Charter'. Though sometimes mocked (notably for the 'Cones Hotline', an absurd device to allow members of the public to report unnecessary traffic cones) this approach recognised the range of public services not dealt with by CCT and that improving service to the customer should be a priority. William Waldegrave (1993), as a committed insider, said the core question was about responsiveness to consumers and not producers and that this could be enhanced through incentive mechanisms for public providers involving both standard setting and effective redress. Some of these ideas later resurfaced in a more structured form in Best Value.

Two Persistent Issues

Over the 1979-97 period it is possible to discern two underlying issues. The first is a persistent unresolved dilemma about accountability, identified by Layfield and addressed but not solved by the changes to local taxation. By the 1990s capping of total spending for all Scottish local councils was a fact of life: limits were routinely set and adhered to. The second is concern about the efficiency and value for money of council services, addressed but by no means solved by CCT and the customer emphasis of the Citizen's Charter and in Scotland by the move to single tier councils.

Of course overall it is easy to see this as a period of increasing central control, notably over spending; but interestingly during this time the rhetoric of local accountability remained surprisingly strong. It had been this, coupled with ideologically tinted public choice economic arguments, which lead to the poll tax.

Despite a tight financial framework and for many local services a prescriptive policy regime (e.g. education, where for example national testing was introduced in Scotland in the 1990s) central government did not adopt in any systematic way the elements of the centralist solution offered by Layfield, and nor did it address the functions, structure and finance of local government as a whole.

Arguably, the council tax lanced the boil of local government taxation for the Major government, but without resolving the underlying questions of the local government finance system in a way that was sustainable in the long term.

1997 and Beyond: Continuity or Development?

It is hardly surprising therefore that many in local government looked to the incoming Labour administration of 1997 for change, and many labour councils hoped for markedly better central-local relations. Labour's approach was however quite cautious and pragmatic approach (Stoker, 2004). Travers (2005) suggests that Labour were not particularly keen on anything radical given the problems that Conservatives had with this issue.

Certainly the new government showed no signs of wishing to reverse recent changes in structure, such as the introduction of unitary authorities (Stewart 2003), not least because other constitutional changes took priority. And the government's decision to stick to the inherited spending plans set out by Kenneth Clarke as Tory Chancellor before the election disappointed many in councils.

These were widely seen as tighter than the Tories would themselves had implemented and resulted in real spending pressures (to take one example, the number of police officers in Scotland declined in that period after what had been a sustained rise since 1979, something which was resumed after 1999).

Two big changes: no 'crude' capping and the end of CCT

Two issues stood out for local government: universal capping and CCT, and on both of these government moved, though not as far or fast as many councils wanted.

For England and Wales the 1999 Local Government Act replaced what the government called 'crude' capping with discriminating and selective capping (Wilson and Game, 2002). The terminology changed a little, but in effect capping reverted to its original 1980s basis - ministers would now 'designate' for 'limitations' any council budgets they thought 'excessive'. These powers were used in England: in 2004/05 authorities in England were capped (Watt and Fender 1999, Watt 2000). Universal capping was also suspended in Scotland: no council has been capped in Scotland since 1997 though the powers remain on the statute book.

There was significant movement on efficiency and value for money also. CCT was replaced by Best Value, a more comprehensive, managerial, scheme to improve effectiveness and value for money across all services. In England and Wales, the Department of Environment launched a pilot Best Value scheme in 1997-8. Two months after taking office, the Dept. of Environment headed by John Prescott had issued 12 Principles of Best Value, (Wilson and Game, 1998). This was followed up in 1998 when the government outlined the new duty on local councils to deliver services to set standards in terms of economy, efficiency and effectiveness (DETR, 1998c). External inspection was an integral part of the government's strategy (see e.g. Wilson 2001) and government was prepared to take powers of intervention to deal with failing services.

In Scotland, Best Value was developed and introduced with a degree of consensus. (See McConnell (2004, p161) for the differences between Scotland and England.) Because of local government re-organisation in 1995-96, CCT had been suspended in Scotland (essentially for practical reasons as new councils needed time to establish their responsibilities and objectives). It was due to come into force again very shortly after the election. Scottish Office Ministers were faced with the dilemma of having to act to defer the reintroduction of CCT well before the Best Value regime was developed or put CCT into operation. A difficult negotiation ensued, and a joint local/central government Task Force was established in 1997 to devise the principles of the regime, again to apply to all services. If councils showed sufficient commitment to the new regime and achieving value for money, then CCT would be further suspended. By 1998 all councils had shown sufficient commitment by drawing up Best Value plans.

These continued on a non statutory basis until 2003 when Best Value finally became legal requirement in the Local Government in Scotland Act 2003. Scottish Ministers gained powers of intervention through enforcement directions; these powers are not however as wide as in England and Wales, with no reference to the removal of functions from authorities.

But not all went local government's way. The message from Donald Dewar and the Scottish Office team was that Best Value was 'not an easy option' for councils and that CCT would be enforced if councils failed to comply. CCT initially remained on the statute book and Labour Ministers were prepared to use the intervention powers available to them in quite an aggressive way. In Scotland in a couple of well publicised early cases Ministers used the CCT intervention powers to deal with 'failing' Direct Labour Organisations. In England as time went on failing education authorities and schools found themselves under new management. This was freedom, but not as local government had known it: what was going on here?

Best Value: Bringing together efficiency and performance measurement

The performance culture of Best Value was developed in Opposition and in Government by the Labour party, but draws from two earlier separate but connected threads: the simplicities of CCT and the inheritance of audit and inspection of local government that had grown up gradually over the post war period. Stoker (2004) argues that New Labour accepted much of the public services critique of the Conservatives in the 1980s - essentially the dangers of producer interests dominating in public services. However, it did not seek to prescribe a particular institutional response such as CCT, but opted to challenge local councils and other service providers to improve performance through a locally managed system of performance review, and regulation.

A driving principle of Best Value is creating the conditions for improvement in the quality and reduction in the cost of services. This is to be achieved by a culture of community and customer consultation, service review, performance measurement, challenge and competition and performance reporting.

The mechanisms of accountability to the local electorate for performance are in principle at least as important as the mechanisms for government oversight; but oversight is very present in the system.

Hood et al (1998) argue that since 1979 local government had been caught in a pincer (indeed, a double whammy) of increased and burdensome regulation alongside the requirement to deliver challenging levels of performance. The number of regulatory bodies which policed local government in some capacity increased from 56 to 67 between the years 1976-95, a period which witnessed more than a doubling of expenditure on audit, inspection and regulation.

Scotland had a long history of professional inspection of some local authority services. Most notably HM Inspectors of Schools – well established and with considerable influence in the education system – developed through the 1980s and 90s an increasingly sophisticated system of performance assessment for schools, based on well defined, professionally developed standards, and systematic inspection methodology. Similar but less well developed regimes have existed for Police, Fire and social work services. Throughout the 30 year period, inspection has become more systematic, and more focused on performance improvement.

These developments are linked to increased capacity for performance measurement (and, in principle, management) of local services. The quantity of data available to assess local performance has gradually increased alongside the increasing reach of the local authority audit. From a limited role emphasising regularity in accounting and probity in expenditure, the audit bodies in England and Scotland gradually extended their competencies into performance measurement and assessment.

In Scotland the Accounts Commission had been set up in 1975 to secure the audit of local authorities. The initial role was the traditional audit of local authorities' financial stewardship. However, during the Thatcher and Major administrations the role of the Accounts Commission broadened to include value for money. The Commission has few formal powers to enforce action against individual councils; but it can elicit change by drawing attention to poor performance.

The role of the Commission was strengthened in the Local Government Act 1992, which allowed it to direct local authorities in identifying a range of performance indicators. After consultation a range of indicators relating to success rates, response times, number of users and other financial information emerged (Midwinter 1995). Post-devolution, the responsibilities of the Accounts Commission remain, as an ‘Arms Length’ body sitting between councils and the Parliament and Ministers. It is supported by Audit Scotland, which works for the Accounts Commission auditing local authorities, and for the Auditor General for Scotland auditing nationally administered bodies.

Much greater emphasis was put on the role of audit in the Best Value regime. Performance measurement and reporting and service review were to be compulsory, and progress was to be checked by auditors. In England this has been formalised as Comprehensive Performance Assessment, and in Scotland as Best Value Audit. What we see in Best Value over this period (and indeed beyond) is a more comprehensive, performance driven system, addressing the concerns of value for money identified in the 1980s and 1990s, and seeking to embed performance improvement into council services and the scrutiny of them. The emphasis on performance scrutiny is a key feature of the system.

Nevertheless many commentators, including Stewart (2003), argue that Best Value is a system of top down control policed by a system of inspection and regulation, to ensure compliance with government targets. The first charge relates to central oversight and intervention: referring to the English legislation, Stewart (2003), suggests that *‘it would be harder to draft a wider power to intervene in an authority.’* The second charge is that meeting national measures of performance conflicts with the local autonomy. This is especially important for Best Value compared to CCT as it covers all council services. The need to respond to local problems with local solutions is crowded out by the requirement to meet performance criteria: where does that leave local democracy? It is to this tension that the story now turns.

Renewal of Local Democracy ?

The third and least well defined aspect of the post 1997 approach to local government has been to seek ways of renewing local democracy. In England, this has taken several forms: concern about electoral turn out, leading to new ways of voting; and new democratic structures, especially elected mayors and councils operating on a Cabinet /Scrutiny split. None of these has however proved decisive in reviving local government. Elected mayors have been peripheral, and sometimes risible, and new internal council structures, while they may be consistent with Best Value scrutiny roles, have not transformed council performance or how councils are viewed.

In its search for a '*third way*' in central local relations (as in so many areas) the UK government began to seek ways of encouraging a different sort of localism. Ministers gave some credence to the idea of community leadership, advanced by those who argued for a new localism: that the purpose for local elected leaders was to give voice to community concerns, represent the community locally and nationally and to draw together plans and strategies for their areas that met local needs and priorities. Community Leadership was outlined in DETR (1998a) as one of the three main aims of Labour's modernisation agenda. In England and Wales the Local Government Act 2000 gave this responsibility to councils.

The Act gives councils powers and duties: new powers of well being and, (alongside Best Value), the duty to undertake community planning, engaging with local communities and relevant partners in planning service delivery. Wilson (2001) describes this as a new statutory power of community leadership.

But this is not unconstrained localism. At the same time Ministers required councils to undertake functions that were identified as national priorities for local joint working such as Crime and Disorder partnerships. Stoker & Wilson (2005) argue that Tony Blair gave a qualified commitment to local democracy based on council's willingness to embrace a modernisation agenda.

This is described as an approach of ‘earned autonomy’:

‘Where councils embrace (our) agenda of change and show that they can adapt to play a part in modernising their locality, they will then find their status and powers enhanced. (But) if you are unwilling or unable to work to the modern agenda then the government will have to look to other partners to play that role. (Blair, 1998, pp20,22)

Democratic renewal in Scotland

The approach in Scotland to renewing local democracy has been different. The central difference is of course the creation of the Scottish Parliament. In January 1998 the Secretary of State set up the McIntosh Committee to review relations between councils and the new Parliament. In structural terms the review was relatively cautious in its recommendations: there were no suggestions of direct elections of Provosts - councils should review their decision making arrangements, paying attention to executive models and more simplified committee structures, though continuing the committee system was an option. The Commission also gave strong support to the idea of Community Planning as an expression of local community leadership; this was accepted by Ministers and has remained a priority since.

Community Planning was developed by another joint Task Force and proceeded for a number of years on a non-statutory basis, with councils leading voluntary partnerships for their areas, mostly of public bodies. It was given a statutory basis in the Local Government in Scotland Act 2003.

The Act places duties on:

- Local authorities - to initiate, facilitate and maintain Community Planning;
- Core partners (Enterprise Networks, NHS, Police, Fire and Regional Transport Partnerships) - to participate in Community Planning; and,
- Ministers - to promote and encourage Community Planning (including Communities Scotland’s participation at local level).

The Act also gave councils a power of general competence – to undertake activity and expenditure for the good of the local area irrespective of other statutory powers - to promote ‘well being’ - subject to certain limitations.

The Scottish Executive stated:

'Community planning is essentially a process to ensure greater engagement from communities in the planning and delivery of services and to secure effective joint working between agencies in promoting the well-being of communities. A shared vision with clear outcomes, allied to more effective partnership working, will result in better use of public money. The overall intention is to provide a basis for the delivery of better, more responsive services' (Scottish Executive 2002e: p.2).

McConnell (2004) suggests that the Local Government 2003 Act is one of the few pieces of legislation since 1970 to enhance the political freedoms of local authorities. This autonomy does not have to be earned.

The power to promote well being is however circumscribed and may be largely symbolic in effect. Experience of the effectiveness of Community Planning has been mixed. The results vary across the country and according to the Accounts Commission (Accounts Commission 2006) there has in general been more success in ensuring that officials from different public bodies locally relate well to one another than in ensuring that local elected members set strategy for and supervise delivery of local public services.

McIntosh's most significant recommendation however related to a different kind of democratic renewal - the electoral system for councils. The Scottish Parliament had been elected by proportional representation, using a regional list member system. This almost inevitably led to coalition government at Holyrood. McIntosh recommended proportional representation for local government elections too. This was highly politically controversial. Liberal Ministers in the Executive Coalition were committed in principle to introducing PR for local government, while the Labour party stood to lose control of many Scottish Councils if it were introduced.

In the event, after much political negotiation and another Committee (the Kerley Committee) legislation to introduce the Single Transferable Vote in Scottish Local Government elections was introduced in 2004 and will take effect in the elections in May 2007.

Agreeing and planning this change has undoubtedly been the most significant issue for central local relations in Scotland. The new electoral system will change local government in ways that cannot be wholly predicted, though more coalition administrations are expected. It is perhaps not surprising therefore that other issues of democratic renewal have not been prominent in debate in Scotland.

Interestingly the McIntosh Commission did recommend a review of local government finance in Scotland: finance was not included its remit but the commission stated categorically that ‘local democracy thrives where finance is raised locally’ (paragraph 55), but also argued that the framework of needs based distribution of local government finance should be retained. It identified a number of systemic areas to be addressed such as financial management, budget accountability and management more generally. The Commission ruled out further major upheaval of non-domestic rates but urged the Executive to undertake an independent review of finance.

Lessons from history?

Despite these changes, many welcomed by local government, the relationship between central and local government since devolution still has many of the ambivalent characteristics of the Peter Shore’s middle way. The finance system remains dominated by central funding, now at 80% of the total. Since devolution there have been substantial increases in public spending on council services, much directed to particular areas by specific grants, and council tax rises have been slightly lower than England. Universal capping no longer applies, perhaps because the favourable fiscal environment has allowed council spending to reach new record levels, but capping powers are available to Ministers and sometimes referred to. Best Value is supportive of locally driven performance improvement, but Ministers set much service policy centrally.

Many in local government of course had feared that the creation of the Parliament would draw power and influence to the centre in Edinburgh and campaigned strongly to prevent this. And, unsurprisingly, this still unresolved tension has shown itself in difficulties in the central-local relationship.

These have not been as great as might have been expected as there have been no substantial problems of overall expenditure control, but there have been repeated complaints of very detailed government intervention – e.g. the number of plans demanded from Councils: Highland council estimated that it had to submit 29 plans or strategies to the Scottish Executive, many involving its own partners (Accounts Commission Scotland 2006). A major political difficulty emerged in 2002 when the Labour Manifesto proposed that a relatively small service (social work with offenders, already 100% funded by the Executive) should be given instead to a new agency, alongside the prison service. In the event, after a great deal of detailed work, the Executive backed down and created new local authority led offender management partnerships.

Scottish Ministers and parliamentarians have been drawn two ways. Their policies in relation to the institution of local government have generally been supportive and sensitive to the democratic mandate of councils in principle, though not perhaps to the extent of the ‘parity of esteem’. Arguably these policies remain at odds with policies for the services which councils deliver. Services such as education and social work (and in different ways police and fire) are the subject of a detailed central policy agenda, on performance and development. Just about half of the pledges made in the Partnership Agreement which defines the Executive’s agenda for the period of the 2002-2006 Parliament relate to services run by councils. Many of these are of a very detailed sort – e.g. in relation to class sizes for particular subjects in schools or number of police officers employed.

Since 1997 the issues in central-local relations have however moved on. The Best Value regime has undoubtedly changed the terms of the debate on the efficiency of local government, and the ideas of community planning and leadership have offered scope for a more nuanced discussion than a simple centralism or localism. But big unresolved ambiguities remain, about the balance of decision making and funding, and in Scotland it remains surprising that no rebalancing has taken place as a result of the creation of the Scottish Parliament.

3. LOCAL GOVERNANCE IN CONTEMPORARY SCOTLAND: KEY THEMES

Here we review the issues arising from this history that are discussed in an extensive literature, one which analyses these themes from quite different perspectives. Some are unashamedly normative and seek to roll back centralism; perhaps the most fruitful are those who seek to identify the scope for a new sort of localism (as in the works of Stoker and others). We highlight four main themes with connections and tensions amongst them:

- Accountability and finance
- Equity, centralism and universalism
- Governance and scrutiny: joined up government
- Localism

Accountability and finance

A dominant theme in discussion of local government is the principle of accountability. Layfield in 1976 argued that '*if local authorities are to be accountable they should be responsible to their electorate for both the expenditure they incur and the revenue they raise to finance it (Layfield 1976, p254)*'. This is sometimes referred to in the literature as 'vertical fiscal equalisation'. Accountability to the electorate through the ballot box should be both for spending and taxation.

This still has resonance. The mismatch between local authority spending responsibilities and revenue raised locally still confuses local electorates about whether local or national government is responsible for particular services. But the argument was first enunciated when the dominant issue in relation to local government was growth in spending and tax levels. The context in which local councils operate has changed, and so have definitions of accountability. Discussion of accountability now takes place normally in the context of the culture of performance management, and the emergence of modern governance systems which incorporate multiple service providers.

This reflects the concern not merely about how much is spent, but how well and how effectively, and how service providers (whether employees, contractors, or other public bodies) can be held accountable, in the first instance to elected members, as well as how members (and indeed quangos or commercial providers) can be held accountable to the electorate. Definitions of accountability are now multiple.

This is seen in the industry of performance management and measurement. The crude approach of CCT has been replaced by a very sophisticated system under which information about performance is collected and analysed and results in pressure to improve. Performance is assessed against standards, some nationally determined, and analysed disinterestedly by the auditing industry. Reasonable questions may be asked about how well this is done, how comprehensive it is, and the extent to which it does actually improve real performance. For our purpose it is sufficient to note that, while this provides the data that would be used to underlie the centralist solution of Layfield, the system has been designed to support the principle of local democracy. The one aspect of local autonomy that it seeks to rule out is the freedom to offer poor services and do nothing about it.

Equity, Centralism and universalism

The equity or equalisation principle traditionally relates to redistributing resources between areas of high and low needs and differing resources (or 'horizontal fiscal equalisation'). Equity has been a guiding principle of British public finance for many years (McLean 2005). Walker (2002) argues that the map of territorial inequality in Britain is testament for the need for equalisation.

It is certainly the case that economic activity, opportunities and wealth in the UK are unequally distributed across the country: as the Treasury bluntly says, '*There have been huge differences in prosperity between regions.*' (HM Treasury 2003). There is a long history in the United Kingdom of territorial equity in public resource distribution, often seen as an element of regional policy.

Travers (2004) p162 argues that:

'any reform of finance needs to be aware that there are powerful democratic forces that do not appear to many to sacrifice or tinker with the principle of equalisation.'

Walker (2002, page 20) argues for a powerful centre:

'only central government can pool risk, can maximise the area within which taxes are levied, can enforce common responsibility for geographical areas lagging behind. Size matters. Within the larger entity, country or nationwide, it is easier to raise taxes and mobilise the consent needed to transfer spending from the better off to the needy. The very idea of need implies a standard applicable across more than one area.'

But equalisation is not purely about geographical areas. Territorial equity in resources may well be necessary but will not be sufficient to guarantee equality between individuals. Walker (2002) also argues that:

'social democracy expresses social need as an absolute, and people in need deserve support regardless of where they live or what their neighbours think, in a classic defence of the centre's involvement in the role of universal entitlement... to state a blindingly obvious but surprisingly rarely stated proposition: in a territory (England or the UK) with major differences in resources 'equalisation' is necessary not just for efficient delivery of public services everywhere but in pursuit of the goal of equality of access, and equalisation requires a strong, self-confident centre'.

Stoker (2004) describes a 'new universalist' perspective. It arises from the concept of universal entitlement of all citizens in the same circumstances to an equal level of standard of services, primarily needs and protective services.

Powell (2004) observed that the most dramatic political change associated with the emergence of the modern welfare state after 1945 was the nationalisation of social programmes of all kinds, citing Ashford's (1986) argument that the decline in local government started in the Victorian era, and accelerated after 1945. Foster et al (1980) write that the 19th century showed a very strong movement away from local autonomy to centralisation, with writers such as Stevenson (1984) and Lee (1988) highlighting the period from 1900-1945 as the high-water mark of local government autonomy, followed by what writers such as White (2004), describe as 50 years of continuous attacks from both Labour and Conservative administrations on local autonomy.

The powerful idea of uniform universal provision is found in New Labour policies, within elite opinion, and most importantly, the general public. Powell (2004, page 30) suggests:

'There is a feeling that certain services should be a matter of national standards and not local variation: for example, education is now clearly defined as a national service delivering outcomes central to the nation's economic future, and social services is another area where opinion has moved against the 'postcode lottery'.'

A 1999 British Social Attitudes Survey (according to Rao and Young, 1999, p51) *'found that two thirds of the public supported central government's right to decide school standards'*.

Elite opinion has expressed itself through arguments based on concepts that link distributional territorial equity to national citizenship (starting with T H Marshall), with rights to certain universal services such as education and health. We see here two more tensions. First between vertical and horizontal fiscal equalisation: the accountability that comes from revenue raising is not consistent with resource equalisation; but perhaps more difficult the demand for universal entitlement for citizens of the welfare state is not consistent with local discretion and accountability.

Governance and scrutiny: joined up government

Just as accountability is multiple, so too is the responsibility for the delivery of local services. Of course councils have never had a complete monopoly. But today a range of service providers operate in a mixed economy: councils themselves, the private and voluntary sectors and other public bodies, often called quangos. Some commentators also describe this as the transformation of local government to a system of local 'governance' with a range of partners operating in the delivery of local services.

Boards, Commissions and single purpose bodies have a long history in Britain, dating back to the 19th century and continuing throughout the 20th. Examples abound from the Poor Law or Prison Commissions in the 19th century to Scottish Enterprise in the 20th. These bodies are typically semi-autonomous agents of national government. The National Health Service has been described as the most notable creation of a quango in British history. In 1994 Weir and Hall identified approximately 5,573 quangos in the UK, accounting for one third of all public expenditure. It is possible to dispute exactly what counts as a quango: the government uses the slightly narrower definition of a non-departmental public body (NDPB) (See Ridley and Wilson 1995, Skelcher 1998). But with about 1/3 of the Scottish Executive's budget spent through National Health Service bodies alone, their significance is undoubted. A Guide to Public Bodies in Scotland in 2001 listed some 149 bodies that the Executive were responsible for funding. The list then included, as well as NHS bodies, 37 Executive Dab's.

Quangos have had a bad press. The Thatcher government saw them as part of the burgeoning State, to be rolled back, and instituted from 1979 a system of review and challenge (so called 'Pliatzky' reviews). More recently in Scotland Henry McLeish as First Minister aspired to a 'bonfire of quangos', largely on the grounds that they were undemocratic; In 2001, Angus MacKay, his finance minister, promised to abolish all quangos that no case could be made for retaining. Four years later only seven had been abolished. And despite these concerns both Conservative and Labour administrations have found it necessary to retain and even create national – and latterly local – single purpose bodies. (Scotsman 13 June 2005).

In England specifically local delivery bodies who might take central direction more readily than elected councillors have been seen as a competitor to local government. Tony Blair (1998) in the speech quoted above offered the veiled threat of the introduction of more quangos should local councils fail to respond to labour's modernisation agenda. Stewart (1996) described the emergence of new local quangos in England as the '*new magistracy*' of local governance whose members came to outnumber local councillors by 2 to 1.

The term local governance emerged in the 1990s to describe the new management processes with local public services provided by a range of bodies, requiring flexible partnerships and new ways of working. The emergence of these new governance arrangements has been seen as a response to the wider pressures exerted by the forces of globalisation and the resultant pressures on the welfare state, in what Stoker (1989, 1990) termed '*post modernity*', '*post industrialism*' or '*post Fordism*'.

Pierre and Peters (2000) argued that the impact of globalisation and the perceived failure of national governments to deal with social and economic conditions, added to the sheer complexity of the governing challenges to be confronted constitute what might be termed a new framework or system of *multi level governance*.

Stewart and Stoker (1995) argue that 18 years of Conservative Government fundamentally restructured local governance institutionally. Evidence to the House of Lords Report of July 1996 commented:

'that an argument put forward by many commentators was that over a long period local authorities have lost powers, whether to central government or quangos, not to conform to some over arching philosophy but in a way which has incrementally soured relations, weakened local democracy and blurred accountability' (p5).

However, the same report stated that the consequences of government policies were that, although:

'the de facto arrival of governance was accepted, what was demanded was that local authorities co-ordinate this new world of governance because of their electoral mandate'. (op. cit)

The New Labour government broadly accepted this approach. Although like the previous administration they were distrustful of dogmatic labour authorities who would hinder their modernisation agenda (Stewart 2003), and broadly accepted much of the Conservative argument about producer dominance, they were to move beyond the New Public Management models of the Conservatives to an *'emerging concept of networked community governance'*, and that *'the emerging system challenges the central pillars of the world of local government'*. (Stoker 2004, p10) Instead of the bonfire of quangos as promised in pre-electoral pledges, New Labour retained and extended the involvement of the quango state in its modernisation agenda.

Debate about quangos often centres on the question of whether there is a 'democratic deficit'. Is a nationally administered, arms-length, delivery body answerable to Ministers sufficiently subject to democratic scrutiny and oversight? In all such bodies, a tension exists between the need for operational freedom in order to deliver some executive programme of activity effectively (urban regeneration, school examination results, legal aid payments) and the requirement for democratic accountability. This tension becomes more evident locally where some services are subject to local democratic oversight and other not.

Scotland and England are often bracketed together in this, but it is questionable whether the same democratic deficit argument runs to local quangos answerable to ministers in a nation of 5 million as one of 50+ million.

Community Governance and leadership takes its main inspiration from the argument for expressing and meeting the needs of the local community. But it is also closely linked with the concept of joined up government, especially to tackle social disadvantage.

This is often expressed in terms of partnerships such as Social Inclusion Partnerships, Health Action Zones and New Deal for Communities. Some of this may of course be specious rhetoric ('partnership' between central and local government may be simply a phrase to paper over the underlying contradiction in the relationship), but increasingly partnership between governmental bodies has been seen as the (only) way to address complex social problems which do not fall within the remit of one. This is not entirely a New Labour phenomenon: for example the Conservative Government of the 1990s embraced the concept of partnership in Urban Renewal (New Life for Urban Scotland, Scottish Office, 1988)

But 'Joined up government' was a key aspect of the 'Third Way' politics of New Labour from 1997 (Bogdanor 2005, Giddens 1998). Similarly in post-devolution Scotland this has been an aim of central government – *'many of the issues we face ... require co-ordinated attacks from government'* (Scottish Executive 1999) and an obligation on local government, through Community Planning.

What was in the 1970s a matter of internal 'corporate' management within local authorities has become the stuff of local 'governance', so that local co-ordination is a task amongst agencies, led by local government. This model of governance demanded a more complex set of relationships between central government, local government, voluntary and private sector and the community they serve. Stoker (2004, p16) argued that:

'whatever the function there are mixed range of partners from freestanding agencies to various partnerships. The range and variety of sectors from which key agencies are drawn means that at the beginning of the 21st century the challenges of networked community governance is characterised by a high level of complexity in the relationship between local councils and other local service agencies'.

Local council's challenge has been to find ways of working within this new governance system with non elected partners. And of course there are tensions with the other principles: with multiple partners accountability for operational and financial decisions is blurred, and while nationally accountable bodies might be expected to support universally available services, the complexity of governance makes it harder to be sure that is being delivered.

Localism: what does it mean today?

The call for local freedoms and accountability nevertheless remains strong throughout the period of our story. As Wilson (2001) puts it, '*that local decision making should be less constrained by central government, and also more accountable to local people.*' At its simplest localism is, as it was for Layfield, choice about 'who decides', the exercise of political power. But the concept has also changed since then, and just as ideas of centralism developed into those of a new universalism various commentators have championed a 'new' localist agenda.

Powell (2004) suggests there has been an increase in the use of the term localism, citing David Walker - '*we are all localist now*' – but he sees no clear consensus on any one model of new localism.

He cites a range of speeches by Ministers and advisors: Taylor in Filkin et al (2000), Balls in Corry and Stoker (2002) Wood in MacLean and McMillan and Reid 2003; Millburn (2003 and 2004), Blunkett (2004) and Raynsford (2004) - all advocating a slightly different form of localism based on their departmental preferences, including earned autonomy, community leadership and other models for the NHS, which would see boards elected locally. Raynsford (2004) suggests that much of this confusion stems from different government departments each with their own definition of localism.

Wilson (2005) argues that there are three clear principles upon which the case for ‘new localism’ can be founded: first, it is a realistic response to the complexity of modern governance; secondly, it meets the need for revamping of understanding of the way democracy can work in the 21st century. Finally, new localism enables the dimensions of trust, social capital and active citizenship to be fostered rather than neglected, and as such encourages the provision of additional resources in the search for solutions to policy problems.

Certainly a common thread from amongst the themes of localism being debated is an acceptance that ‘one size fits all’ policies are not delivering.

In a 2002 speech entitled ‘The New Localism’, to the Chartered Institute of Public Finance, Ed Balls, the Minister and former Chief Economic Advisor to the Treasury, warned that in order to meet the rising expectations of the public, public service delivery could not any longer be met by old-fashioned top down and one size fits all approaches, as were characterised (or caricatured) to represent past approaches. In October of the same year, Balls provided a supportive preface to a New Local Government Network pamphlet calling for New Localism, characterised as being essentially about the devolution of powers and resources away from central control and towards front line managers, local democratic structures and local communities, within an agreed framework of national minimum standards. In this model of new localism, local councils would provide community leadership rather than be the ‘traditional direct service provider’.

It will be helpful at this stage to identify different threads of the localist argument. The first two are essentially arguments for decentralisation, rather than local democracy as such. It is argued that services should meet local needs and circumstances (‘one size not fitting all’). Local needs and circumstances will reflect the characteristics (rather than the views) of a place or of its population - perhaps an area’s geography or economic history or the age or social structure of the population.

So there might a need for a different balance of services, different methods of delivery, different emphasis to the integration of services and so on. Secondly, it is argued that localism promotes diversity and innovation. This is an important point. Centralised services, associated with top down command and control, run the risk of imposing uniformity, and stifling creativity and innovation. This too is a characteristic of the decentralisation or devolution which is *associated with* local democratic choice.

There are however arguments which relate more precisely to the case for local democracy. First, there is the intrinsic value of democracy itself and the benefits of embedding it in society. It is a very narrow view of democracy that it consist only in the right to eject from office a national government, or even a national government and a Scottish one. These are necessary but not sufficient requirements: elected power should be distributed to avoid the danger of ‘elective dictatorship’ (Hailsham 1976), and it is only by spreading democracy widely that greater opportunities for participative or deliberative democracy can be offered. In addition, a healthy national democracy depends on a functioning local one, not least because local democracy develops at least some national politicians. This is connected to arguments about building trust and social capital.

Secondly there are the arguments from community leadership and local scrutiny and service integration. These are most closely associated with the new localist agenda. Services are almost without exception delivered on a geographically decentralised basis and in a democratic system ought to be subject to oversight by elected people who can scrutinise their performance and who should speak for local people in relation to them. The integration of services, especially in dealing with deep seated and intractable social problems, so called ‘wicked issues’, may to the extent that local circumstances differ be done best at a local level. It is by no means obvious that these arguments apply only to services which are delivered by or on behalf of councils.

Finally there is the traditional argument of principle for local democratic choice: *That local policies and services can reflect local political priorities, which may differ from place to place, as the views of local residents differ.* Reasonable questions might be asked about the size and boundaries of the areas in which it operates, but for matters that *can* be determined locally, the case for doing so democratically is unanswerable. Again however we see tension between the pressures for localism and those of centralism or universalism.

The obvious tension here is with the case for universal provision.

Powell argues that behind the veil of localism the guiding hand is still driven by a form of creeping centralisation, governed by a desire for national uniform standards.

This is clearly so in relation to welfare state services. Stoker (2004, page 186) however outlines a possible distinction:

'another route which is more compatible with allowing extended choice in the delivery of networked local governance. The new localist solution would separate out welfare state issues such as education and social services and fund them using a grant system similar to the current system. This would then leave authorities free to top up central funding or reduce it. In a pure new localist solution for all other services there would be no grant support, with no equalisation mechanism'.

Where does this leave us now?

The choice identified by Layfield was a reflection of the system of local government and the issues of the time. But times have changed - demands for territorial equity have been transformed into calls for universal provision. The management of, and accountability for, performance and delivery has re-focussed the accountability debate. Local government is now embedded in a wider system of local governance and integration of services has become a much higher priority.

For England the history and analysis show fairly clearly the tensions and ambiguities inherent in policies towards local government. There are unashamed pressures for universalism for key elements of the welfare state presently delivered by local government, and under the regime of Best Value there is an intolerance of poor services and failing councils. A mixed economy of local service providers including quangos more directly accountable to government and emphasis on partnership working are set to remain key elements of policy.

But at the same time we do see a genuine desire to support some sort of new localism and the its community leadership role has been enhanced, though, Wilson argues, this leadership role has not been well defined and some of this commitment is distinctly contingent on performance and capacity.

Can we make sense of this picture for Scotland? The first key difference between the English debate and the Scottish is the territorial size of Scotland compared to England. Managing services for 5 million people rather than 50 million changes question to be asked: scale does matter. The creation of the Scottish Parliament also changes the picture.

Jeffery (2006) points out the UK government went to great lengths to reassure local government that the creation of a Scottish Parliament was not a threat:

‘decisions should be made as close as possible to the citizen’ and that ‘the Scottish People will be served best by a Scottish Parliament and Executive working closely with a strong democratically elected local government’ (Scottish Office 1997, 19-20).

But it is by no means self evident that the central-local relationships that operated when there was no elected Scottish Parliament and Ministers are appropriate today.

As the history shows central-local relations in Scotland have in some respects played differently from those in England, even under broadly similar policies described elsewhere in this paper.

Leaving aside the early introduction of the poll tax in Scotland, more consensual relationships between local authorities and the former Scottish Office have been the rule, perhaps from pragmatism on the part of COSLA and the Scottish Office and perhaps from the effects of size on working relationships. In the run up to devolution, relations between labour leaders and local government were generally positive.

Jeffery (2006) points out that the inclusion of local authorities in the pre-devolution agenda, resulted in a settlement that emphasised 'local government friendliness', some of which carried through to the Scotland Act.

Since devolution, these relationships have continued to evolve. Despite strains there have been some very positive aspects: Jeffery highlights three areas that have framed this post-devolution relationship in Scotland: access, interdependence, and partnership. Access between MSPs, the Executive and local government at all levels has remained good.

Bennett et al (2002 p14) quoted interviewees for the Joseph Rowntree study in Scotland: '*we have seen more of them over two years than over the last ten years*'. Jeffery suggests that in the context of Scotland, '*Proximity does count*' (2006). Bennett et al (2002) suggest that the establishing the Parliament has not '*significantly reduced*' the role of local government in the governance process.

But persistent concerns remain over local government finance (for example, McGarvey 2003, 39-41). McConnell (2004) lists reserve capping powers; the large percentage of council expenditure incurred because of statutory requirements and non-statutory agreements such as pupil/teacher ratios; the pressures of hypothecation and the centralising pressures of best value. (Laffin et al 2002) record concerns about overregulation and relationships (see also Bennett et al 2002). McConnell (2004b p.18) suggests that '*such calls are little different from what they were pre-devolution period*'. So devolution has not made the problem go away: indeed it has pointed up the need to address it.

The relationship needs to be reconsidered in the light of how issues have developed since 1976, and in particular the arrival of the Scottish Parliament. While the ‘vertical fiscal mismatch’ remains a structural problem, the terms of the debate have been moved on: it has to recognise the strength of pressures for universalism but also widening understanding of accountability, and the reality of complex local governance. In the next section we identify various options for reform that acknowledge these realities, and suggest one possible path.

4. THE OPTIONS FOR LOCAL AND CENTRAL GOVERNMENT IN SCOTLAND

We have seen that the relatively simple choice offered by the Layfield Committee between centralism and localism, which linked the dimensions of accountability and finance is not longer wholly apt. The themes of accountability, centralism and localism, governance and scrutiny explored above show that more dimensions need to be considered, and in Scotland so does the creation of the Scottish Parliament and Executive. In this section we identify more precisely the other dimensions of the issue that need to be borne in mind, and at the options for distributing roles and responsibilities that follow. This in effect involves looking at the governance of all Scottish public services not merely those currently administered by local government.

The dimensions of choice

To structure the options that might be open to for Scotland we identify several ‘dimensions of choice’ in which decisions may be made about the allocation of authority and responsibility between central and local government. These might be thought of as ‘who decides’, ‘who pays’, ‘who scrutinises’ and ‘who integrates’: and in relation to what services or activities.

Of course this is a heuristic device as such choices will never be black and white, but it helps expose the possibilities that are open to government.

The first two ‘dimensions of choice’ are those considered by Layfield:

1. **Responsibility or accountability:** in particular *the authority to make decisions* about the delivery of services, about spending or about the exercise of regulatory or other powers. As we have seen often power lies as matter of law with the local authority but in practice is very heavily circumscribed or even overridden by central government.

It is useful to distinguish this from the responsibility to manage services which might be subcontracted to an agent. That agent might be a private supplier (as for example in the provision of care services on contract to a local authority) but in other cases the local authority may itself be an agent of central government (as in for example the payment of housing benefit). We will consider later whether making this formal agency arrangement more widespread is a useful option for other services.

The most challenging issue here is how to address the pressures for universalism for services which are delivered by local councils.

2. **Financing services from taxation:** *allocating taxpayer resources* to pay for the services that are being delivered. Layfield’s insight that these two responsibilities should be aligned, but that the local tax base is not sufficient to allow for this, remains valid. When central government makes resource allocations it is very difficult for it to resist the temptation to decide in detail how those resources are spent. The elaborate paraphernalia of the local government finance system is an attempt to square this circle. The effect of decisions on total spending is seen on local tax levels, but financial controls are also at least as relevant for decisions about methods or standards of service.

Layfield's localist solution – increase the local tax base substantially by having a local income tax, and have less grant financing - is not however straightforward to apply in Scotland today. Most significantly the Scottish Parliament itself is financed by grant, and while it would have the legal capacity to create a local income tax it has only limited power to make offsetting reductions in national income tax.

So any local income tax that was big enough to finance a majority of Scottish council spending could only be a very big increase in the Scottish tax burden, unless the UK government at the same time either cut income tax or increased the powers of the Scottish Parliament to do so.¹

Such a change could for example in principle be accompanied by a reduction in UK income tax and in the Barnett-formula grant to the Scottish Parliament (Gallagher and Hinze 2005). To be comparable with local government spending in Scotland most of the basic rate would have to be locally determined². Serious practical questions might also arise about whether 32 different local income tax rates are practical in a country of about 2.5m taxpayers, though these have not been studied. Finally, it is difficult to imagine at the same time that there is scope for effective accountability for the Executive itself through its own tax varying powers.

There are however now two other dimensions of choice to address:

- 3. Scrutiny of Service Performance:** an important development over the 1980s and 90s as we have seen has been concern about the effectiveness and efficiency of service performance which has as we have seen moved on from the simplicity of CCT to the industry of performance management and measurement.

¹ The capacity of 'Tartan Tax' is subject to estimation error but has been estimated (Gallagher and Hinze 2005) at £270m annually for each percentage point. The maximum reduction in national income tax at the hand of the Scottish Parliament will therefore be less than £1bn a year. This is less than Council tax yield. Total local authority spend exceeds £8bn a year.

² 20 tax points should raise about £5.4bn, and grant from the Executive could in principle be used to equalise for variations on taxable capacity and possibly need.

In some councils, the roles of decision taking and performance scrutiny have been split – as has arguably always been the case in central government with the split between the executive and legislature. This was not a feature of the Layfield analysis which lumped both this function and that of decision taking together under the heading of accountability.

Two things are important here. One to note that this function and that of decision making are in principle separable (we shall discuss later whether this is a wise thing to do). Secondly the ‘technology’ of performance management (supported by large amounts of data, and comparison across time and different organisations) at least in principle, allows for better and more detailed scrutiny, explicitly intended to result in performance improvement.

- 4. Integration of Public Services:** we describe earlier the significant shift over the same period from *local ‘government’ to local ‘governance’*. This can be exaggerated but it reflects a reality that local services are now delivered by a greater variety of organisations – some having taken over functions from local government, and others grown up in parallel. The response of the 1970s, which was essentially to see challenges of coordination as matters of achieving good corporate management inside local authorities, have been replaced by a plethora of partnerships seeking to coordinate the work of public agencies and others.

A striking lesson of recent years is that the ‘New Public Management’ paradigm has in general been fairly successful on driving up the measured performance of public agencies in relation to their core responsibilities – as measured in league tables, performance ranking and the like - but the so called ‘wicked issues’ which are deep seated and do not fall neatly into the remit of one agency remain unconquered challenges to joint working. While community planning has had limited success there nevertheless remains a coordination task, whether exercised nationally or locally.

Different Classes of Public Services?

Allocation of these responsibilities need not be the same for different services – and indeed there is no reason to assume that consideration should be limited to services councils currently manage: there is no obvious logic to which services are the responsibility of councils and which not. But it may be helpful for our discussion to divide services into different classes.

Some have tried to draw a distinction between local national public goods. Jeffery (2006) identifies a range of sources from J S Mill, the Royal Commission on Taxation (1901), the Kempe Commission (1914), as well as academic writers such as Cannan, Marshall and Goschen who have tried to define which public goods are local and which national. This has not been fruitful.

Some confusion results from a tendency to assume that all public sector outputs as public goods; but a service is not a public good just because it is free at the point of delivery. Public goods should be defined in economic terms only, both non-excludable and non-rival in consumption: that is why the market will fail to exist for public goods. However, examination of any list of services provided by councils or NDPBs will demonstrate clearly that they are not all public goods so defined. The discussion below, adapted from Wilson and Game (2002) and Hollis et al (1991), offers a different classification.

Needs services are provided to all citizens uniformly, regardless of ability to pay, and aim to redistribute resources across the community. These include: education, personal social services and housing benefit. Many of the services classified as needs services are perceived to be national priorities, and are subject to regulation, guidance and auditing to achieve prescribed national minimal standards. In general these are not public goods in the economic sense.

Protective services; such as police and emergency services. Access to these services cannot be restricted and individual users cannot be readily prevented from using the services (at least in so far as the product is protection) and consumption of the service by one user does not detract from its availability to others. Generally, protective services are subject to national guidelines. Nevertheless they are provided locally, in Scotland under local authority control through joint boards of councillors.

Amenity services tend to be local public goods, distinguished from national public goods because their benefits are geographically concentrated and are provided primarily to meet local needs. Such services include: local roads, street cleansing, planning, parks and open spaces, refuse disposal, and economic development. Amenity services are provided largely to locally identified targets to meet the needs of the local community.

Facility services provided by councils confer benefits directly on those who choose to use them. Examples of facility services include: housing, libraries, museums and art galleries.

Generally speaking, needs and protective services have been subject to significant central direction. Needs services are closer to social citizenship rights (but could, albeit imperfectly, be provided by the market or by a mixed economy of provision), whereas protective services are closer to national public goods. Amenity services are close in some cases to local public goods.

Clearly this is an over simplification: the extent to which services are subject to pressure for uniformity is variable, and even matters of low national political salience often have some degree of national underpinning by professional organisation or in other ways, but the distinction is for these purposes is another useful heuristic device.

The future for central local relations in Scotland: Constructing Different Options

We are now ready to review the possibilities for restructuring the landscape and identify six possible approaches here, based on the ‘dimensions of choice’ identified above.

1. A Maximally centralist solution

It might be argued that the creation of the Scottish Parliament offers the opportunity to manage services uniformly throughout Scotland. Political choices would be made by elected MSP’s and Ministers, who would allocate finance from the Scottish budget. It would be the responsibility of Ministers to run these services, perhaps with local decentralised management, possibly along the lines of NHS Boards, and the performance and delivery would be scrutinised by Parliament. In a nation of 5m people this might be entirely practical. It would be the responsibility of Ministers and the Parliament to ensure that services were integrated and coordinated. So on all 4 dimensions of choice for most services (health, education, social work, policing etc) responsibility would be allocated to the Scottish Parliament and Ministers. Any *remanent* local responsibilities for facility and amenity services would be financed by local tax. The balance of funding implied by such changes is discussed later.

Such a system is quite conceivable, and has the benefits of clarity of responsibility. It is an even clearer version of Layfield’s centralist solution and could be made to work in Scotland. Managerial decentralisation would be needed to allow local circumstances to be recognised, and scope for innovation and diversity in service provision, though this might be difficult with centralised accountability. This solution suffers however from two more fundamental problems. First it fails to embed democracy in any substance at a local level: *remanent* local functions do not form the basis of local leadership. Secondly, both delivery and integration of services at local level becomes a managerial task with no direct democratic oversight of effectiveness in any one place, and poor performance in only one part of the country might not be a concern to national politicians.

2. A Maximally Localist Solution: including health services

This possible approach recognises that *all* services are delivered locally and asserts that all should be subject to local democratic control and decision; and the local option is adopted in all the dimensions of choice. It is worth analysing this option in some detail as it illustrates the underlying choices well. On this basis, local authorities would take responsibility for all services including in particular health services. Elected councillors would take decisions about service delivery, presumably within a broad statutory framework, and perhaps with a performance system akin to best value.

Councillors would scrutinise service performance and take responsibility for ensuring that there was improvement when this was needed. Integration of services would be a matter largely internal to the local authority, and so would ensuring that services dealt well with ‘wicked’, cross cutting issues.

The arguments for this approach are essentially those of:

decentralisation: that locally taken decisions are more sensitive to local conditions, and so in principle more efficient, and more democratically responsive to local preferences.

efficiency: there is one local body rather than a multiplicity, so overheads are lower.

integration: there are fewer organisational boundaries to be spanned so that it should be easier to integrate services.

Effective scrutiny: councillors can scrutinise the performance and joint working of all locally delivered services.

There are however two major problems with this approach. The first is the appeal of universalism for many of these services, notably, but not only, health - popularly expressed as an objection to postcode lotteries, or more analytically as social rights: and it is not in the nature of rights to vary in different local council areas.

A striking consequence of the greater transparency of and availability of information about services is that public discourse is intolerant of variations in service (e.g. whether particular drugs are available on the NHS, or differential attainment in schools) that would previously not have been evident to citizens or users, or indeed management.

Of course it is arguable that this should not be so. Perhaps it would be better to value more diversity and local choice, perhaps leading to better local engagement. This is sometimes described as ‘civic republicanism’ and currently discussed under such labels as ‘double devolution’ or ‘community empowerment’. Decentralising decisions is argued to be a good thing in itself as it will empower the population and reverse the trend of low participation in public affairs, and elections. Allowing real local diversity would be desirable on itself and might even (as imagined by Tiebout 1956) allow citizens to make their way to the areas which offered the package of local rights that best suited them. But if in fact for whatever reason citizens value uniformity of access to such services above local variation, or if central government is unwilling or unable to abnegate power to the necessary extent, then a maximally localist solution is doomed to produce conflict.

The second major problem is finance, essentially the problem identified by Layfield: the budget envisaged here for local government is roughly twice present levels and there is no available combination of local taxes which could finance a majority of that: even a local income tax and property taxes together would not come near the level needed for local financial autonomy, (Gallagher and Hinze, 2005)³

In principle local autonomy might be supported by a ‘hands off’ system of financial support (rather like the way in which the Executive and Parliament themselves get grant from Westminster: determined by a formula and without strings attached). Such a formula could be devised (whether based on the present elaborate needs and resources calculation or some much cruder ‘share’ of the total available) and the resources could simply be passed on the councils.

³ Total annual income tax yield in Scotland is approximately £ 8-9 bn (Gallagher and Hinze 2005); council tax yield £2 bn and Non domestic rates bring in slightly under £ 2bn. Existing council spend plus health spending adds to about £16 bn a year

They would then account to electors locally for the use they made of this and for any decisions they made on local tax. That, however, would inevitably be very heavily geared (by ten to one if only the council tax were used, less if it were combined with an income tax).

These may seem laboured analyses of highly unlikely scenarios. Despite the fears of some in local government, a wholesale national administration of big council services has not been proposed in Scotland. Similarly, while it is worth noting that there are still some who argue for the 'return' of health services to local control, it does indeed stretch credibility to imagine that the newly created Scottish Parliament would eschew the political power to decide over NHS provision, or simply pass resource allocation responsibility to another tier of government.

What the thought experiments do however is distinguish more clearly the different dimensions of the problem, and this will enable us to look with clearer eyes at other more realistic options, to which we now turn.

3. A localist solution: based around present council services

This option takes the present distribution of functions between central and local government as a given (even though it is arguably no more rational than any other and simply a historical accident) and argues that in relation to council services the localist option should be chosen in all the relevant dimensions. So, for example, in relation to education, or community care, as well as other local services, decisions about services and spending should be made locally by councillors with authorities delivering or contracting for the services. Councillors would scrutinise the performance of these services and, if the community planning model were in addition followed, could have a leadership role in integrating services.

The arguments for this are weaker versions of the maximally localist argument:

Decentralisation of decision making: should lead for these services to more efficient and democratically responsive choices.

Efficiency: councils might possibly be more efficient if they were not subject to central government interference.

Integration: There is some scope for integration but there are organisational boundaries to span..

The arguments against are also similar. First of all these services, although they do not include the NHS, do cover issues where there is evidence that citizens regard uniformity of provision as a social right. Certainly that approach has been taken by the Parliament and Ministers: see for example, numerous national initiatives in education, or the requirement to offer free personal care (or even free bus travel for pensioners: indeed it is increasingly difficult to identify any local services that cannot be turned into national ones in Scottish political discourse).

Financial problems arise also, though not in such extreme form. Even with a local income tax Executive grant would be needed to provide enough resources, and equalisation, and that would have to be provided without strings attached through a mechanism that did not allow for Ministerial 'interference'. There is scope for real local scrutiny, linked to decision making power, for council-run services, but scrutiny of health for example remains a national task. The joining up of services would remain as present, subject only to the regime of community planning, but with fewer levers for Ministers nationally to seek to integrate services.

This model (unlike the maximally localist solution) is in principle deliverable. Three things would however be needed:

- A general social consensus that there was scope for real, deliberate, local choice and variation in, in particular, education and community care.
- Secondly, these were issues in which, beyond setting a general legislative framework, Parliament and Ministers would not take any detailed interest in.
- A hands-off local government finance system that channelled resources to councils fairly, without strings, and with no scope for Ministers or Parliament to skew resources or attach conditions.

This suggests three questions: are these desiderata at all realistic? But more importantly, are the benefits that radical and active decentralisation of the present, essentially arbitrary, bundle of council responsibilities worth the candle? And would decentralisation for some services allow for integration across all?

4. Muddle along the Middle Way

At present, the answer is fudged in relation to several of the dimensions of choice for local services. This could continue. Although local authorities have the legal responsibility to decide on service provision, they are subject to very detailed central government control, for example in relation to class sizes in education, or the many plans and returns required by the Executive. Similarly in relation to expenditure, although councils determine total spending and set service budgets, the multiplicity of central funding streams is very influential, especially at the margin in determining spending priorities.

In addition to the main support for local spending, Aggregate Exchequer Funding, which itself is a mixture of specific grants and unhypothecated funding, there are 63 specific revenue and 21 capital funding streams from the Scottish Executive to local councils⁴. And capping powers remain available to Ministers.

⁴ Scottish Executive Finance circular 5 2006

So far as scrutiny is concerned the emphasis is more local under the best value regime, but the increasing powers of intervention taken by Ministers in relation to particular services make clear that performance of local services can be a matter of concern to them. Scrutiny of the performance of national services is a matter for Ministers and the Parliament. Integration or joining up is also a split responsibility, with national aspirations to do this, but local responsibility through community planning.

One interesting development is however the appointment of individual councillors to be members of Health Boards. The arguments for continuing on these lines are essentially those of inertia (not to be sneezed at). Clarifying responsibilities is painful and difficult and will inevitably be a question of degree: Parliament and the Executive will always have some responsibility in relation to local services, if only because they must provide the legislative framework, and this should be allowed to evolve pragmatically in response to events and pressures. Any resultant tensions between local and central government will simply have to be managed.

The argument against are:

Conflict: there will inevitably be (further) conflict between central and local government caused by ambiguity about who is in charge

Finance: this conflict will continue to be played out in the local tax base, and as expenditure increases slow down the pressure on council tax will be great

Poorer performance and integration: against such a background the challenges of integrated scrutiny and management are inevitably increased.

Lack of clarity as to responsibility cannot improve either performance of integration of service.

These last two options are nevertheless the territory over which debates over central-local relations have been conducted. We go on now to consider whether there are other options, involving greater centralisation in some respects but possibly greater localisation in others, worth considering.

This is clearly an area of great sensitivity for local authorities: the reaction to the suggestion of small shifts in responsibility for offender services discussed above makes that clear, though interestingly the shift to national responsibility for district courts legislated for in 2006 has been less controversial. These were however essentially marginal changes in the central-local relationship. The next two options discuss the scope for bigger shifts in responsibility.

5. Centralisation of Needs Services: Education and Community Care

In this option the case for universalism and the reality of central decision making for these Needs services is openly acknowledged, in *all* the dimensions of choice. In particular Scottish Ministers take explicit responsibility for the provision of education and community care and for funding them from the Executive's budget. National mechanisms of accountability and scrutiny would cover these, as they currently do the NHS. Ministers also take the lead in integrating Community Care and Health, though integration with locally run services, for example joining up the work of, say, education and children's services would require local input also.

In practice a shift in decision making might be achieved by giving responsibility for Community Care to Health Boards, as there is already substantial joint working in this area. Education might become the responsibility of locally appointed education boards, or alternatively might continue to be managed by the local authority as an agent of central government.

The agency possibility merits a little further thought. One such arrangement in effect already exists, the administration of housing and council tax benefits. The council has no discretion over the service offered, but pays the benefits according to regulations, and subject to oversight by the DSS. Criminal justice social work is somewhat similar: government sets standards, and budgets and pays 100% of the cost. This may be a pragmatic solution for these activities – the former because it has been closely linked to council tax collection and local authority rent collection.

It is not so obviously suitable for major services like education because of the non-clarity of the proposed role of councillors: is it right that elected members are required to act as agents in the largest single part for their authority's activity?

One obvious result of such a change is an immense simplification of local government finance. Education and community care for the elderly alone account for roughly £5bn of the nearly £9bn of total local authority expenditure. If this were centrally funded in its entirety, then the remaining £4bn of expenditure compares with almost £2bn a year in council tax income and slightly less in non-domestic rate income. The gearing problem, which so beset Layfield vanishes, though some issues of resource equalisation would remain. Inspection of detailed local figures shows that local tax could quite readily support expenditure of this level but that equalisation of taxable capacity would be needed to produce a fair outcome.

Such a centralisation could arguably have benefits for the joining up of services so far as community care is concerned, but would obviously create organisational boundaries around education which do not presently exist. National scrutiny for education and community care performance would be more systematic but there would be a loss of local, scrutiny and the 'clout' of councillors in relation to community planning would be reduced simply because they would have less to bring to the table.

Arguments for this option are:

Unambiguous allocation of responsibility: allowing the scope for clear lines of management accountability, and performance management, and political accountability for, e.g. , budget setting.

Efficiency: the management structures can be determined on purely functional lines and on the basis of what is efficient rather than what suits local democratic accountability.

Financial simplicity: local government finance is hugely simplified and local taxation decisions are driven only by decisions on local service spending.

Clarity about scrutiny: Ministers and Parliament are responsible for scrutinising performance of education and community care through existing mechanisms, but the loss of local scrutiny under this model for services like education would be a major one.

The main arguments against this option in principle are that it does not allow for local diversity according to local democratic choice (so discouraging innovation and experiment); that it does not allow for local scrutiny of performance and local integration of services to the same degree as options 1 and 2. Nor is it not as straightforward as this argument suggests to decide which services should be subject to national control, and which left to local discretion. Nevertheless such a change could be made effective and would offer some advantages. The final option considered here asks whether there is a way of getting those advantages at a lesser price.

6. Redefining the role of councillors

This option is a combination of centralisation and decentralisation across the different ‘dimensions of choice’ coupled with strengthening of the local powers of both scrutiny and integration. Its elements would be as follows:

Centralisation of decision making for two Needs services, education and community care, and of finance for each of these.

Decentralisation of decision making for all other council services, and of finance for them.

Decentralisation of both scrutiny and integration responsibility for *all* services, including those where decision making is national.

Decentralisation of the integration and scrutiny responsibility to councillors locally, with strengthened powers.

In practice this would mean national structures of management for education and community care, though operating these services on an agency basis might be an interim step towards achieving that.

Ministers would determine the total spending on these services and the managerial priorities of the system, though appointed boards might form part of the management structure to allow for local management, as distinct from local democratic choice. These might be Health Boards for Community Care, but could be separate bodies for education.

At the same time there would need to be a clear freeing up of local councils in relation to the other services they were responsible for. This would have to take the form of a 'hands off' finance system which confined itself to ensuring a degree of equity through resource equalisation. This would be much simpler to achieve for fewer services and needs might relate very closely to total population (the largest influences on local government grant distribution are the number of elderly people and the number of children in an authority's schools).

Strengthening the role of councillors in scrutiny and integration is however key to making this package work. The two of course go together, but a lesson of the present system is that real powers need to be exercised by elected members for this to have an effect. On paper many of the powers are already there: the local authority has a lead role in community planning and certain other public bodies are obliged to take account of this. These powers may need to be strengthened, perhaps by making the obligation more explicit, perhaps by giving councils a right of consultation on the plans and budgets of all local service delivery bodies before these are agreed by Ministers and approved by Parliament. There may also be scope for formal joint scrutiny by local members and parliamentary committees of the responsiveness of national bodies to local community plans. Councillors would need professional support on discharging these duties.

The second element of these powers exists also already, but at present has little effect: under this system it could be a powerful local tool. That is the power of general competence sought and obtained by local councils. This enables them to bring to the table the resources they raise from local taxation to spend in any way which can be used to make both very local priorities and service integration happen.

The risk of course is that, as now, revenue from council tax is used to lessen spending constraints on big services like education. Having Ministers set the budget should avoid this but there will be temptation to do so.

The advantages of this possible approach are possible improvement in accountability, scrutiny and so ultimately performance and integration. The downsides are obvious: aside from the big implementation risks, there is a real risk that national management would be inflexible, unresponsive and poorly integrated at a local level; indeed that it might itself become simply a nationally politicised system of administration rather than an effective system of management.

Two things could be done to mitigate these real risks. The first concerns the governance of services which are nationally administered. That is beyond the scope of this paper but essentially concerns getting the right balance between efficiency of management and political accountability in running services – issues where local government itself has developed over the years: the key requirement is allowing for management ‘space’ to allow for efficiency and innovation, avoiding micromanagement without losing ultimate political accountability. This sort of diversity is different from the diversity which might be allowed by local democratic choice, but is arguably at least as important.

The second way of mitigating these risks lies in the management of any change and this is discussed in our conclusion.

5. CONCLUSION

In our view the time is now ripe to look again from first principles at the relationship between central and local government in a devolved Scotland. The issue has been a persistent unresolved ambiguity in the governance of Britain since the Layfield Committee's choice was rejected in 1976, but experience since then has widened the scope for constructing a mature and positive relation, and so does the opportunity to consider public services more widely than simply those answerable to local government at present. The scale of Scotland and the creation of the Scottish Parliament offer the possibility for a new and better constitutional role for Scotland's local government and governance of our public services. Now may be the time to start down that road.

A Path to Reform?

There is an understandable reluctance to make structural changes in public organisations. Such changes can be expensive and, perhaps more important, when changes to governance are being discussed and implemented, political and management attention is diverted away from issues of service delivery and improvement and into human concerns about responsibility, status or continued employment. Change management is difficult and expensive. That may explain why, since the creation of the Scottish Parliament, there has been little energy devoted to proposals to change either the structure or responsibilities of local government, despite the general recognition that the inherited geographical boundaries are unsatisfactory and misaligned between public bodies, and the discomfort in relations between central and local government.

Nevertheless it is possible to make big changes in the governance of public services without unacceptable effects on service delivery, if this is done properly. The creation of the Scottish Parliament and Executive themselves exemplify that, and one lesson from that undoubtedly successful transition to radically different roles is that the process of change was limited and well defined: not everything changed at once.

Option 6 above however calls for several connected changes to be made, and if it were ever to be implemented without serious disruption this would have to be done in stages. Such a change would be a very major one and needs substantial consultation and development to create a broad consensus that such a rebalancing of the governance of Scotland was needed. Nevertheless the outline of an implementation plan might be as follows:

Changes to *finance and decision making* –

first, empowering Ministers to set budgets for each council for community care and education, based in the first instance on existing spending levels and *second* letting go of all control on spending for other services; both have to be done at the same time if this is not simply to be centralisation. This would require legislation which might review existing capping powers and redefine responsibilities for the services.

Next, there would be a series of *management changes* for the newly centralised services:

- formal agency arrangements between councils and Scottish Ministers for these services; followed in turn by
- review of the geographical boundaries of each service requiring them to be delivered across council boundaries where this made operational sense, e.g. to match NHS boundaries; followed with
- the creation of shadow, then real, management boards for education answerable to Ministers and the transfer of community care responsibilities to the NHS.

Third, the *local government finance system should be simplified* to allow for resource equalisation only and capping powers should be removed from the statute book

In parallel, there need to be changes to *scrutiny and governance*

- First, committees of local councillors should be given an oversight role in relation to NHS performance.
- The official support available to councillors should be redesigned to be in the main support for service scrutiny and integration.
- Also, local authorities should be given a formal right of consultation over NHS budgets and plans and later over senior NHS appointments, and in due course over the delivery of education and community care when these are answerable to Ministers.

Finally, there should be *legislation to entrench the position of local government* in the constitution of Scotland, with full discretion over their own local services and these community leadership and scrutiny roles. This would be the next major step in the process of constitutional change in Scotland of which the creation of the Scottish Parliament was the first and most important.

After this is all in train, and if the appetite remains, one might then consider whether the council tax is the most appropriate form of local taxation to pay for the local element of the central-local settlement. But that would be another story.

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