

The Smith Commission

Purpose

1. The purpose of this report is to update Convention on the recommendations of the Smith Commission and provide an initial assessment of the challenges and opportunities that these may present for Local Government in Scotland.

Recommendations

2. Convention is asked to :
 - (i) Note the key recommendations made by the Smith Commission and the initial assessment of how these relate to the lines of argument set out in COSLA's submission;
 - (ii) Agree the principles set out at paragraph 14 as the initial basis for guiding negotiations regarding the local considerations required to develop and implement the package of powers over the coming period; and
 - (iii) Mandate COSLA officers to initiate negotiations with both the UK and Scottish Governments focused on ensuring that the Smith Commission's commitment to further devolution beyond the Scottish Parliament is strongly reflected in how the proposals are implemented.

Background

3. The Smith Commission reported its "Heads of Agreement" on 27th November, and has structured these around three key pillars:
 - Providing a durable but responsive constitutional settlement for the governance of Scotland
 - Delivering prosperity, a healthy economy, jobs, and social justice
 - Strengthening the financial responsibility of the Scottish Parliament
4. The recommendations are also framed by a wider narrative focused on the governance and accountability issues that Lord Smith has anticipated in relation to how the Commission's recommendations should be implemented.
5. There appears to be a cross party commitment that the Smith Commission's recommendations are translated into legislative clauses by January 2015, and that associated legislation will be introduced following the UK general elections in May 2015. It has been anticipated that such legislation could come into force in 2017, although we also understand that UK Ministers may be able to use existing powers to activate some elements of an agreement more quickly.
6. While information regarding how the Heads of Agreement will be taken forward is still developing, it is already very clear that the package of recommendations set out by the Commission will have substantial implications for Local Government in Scotland, and that a strong local voice will be required to ensure that the process of shaping, delivering and resourcing the detailed proposals will be required.

Smith Commission and Local Government

7. Lord Smith received 408 submissions from organisations, and a further 18,000 submissions from individual citizens. COSLA's submission was built around the approach agreed by the Convention on 31 October and focused on the scope for the Smith Commission to help drive forward COSLA's overall strategic direction and goals.
8. There were two mutually reinforcing components to the case that was set out. The first was an explanation of the opportunities to strengthen local democracy in Scotland, and the advantages that local people will derive from those changes. The second element began to identify the specific powers that require to be exercised locally if that overall vision is to be achieved. In short, we argued that further powers, whether in relation to housing, welfare, employability, taxation or any other area, can only be effective if they put local communities and the institutions of local democracy much more clearly in control of their services, their priorities, and their spending.
9. At the same time, Convention also recognised that because Lord Smith had been remitted to determine what package of powers should be devolved from Westminster to Holyrood and what powers should remain reserved, there was a strong risk that his Commission could be carried out without any reference to local democracy at all and that beyond the courtesy of a degree of consultation, there would be no real position for COSLA and Local Government in this debate.
10. COSLA promoted three over-riding arguments in response to that risk, and these were also reflected in the comments made to Lord Smith when he attended Convention in person on 31 October:
 - The process of governance of Scotland is an integrated system between Parliament, Government, Local Government, and agencies and it would be misjudged to think that changes to one part of the system can be considered and implemented without equal consideration of how changes might affect all the other parts.
 - A great success of the Referendum campaigns was the extent to which a fundamentally greater level of democratic engagement was achieved. To think about the devolution of further powers to Scotland without considering the democratic issues at both a national and local level, and how those powers can be used to best effect locally, would therefore be a significant oversight.
 - One of the key drivers of the Smith Commission is the extent to which new arrangements in Scotland can give rise to better outcomes for local people and local communities. Given that no matter where constitutional responsibility lies outcomes and inequalities can and are only ever delivered at a local level, new powers will not deliver fully for communities without addressing how power is used at the local level.
11. We now know that the basis of these arguments has been heard by the Smith Commission. Indeed, in his Foreword to the report Lord Smith states that:

“There is a strong desire to see the principle of devolution extended further, with the transfer of powers from Holyrood to local communities. This is an issue that will require significant further thought and discussion and I welcome the enthusiasm of all parties for greater empowerment of our communities. The Scottish Government should work with the Parliament, civic Scotland and local authorities to set out ways in which local areas can benefit from the powers of the Scottish Parliament.”

12. In addition, the submissions from each of the parties to the Smith Commission also identified the need to strengthen local democracy and empowerment, and a number either implicitly or explicitly raised the work of the Commission on Strengthening Local Democracy in this regard.
13. Together these developments suggest there is a political will to focus on not just the package of further powers for Scotland, but also the appropriate level for those new powers. Nevertheless, it is unlikely that positive change will come about without considerable work to ensure that those undertakings are translated into reality. A key concern for Local Government is therefore to build on commitments made by the Smith Commission and ensure that our own objectives are at the heart of the substantial negotiations that will inevitably now follow. Some initial discussions have already begun in that regard, and it is anticipated that this process will deepen as legislative drafting arrangements and wider scoping and preparatory work regarding new powers gets underway.
14. While it is too early to determine the specific nature of that process, COSLA's wider strategic objectives suggest that even at this early stage it is likely we will need to begin any negotiations with a number of guiding principles in mind:
 - Firstly, we know that the delivery of much of the package of further powers will have a strong local dimension. Local Government has the expertise and experience to effectively deal with change and must play a strong part in the discussions. So too must new arrangements be sensitive to local circumstances and priorities, and be locally accountable;
 - As our submission made clear, a number of the powers that have been recommended by the Smith Commission have the potential to be further devolved to local level. Our negotiations should therefore start from the expectation that further powers are delivered on the basis of a commitment to subsidiarity and do not automatically default to Holyrood;
 - The arrangements that are put in place to deliver further powers locally must be accompanied with commensurate resources and the flexibility to use these resources to best effect locally.
15. Convention is asked to endorse these initial principles and provide any additional considerations that should guide COSLA's approach at this stage.

Consideration of Specific Powers

16. In addition to setting out the overall case for strengthening local democracy, COSLA also outlined proposals in relation to a range of specific policy areas which the Smith Commission should consider coming to the Scottish Parliament or directly to local government.
17. Our overall argument was that linking a package of powers and services together locally would provide opportunities to improve outcomes and bring together responsibility for those services which drive out inequalities in communities. For example, we argued that there was little point in having a system which provides welfare benefits being driven in a different policy direction than the system that promotes jobs and employability, or a general welfare benefits system that does not have the same objectives as benefits which support housing and homelessness.

18. The remainder of this report provides an initial high level interpretation of how individual elements of the Smith Commission’s report relate to specific policy proposals made by COSLA, and highlights some of the initial considerations that arise for Local Government.

The Welfare System

COSLA Proposal	Smith Commission Proposal		
1. Devolve responsibility for remaining elements of the Social Fund to the Scottish Parliament with administration of Sure Start Maternity Grants, Funeral Payment and Cold Weather Payments by Scottish local authorities	Recommended in Full	Not Recommended	Partially Recommended- negotiation required
			X
<p>COSLA Rationale: Remove the unnecessary bureaucracy that currently exists and provide more locally focused, efficient, joined up, and coherent services to those most in need within communities.</p> <p>Smith Commission Proposals: Benefits which currently comprise the Regulated Social Fund have all been recommended for devolution. The funds are Cold Weather Payment, Funeral Payment, Sure Start Maternity Grant, Winter Fuel Payments and Discretionary Housing payments.</p> <p>Considerations: The Smith Commission’s recommendations are largely aligned with COSLA’s proposals. However at this time there is no indication regarding the extent to which powers will be devolved further to the Local Authority level. Further devolution of this kind would fit with the Integrated Services agenda being taken forward by councils, and may provide synergies around much of the work being undertaken around fuel poverty. Regulated Social Fund payment outcomes could also be improved through integration with the holistic services already being provided by local government via the Scottish Welfare Fund. However as there are existing concerns around administration funding for the Scottish Welfare Fund, it is vital that any new responsibilities are adequately funded, and Local Government will need to make that position clear in forthcoming discussions.</p>			

COSLA Proposal	Smith Commission Proposal		
2. Devolve out of work benefits to the Scottish Parliament and in turn Local Authorities	Recommended in Full	Not Recommended	Partially Recommended- negotiation required
		X	
<p>COSLA Rationale: Transfer of work benefits would enable authorities to provide a holistic package of services to people to support them when they most need it and to help them to move to independence and sustainability.</p> <p>Smith Commission Proposals: Universal Credit (which is designed to bring out of work benefits together) will remain reserved and delivered by the Department for Work and Pensions. However, it has been recommended that the Scottish Government is given administrative powers to vary the frequency of Universal Credit payments and vary the plan for single household payments.</p> <p>Considerations: The power to create a Scottish version of Universal Credit is likely to be seen as a positive opportunity, although some issues over lack of local discretion and integration of services remain a concern. Further discussions and negotiations are required to decide how to use these flexibilities to best effect, and whether their availability can be expedited.</p>			

COSLA Proposal	Smith Commission Proposal		
3. Devolve responsibility for housing benefit to the Scottish Parliament with delivery by Scottish local authorities	Recommended in Full	Not Recommended	Partially Recommended-negotiation required
		X	
<p>COSLA Rationale: Reduce policy inconsistencies, promote greater synergy and make better use of the public pound in line with public policies on affordable housing, housing supply, homelessness, housing support and specialist provision of temporary and supported accommodation.</p> <p>Smith Commission Proposals: Housing Benefit will not be devolved as a separate benefit to Scotland but Scotland will get the power to vary the frequency of Universal Credit payments, the plans for single household payments and the ability to pay landlords direct for housing costs. The powers would also allow Local Government to vary the housing costs element of Universal Credit, including the under-occupancy charge, local housing allowance rates, eligible rent, and deductions for non-dependents. This would allow Scotland to effectively abolish the “bedroom tax”.</p> <p>Considerations: The flexibilities recommended for Universal Credit should remove much of the potential risk to rental incomes to councils and social landlords. Moreover, assuming full Universal Credit is rolled out for the rest of Britain, this arrangement retains the advantages of the single taper, which might otherwise have been compromised. Further discussion and negotiation is required with UK and Scottish Government to assess whether such flexibility can be introduced as quickly as possible. Risks to funding of Temporary Accommodation remain and further work is required work with Scottish Government to ensure that Scotland does not lose out when costs for Supported Accommodation are localised under Universal Credit.</p>			

COSLA Proposal	Smith Commission Proposal		
4. Devolve Disability Living Allowance and Personal Independence Payment, Attendance Allowance and Carer’s Allowance to Scottish local authorities for use in supporting disabled people, frail older people and carers	Recommended in Full	Not Recommended	Partially Recommended-negotiation required
			X
<p>COSLA Rationale: Improve synergy with existing statutory duty to support people who are disabled or frail by offering them a personal budget, and forthcoming legislation placing similar duties on councils to support carers in the same way.</p> <p>Smith Commission Proposals: Attendance Allowance, Carer’s Allowance, Disability Living Allowance (DLA) / Personal Independence Payment (PIP), Industrial Injuries Disablement Allowance and Severe Disablement Allowance have all been recommended for devolution. The Scottish Parliament will have complete autonomy in determining the structure and value of these benefits or any new benefits or services which might replace them. For these benefits, it would be for the Scottish Parliament to agree a delivery partnership with DWP or set up separate Scottish arrangements.</p> <p>Considerations: The recommendations of the Smith Report suggest political agreement that health and care benefits are fully devolved to the Scottish Parliament. However, there is no indication as yet regarding the appetite for these powers to be further devolved to Local Authority level.</p> <p>People who use social care services often have heavily fragmented and disjointed financial support mechanisms to help meet the costs of their disability, frailty or caring responsibilities. Many will often draw down support from local authority social work departments, NHS Scotland and the DWP, but access to that support doesn’t take place via a single assessment, and nor does it lend itself to the configuration of a personal budget that can be framed in a way that supports personal outcomes. As such, Local Government may wish to argue for a solution that ensure that Councils have the responsibility for <i>assessment</i> (providing a gateway to a range of resources) and - where relevant - <i>care planning</i> (through social work), thereby ensuring that mainstream benefits connect with Local Authorities’ wider duty of care.</p>			

COSLA Proposal	Smith Commission Proposal		
5. Devolve to Scotland the power to decide how to support incomes of families, including current measures such as child benefit, tax credits and childcare vouchers	Recommended in Full	Not Recommended	Partially Recommended-negotiation required
		X	
<p>COSLA Rationale: To consider current and future ways that the income of families is supported through benefits, tax breaks and other incentives, including current measures such as child benefit and tax credits and mechanisms such as child care vouchers.</p> <p>Smith Commission Proposals: Child Benefit is to remain reserved to the UK Government. Tax credits, including child tax credit, are also to remain reserved and will eventually be replaced by Universal Credit. Childcare vouchers are not specifically mentioned by the Smith Commission report. However, the section on income tax does state that the ability to introduce and amend tax reliefs remains reserved to the UK Government. It is likely that this includes measures such as childcare vouchers.</p> <p>Considerations: COSLA's submission recognised that control over the policy to create mechanisms such as child benefit, tax credits or childcare vouchers does not offer a direct solution to the challenge of funding quality childcare. However, we suggested it provides additional financial levers that could assist the expansion of flexible and affordable opportunities for families.</p> <p>In Scotland the position is likely to be unchanged by the Smith Report and full time early learning and wrap around childcare for children under five will continue to be met by contributions from public money and by families. Families will continue to receive UK benefits as before. The Smith Commission's report also suggests that Scottish policy on childcare will focus on funding services directly from public money and not on incentivising affordable childcare through other mechanisms such as benefits and tax breaks.</p>			

Employment and Employability

COSLA Proposal	Smith Commission Proposal		
6. Devolve employability resources and policy to Local Authorities in Scotland	Recommended in Full	Not Recommended	Partially Recommended-negotiation required
			X
<p>COSLA Rationale: To create an organisational, financial, regulatory and business support environment that encourages and supports the ambition and potential to grow and create new and sustainable jobs, especially for young people.</p> <p>Smith Commission Proposals: Recommended that the Scottish Parliament will gain control over support to unemployed people through the employment programmes currently contracted by DWP (such as Work Programme and Work Choice). All other elements of the JobCentre Plus service will remain reserved.</p> <p>Considerations: There is little clarity in the recommendations on the scope of control that will transfer to Scotland, whether the budgets will be devolved fully and flexibly, or whether there will be restrictions on how Scotland utilises the budgets. Further devolution of these programmes to local authorities would be a key objective as the objective of local integration of services is not automatically secured through devolution to the Scottish Parliament alone.</p>			

Housing

COSLA Proposal	Smith Commission Proposal		
7. Devolve full fiscal autonomy for the Affordable Housing Supply Programme budget to local government	Recommended in Full	Not Recommended	Partially Recommended-negotiation required
			X
<p>COSLA Rationale: To allow effective strategic planning of new and improved housing by addressing the local inflexibilities posed by challenge funding and by ensuring freer access to Energy Companies Obligations, and increase the predictability of the resources that local authorities would have by linking fuel poverty, energy efficiency and carbon reduction.</p> <p>Smith Commission Proposals: Devolution of powers to determine how supplier obligations in relation to energy efficiency and fuel poverty are designed and implemented in Scotland, such as the Energy Company Obligation and Warm Home Discount. The mechanisms through which the money is raised will remain a reserved matter. It seems likely that Scotland will retain its current share of the total ECO and similar resources.</p> <p>Considerations: The proposals leave unresolved issues regarding the Affordable Housing Supply Programme and it is likely that Local Government will wish to continue to make the case for the budget to be devolved to councils, for Local Government engagement or control in shaping fuel poverty / energy efficiency policies to be strengthened, and for energy efficiency budgets to be merged into the longer term funding mechanism for councils and RSL housing support.</p>			

Producer Responsibility

COSLA Proposal	Smith Commission Proposal		
8. Devolution of Producer Responsibility legislation to Scottish Parliament	Recommended in Full	Not Recommended	Partially Recommended-negotiation required
		X	
<p>COSLA Rationale: To help facilitate locally effective approaches to the Zero Waste and Circular Economy programmes being implemented by Scottish local authorities by devolving responsibility for the statutory regime covering the collection and disposal of waste materials to the Scottish Parliament.</p> <p>Smith Commission Proposals: The Smith Commission does not make any explicit mention of this.</p> <p>Considerations: There may be some scope to develop COSLA's proposals through the Smith Commission's recommendations regarding representation of the Scottish Government as part of the UK in the negotiation of the relevant European Union Directives from which producer responsibility regimes are transposed into Scottish law.</p>			

Consumer Protection

COSLA Proposal	Smith Commission Proposal		
9. Devolution of Consumer Protection to the Scottish Parliament and Scottish Local Government	Recommended in Full	Not Recommended	Partially Recommended-negotiation required
			X
<p>COSLA Rationale: To strengthen the links to community health and wellbeing and target services more effectively on the most vulnerable members of local communities via the devolution of all aspects of consumer protection to Scotland.</p> <p>Smith Commission Proposals: Recommendation that consumer advice and advocacy are devolved. Scottish Ministers will also have the power to request a second full phase investigation, once an initial market study of competition issues has been completed, in relation to particular competition issues arising in Scotland. In addition, the Scottish Parliament will have powers to prevent the proliferation of Payday Loan shops.</p> <p>Considerations: Further clarity is required to ascertain whether the scope of these proposals is</p>			

confined only to the functions currently carried out by Citizens Advice Scotland (appointed champions of consumer advice and advocacy by the UK Government), or includes the responsibility that local authority Trading Standards services have for second tier consumer advice and conciliation services, and consumer protection enforcement. Consumer advice and enforcement are intrinsically linked, and while devolution of consumer advice but not enforcement does not preclude the flow of information between different aspects of the service, it may lead to disjointed working. Similarly, if the enforcement arm of consumer protection is not devolved, then it may be a missed opportunity for Local Government to strengthen an already partially devolved function.

It would seem likely powers regarding Payday Loan shops will be delivered through local planning legislation and further discussion will be required to clarify how such powers might be realised.

Crown Estate

COSLA Proposal	Smith Commission Proposal		
10. Devolve Crown Estate operations and associated revenues to Local Government	Recommended in Full	Not Recommended	Partially Recommended-negotiation required
	X		
<p>COSLA Rationale: To deliver economic benefits and improve social capital by involving communities in decisions that directly affect their local 'place' through the devolution of the Crown Estate operations and associated revenues to local authorities.</p> <p>Smith Commission Proposals: The Heads of Agreement outlines that responsibility for the management of the Crown Estate's economic assets in Scotland and the revenue generated from these assets should be transferred to the Scottish Parliament, and outlines that following this transfer, responsibility for the management of those assets will be further devolved to local authority areas.</p> <p>The Commission also proposes that a Memorandum of Understanding between UK and Scottish Governments is put in place in relation to defence and security, oil, gas and energy in relation to Crown Estate's foreshore and sea beds assets.</p> <p>Considerations: The Smith Commission appears to reflect the main elements of COSLA's proposals, and negotiations will be undertaken on the basis of ensuring that these are expedited quickly and fully.</p>			

Gambling

COSLA Proposal	Smith Commission Proposal		
11. Devolve Gambling policy and regulation to Scottish Parliament, with appropriate local arrangements for decision making and enforcement	Recommended in Full	Not Recommended	Partially Recommended-negotiation required
			X
<p>COSLA Rationale: To ensure appropriate local arrangements for decision making and enforcement in order to develop core licensing objectives which reflect Scottish circumstances and local priorities on tackling gambling, and better address the relationship between gambling and deprivation and other socio-economic factors.</p> <p>Smith Commission Proposals: The Smith Agreement recommends that the Scottish Parliament will have the power to prevent the proliferation of Fixed-Odds Betting Terminals.</p> <p>Considerations: The context for COSLA's proposal was that the Gambling Act 2005 removed the ability of local authorities to address the issue of the clustering of betting shops within local communities and guided local licensing authorities to permit their use provided that core licensing conditions are met. There is no further reference to wider gambling licensing issues in the Smith Commission, and so the outstanding lack of power for councils in regulating the supply of betting shops requires to be addressed in this context.</p>			

Planning and Energy Policy

COSLA Proposal	Smith Commission Proposal		
12. Devolve Energy Consents applications [plus 50MW] to Local Authorities Devolve planning/consenting for all energy policy to the Scottish Parliament Devolve further planning powers to Local Authorities	Recommended in Full	Not Recommended	Partially Recommended-negotiation required
		X	
<p>COSLA Rationale: COSLA proposed that all energy planning and consenting issues be devolved to ensure that decisions are taken at the most appropriate levels and further enhance the role of local representation and participation in place-making. This was contingent upon associated energy consent applications over 50MW, and further planning powers in relation to local development planning being devolved to Local Government by Scottish Government.</p> <p>Smith Commission Proposals: Recommendation that the Scottish Government and the Scottish Parliament will have a formal consultative role in designing renewables incentives and the strategic priorities of the Energy Strategy and Policy Statement, to which OFGEM must have due regard. Licensing of onshore oil and gas extraction under Scotland will be devolved to the Scottish Parliament, with offshore licensing remaining reserved. The responsibility for mineral access rights for underground onshore extraction of oil and gas in Scotland will be devolved to the Scottish Parliament.</p> <p>Considerations: Unlike the Crown Estate, the report makes no further statement on the further devolution of responsibilities to local authorities in relation to the consenting of energy infrastructure or exploration, notably large-scale on-shore wind farms or on-shore unconventional oil and gas extraction. Local Government is likely to wish to strongly make the case for this to take place as part of the package of measures that are agreed.</p>			

Transport Policy

COSLA Proposal	Smith Commission Proposal		
13. Devolution of Transport Policy to Scottish Parliament	Recommended in Full	Not Recommended	Partially Recommended-negotiation required
			X
<p>COSLA Rationale: To support the development of a fully integrated transport strategy that meets the differing needs across Scotland and promotes sustainable route development, business, tourism, and connectivity in order to grow local economies.</p> <p>Smith Commission Proposals: The Smith Commission proposes a formal consultative role for the Scottish Government in setting the strategic priorities for the Maritime and Coastguard Agency and Northern Lighthouse Board, alongside the power for Scottish Ministers to appoint a member to an Advisory Board and a Commissioner respectively.</p> <p>The power to charge tax on air passengers leaving Scottish airports will be devolved to the Scottish Parliament. The Scottish Government will be free to make its own arrangements in designing and collecting the tax, but while a new tax is put in place by the Scottish Parliament, the Scottish Government will reimburse the UK Government for any costs incurred in “switching off” the current Air Passenger Duty tax in Scotland.</p> <p>The power to allow public sector operators to bid for rail franchises funded and specified by Scottish Ministers will be devolved to the Scottish Government. Remaining powers to change speed limits will be devolved to the Scottish Parliament, alongside powers over road traffic signs. All aspects of Fuel Duty will remain reserved.</p> <p>Considerations: The Smith Commissions does address any devolution below Scottish Parliament but discussions will be needed in terms of how these new powers can be utilised via the national transport strategy process.</p>			

Equal Opportunities

COSLA Proposal	Smith Commission Proposal		
14. Devolve equal opportunities to the Scottish Parliament with potential further subsidiarity discussions to follow.	Recommended in Full	Not Recommended	Partially Recommended-negotiation required
		X	
<p>COSLA Rationale: To improve cohesion in Scotland's approach to equalities as part of a joined up approach to tackling poverty and reducing inequality in communities across the country, and create the potential for public bodies to consider the socio-economic impact of their policies.</p> <p>Smith Commission Proposals: The Smith Commission has concluded that equalities will remain reserved. However, the Heads of Agreement does outline that the powers of the Scottish Parliament will include, but not be limited to, the introduction of gender quotas in respect of public bodies in Scotland. The proposal also appears to restate that the Scottish Parliament can legislate in relation to socio-economic rights in devolved areas, but does not appear to extend existing powers.</p> <p>Considerations: The potential mechanism for devolving the specific gender quota and further specific equality powers to the Scottish Parliament is unspecified. This may take the form of a legislative consent motion (which the Smith Report proposes is placed on a statutory footing), which allows the UK Parliament to pass legislation to grant Scottish ministers executive powers in regard to reserved matters such as via the Equality Act.</p>			

Migration Policy

COSLA Proposal	Smith Commission Proposal		
15. Devolve powers to the Scottish Parliament in relation to the points-based migration system	Recommended in Full	Not Recommended	Partially Recommended-negotiation required
			X
<p>COSLA Rationale: To allow local communities to access the range of benefits that migrants can bring to local areas in terms of skills, economic impact, diversity, and viable provision of services.</p> <p>Smith Commission Proposals: The Smith Commission does not recommend devolution of the migration system but does recommend that the Scottish and UK Governments work together to explore particular flexibilities to: allow international foreign graduates to remain in Scotland; extend the temporary right to remain in Scotland for victims of human trafficking; introduce Scottish powers with regard to asylum seekers' access to accommodation, financial support and advice; allow asylum seekers to lodge their claims within Scotland; and enable MSPs to make direct representations to UK Visas and Immigration and Immigration Enforcement on behalf of their constituents.</p> <p>The report also recommends that the management and operation of reserved tribunals associated with immigration and asylum is devolved to the Scottish Parliament, although this does not include the Special Immigration Appeals Commission.</p> <p>Considerations: While the issues for further consideration are unlikely to be problematic for local government (and are generally to be welcomed), the introduction of specific Scottish powers in relation to the provision of accommodation for asylum seekers could have a direct impact upon council services. Asylum accommodation in Scotland is currently provided by private contractors on behalf of the Home Office. This model of service provision, coupled with significant reductions in government funding, has placed increasing pressure on statutory services which receive no direct funding for the role that they play in hosting asylum seekers in their communities. Local government must therefore be directly involved in discussions about the future provision of accommodation and associated services to ensure that sustainable models of service delivery can be developed which genuinely improve outcomes for these highly vulnerable individuals and families. COSLA officers have already initiated discussions on this basis.</p>			

European and International Policy

COSLA Proposal	Smith Commission Proposal		
16. To protect the role of Scottish Local Government in EU and international matters as part of Scotland's developing constitutional arrangements	Recommended in Full	Not Recommended	Partially Recommended- negotiation required
<p>COSLA Rationale: A multi-level governance approach to subsidiarity to improve how EU legislation affecting local communities is addressed in Scotland and the UK</p> <p>Smith Commission Proposals: The Smith Agreement retains EU relations as a reserved matter. However it makes clear that in formulating the negotiating position of EU policies and legislation and their implementation there is a strong place for existing intergovernmental arrangements between the UK and Scottish Governments and for better cooperation between both Parliaments.</p> <p>Considerations: The Smith proposals do not specifically address the role of Scottish Local Government, but nor do they rule it out. Lord Smith's recommendation that further devolution should accompany the Commission's package of powers should therefore equally apply to how Local Government engages in EU policy and law. This would drive forward the stable arrangements for EU policy and legislation specifically affecting councils that COSLA has called for and mirror those already in place many other European countries. Ongoing discussions with Scottish civil servants have provided a basic framework for cooperation on EU matters that we hope can now be formalised.</p>			X

Communications Bulletin

Convention received an update on the Heads of Agreement agreed by the Smith Commission and an initial assessment of the how these relate to the lines of argument set out in COSLA's submission to the Commission. The report also asked Convention to endorse a set of principles designed to guide local considerations in relation to the detailed negotiations that will be required to develop and implement the package of powers over the coming period.

COSLA
December 2014