



The Jimmy Reid  
Foundation

# Government By The People

The Final Report of the Commission on Fair Access to  
Political Influence

## Summary Report



October 2013

## Background

The Jimmy Reid Foundation established the Commission on Fair Access to Political Influence to examine whether government in Scotland gave real access to decision-making to different kinds of organisation and to the public. It was Chaired by Larry Flanagan, the General Secretary of the Educational Institute of Scotland. The other members of the Commission are:

- Will Dinan, an academic specialising on lobbying
- Daniel Johnson, a small business owner
- Cathy McCormack, a poverty campaigner
- Suki Sangha, a young activist
- Willie Sullivan, Scottish Director of the Electoral Reform Society Scotland
- Jean Urquhart, an MSP and activist from North of Scotland

The Commission developed this report in three ways:

- It made an open call for organisations and individuals with an interest in influencing the Scottish Parliament to submit their experiences and to tell us what changes they would make
- It carried out interviews with academic experts in the field of participative democracy
- It met to discuss its own experiences and views

The Commission received just under 30 detailed submissions and undertook over a dozen detailed interviews. However, this final report is not intended to be a summary of all the views received or to be an academic literature survey. Rather, in producing it the Commission has learned from the experiences of others and has drawn from their ideas and expertise in developing a set of proposals. These are the views and opinions of the Commission itself which we hope have captured the experiences of others. It has focussed on existing best practice from around the world and sought to describe these in the context of the Scottish Parliament.

## Two guiding perspectives

The Commission believes the issue of unfair access to policy-making is best described by the following quotation adapted from one submission:

“The answer is not to look for ways in which smaller organisations can lobby to try to

compete with the bigger corporations. That doesn't have a public deliberation side at all, it's a free-for-all of private interests. We must pursue the political *integration* of the citizen in decision-making, as opposed to simply improving the fairness of the mechanisms of political *influence* currently utilised."

We therefore carried out the work of this Commission based on a fundamental principle:

The state is nothing more than an agreement between its citizens. If the state loses the consent of its citizens it loses its legitimacy. It is therefore a principle of the highest order that the state should seek to use any mechanism possible to better reflect the will of citizens and to ensure that at all times it governs with consent.

## **Main findings**

The Commission received a wide range of views on how people experience the process of trying to influence politics and what practices, systems and structures make it difficult. Detailed discussion of these findings can be found in the main report.

## **Five Replacement Practices**

There is a very wide range of issues explored in the main findings. However, the Commission has been determined to avoid a lengthy wish-list which is cherry-picked at best and ignored at worst. We also wish to avoid proposing processes which are easy to subvert, such as 'further studies', 'additional consultation' and 'small-scale pilot programmes'. We believe that the smaller the number of proposed actions, the more chance we have of people becoming aware and familiar with them; we believe this provides the best chance for new ideas to become part of the debate.

So we wish to concentrate on five specific calls for a change in action. We present these very carefully; each is deliberately described in terms of 'a strong presumption towards...'. This is for a specific reason. The Commission does not wish to call for pilot projects to test the 'proof of concept' of these approaches, partly because they have all been piloted and proved elsewhere and partly because there is a need for these approaches to be mainstreamed as quickly as possible. Parking them in a 'pilot programme' risks seeing them disappear. However, it is also the Commission's aim to describe these approaches as simply and as flexibly as possible. This is in part to avoid overly-prescriptive determination of practices that should vary according to context, but it is also to ensure the maximum clarity about what is trying to be achieved.

To remove ambiguity and reason for prevarication, we present a very specific suggested approach to reform:

There should be wide-ranging reform as the normal processes of government and decision-making take place. To ensure that reform happens, specific 'trigger moments' are defined. As soon as these defined 'trigger moments' are reached, the design of the process should

immediately act with a 'presumption towards' the new approach. Where a decision is made not to follow that new approach there should be a clear statement of why that decision has been made. In time confidence and expertise will grow such that these cases become the exception rather than the rule.

The following are the five replacement practices that we believe should be pursued. In each case we outline a clearly-defined 'trigger moment' at which that new practice should be integrated into the process of government. We have deliberately kept these short and specific. We are simultaneously publishing an Annex Document which contains extended information on how each of these processes work for those who wish more detail.

## **Replacement Practice One: Decentralisation**

*Trigger: when a decision must be taken about where responsibility for a function or a power should lie*

The closer decisions are made to those they affect and to those with a democratic right to determine the form of the decision, the better that decision is likely to reflect the will of those whose consent is required. Scotland is extremely centralised; the lack of meaningful community-level democracy is an invitation to bad government. There must be an additional layer of local democracy which is administered close to the places where people live and which is and given consent directly and closely by those being governed.

Whatever democratic and governance structures exist at the point where powers and responsibilities have to be allocated there should be a strong presumption that they should be allocated at the lowest level of government possible. In other countries policy and budgets for everything from local transport and childcare to local hospitals are successfully managed at a level of democracy we would call Community Councils.

*Further information: Annex A of Annex Document*

## **Replacement Practice Two: Democratisation**

*Trigger: when a decision must be taken about governance such as the establishment of a governance mechanism or an appointment to a governing body*

There must be an assumption towards democratic mandate wherever governance is being developed or managed. There is no reason to avoid giving a democratic and participative mandate to the enactment of public policy – although there is some flexibility in defining the 'community' which should give consent which need not be the entire electorate on every occasion. The following are some examples:

- Where a function is a core public function carried out on behalf of citizens with public money, it must be assumed that this is carried out with democratic governance. This means an end to unelected NDPBs, ALEOs, contracted-out services which have a policy element or other forms which have previously been used to move public services out of democratic control.
- Where a governing body exists there should be a strong presumption of a democratic mandate for appointments of individuals to that body and a strong presumption against patronage. University communities can elect their University Courts, people could be allowed to register as 'friends of Creative Scotland' or 'friends of the National

Galleries' and vote for their board and so on.

- Where there are public posts such as Commissioner for Children or Science Advisor there should be candidates and an election.

*Further information: Annex B of Annex Document*

## **Replacement Practice Three: Ethical Consultation**

*Trigger: when it is decided that views of groups outside of the decision-making body is required*

When policy-makers conclude that they require to inform themselves of external opinion, the process of acquiring and assessing that opinion should be carried out independently of the policy-makers to avoid conflicts of interest or leading consultations. An independent body should be set up with independent governance which would have the duty of carrying out the most ethical form of consultation possible. This body should follow best practice in forming open questions and supporting people to make informed responses with consultees invited to indicate whether final assessments accurately reflects their views and a right to include dissenting views where it does not. This is important in ensuring that 'organised opinion' is accurately reflected at the earliest possible stage in the development of policy. It is also essential to ensuring that 'unorganised opinion' is properly assessed and included.

*Further information: Annex C of Annex Document*

## **Replacement Practice Four: decisions made by mini-publics**

*Trigger: when a decision has to be made or advice given on a subject where conflicting views have to be arbitrated*

At the moment, when decisions have to be made or advice given on decisions which are contested or where policy-makers want some form of arbitration, the practice is to set up an inquiry or committee of investigation, generally made up of appointments made on the basis of perceived expertise. This often just means 'half a dozen people from one sector all agreeing with each other but not reflecting wider opinion'. This would be unacceptable in determining guilt or innocence in a criminal trial irrespective of the expertise of the individuals; it should be considered equally unacceptable in public policy. Instead, as in criminal trials, a process of 'mini publics' should be followed.

Mini-publics are a means of answering the question "how would an informed cross-section of the public address this issue after balanced learning, substantial deliberation and considered judgement?". These processes do not dispose of the input of leading experts; they are called to give evidence to and inform the conclusions of the 'mini-publics'. There are a number of forms of 'mini public' including citizens' juries, planning cells, consensus conferences, deliberative polls and citizen assemblies. All of these are explained in detail in Annex D of the Annex Document which reproduces a paper commissioned by the Commission from participative democracy experts Dr Stephen Elstub and Dr Oliver Escobar. It outlines how they work, what they cost and the impact they have had. It makes a clear case that, contrary to established views that they are 'expensive and time-consuming' they are in fact less expensive to run and quicker to report than alternatives.

*Further information: Annex D of Annex Document*

## **Replacement Practice Five: participatory budgeting**

*Trigger: when funding has to be allocated and budgets decided*

Few issues more directly impact on the aspects of public policy that matter to citizens than the allocation of resources. Currently this is done almost entirely on an exclusive basis with consultation amounting to little more than a battle between vested interests bidding for resources. Instead, a proper process of participatory budgeting enables citizens to inform budgetary decisions on the basis of their own priorities. This practice is less developed than most of those explored under 'mini publics' but has been used in some large-scale pilots and exploratory models. However, the practice has proven to be effective and popular and approaches to participatory budgeting should be developed in Scotland.

*Further information: Annex E of Annex Document*

## **Making a start**

If this agenda is to make progress, there are things that must happen:

- First and foremost, there must be political consensus and a political will to make this happen. There are some enlightened bureaucracies in Scotland and the Commission has had some initial and informal conversations with public organisations that are interested in innovating democratic practices. However, it is of course inevitable that these enlightened bureaucracies are the least likely to be priorities for reform and those where democratic failure is greatest are most likely to be resistant to democratic reform. As a whole, the 'administrator class' has been identified as a significant part of the problem and so cannot be relied on to 'self-reform'. The only means of ensure change will happen is if there is democratic political will to make change happen. Cross-party support for these reforms will be crucial.
- However, the Foundation is very keen to work with those enlightened public bureaucracies and to offer them any support we can to innovate practice. It is hoped that a few really good, virtuous examples of change will inspire others.
- If political consensus can be achieved, it is then for the Scottish Government to offer guidance to public organisations to pursue this change agenda, to legislate in any occasion where that is necessary and regularly to monitor progress.
- As change begins to happen there must be continuous assessment made of the institutional capacity to use new modes of decision-making. Training, support and development must be offered to all parts of public Scotland to make sure they are able to innovate effectively.
- Once change has begun, it would of course be ironic if success and failure are a matter of self-reporting on the part of bureaucracies. The wider public must be drawn into a genuine discussion about whether this is achieving a more open, transparent and consensual form of governance.

While this agenda is designed primarily to reform existing processes of government, we also

believe there is an immediate opportunity to use the techniques outlined in the context of the constitutional debate. Since the proposals contained in this report are about seeking 'light' where there is currently shade, the state of the constitutional debate would appear to be ripe for enlightenment. Using processes of 'mini publics' and 'ethical consultation' may greatly benefit the quality and indeed the direction of the debate. However, action would need to be pursued urgently.

## Conclusion

One contribution to the Commission described the goal of democratising decision-making as follows:

"Scotland needs a community-led economy underpinned by redistribution of power via substantial community participation in decision-making and agenda-setting, with a state that underwrites community solutions."

The Commission believes that this is an admirable and succinct attempt to describe the outcome that a genuinely radical democratisation of Scotland could achieve. This Commission was established prior to the development of the Reid Foundation's Common Weal Project. While it was not conceived in that context and while much of the work was completed prior to the Project's launch, we see this report as a crucial part of a Common Weal approach. It is the ability of democracy – the view of the people – to moderate and balance commercial and elite power – the view of the very rich – which will rebalance society and the economy. If we take the 'wisdom' of commercial interests at face value and give them a status much higher than that of the members of our society, we would expect to see certain outcomes. For example, increasingly inequality and poverty, massively increasing corporate profits, increasing deregulation and profiteering, declining public services which are increasingly fragmented and outsourced, reductions in social cohesion, alienation and apathy. This is a fairly accurate description of 21st century Britain. The Common Weal alternative would instead prioritise the 'wisdom of citizens'. We believe the proposals in this report are a first large step towards prioritising that wisdom. We would expect the result to be a reversal of the social and economic phenomena described above. Certainly, that is the experience of places which have adopted these approaches.

Scotland must decide whether democracy is an inconvenience or whether democracy offers us a path forward to a better society. If we decide that democracy is a reason for hope, we must stop allowing administrators to treat it as an inconvenience. That requires action. This report suggests what that actions should be.

We very much hope it survives the 'black box'.



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