

# Help strengthen democracy and improve outcomes

A Member's Bill to incorporate the European Charter of Self Government into law is a huge opportunity for national and local government to work together to improve lives across the country, and give Scotland's communities rights that are already commonplace internationally.

That's why we are asking for your support to make it happen.



## Councillor Alison Evison, *President*

On behalf of COSLA, I would like to welcome you back from your summer recess.

As we look to the year ahead, I want to draw your attention to Andy Wightman MSP's consultation on a draft proposal to introduce a Member's Bill to incorporate the European Charter of Local Self Government into law in Scotland, which closes on 21 September.

This would not be a symbolic or technical step. Legislation would make a huge difference to how we 'do' democracy here in Scotland. In fact, across the political spectrum in COSLA we believe it's one of the keys to transforming outcomes and empowering citizens in all our communities.

Not only that, but it's also a chance to renew Scotland's long and proud history of local decision making, build on the founding principles of the Scottish Parliament, and introduce democratic rights that many other countries already enjoy.

That's why we have produced this short briefing on the Charter, and why we are asking you to give the consultation the support it needs.



READ COSLA'S  
FULL RESPONSE AT  
[www.cosla.gov.uk](http://www.cosla.gov.uk)



FIND OUT ABOUT  
ANDY WIGHTMAN'S  
CONSULTATION AT  
[www.europeancharter.scot](http://www.europeancharter.scot)



# What is the European Charter of Local Self Government?

**The Charter of Local Self-Government is part of the treaty framework which agrees minimum legal standards in a range of areas across the 47 members of the Council of Europe. For example, the European Court of Human Rights is part of the same framework.**

The Charter's purpose is to bring power closer to local people and set out the basic local democratic powers and freedoms they should enjoy. In doing so it guarantees the political, administrative and financial independence of local authorities to work in the interests of the local population, acting within the limits of the law.

All other Council of Europe members have signed and ratified the Charter, but while the UK signed in 1998, it has never been enacted in domestic law.

For the avoidance of doubt, this is not a Brexit issue. It was the UK's membership of the European Union, not the Council of Europe, which was subject to the referendum in June 2016.

Formally, by leaving the EU, the UK would join the existing 19 non-EU states which belong to the Council of Europe.

**READ THE CHARTER  
IN FULL AT**  
<https://www.coe.int/en/>



# Four key reasons to incorporate the Charter into law

**Council Leaders from across Scotland have already unanimously agreed COSLA's response to the Member's Bill consultation, setting out in detail the crucial difference that incorporation could make.**

You can read this in full [here](#). In summary, we believe that there are four key reasons why Scotland should incorporate the Charter.

## 1. IT WOULD IMPROVE THE OUTCOMES THAT NATIONAL AND LOCAL GOVERNMENT CAN DELIVER

COSLA is fundamentally committed to improving outcomes across Scotland, and co-signed the revised National Performance Framework in June 2018. But if we are serious about delivering this, then we should be equally serious about modernising how national and local government work together to achieve it.

Incorporation of the Charter into law is therefore the next step on Scotland's progressive focus on improving outcomes.

National elected government has a clear mandate to set outcomes for the nation and protect our rights as citizens. However, to successfully deliver these, local and national government need to work with communities in ways that suit their local circumstances and priorities. After all, there is now a broad consensus across the political spectrum that what works best in small rural areas does not always fit Scotland's cities, just as the challenges and opportunities in our towns are not the same as on our islands.

Incorporation of the Charter would create a new relationship between national and local government which recognises the diversity of our communities, and which galvanises and strengthens a more progressive, participative and effective approach to their needs and priorities.

## 2. IT WOULD GIVE SCOTTISH COMMUNITIES RIGHTS THAT ARE ALREADY COMMONPLACE INTERNATIONALLY

The Charter is the benchmark international treaty for protecting the rights of local authorities and the right of local people to participate in their decisions. Its principles are already recognised in the domestic legal systems of the other 46 members of the Council of Europe. As the sole member yet to do so, we are therefore significantly out of step with most other European countries.

Incorporating the Charter into law would allow Scotland to join this international democratic family and for the first-time guarantee Scotland's local communities the kind of local choices and democratic controls that are already taken for granted elsewhere. In these countries, local democracy is not something to be debated; it is simply part of how governments work.



### **3. IT WOULD BUILD PARTNERSHIP WORKING INTO SCOTLAND'S GOVERNANCE FOR THE FIRST TIME**

Despite the establishment of the Scottish Parliament 19 years ago, there is currently no overall framework setting out the standard 'rules' by which national and local government should work together.

That is not to say that good partnerships do not exist at the moment, or that the Scottish Government does not often choose to empower local decision making. However, this partnership does still depend on the goodwill and assent of the national government of the day.

At the same time, the roles of the Scottish Parliament and Scottish Government have developed significantly, and there is a strong and growing approach to local engagement and community decision making. The role of local government in this democratic evolution now needs to be addressed too.

Incorporation of the Charter would rebalance the relationship and pave the way for a stronger, more long term, and more equal partnership between local and national government, and communities, with all of the benefits for everyday custom and practice that this would deliver. Much like legislation on equalities or public smoking, the law would provide a legal back stop, but its most significant impact would be to create and embed a partnership approach to policy making, political culture and working practices.

### **4. IT WOULD ENSURE THAT SCOTLAND FULLY COMPLIES WITH INTERNATIONAL TREATY OBLIGATIONS**

Finally, incorporation in law would enable Scotland to fulfil its outstanding international treaty obligations.

While the Scotland Act 1998 provides that international relations are reserved matters, it does not reserve observing and implementing these. For 20 years, governments in Scotland have therefore been able to pursue the Charter's requirements. Over that time, UK and Scottish Governments have translated other treaty obligations such as to protect the environment, promote consumer safety and give people 'data rights'. Rights to local self-governance should be treated no differently.

This is not about creating the conditions for conflict. Incorporation would create possible legal checks and balances, but the practical impact would be a new imperative for national and local spheres of government to work together on shared issues by default.

Nor would incorporation of the Charter mean significant change to the current landscape; as rapporteur visits have confirmed, Scotland has been broadly compliant with most of its articles. In fact, nothing about the Charter would unilaterally change specific policies or laws, or make any other changes that are rightly a matter for democratic debate and discussion.



# How you can help

With the publication of Scotland's revised National Performance Framework, we believe that there has never been a better time to embed and protect the partnership between national and local government. The Charter offers a ready-made, internationally recognised vehicle for doing just that.

That's why COSLA is inviting you to join us in supporting the initial Members' Bill consultation. To help achieve this you can:

- Read Andy Wightman's Draft Proposal at [www.europeancharter.scot/](http://www.europeancharter.scot/)
- Consider COSLA's full response at [www.cosla.gov.uk/](http://www.cosla.gov.uk/)
- Provide any views at [www.smartsurvey.co.uk/s/LocalSelfGovernment/](http://www.smartsurvey.co.uk/s/LocalSelfGovernment/) by 21 September
- Endorse the final proposal once the consultation closes. It will need support from at least 18 MSPs from at least 3 political parties to proceed further.

We'd also be delighted to discuss any aspect of COSLA's views with you in more detail. In the first instance please contact Adam Stewart ([adam@cosla.gov.uk](mailto:adam@cosla.gov.uk) or on 0131 474 9275).



# Find out more about COSLA

Every day of the year, millions of people rely on the services that Local Government delivers.

From funding to housing, roads to early years, and social care to dealing with Brexit, COSLA's job is to champion councils' vital work and secure the resources and powers they need.

There are lots of ways to keep in touch:



## WEBSITE

[www.cosla.gov.uk](http://www.cosla.gov.uk): Our website has much more information about COSLA, and the issues we're working on.



## SOCIAL MEDIA

Follow us on [Twitter](#) (@COSLA) or [Facebook](#) (CofSLA) for the latest news.



## BULLETINS

Watch out for our regular bulletins.

## FEEDBACK AND QUESTIONS

Drop us a line at [info@cosla.gov.uk](mailto:info@cosla.gov.uk) or call 0131 474 9200.



## ANNUAL CONFERENCE

Join us in October for the keynote event in the Scottish Local Government calendar.

## DISCUSS

Get in touch with us to discuss specific themes. We regularly work with national and local politicians to explore issues and develop policies.



## VISIT

Our political meetings are generally hosted in our Edinburgh headquarters, which also have great conference facilities. We've got offices in Glasgow and Brussels too.

