



COSLA GUIDE TO THE EU REFERENDUM

Scottish Local Government influencing the EU agenda

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Foreword

In COSLA's Convention we agreed unanimously and across all our political groups that we would campaign to remain within the European Union for the EU Referendum.



Councillors, representing all our membership, feel that given the social, economic, environmental, political and peace dividends being part of Europe brings this is the right thing to do.

COSLA also feels that the ability to directly influence the EU agenda from within its institutions was an important feature of the current arrangement although it was also felt that these could and must be improved upon, particularly with respect to the role of Scottish Local Government in working with the UK and Scottish Governments and Parliaments.

COSLA will be keen to seek a positive vote and encourages Councillors to campaign for Scotland and the UK to remain in the EU.

After the Referendum, and whatever the outcome, agreement needs to be reached to strengthen subsidiarity and the role of local self-government.

Cllr David O'Neill, COSLA President

Why the EU is so important for Local Government?

Scottish Local Authorities, are on average, the largest in Europe, with one third of the Scottish devolved budget they are the largest employer in the country and the largest provider of public services. All these issues are affected by EU legislation (see below).

How much legislation comes from the EU?

Depends on who you ask and how you count. An often quoted House of Lords study points to between 8% and 84%. An assessment carried out by our Finnish local government peers put it at 50%, similar studies elsewhere give a similar figure or even the often quoted 70%.

COSLA annual EU priorities for this year counts no less than 22 legislative dossiers from environment to EU funding that we are working on. Equally saying that, a percentage of laws come from the EU does not mean that “all” parts of the domestic legislation come from the EU, just that some crucial aspects of it (overall limits or targets, for instance) do come from the EU. Thus what matters is less the number of legislation but the importance of each legislative proposal, as shown below.

What are the benefits of having EU laws?

EU laws creates a level playing field that both raises standards EU wide (e.g. the environment), prevents protectionism (e.g. limits to state aid and open, competitive tendering). In some areas having international legislation is particularly necessary to deal with transnational matters (e.g. air quality, marine pollution, waste shipments)

What is Subsidiarity?

COSLA strongly defends the subsidiarity principle whereby *“the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level”* as well as the principle of Proportionality. Subsidiarity is at the centre of our European work, ensuring that EU laws do not unduly undermine local government powers and local autonomy.

What is Better Regulation?

EU better regulation is a much larger agenda than what is commonly understood in Scotland. In essence it is about to ensure that EU laws and policies are well designed, appropriate, realistic and that crucially, that their potential impacts have been assessed. We always insist, and provide evidence, is to ensure that draft legislation properly understands the positive or negative impact it would have in Scottish communities.

What is Multi Level Governance?

It is a fiction that in this day and age the Scottish, UK and EU governments can take decisions on their own, any less than it would be for local government to think so. Problems and responsibilities are spread out and we insist that local government powers are respected as they often hold the key for good policies to be successful on the ground.

So all is OK with the EU then?

We would not say so. The EU as a very large and complex machinery needs to be in constant scrutiny to avoid it producing conscious or accidental outcomes that are negative for local government. Just a brief summary of what we routinely work on:

- **Services of General Economic Interest (SGEI)** is the term used in EU law to refer to public services. The European Commission continues only to lightly observe the new EU Treaty provisions (protocol 26) that were added to limit the ability of the EU institutions to constrain the way national and local authorities define and provide public services.
- **EU Public Procurement** – sets the framework on how Councils invite tenders for their services and also if they can share services amongst themselves. It increasingly influences what councils can buy (green award criteria).
- **Environmental Legislation (Waste, Emissions, Energy)** the EU sets binding targets and often requires special commitments from local authorities. Often these proposals have a poor assessment of their impact at a local level.
- **Employment legislation:** e.g. Working Time Directive, that sets limits on the work and rest period affecting longstanding work practices of key public services such as fire and rescue of health and care providers.

Waste, State Aid, Energy Efficiency interventions add to the breadth and detail of EU legislation that affect Councils. Our approach to the wide range of EU dossiers is agreed yearly by COSLA. Key concerns for us, which underpin our approach to EU processes, is the adherence to the subsidiarity and proportionality principles.

Why does working with our European colleagues matter?

In addition to our Scottish and UK partners COSLA works very actively and on a daily basis with our sister organisations from the other EU Member States, many of them represented in Brussels.

Indeed many of us are based in the **House of Municipalities** in Brussels (see picture in previous page) where we share resources, contacts and expertise. Very often our colleagues have a degree of specialist knowledge or access that complement our own so we can join forces together.

COSLA is one of the few public organisations that participate in EU affairs in its own right as a Scottish organisation thus helping expand an engaging and positive Scottish agenda in Europe.

Lastly the close cooperation with our peers here has been immensely helpful for quite a few COSLA domestic campaigns: COSLA input to the **Christie Commission, the Smith Commission, the Scottish Local Tax Commission** or our own **Commission on Strengthening Local Democracy** significantly benefited from the input in written and oral form from experts we work with the length and breadth of the EU.

What is the added value of EU funds?

Though the UK is in theory a net contributor to the EU budget (not counting the return of investment and trade for being part of the EU) the fact is that because the EU Budget runs over 7 years rather than annually (or each three years such as the spending review) it enables a more predictable investment landscape for Councils. This has been recognised by the UK Government in its recent Balance of Competence review.

The UK-EU Deal: What is in it for Councils?

While the referendum is likely to be won or lost on a matter of principle the UK Government has secured a deal with the other EU leaders to safeguard the position of the UK. If the Referendum votes remain such a deal may include a number of very useful wins for local government, which we would be keen to press the EU to deliver.

Ever Closer Union

This is a provision that features in the EU treaties since the origins of what is now the EU in 1956. It has sometimes been used as grounds to expand EU powers. The EU summit deal now states that “references to ever closer union do not apply to the United Kingdom”.

Opt-outs

The UK-EU agreement also confirms the opt-outs that the UK has secured in previous treaty reforms, the last one the current Lisbon Treaty: the ability of not adopting the Euro and keep the pound, not to participate in the Schengen passport-free travel zone, to choose to opt in or out of Police and Justice issues; or to confirm that the Charter of Fundamental Rights do not apply to internal UK legal practice, as well as national defence.

Subsidiarity

This is clearly the issue of most direct effect for local government and at the core of COSLA's existing position on EU reform. Subsidiarity is a legal safeguard in the Treaty that says that “decisions are taken as closely as possible to the citizen” but that the EU can legislate if an issue has sufficient “scale” and “effect”. While the agreement does narrow this down a bit further we will press for the new rules to effectively force the European Commission to really demonstrate that EU legislation is preferable than local autonomy, more than it does so far.

Role of National Parliaments

An enhanced role for the Westminster and other state parliaments is ensured, even making it possible to block draft EU legislation if subsidiarity is undermined by issuing a “**red card**”. This will already encourage the Commission to think twice before tabling new laws. We want this to be rolled out but, crucially, that the Scottish Parliament is formally involved in this.

Better Regulation

This is the remaining issue to directly concern local government. It refers to the EU efforts to cut red tape, simplify EU legislation and make better impact assessment before legislating. We want to ensure that the new provisions put local subsidiarity at the centre of policy formulation, and that local impact assessment is developed upfront.

Other issues

Last but certainly not least, the UK-EU deal contains very important safeguards to prevent that the Member States using the Euro do not club together in decisions affecting the whole of EU, including Britain. Another issue in the public mind is that of migration and benefits. The UK-EU deal thus does not prevent EU citizens to migrate to the UK but it provides a progressively decreasing cap on in-work benefits for four years which the UK will be able to request immediately after the referendum for a maximum of 7 years.

Summing up: Is that all COSLA wants?

Certainly not. In the event of Scotland and the UK remaining in the EU we would like that a vigorous agenda for EU reform is pursued. Change on how to deal with the EU must start at home too. Here is a number of key priorities that successive COSLA Conventions have called on:

Scottish Government

1. Scottish Local Authorities should be considered equal partners in developing EU policies and legislation in areas that fall within their competence and affect the services they deliver.
2. Scottish Local Authorities, through COSLA and other representative bodies, should work closely with the Scottish Government in developing a systematic mechanism to assess the impact of EU legislative proposals and legislation on local competences across policy areas.
3. Scottish Local Government needs to be involved on a regular basis in joint policy formulation and development with the Scottish Government. COSLA is aiming to become an equal partner in issue-based working groups with Scottish Government, similar to that already institutionalised in other European countries such as Netherlands, Denmark and Finland.
4. The Scottish Government needs to engage in joint forward planning and work with Scottish Local Government on the Scottish Government's EU strategy - the Action Plan on European Engagement - in order to adequately cover areas concerning us.
5. Scottish local authorities need to be closely involved in formulating Scottish positions on implementing key EU policies and specific parts of EU legislation.

UK Government

6. COSLA urges the UK Government to put into practice the principles of involving Local Government in Scotland in developing the UK negotiating position on EU legislative proposals reserved to the UK level and covered by the Localism Act 2011.

Scottish Parliament

7. Considering the role of state and devolved parliaments in monitoring subsidiarity, there should be a right for Scottish Local Government (and Scottish Committee of the Regions members) to formally request the Scottish Parliament to launch a subsidiarity check on EU draft legislation directly affecting Scottish councils.
8. Existing arrangements between Scottish MSPs and councillors in the EU Committee of the Regions should be deepened to strengthen a joint Scottish approach.

European Commission

9. Having the main legislative initiative, the European Commission needs to fulfil its EU Treaty obligations. It needs to recognise in a robust way local and regional competences in its pre-legislative consultation procedures, ensuring that these specifically address local impacts.
10. Also the European Commission must ensure that, in the evaluation of the effectiveness of legislation, local governance is actively considered.

European Parliament

11. COSLA seeks to increase the interaction between Scottish Members of the European Parliament (MEPs) and senior councillors.

Local Government Working Together in Europe



COSLA co-organised roundtable on Community Led Local Development with European Commission, MEPs, EU Presidency and sister organisations (2011)



North Sea Event (2010)



Scottish Locally Elected European Representatives (SLEER) Group with Ian Hudghton MEP (2014)



Scottish Committee of the Regions representation (MSPs & Councillors) meeting 2015



COSLA invited to speak at European Parliament Hearing on EU funds for Local Government (2010)



COSLA invited to present Single Outcome Agreements and Community Planning at EU Open Days 2015



COSLA leadership hosting Icelandic Local Government Delegation (2013)



Organising Scottish Local Government EU Structural Funds Conference (2013)



Co-organising EU Cohesion and Rural Conference with SG and EC (2011)



Hosting Scottish Local Authorities EU Officers

ANNEX

When does the referendum take place?

On 23 June 2016 from 7am to 10pm.

What is the question that is being asked?

“Should the United Kingdom remain a member of the European Union or leave the European Union?”

Who can vote?

The franchise is that of the UK Parliament elections. This means that unlike the Scottish referendum, the recent Scottish Parliament elections and the next Scottish Local Government elections, only over 18 year olds duly registered voters British, Irish and Commonwealth residents in the UK and Britons living overseas for less than 15 years are eligible to vote in the UK.

British, Irish and Commonwealth citizens. UK residents who are citizens of other EU countries will not be allowed to vote unless they are citizens of Ireland, Malta or Cyprus. UK nationals who have lived overseas for less than 15 years will also be eligible to vote

How does the count happen?

It is like the Scottish referendum. In Scotland each Council will have its local counting (Local Authorities) whose results are declared by the local counting officer and added to the Scottish-wide count and the UK wide one, with final result to be known on Friday morning.

What will happen afterwards?

If remain wins then there is no change, however there are a number of provisions in the recent EU-UK deal that will have to be implemented. In case of a leave wins then a complicated and uncertain process of negotiations to leave and eventually keep some link with the EU would take place.

What is purdah?

The Political Parties, Elections and Referendums Act 2000 restricts the publicity that central and local government can publish in the 28-day period prior to the EU referendum. This means that **purdah for the EU referendum starts on 27 May 2016**

Does purdah concern me?

The rules of the EU Referendum are slightly different than the ones concerning Scottish or local government elections. While the Cabinet Office will release guidance shortly and send to all Council CEOs, there are a range of guidance available already, namely from the [Electoral Commission](#), the [UK Parliament](#) and our equivalent organisation in [England](#). While we may provide a briefing once the Cabinet Office Guidance is available it is worthwhile having a good read to the material available, as for the EU referendum the restrictions in place for officers as per provision of briefings, press releases or twitter is more restricted than usual. Equally Councillors cannot use any Council resource to campaign. In fact, the purdah applies not only to Council officers but to any organisation that is dependent of or funded by Local Authorities, so the advice is to err on the side of caution.

Councillors representing Scotland in Europe



Cllr McGuigan presenting Local Democracy report to the Council of Europe (2015)



Cllr Evans debating UK Local Government Report at Council of Europe (2013)



Cllr Buchanan and Richard Lochhead at EP (2015)



Cllr Evans Representing COSLA at CEMR MEP Briefing on EU Priorities (2014)



Cllr Robinson and Commissioner Cretu (2015)



Cllr McChord Rapporteur on Soil Directive (2012)

Cllr McChord discussing marine policy with Commissioner Borg (2010)



Cllr Graham Garvie, Rapporteur Local Development (2012)



Cllr Grant at SEDEC (2014)



Cllr Park and George Lyon MEP (2010)



COSLA President David O'Neill at UCLG World Council (2013)



Cllr Buchanan Rapporteur on CAP Simplification and Commissioner Hogan (2015)



COSLA Open Days Local Development event (2012)



Cllr Murray in UK Ambassador meeting with UK Associations (2009)



Cllr Evans as CEMR Youth Spokesperson and Youth Councillors Committee (2015)



Cllr Buchanan and Stewart Maxwell MEP in CoR Subsidiarity Conference (2013)



Cllr Rober Knox Rapporteur Innovation Union (2011)



Cllr Cameron representing COSLA in European Mayors Summit (2010)

Who represents Scottish Local Government in the EU?

In addition to the six Scottish MEPs and the Scottish Ministers attending the Council of Ministers, Scotland is directly represented in the EU by local government.

COSLA as the national and international voice of Local Government nominates and supports four Member of the Committee of the Regions of the EU. Together with an equal number of MSPs they represent Scotland in this EU institution whose role is to assess the local and regional impact of draft EU legislation.

Our current representatives are:



Cllr Tony Buchanan (SNP, East Renfrewshire), Vice President of the Commission on Natural Resources – responsible for agriculture and fisheries- Chair of the CoR North Sea Interregional Group. Recently he was draftsman on Simplification of Common Agricultural Policy.



Cllr Corrie McChord (Labour, Stirling), Member of the Commission for the Environment, Climate Change and Energy (ENVE), one of the most experienced CoR members. Over the years he has been working on a host of environmental issues such as waste and climate adaptation. He has been twice Rapporteur (draftsman) on EU proposals on Soil.



Cllr Barbara Grant (Cons, East Renfrewshire), Member of the Commission for Social Policy, Education, Employment, Research and Culture (SEDEC). She has taken an active role in votes and reports on social inclusion, demographic change and localism.



Cllr Gary Robinson (Ind, Shetland) Member of the Commission for Territorial Cohesion Policy and EU Budget. Our newest Member he has already led many votes on the delivery of EU funds and the scoping of proposals for the post 2020 EU budget. He will host a CoR EU Conference on Islands and Cohesion in Shetland in September.

It should be noted that they are all unpaid official representatives to the EU – only their travel expenses are refunded by the EU - that devote between 5 and 10 meetings a year.

Last but not least, many dozens of other Scottish Councillors have a European remit or are part of European networks, including COSLA itself whose European membership body is the **Council of European Municipalities and Regions (CEMR)**, Europe's largest and oldest local government organisation.

Welcome to the House of Municipalities in Brussels



Cllr McCabe and COSLA President Pat Watters with EU Commissioners Malmstrom and Hubner (2007)



House of Municipalities Opening (2007)



Scottish, Scandinavian and Baltic Municipalities Associations floor at House of Municipalities



House of Municipalities joint offices in Brussels of COSLA, CEMR and most national associations of local government



COSLA chairing CEMR Cohesion Expert Group meeting with Grerek EU Presidency (2014)



Promoting Scottish Local Government at EU event (2012)



Improvement Service presentation at CoR (2013)



Committee of the Regions Hearing (2013)



Scottish-Nordic networking breakfast



Presentation on Scottish Local Government to CEMR Member Associations (2008)



Meeting with European Commission Secretary General and major European networks (2012)

How much money comes from the EU?

Local Government is being allocated up to one third of the £1,3bn EU Structural Funds that are directly coming to Scotland between 2014 and 2020.

EU Regional & Social Fund Local Government-led Strategic Interventions

ERDF/ESF Intervention	Total value (June 2014)	Local Government role and share of funding
Business Competitiveness Accelerator (Business Gateway+)	€105 m	LG will lead €40m of this intervention to invest in local, regional and businesses with growth potential through business gateway
Smart Cities	€15 m	7 Smart Cities Alliance will directly identify and lead suitable projects for 'the 8th City' project
Financial Engineering	€55 m	East of Scotland and West of Scotland existing Local Authority Loan funds may receive €18 m to continue to support businesses through loans; this is expected to tie in with the SME Competitiveness Accelerator
Employability (CPP)	€138 m	This is the total amount allocated exclusively to LA actions through the CPP employability pipelines under ESF. Local third sector is expected to be involved in delivery
Employability – enhanced support for removal of barriers	€38 m	This amount is intended for intensive support to remove multiple barriers for those furthest from the labour market. Although LAs would select projects, this element is expected to involve the third sector heavily in delivery, and may have scope for collaboration with the BIG Lottery Fund.
SW Scotland Youth Employment initiative	€46 m YEI +€46 m ESF	12 Local Authorities in South Western Scotland (incl Dumfries) will be allocated €22m ESF and €22m YEI
Total Direct LG funding circa €293 m		

Other ERDF/ESF Strategic Interventions

(Requiring input from or impacting Local Government)

Strategic Intervention	Total value (estimated June 2014)
Green Infrastructure	€20 m
Low Carbon transport	€34 m
Low carbon Infrastructure Fund	€73 m
Resource Efficiency and Circular Economy	€60 m
Social Inclusion And Poverty Reduction	€53 m
Total available for potential access	€240 m

Scottish EU Rural and Maritime Programmes

LEADER	£66m	Community Empowerment, rural diversification
Small Business support	£20m	New Support for non-agricultural business
Rural Broadband	£9m	Extension of broadband to rural communities

This does not count the money that is open to competitive bidding for Councils in INTERREG, nor the money that farmers (CAP Pillar I), Universities (Horizon 2020), etc. often [successfully win](#).

Do you want to know more?

This briefing essentially deals with the issues concerning the EU that specifically concern Scottish Local Government's collective and concerted action in Europe. While COSLA as an organisation we have come publicly in favour of staying in the EU, we remain committed to a fair and open debate so that Scots can freely make their mind.

For that reason we provide some general and specific sources of information. Most of the links go to specific reports on the EU referendum:

COSLA reports

[Subsidiarity](#) – Scottish Councils Influencing the EU Agenda; COSLA [EU Priorities](#)

Scottish Institutions

[Scottish Government](#) EU Reform; Scottish Government [EU legislation guidance](#) ; [Scottish Parliament](#) (incl. COSLA evidence), Scottish Parliament research [Spice](#);

UK institutions

European Union [Referendum Act](#) 2015; [Mayor of London](#) ; UK Government [leaflet](#) HM [Treasury](#); [Cabinet Office](#) ; [House of Lords](#) (COSLA evidence); House of Commons (COSLA evidence), UK [Balance of Competence Review](#) (COSLA evidence) ; UK Government [EU Policy Statement](#) Part II Localism Act 2011;

Other Countries

[Finnish](#) Subsidiarity report; [Dutch](#) Government; Dutch [Parliament](#) on National Parliaments

Data on the EU

For basic data on key topics you can choose between www.fullfact.org and www.infacts.org

EU lingo:

Commission's [Euomyths](#) ; E! Sharp [Eurojargon](#)

Money Matters:

[CEPS](#), [LSE](#) and the Commission's "[The Budget Explained](#)"

Academia/Think tank

ESRC "[The UK in a Changing Europe](#)" ; Strathclyde University [EPRC](#) ; Edinburgh University [Europa Institute](#) ; EPC [UK and the EU section](#) ; [Centre for European Reform](#), [Open Europe](#)

Business

[Confederation of British Industry](#); [British Chambers of Commerce](#), [Scottish Chamber of Commerce](#); [Bank of England](#), [City of London](#) , [National Farmers Union report](#) ,

Official Campaigns

[Britain Stronger in Europe](#) and [Vote Leave](#)

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