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Reform Committee

Prospects for codifying the relationship between central and local government

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The Political and Constitutional Reform Committee

The Political and Constitutional Reform Committee is appointed by the House of Commons to consider political and constitutional reform.

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Committee staff

The current staff of the Committee are Joanna Dodd (Clerk), Hannah Stewart, Helen Kinghorn (Legal Specialists), Lorna Horton (Committee Specialist), Louise Glen (Senior Committee Assistant), Jim Lawford (Committee Assistant) and Jessica Bridges-Palmer (Media Officer).

Contacts

All correspondence should be addressed to the Clerk of the Political and Constitutional Reform Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 6287; the Committee's email address is pcrc@parliament.uk.

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Written evidence

Written evidence submitted by Professor Colin Copus, De Montford University

ILLUSTRATIVE DRAFT CODE FOR CENTRAL AND LOCAL GOVERNMENT¹

PREAMBLE

Through this code Parliament recognises free and independent local councils in England accountable to local citizens. These include unitary, county, district, metropolitan district, and London borough councils. They shall enjoy independence in both powers and finance and be entitled to do all that is required at local level, within the law, to secure and improve the well-being of their citizens and communities. Parliament makes plain that within their spheres of competence, local councils have co-equal-not subordinate-status to central government and that their rights and duties shall enjoy equal protection in law.

ARTICLE ONE

1. The fundamental rights and duties of local councils herein are defined protected and entrenched. They may only be changed by the consent of Parliament as authorised firstly by an elected joint committee of both Houses, and then by the approval of both Houses of Parliament as prescribed in the amendment to the 1911 Parliament Act [enabling the second chamber to reject changes to the fundamental freedoms of local governance].

2. The code represents a consensual agreement between central government and local councils. Councils, local government representative bodies, all ministers, government departments, MPs, civil servants, courts of law and all public agencies interacting with local government are bound by the articles within this agreement and will act in accordance with these articles.

3. All of the provisions of the code are subject to the law. The individual rights of citizens are not affected by this code and citizens may seek judicial review against any injustice or infringement of rights as now. Councils and government can seek legal adjudication should it be felt that a council, councils or central government are not acting in accordance with the code.

ARTICLE TWO: LOCAL AUTONOMY AND LOCAL SELF-GOVERNMENT

1. Councils' accountability is to local citizens.

2. Councils shall operate within the rule of law and with regard and respect to human rights legislation.

3. Councils are autonomous, democratically elected bodies which independently decide upon, administer and regulate the public affairs of and deal with all matters of concern within their boundaries which are not dealt with or attended to by other governmental bodies.

4. Councils operate within a framework of an irrevocable general power of competence with a full legal personality. Powers rest with councils, acting in accordance with the national legal framework, to pass local legislation on matters affecting the affairs and interests of their area.

ARTICLE THREE: SCOPE OF LOCAL GOVERNMENT

1. The powers and responsibilities of councils shall after due consultation be prescribed by statute subject to safeguards in Article 1.1.

2. Councils have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence or assigned to any other authority or body.

3. Councils are to be consulted, early within the policy and decision-making processes, by the Government if it is proposing reform, which will affect any council and its communities.

ARTICLE FOUR: INTER-GOVERNMENTAL ACTIVITIES

1. Central and local government acting jointly shall be allowed to create inspection regimes to set and maintain service standards.

ARTICLE FIVE: TERRITORIAL AUTONOMY

1. The boundaries of local authorities are an issue for councils and their citizens. Any proposal for boundary changes must be conducted with the involvement of the Local Government Boundary Commission for England and within the law and subject to a local referendum in the area concerned.

¹ On 18 January 2011, the Committee agreed "that written evidence be sought from an academic witness, containing an illustrative draft code governing the relationship between central government and local authorities in England". Professor Colin Copus of De Montford University agreed to take on this work. On 23 March 2011, the Committee wrote to all those who had given oral evidence to the inquiry asking their views on the draft code for relations between central and local government. Suggested revisions were received and at the request of the Committee incorporated by Professor Copus into the draft code.

ARTICLE SIX: COUNCIL GOVERNMENTAL SYSTEMS

1. Local citizens through their councils have autonomy to choose their internal political decision-making systems (including, whether to adopt a directly elected mayor and cabinet, cabinet and leader, committee system, or some other political decision-making arrangement). Changes to political decision-making systems must first be subject to a binding local referendum.

2. Councils must review their political decision-making system every eight years and produce a publicly available “Political Governance” report setting out the effectiveness of the system and if appropriate considering alternative approaches.

3. Councils or local citizens can adopt any electoral system for use in council elections, after consultation and a binding referendum.

ARTICLE SEVEN: LOCAL GOVERNMENT FINANCIAL INTEGRITY

1. Local councils shall to the greatest possible extent be financially independent of central government. Equalisation will be conducted by an independent Equalisation Board on an annual basis.

2. Local citizens through their councils may raise additional sources of income in their localities in any way they wish [subject to the rule of law and human rights legislation] if they gain the consent of their electorates through a binding referendum or local propositions.

3. Local government shall be given a guaranteed annual share of the yield of income tax. This share shall be increased as and when service provision responsibilities are transferred from central to local government so that councils are always able to benefit from the growth in buoyant tax resources available to the state as a whole.

4. The process of equalisation, ensuring fairness as between local councils, shall be undertaken by a body independent of central government.

5. Councils shall be able to raise any loans which their credit rating allows and will be exclusively responsible for repayment. For the purpose of borrowing for capital investment, councils shall have access to the national capital market at their own discretion. All councils shall operate an annual balanced budget so that all outgoings, including interest repayments on borrowings, shall not exceed income.

6. Central government will not cap, or in any way limit, councils’ taxation powers. Central government must consult with councils on how it will distribute and allocate government funding when using local government as an agent to pursue its own policy objectives. Government funding to councils, in pursuit of central government policy objectives is to be based on a rolling three year budget cycle to coincide with the comprehensive spending review process. Once the three year medium term budget planning process has been agreed and announced no significant changes in funding levels will be made by central government.

7. The same financial transparency standards will apply to local and central government, alike.

ARTICLE EIGHT: COUNCILS’ RIGHT AND DUTY TO CO-OPERATE AND ASSOCIATE

1. Councils as independent legal entities are entitled, in any undertaking, to co-operate in any way with other councils, public and private bodies, any voluntary, charity or third-sector organisation, or with any financial, commercial or private enterprise.

2. Where more than one Council is responsible for services in a geographic area, these Councils shall co-operate to maximise the well-being of those within that area.

3. Councils are able to belong to any association for the protection and promotion of their common interests and to belong to an international association of any sort. Councils are entitled to co-operate with councils in other countries for any matter.

ARTICLE NINE: LOCAL REFERENDUM

1. The administration of any local referendum process shall follow standards set by the Electoral Commission, and those responsible for the conduct of any such referendum shall be accountable to the Electoral Commission for their performance against those standards.

ARTICLE TEN: LEGAL PROTECTION OF LOCAL GOVERNMENT

1. Councils have the right of recourse to a judicial remedy in order to secure free exercise of their powers and respect for the power of general competence and any other principles of local self-government or individual rights enshrined in law or contained within the code or evident in Human Rights legislation.

EXPLANATORY NOTE

PROSPECTS FOR CODIFYING THE RELATIONSHIP BETWEEN CENTRAL AND LOCAL GOVERNMENT

INTRODUCTION

The Committee set out nine principles to be expanded upon and to form the basis of a draft code governing the relationships between central and local government. The draft code could then be the basis for a wider consultation and discussion under the auspices of the Select Committee. The nine principles flow throughout the draft code and are developed in the clauses within each article. The Committee also asked for an assessment of the issues involved in implementing the principles through a code of central and local government relationships.

The first section of the paper sets out a rationale for the construction of a code of intergovernmental relationships and the rationale for each article contained within the draft code; the second section presents the draft code. The Third section assesses the feasibility and practicality of such a code. The paper concludes by drawing out the main issues that the Committee may want to consider in the development and decisions about the adoption of a code of intergovernmental relationships.

SECTION ONE: RATIONALE FOR CODIFICATION

The draft code is based on an assumption that it is required to re-establish and strengthen the position of local government within the constitution, to enable it to operate as a co-equal alongside central government and to provide a degree of protection for local government and its citizens from centralisation and over-regulation. If codification is to produce a balanced working relationship between central and local government it must explicitly recognise the value of local government and formally establish the degree of its political and governing autonomy. Without those underpinning assumptions a code is likely to see local government as little more than a means of providing or overseeing the provision of public services and consequently diminish its politically representative features.

Article Rationale

A preamble is required to set out a broad framework within which the articles sit and to set the context for operationalising the code in relation to principal authorities by stressing the underlying localist philosophy on which it is based.

Article One is required to emphasise the independence and autonomy of local government and to secure the code as an agreement between the entire centre and the localities. It is designed to ensure that all central government departments work with local government through a shared set of practices. Constitutional protection for the code is required to prevent it being amended or abolished.

Article Two is required to achieve an agreed definition, between central and local government of the role, purpose, nature and constitutional status of local government and to emphasise that local government accountability is primarily to citizens. It asserts councils as governing and politically representative institutions with independent regulatory and legislative powers within their own boundaries.

Article Three establishes a consultative working relationship between central and local government based on a mutual acceptance of the broad remit of local government responsibilities.

Article Four is required to ensure a negotiated and mutually agreeable process of constructing a framework for ensuring service delivery quality.

Article Five establishes the territorial autonomy of local government and that council boundaries are to be agreed by councils and their citizens (through local referendum). Without territorial integrity and autonomy council boundaries can be re-organised for the benefit of central government and the national parties' ideological concerns.

Article Six is required to operationalise the freedom of councils and local citizens to decide the internal political decision-making arrangements of the council and the voting systems for local elections to suit local circumstances. The article recognises that central government is not required to decide how councils will be elected or how they will make decisions once they have been elected.

Article Seven recognises that local autonomy and independence is strongly related to financial freedoms, but also that financial responsibility and rectitude comes with a clear link of accountability to local citizens. Alignment is required between central and local government financial processes to add certainty and consistency to financial planning. The article recognises the importance of an independent equalisation process between councils and that local and central government should be co-equal partners in this process.

Article Eight is required to set out the broad parameters within which councils can cooperate with each other and with other bodies so that there is clarity and recognition of councils' rights to act in ways that they think beneficial to their areas.

Article Nine provides for local referendum to be the responsibility of the Electoral Commission. Such independence enhances the probity of and confidence in, the referendum process and that local referendum will be overseen by a body Independent of local and central government.

Article Ten by enabling local government to take legal action in any circumstances that might threaten the autonomy of a council serves to provide additional protection to local government independence from external control or interference. The next section sets out a draft codification of relationships between central and local government.

SECTION TWO: THE PRACTICALITIES OF CODIFICATION

The section is set out in two parts to ease consideration of the issues involved. The first part examines the key issues (identified as italicised sub-section headings below) involved in codifying the relationship between central and local government and the implications arising. It does this by using the draft code developed from the nine principles the committee articulated which have been collapsed where they consider similar issues, such as finance. The first part of this section considers the following issues: securing agreement to the principle of codification; central and local government policy consultation; council boundaries; local electoral systems and internal council political decision-making systems; local government financial freedom; quality of services; and, local government independence and autonomy.

The second part of this section makes a brief assessment of each article of the draft code.

1. *Assessment of Broad Principles*

Securing agreement of central government to the very principle of a codification of the relationship with local government has two key dimensions:

1. Central government accepting a permanent change to the current constitutional settlement between the centre and the localities
2. Ensuring that agreement to a code and abiding to its conditions extends across government, that it is not restricted to the DCLG alone and that it is adhered to by ministers and civil servants

Given the last Labour Government's policies of devolution to Northern Ireland, Scotland and Wales and given the current government's localism agenda and the Localism Bill, particularly section one's "general power of competence", common ground should exist across the parties, for establishing a framework for the independence and autonomy of local government. Past governments, however, including the last government, have implemented policies which expressed little patience for local government autonomy and have viewed councils as a mechanism for little more than implementing central government policy. Currently however, each of main political parties appears to support greater autonomy for local government, so the time is right to develop and consult on a draft code. The feasibility of a code stands or falls on two aspects: first, Parliament and government re-balancing the constitutional relationship and doing so on a permanent basis; and, second, local government being willing to use new found freedoms.

A code itself does not alter the fundamentals of the constitution; making that code constitutionally secure does however, create a re-balance to a more localist orientation in the governing system.

Government would not be able to change the structure, nature, functions or purpose of local government, without the due process necessary to respect the independence of local government including undertaking negotiations. Any change negotiated would require (under Article 1.1) a legislative process different to that normally employed. While this may create frustration for government and slow down its own policy implementation, it would also mean less legislation, wider consent and more localised decision-making. Parliament has become accustomed, very quickly, to constitutional change brought on by devolution to Northern Ireland, Scotland and Wales and what that means for Parliamentary and governing processes. If viewed in the same devolutionary and evolutionary way a codification of central-local relationships would soon establish itself as the standard operating procedure.

A failing of the current concordat is that it has not been taken up across government departments and across ministers as the means by which intergovernmental relations are to be conducted. The concordat's focus on the service role of councils has served to sideline the political, democratic and representative contributions made by local government. Experience has shown that production of a code alone is insufficient to change working practices and that a change of attitudes across central government is required to successfully operationalise any code.

Independent central and local government would need to devise effective arrangements to work together in partnership. Developing a forum for *policy consultation* between local and central government means a shift from a top-down, control relationship to a negotiated, consensual style. Such a relationship between the centre and local government exists in other governmental systems, both unitary and federal (Goldsmith and Page, 2010). Central government already consults and negotiates with local government and creating a forum would sharpen the focus of existing processes and enable more detailed consideration of policy development concerning local government. A negotiating forum may however, slow down policy decisions, delay the implementation of government policy and frustrate government intentions across a range of policy areas.

Genuine consultation and negotiation comes with the expectation of compromise and concession and that would be an expectation on all parties to the process. As a consequence delay may be off-set by better policy decisions and policy outcomes.

Control of *council boundaries* resting with councils and local citizens rather than with central government, exemplifies local autonomy and independence. Devolving to councils and citizens, working with the Local Government Boundary Commission for England, the power to set and change boundaries, to amalgamate (in whole or in part) or to disaggregate councils, is easily achievable. Moreover, it avoids the danger of council boundaries being manipulated for national party political reasons; or for reasons that suit the needs of the central government machine.

There are examples across the globe where decisions about council boundaries rest with citizens and councils and there are no practical difficulties in switching to a system of local boundary control, which would remove the need for the expensive bidding process that has been seen in some past reorganisations (Chisholm and Leach, 2008). A question arises as to whether council boundaries should be something that citizens alone should control, rather than giving councils a say in the matter as councils will tend to want to maintain or extend existing boundaries.

Central government will, of course, have a view on proposed boundary changes and on the overall coherence of the structure of local government and will be able to express that view during any consultation process.

Local electoral systems and internal council political decision-making systems need not be the same across the country. Indeed, since the Local Government Act 2000, some choice in internal political decision-making systems has existed. Moreover, the Localism Bill widens that choice by making the committee system open to all councils. The implications of councils being able to adopt different internal decision-making systems fall on the councils concerned; although, government inquiries have explored the way councils make decisions in an attempt to speed-up and add clarity and accountability to the process and this will still be a central government concern (HMSO, 1967, HMSO, 1986).

If council decision-making is perceived to be slow then there is an impact on central government as local people look to it for a solution to be developed and imposed. In this case government continues to be the arbiter of local matters at a detailed level. Encouraging independent councils to develop local political decision-making processes, with local people, rather than government legislating across the entire local government system could lead to more refined processes developing. By devolving responsibility to councils and local people to set council political decision-making arrangements, central government will be faced with a possible array of systems when it comes to negotiating with councils. But, local decision-making forms would be the choice of local people rather than designed for the convenience of Whitehall.

The consequences of local electors choosing different electoral systems would again fall mainly on the councils concerned. Those council areas choosing a more proportionate electoral system are likely to have a wider range of parties and non-partisan groups represented on the council and would be more likely to be governed by some form of coalition, than those choosing to employ the first-past-the-post system; those areas retaining the current voting system for local elections are more likely to have a clearer one party outcome and governance. Central government will, of course, have a view on the matter and will be able to express that view during any consultation process, while the choice of electoral system should rest with the locality rather than Whitehall.

Securing *Local government financial freedom* is necessary to operationalising any of the nine principles and the draft code in section two. Central government control of local finances, both the source of finance and the way in which it is used by councils, would need to be fundamentally changed to give councils greater financial freedom (Layfield, 1976, Foster, *et al*, 1980).

Securing local government financial freedom from the centre is made difficult by: the role that local government expenditure has in the macroeconomic and fiscal policy fields; the control governments, of all parties, have been able to exert over local finances for national economic and political reasons; and, the current government's deficit reduction policy. Again, these issues are not insurmountable but rely on the formation of a different mind-set in the relationship between the centre and the localities when it comes to financial matters, rather than relying on an evolution of policy to secure change (John, 1999).

The Layfield Commission (1976) and the Lyons Review (Lyons, 2007) examined local government finance set within the wider context of the purpose of local government and central-local government relationships. Lyons was restrained in the reforms suggested, but the practical implementation of alternatives such as local income tax is not the issue, here. It is in local financial matters that we often see the conflation of local and national government in the public mind. Overall council expenditure and council tax levels are national issues and debated in the national media and thus government is required to have a view on their reasonableness. But, government holding and expressing a view about council financial decisions need not mean having control of them to ensure accountability; adding clarity to the system would enhance local financial accountability.

The current system of financing local government would be greatly simplified and accountability sharpened as a result of local people having freedom to endorse, or not, council access to diverse and buoyant sources of finance and to set their own taxation levels. With complete financial freedom given to local people however, central government would no longer be able to safeguard communities from excessive increase in local taxation,

high levels of local expenditure or other financial adventures by individual councils. But, if local electors continue to grant a mandate for such financial policies by re-electing controlling groups who pursue them, the choice is either for local citizens to be the arbiters of local affairs or for central government by claiming a national mandate (Wolman and Goldsmith, 1992). There are no practicalities only political choices involved here.

Financial freedom for local government is not an all or nothing choice. Structures created for negotiation and agreement between the centre and the localities over the financing of local government, financial equalisation, and the level and nature of grant support, can replace a top-down approach without the centre relinquishing all control or involvement (Goldsmith and Page, 2010). Enhanced financial freedom would provide stimulus for re-energising local political parties, local civic society and civic debate around local choices and value for money. Yet, there is a need for central government to provide funding in emergencies such as natural disasters or, if for some reason, a local authority's finances broke down entirely.

The *quality of high-profile services* provided or overseen by local government are an issue of national debate. Major policy areas, such as education and housing, will always provoke central government interest and concern for involvement beyond inspection and freedom for local government needs to be seen and set in this context. A balance must be drawn between services which can be left to local decisions reflecting local sensitivities and circumstances so as to recognise local differences and diversity; and, those areas in which government will negotiate with councils about service standards, while avoiding any centralising tendencies which the provision of public services generate and which has been long noted (ToulminSmith, 1851).

The solution to the nationalising pressures of national expectations of service standards is to be found in the construction of fora where central and local government can spread best practice and negotiate and agree service standards and inspection regimes in a broad sense. Negotiation and agreement avoids the need for heavy-handed inspection regimes—which have served to undermine local autonomy and the democratic mandate granted to a council (See, Leach 2010). Moreover, it avoids the need for central government to impose required service standards and thus treat local government as a means of implementing government policy.

Local government independence and autonomy from central government and changing the directional flow of accountability from the centre to local citizens are factors inherent in the nine principles and are reflected throughout the code in section two. If local government is to have autonomy from the centre it must have the freedom to be able to undertake any action. The feasibility of achieving local government autonomy rest on the same considerations as those required for securing agreement to codification in the first place: re-balancing the constitutional relationship between central and local government; and, acceptance across government of a new working relationship. To ensure the continual effectiveness of a code it must be adhered to throughout the life of any government which is easier at the outset of a new government but becomes more difficult as time passes and governments become closer to the Whitehall machine.

The constitutional relationship required to secure local autonomy is something that has been achieved in federal and unitary states. Yet, there has been a recent trend across Europe for central government, in states which have constitutionally guaranteed local government freedom, to find ways of increasing control over local government (Goldsmith and Page, 2010). Again, the Localism Bill's "general power of competence" nudges in the direction of autonomy—although the Bill does contain around 140 reserve powers for the Secretary of State, which indicates that local government autonomy will not be a direct outcome of the Bill, alone.

2. Brief Assessment of articles in the draft code

Article One: There is no reason why this article could not be implemented. A difficulty might occur around the issue of local government representation on the hopefully rare occasions when the joint committee proposed in the article, is convened. While Parliament might not accept non-MPs being full members of a Parliamentary committee, the local government representatives could be non-voting members, or hold their membership *ex-officio*.

Article Two: For the purpose of drafting a code general competence and local government autonomy are not fully articulated and these concepts would have to be defined in any consultation on the code undertaken by the select committee to avoid confusion. Indeed, general competence and local government autonomy are usually limited in constitutional settlements and are not left unrestrained. It is also necessary to set out elsewhere the distribution of functions and responsibilities between the levels of government and how disagreements can be resolved. Would the Supreme Court, or some other body, for example, be the final arbiter in any dispute?

Care would be needed in defining "local citizens", either employing the current formulation for compiling the electoral register; or, a more extensive view of "local citizenship" based on proximity to, but not residency within, a council area.

Article Three: Sets some limits on the autonomy of local government to that contained in article two. The scope and extent of the powers within article three and the nature of local government and community power over economic development would need to be agreed and defined in other documentation. It would rest on the agreed distribution of functions and responsibilities between levels of government. A *de minimis* rule may need to apply when it comes to this article.

Article Four: There are no practical problems as to why this cannot be achieved and implemented, quickly. But, it is likely that central government would want to have primacy in the process—again, the question of allocation of functions and responsibilities between levels and agencies would be required.

Article Five: There is no reason why this cannot be achieved. The question of the allocation of functions and responsibilities may be an issue in boundary setting, but, given that under article eight councils would be able to co-operate with each other in the provision of services, then boundaries are no longer linked to issues of service management and efficiency. The accountability of joint-provision would need to be ensured and mechanisms needed to enable voters to cast a judgment on jointly provided services.

Article Six: There are no difficulties in implementing article six. The article requires straightforward devolution of power over electoral systems and political decision-making arrangements to councils and citizens. Too frequent changes however, should be avoided and maybe there is a need to place a time limit on change—such as two electoral cycles—eight years.

Article Seven:

Clause 1: The concept of local government financial independence needs to be carefully defined and agreed, otherwise as a statement of principle it could become meaningless and easily ignored, unless otherwise set out in law.

Clause 2: The use of referendum provides for a specific democratic mandate for taxation and revenue raising policy. But, councils must be prepared to have their proposals overturned and thus have developed, through consultation, alternative plans.

Clause 3: Rests on the assumption that an agreement has been reached about the reallocation of local services and the division of income tax. Such agreement is not impossible, but, would require detailed negotiations between central and local government and devolution of functions and power from the centre.

Clause 4: Rests on the assumption that existing rules will be agreed for equalisation and the mechanism for allocation will continue. It would also mean that central and local government was unable to unilaterally change the processes once they had been agreed and therefore they would both need government to accept this limitation.

Clause 5: The clause has implications for the PSBR and is something that the Treasury would need to be closely involved in and is likely to strongly oppose, given its ongoing and long-standing reluctance to see any local government financial reform. It is possible that linking loans to council credit ratings would be limiting for councils if resource bases were not equalised and thus poorer areas would suffer from their low credit rating, while more affluent areas may not need to borrow. On the other hand, prudent competent councils would be recognised by a revived local government bond market of the sort that has existed in the UK and that currently exists in the USA and elsewhere. The need to balance budgets would have to include the right to maintain reserves.

Clause Six: Easily implementable but rests on government's willingness to devolve final decision-making power on local taxation to local government. Financial and Partnership mechanisms imply a limitation to local autonomy by their very existence, so they would have to be voluntary and councils entering into partnerships do so without the expectation of government funding, so that those choosing not to operate in that way were not financially penalised.

Clause Seven: Difficulties may arise with this provision unless there are comparable disciplines on central government. Problems could arise from a general election and a change of government mid-Parliamentary or mid-budgetary cycle; or, if a severe financial crisis emerges; or, an event requiring immediate and large-scale financial commitment, such as an overseas military operation. These can be overcome by the agreement of a set of "emergency provisions" that would allow central government to respond to mid-financial term emergencies.

Article Eight: The broad powers suggested here would have to be only for purposes which were legal and carried out within the legal framework setting out council powers.

Article Nine: Included to ensure probity in the referendum process and would require the allocation of the responsibilities and functions necessary to the Electoral Commission. Cost implications of the increased use of referendum would emerge, but linking them to the electoral cycle could reduce that cost.

Article Ten: The power for local government contained here would be under the rule of law which could result in legal challenge to abuses by central government action, policy and proposals and as with all issues covered by UK law could involve judicial review at Supreme Court or at the European level.

CONCLUSIONS

There are no real technical or practical reasons why the nine principles articulated by the committee or the draft code that is set out in section two, cannot be operationalised. The feasibility of codifying the relationship between central government and English local government rests not so much on practical and technical concerns. Rather, the feasibility of codification rests on political and ideological grounds and on the willingness of the centre to accommodate a new constitutional settlement for local government which acknowledges for it

a political, representative and governing purpose. Moreover, codifying the relationship between central and local government would sit well with the government's localism and the Big Society agenda. It would underpin these policies by reducing centralisation and by providing the ground on which councils and communities could experiment with local initiatives that reflected local priorities.

The general implications of codification would be:

- Freeing local people to make many more decisions effecting their lives at a local level.
- A shift to a more negotiated set of relationships between central and local government.
- Enhancement of the constitutional status of local government.
- A freeing of central government from the detailed control of local government.
- Improvements to the clarity of the financial relationships between central and local government.
- Other documents would be required to fully elaborate how the code would be operationalised, to set definitions and agree areas of responsibility.
- Possible delays because of the time needed to build a consensus for central government in the development and implementation of policy and legislation as it impacts on local government.
- Limitations on the central executive machine to use a Parliamentary majority in regard to local government policies, which would reflect similar limitations resulting from devolution to Northern Ireland, Scotland and Wales.
- At a time of national financial constraint the costs associated with creating a new settlement between local and central government and of the consultation process may be seen to be prohibitive.
- Considerable cultural change will be required to ensure that all central government ministries were aware of and adhered to the code in all activities and to recognise that a constitutional rebalancing had occurred as a result of the codification of the relationship between central and local government.
- Mechanisms for dealing with disagreement between central and local government about the code and breaches of it would have to be decided upon by agreed structures.
- As now, court action either involving the Supreme Court or at the European level would ensure the rule of law.
- Greater freedoms for local people to make choices could result in wide diversity in the quality, type and nature of public services chosen .
 - Involvement and education of public and media around the choices available would be essential.
 - Strengthened localism could stimulate a revival of civic culture and activity and encourage local parties to forge greater links with local civil society.
 - The conflation, in the minds of the public and the media, of local and national politics and government may lead to central government suffering at the polls for local government failings or *vice versa*. But, a clear understanding of the roles of councils and governments could lead to them being elected on their own record and merits.
- Enhanced financial freedom for councils would impact on central government economic and fiscal policy.
- Robust mechanisms would be required for financial equalisation and central financial assistance in the event of local emergencies.
- If local electors are to judge local issues central Government would find it difficult, if not impossible, to intervene where individual councils acted in ways that generate public concern or outrage, or are unnecessarily bureaucratic and meddlesome. Court action, as we see currently with central government, may be the only redress for citizens and the cost may be prohibitive and it would be necessary to ensure this was not repeated by local government.

The key to successfully implementing codification of inter-governmental relationships is the centre's willingness to permanently devolve political and governmental power to councils. Given that intention, the negative implications of codification can be overcome through the creation of safeguards and by negotiation and compromise. The forging of a new relationship between central and local government must go hand-in-hand with forging a new relationship between citizens, councils and councillors. The principle of codification and the draft code contained in this report, provide the basis for forging those new sets of relationships and a framework within which they can be explored.

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Written evidence submitted by P. G. Marshall, Chief Executive, Ashfield District Council

1. Firstly, please accept my apologies for the delay in responding to your direct request for comment on the draft code for central and local government contained in your e-mail of 23 April, 2012.

2. Whether or not legislation is deficient in policy terms is a matter of subjective interpretation and political perspective. However, there is now a growing body of evidence to support the view that legislation is often technically deficient. There is no single cause for this deficient legislation. The explanation lies in a complex confluence of factors primarily related to volume, attitude, preparation and deliberation.

3. As a career local government officer and a long serving senior manager (some may say too long), I have no hesitation in recognising and supporting much of the aspirations within the campaign for greater independence from the centre.

4. I have some slight concern that the portrayal of local authorities as being without independence and not sovereign entities does not give a true reflection of the actual practical position. I accept that local government, as a key supporter and contributor to the quality of life for communities in England does not have solid and legally protected guarantees of continuity. However Ashfield District Council and each of the other authorities I have worked for, have been legal entities in their own right and have made many independent decisions, some of them wide in scope/far reaching, for the benefit of their communities.

5. I fully appreciate that it is difficult to believe that the central governing machine of the state would ever consider it appropriate to abolish local government but I suppose one never knows.

6. The point that political independence would count for very little without the financial wherewithal to act independently is well made. Several decades of well-informed lobbying of government have failed to create a position where councils are able to deal with the challenges faced by their communities in the certain knowledge that they were the architects of their own destiny in terms of financial management. There have been numerous examples of local government delivering against national agenda items when trusted with the funding to support the services but there have also been many frustrations where central dictats or delays have prevented access to much needed monies.

7. There has to be a concern of what comes with financial independence in the ability of the centre to simply state “over to you” when major issues occur and this is possibly even more of an issue at a time of recession and where there is a key drive to deal with deficit reduction eg council tax support.

8. Whilst the need for adequate funding for local government has to be central to any new relationship, I accept that for this to be achieved, there has to be a radical approach if only for the first agreed period of implementation and review. Accordingly the suggestion to fund local government through redistribution of income tax offers such a solution. However, there would have to be an acknowledgement from the centre that in difficult financial times such as the current recession, local authorities would need a guaranteed level of income. It is simply not good business planning to only consider the years of plenty. It is feasible that over time, alternative methods of funding could be examined. It was of course hoped that proposals for Business Rates/NNDR retention heralded a new dawn but unfortunately this has proved not to be the case and we now face more evidence of old habits dying hard.

9. There is little doubt that the use of direct taxation to fund local services will offer greater accountability but the local government family will have to accept that resources must follow need and that areas with significant deprivation and its usual partner of high levels of unemployment will not be seen as draining too much of the pot.

10. It is also essential that local democracy is mature and engaging in its outlook. It should offer the opportunity to be challenged through legal process, if necessary, when there is a perception that decisions are being taken which do not appear to be benefitting the majority.

11. In terms of the draft code I will offer the following:

ARTICLE ONE

12. I have commented above on the will of the initiative to seek legal binding protection for the existence of local authorities.

13. There would be a clear benefit from an agreed code in that it sets a broad framework for how local government and governance is to work. It will also identify to communities the extent of the parliamentary influence on local democratic arrangements. There is possibly a strengthening of the legal right of a council or central government to challenge what is perceived to be inappropriate/improper conduct of business.

ARTICLE TWO

14. To a large extent this is a clear statement of the vision for local government in terms of its accountability to its citizens and its ability to deliver services, commission activities and/or work with a clear focus on local issues without being subject to control from the centre.

15. It is essential that there are effective processes governing the passing of local legislation including the opportunity for the wider world to scrutinise proposals.

ARTICLE THREE

16. This again carries reference to a statutory basis for the work of a council and to some extent Clauses 1 and 2 are very much an echo of the overall theme from Article 2.

17. Clearly an agreement by government to consult with councils in a timely manner on issues which affect an authority's area would be very welcome. However, the effectiveness of such consultation may very well depend on the way in which such an exercise is coordinated and the willingness of government to explain its final position after the consultation.

18. There will need to be clarity over how an empowered local authority will operate in a two-tier area.

ARTICLE FOUR

19. One of the key benefits delivered for local authorities by the Coalition Government is the abandoning or abolition of much of the inspection regime machinery and culture. I believe that a desire to set inspection regimes either in partnership with government or without is a regressive proposal. I believe that the focus should be local service standards and quality and that resources where available to work on such standards should be used to develop appropriate measures which recognise and address local needs and challenges thereby preventing any view of "one size fits all". Such an approach would also enable citizens to influence the shape and scope of services.

ARTICLE FIVE

20. The content of this Article is both sensible and workable, although there should be time constraints governing the making of requests for reviews if only because a referendum is an expensive action to conduct.

ARTICLE SIX

21. Recent history on the sounding of citizens on their choice of political decision-making system shows that there is little interest in many communities. It has to be recognised that the cost of testing the opportunities of a particular governance approach with communities is not inexpensive.

22. If the new relationship with the centre is developed and greater autonomy/accountability for councils achieved then there is a case for seeking to elect a new council every five years. It would then be feasible to have a review of the political decision making system every 10 years rather than the suggested eight, with the first one being two and half years after the first election to a five year term. As a safeguard there should be an ability for citizens to call for a review if certain triggers which need to relate to probity, service quality and/or value for money are hit.

23. The method of election could be subject to a local referendum although the matter of the costs of a referendum and the introduction of different electoral systems needs to be a factor. Again time lapse restrictions should apply to prevent the use of the ability to challenge an existing electoral process from being abused.

ARTICLE SEVEN

24. Financial independence is a pre-requisite of meaningful and effective local government. The use of an Equalisation Board would offer the independent assessment required. However there ought to be greater consideration to the proposal for annual equalisation as a longer time frame may offer benefits in terms of funding for planned services.

25. The use of a local referendum to obtain additional income will be particularly challenging for areas with significant deprivation. Any proposals requiring funding which cannot be met from the re-allocation of income tax or other centrally garnered source must be properly costed and be part of the deliberations for voting at the referendum. A local referendum to raise additional revenue may be an ideal approach on a matter such as provision of enhanced services for young/vulnerable/elderly persons care.

26. It is not clear how a local proposition to raise additional funding will work in practice.

ARTICLE EIGHT

27. Clause 1 relates to a power for a council to work with any other body/organisation in its area. The existing Power of General Competence already offers a significant opportunity. There would need to be a repeal of some primary legislation to make this aspect of the code a reality. It is recognised that the need for legislative changes would be a feature for many of the proposals within the draft code.

28. The duty to co-operate has to be a welcome element of the code and it has to be hoped that it would not be necessary to utilise the provisions of Clause 3 of Article 1.

29. A council should be expected to demonstrate why its association with other bodies including those based in other countries is of a common interest and benefit to its communities.

ARTICLE NINE

30. It is essential that any local referendum, the use of which is a common feature in the code, is governed by accepted standards and that those organising a referendum are accountable to the Electoral Commission for the conduct of the referendum.

ARTICLE TEN

31. Councils must have the right to seek a judicial remedy if they are being obstructed from undertaking duties and/or exercising power which lie within their jurisdiction.

32. I must stress that the comments outlined above represent my views and the thoughts of the other members of the Corporate Management Team. I am not yet privy to the proposed response from elected Members.

August 2012

Written evidence submitted by Cllr Graham Jones, Leader, West Berkshire Council

1. Thank you for affording me the opportunity to give my personal view about the consultation on local government independence.

2. Broadly speaking, I welcome the thrust of what is being proposed, particularly the greater certainty afforded by a rolling three year programme of central government financial support that in principle cannot be varied from once published. I would suggest that it should form part of the annual budget statement, so that local authorities have sufficient time to plan their expenditure. This is clearly particularly important for year one.

3. Much more needs to be done now, in my view, to repeal outdated and unnecessary legislation across the whole spectrum of central government if the Localism Act and the proposals to modify are to have real meaning.

4. There should be no transfer of responsibility from central government to local government without a proper transfer of sufficient financial resources.

5. As has been alluded to, there is a need to change the "mind set." Strict criteria need to be applied so that there is objectivity and transparency in decisions to retain areas currently controlled by central government. There is no mention anywhere in the documents about the need for re-training. Civil servants and local government officers will need this if the "mind set" is to change.

6. I would draw your attention to Paragraph 3 of Article 7 of the draft code which contains an omission and a non-sequitur. I believe that this should read:

3. Local government shall be given a guaranteed annual share of the yield of income tax. This should be expressed in percentage terms so that councils are always able to benefit from the growth in buoyant tax resources available to the state as a whole. When responsibility for service provision is

transferred from central government to local government, there shall be no reduction in the financial resources previously deemed necessary to support service provision unless there is written agreement that local government can deliver the service at lower cost.

7. I hope that you find this response helpful.

August 2012

Written evidence submitted by Dr Andrew Blick, Senior Research Fellow, Centre for Political and Constitutional Studies, King's College London

1. The draft code for central and local government is to be welcomed. There are strong arguments in favour of a constitutional document establishing and entrenching the rights of local government in England.

2. Government in the UK is notoriously over-centralised when it is considered in international perspective. Partly as a consequence of the doctrine of parliamentary supremacy or “sovereignty”, and the lack of a codified UK constitution, the limitations on power hoarding by central government are weaker than in other democracies.

3. This characteristic is problematic both from the perspective of democratic principle and policy effectiveness. Centralisation means that there is less local control over policy-making in the localities. Powers concentrated at UK level are harder to subject to meaningful accountability. An overloaded centre is less able to produce and implement successful programmes; while local democratic institutions are better placed and able to serve the requirements of the areas in which they are based.

4. Since the late 1990s centralisation in the UK has been offset to some extent by the introduction of devolution to Northern Ireland, Scotland and Wales; and the establishment of the Greater London Authority. But outside Greater London no serious devolution of power has taken place in England (though Bristol has voted to introduce a directly elected mayor); and the transfer of powers from English local government to Whitehall, through such initiatives as the Free Schools policy, has continued under governments of different political complexions.

5. The draft code therefore addresses an area where there is much scope for improvement: through providing English local government with a meaningful funding base under its own control and genuine policy autonomy. The limitations on local government it proposes to retain, such as being subject to human rights provisions, are more appropriate than those which dominate at present, namely the whims of the central executive.

August 2012

Written evidence submitted by Cllr Denise Jeffery, Deputy Leader, Wakefield Council

1. The Council strongly supports the independence of local government and clarification by Parliament of the role of local authorities as community leaders and community champions. We also believe that one of the key reasons for the failure of the 1997 Central-Local Concordat was that it placed no duties on Central Government or its agencies to act as government has always expected individual local authorities to behave ie as a strategic and corporate entity, committed to partnerships and accountability at the lowest possible level to make a difference to the communities we all serve.

2. As such we would suggest the following comments to the illustrative draft code:

PREAMBLE

3. We would propose this makes specific reference to local government possessing a general power of competence (even though this is referenced in article two—it reinforces the independence and unique constitutional of local government as opposed to, other agencies). Highlighting the accountability of local authorities to all electors within their areas through the ballot box would also strengthen the preamble and the case for a more mature relationship between local and central government.

4. With regard to the draft articles, we would also make the following suggestions:

ARTICLE TWO: LOCAL AUTONOMY AND SELF GOVERNMENT

1—Amend to: “Council’s overarching accountability is to local residents demonstrating high standards of *accountability and probity in their business*”

ARTICLE THREE: SCOPE OF LOCAL GOVERNMENT

3—Amend to: “Councils are to be consulted, early *and meaningfully* within the policy and decision making-process, by the Government if it is proposing reform, which will affect any council and the communities *it represents and serves.*”

Add: “Councils may petition central government to extend the scope of their powers or responsibilities, including undertaking responsibilities of other public agencies or authorities operating within their boundaries, where it is in the best interests of the communities they represent.”

ARTICLE FOUR: INTER GOVERNMENT ACTIVITIES

1—Amend to: “Council and local government acting together should be allowed to create *or modify* inspection regimes to set and maintain service standards.”

Add: “Central Government and its agencies will act in a coordinated and strategic manner in its working and relations with local government.”

ARTICLE SIX: COUNCIL GOVERNMENTAL SYSTEMS

Add: “Governments shall maintain in its workings a clear and strong commitment to effective local democracy represented through local authorities, recognising its importance as the voice of local communities.”

ARTICLE EIGHT: COUNCILS’ RIGHT AND DUTY TO CO-OPERATE AND ASSOCIATE

Add: “Government and its agencies should play a full and active part in local partnerships and associations acting for the benefit of communities.”

5. We will also be considering a full council motion in support of the code and shall inform you on progress in that area following the return of council from recess.

August 2012

Written evidence submitted by the Association of North East Councils

INTRODUCTION

1. The Association of North East Councils is the political voice for local government in the North East. It represents all 12 local authorities in the North East, throughout Northumberland, Tyne and Wear, Durham and the Tees Valley on issues of concern to them and the communities they serve. It is a cross-party organisation, with all of its members democratically elected and accountable politicians.

2. As the representative body for local government in the North East, the Association welcomes the opportunity to comment on this issue, which is of profound importance for local government and goes to the heart of its constitutional position.

PRINCIPLES

3. The Association supports the principle of a code that would establish the position of local government within the constitution and enable it to operate as a co-equal alongside central government. For too long, English local government has been in an inferior position, as regards dependence on central government, to its counterparts in other western democracies. This is now having real consequences for our ability to deliver the services that people and communities need and expect.

4. We consider that the right of local government to manage local affairs, within a framework of law and of accountability to local people, should be recognised in the same way as the right of central government to set national policy and manage national affairs is recognised.

5. Further, the weak constitutional position of English local government is thrown into stark relief by devolution to Scotland, Wales and Northern Ireland, and the prospect of independence—or further devolution—to Scotland. At a time when more powers are being devolved to territorial administrations, local authorities in the largest country in the United Kingdom remain subject to extensive legal, financial and regulatory constraints. This cannot be right or equitable.

6. The current economic position makes it all the more important to pursue this agenda. If, as seems likely, local authorities are going to be subject to a further round of cuts in the next spending review, it is imperative that they should be allowed to be innovative and creative in working out their own solutions to how they are going to continue to meet demands for services in a changed financial climate.

7. It should be emphasised that a clear position for local government would be beneficial both for central government, which would be free to concentrate on national issues and macroeconomic policy, and for MPs who would no longer find themselves held to account for local service issues. It would be a means of re-engaging the trust and interest of local citizens, and unlocking the creativity and enterprise of local councillors and officers.

SPECIFIC PROVISIONS

8. Specifically, we consider that the code should provide for the following:

- financial independence for local government anchored in the full retention of, as far as possible, uncapped and locally determined council tax and business rates, subject to clear and transparent mechanisms for fairness and redistribution for all authorities;
- entrenching local accountability by removing unnecessary central government supervisory powers, accepting that government has a legitimate role in certain areas;
- removing central government power to intervene in councils' boundaries, structures and governance models;
- making it a default position that local government should have power to provide or commission any public service not explicitly assigned to another body;
- entrenching local government's constitutional position so that it is not subject to re-regulation (whether this is done through the 1911 Parliament Act or some other mechanism); and
- clarifying the right of councils to set up formal or informal joint arrangements, at regional or sub-regional level, to deliver or support their functions.

CONCLUSION

9. The Association fully supports the Select Committee in the work it is doing on this issue and hopes that the above comments will assist the Committee.

September 2011

Written evidence submitted by Cllr Bob Price, Leader, Oxford City Council

1. On behalf of the members of Oxford City Council of all parties, I would like to confirm that the proposed code for regulating relationships between central and local government is entirely welcome and appears to us to have been drafted in a sensitive and balanced manner that would go a long way to establishing a stable understanding of the interrelationship between the national state machinery and local political systems.

September 2012

Written evidence submitted by Cllr Peter Webb, Leader, North Dorset District Council

1. Many thanks for the opportunity to comment on the increasingly desperate issue of LOCAL Government. The general thrust of your proposed codification is very strongly supported: without some clear legislative safeguards, it is foreseeable that our diverse nation will lose a great deal of local energy; the political parties will become irretrievably remote from the communities within our population, and the ethics of local democracy will have been diluted to Orwellian standards. I believe that codification for local government is now urgent and essential if England and the UK are to maintain their historic character, governance standards and integrity over the coming years.

2. I would offer comments on the drafted articles, as follows:

Article 6: I am not convinced that Clauses 2 and 3 are needed.

Article 7: Clause 2 seems unclear: "citizens through their councils" ??? Councils are legal entities with a clear representational responsibility... this would be better as simply "councils" although I have a serious distaste for State institutions seeking to compete with private sector activities "in order to generate funds" I regard private sector and public sector activities as I do oil and water; they do not mix well most of the time.

Article 7: Clause 3 suggest replacing "income tax" with "overall central government funding" on the grounds that income tax is too narrow a measure of total government activity.

September 2012

Written evidence submitted by Cllr Peter F Adams, Borough of Poole

1. In response to your consultation request I would like to make the following comments:

- It states that central government and local councils are of co-equal status. I find this difficult to believe having been a councillor for several years and most frequently feel we have a situation where we are in many instances subservient to central government.
- Joint actions between central government and us to create inspection regimes. This is an exciting proposition, but we have a very large number of upper and lower tier councils do you propose to individually consult with them all regarding inspection regimes and NI's? If so this could create an enormous amount of administration and difficulties in creating proper national statistics.
- Boundaries can be decided locally with co-operation of the Boundary Commission and local referendum. This could become a political nightmare, I can think of two areas in Poole where relatively small boundary changes could affect political outcomes. If a referendum was called the turnout would probably be minute and political activists who may or may not be representative of the ward/area disproportionately effect the outcome.
- An eight yearly possibility of a referendum to change the constitution is not sensible, it could lead to political instability due to continual change. In addition the recent AV referendum clearly shows that the people within the UK have no appetite for PR and yet you state this is a possible change that could be made locally. In Poole which has a strong Liberal and Conservative presence it could result in continual eight yearly referenda.
- Annual share of yield of income TAX sounds good but who would decide central government? If so how can we be co-equal?
- You say you will not cap council tax raises but say that if it is too much there has to be a local referendum. Who says what is too much? If it is central government how can this be co-equal?
- Local referendum will be controlled by the Electoral Commission and after the local Council will be accountable to Electoral Commission. How would this work, sounds rather complex and expensive.

2. I found this document difficult to understand and from the grass roots perspective seems to suggest an even more complex system that will slow up decision making and diminish the authority of the elected members.

September 2012

Written evidence submitted by Oxfordshire County Council

1. On behalf of Oxfordshire County Council we wish to give our comments on the illustrative draft code for central and local government.

GENERAL COMMENTS

2. Oxfordshire County Council welcomes the Committee's attempt to formalise the relationship between central and local government and promote the autonomy and independence of local authorities.

3. There have been a number of attempts to strengthen the status of local government and the sector's ability to act autonomously in the interests of local people. Measures such as the Power of Wellbeing and General Power of Competence are examples of this and the code fits in well with this direction of travel.

4. However, we are unsure as to what extent the way of working within the code is something that is supported across Whitehall and therefore to what extent it could be delivered. OCC believes that the code would mean a more significant shift in operation for central government than for local councils. This is particularly true in relation to clauses within Article 7 (Local Government Financial Integrity) which would lead to considerable change in the funding arrangements for local authorities.

5. The financial costs to local government of the number of referenda suggested throughout the code need to be considered to ensure any code does not place undue financial burden on local authorities.

ARTICLE 3: SCOPE OF LOCAL GOVERNMENT

6. The commitment to early consultation included within this article is positive, however it should be noted that central government already finds it difficult to consult in a meaningful way and that the level/nature of consultation can be burdensome at times. Ensuring consultation is worthwhile will require central government to be more transparent in detailing how it has listened to, and taken on board, local government's views.

ARTICLE 4: INTER-GOVERNMENTAL ACTIVITIES

7. We welcome the emphasis on jointly developing any inspection regimes designed to set and maintain service standards. However, this clause of the code should not be viewed as an invitation to develop such

arrangements. Local authorities have overall welcomed the relaxation of centrally led inspection regimes and subsequent reduction in the burden of unnecessary performance management.

ARTICLE 5: TERRITORIAL AUTONOMY

8. Oxfordshire County Council welcomes the increased flexibility to determine our own local boundaries that this article would introduce.

ARTICLE 6: COUNCIL GOVERNMENTAL SYSTEMS

9. This aspect of the code appears at odds with its overall tone of autonomy and local discretion. Oxfordshire County Council does not wish to have placed upon it requirements for a review of political decision making systems, we would prefer that the need for this was determined locally.

10. We also question how feasible a local referendum on changes to political decision making would be both in terms of the interest of local people in such matters, and the value for money that could be demonstrated by dedicating significant resources to running such a referendum and raising levels of understanding to the level needed to make a referendum meaningful.

ARTICLE 7: LOCAL GOVERNMENT FINANCIAL INTEGRITY

11. Whilst the Council welcomes the intention of this article the financial reality that the authority is currently experiencing, and the new funding system for local authorities being put in place, suggest that the working arrangements within this article would be almost impossible to achieve.

12. The proposal for an independent body to lead on the process of equalisation between councils is a positive one. The complexity and difficulty of this role should not be underestimated. Annual equalisation does not fit with the business rates retention scheme, currently being consulted on by government, as resources are not due to be reviewed until 2020 and annual reviews would interfere with the incentives within the new system. This needs to be considered as the code's proposals would be a considerable change from the system under development.

13. Local councils already have powers to raise additional charges without the need for a referendum with local people. We value the opinions of Oxfordshire residents and use client groups and resident surveys to gather views alongside more formal consultation processes on service change. We feel introducing a requirement for a referendum would therefore be a backward step, and again question the value of spending resources in this way. The code does not place similar requirements on central government to hold referenda when taxes are changed.

14. We welcome the proposal to include a clause stating that local government will be given a guaranteed annual share of the yield of income tax. However, it is questionable how realistic this is given that the Government has established a system for the "retention" of local business rates which does not provide Oxfordshire with a true share of the business rates generated locally. Addressing this would be a priority.

15. Capping of one sort or another has been in place for around 30 years, therefore its removal would be a considerable shift for central government. Spending plans are normally set for three years at least, therefore the inclusion of a rolling three year budget cycle in the code reflects current arrangements.

October 2012

Written evidence submitted by Cllr Roderick Bluh, Leader, Swindon Council

1. It was good to meet you in London at the recent NLGN event. It was also good to hear your views on how local government should develop. Thank you for your email and for the attached draft code for central and local government relations. I found the draft offered a good starting points and the accompanying notes were most helpful. I hope your Committee will convey thanks to Professor Copus for his work on this project.

2. I have a number of suggestions, some of which are mere presentation issues; others are more substantive changes about how to add impact to this code.

PREAMBLE

3. In the first sentence, could I suggest adding town and parish councils to the list? These are valuable units of local democracy and their councillors have their own democratic mandate. There is still a strong, long attachment to these authorities, especially where they reflect a town's or village's history, and I think we lose a vital part of our local democratic framework if we omit them.

4. On a minor point in the penultimate line, do we need to say co-equal instead of equal? The former term reminds me too much of government English and might confirm to a resident that the Code is just another document by officials and for officials.

ARTICLE ONE

5. I totally welcome the commitment to protect and promote local authorities as governments in their own right and not as mere agents of central government.

6. In article 12, 3rd line, could I suggest that you add councillors to the list? By giving MPs an explicit mention and omitting councillors the text does not affirm the principle of equality as stated in the preamble.

ARTICLE TWO

7. This article contains the core elements that I as a resident, let alone as a councillor, would want to see in a code of central-local relations. Could I suggest that the impact would be enhanced if the order were to be changed? Article 2.3, in my opinion, should be the first sub-section in this list since this articulate local government's distinctive position in the governance of the realm. If so, your article 2.1 logically moves to second place since having affirmed the role of local authorities, you then specify their primary accountability—to local electors, not Whitehall. Article 2.2 would move to 2.3 as this text, along with article 2.4, sets out clearly that local government operates within an appropriate legal framework.

ARTICLE THREE

8. The only issue that occurs to me under Article 3.3 is how central government should be required to fund any functions or duties it allocates to local authorities. I shall expand on this under Article 7.

ARTICLES FOUR AND FIVE

9. I endorse these as written.

ARTICLE SIX

10. I am not aware of any appetite for the public to be involved in deciding the council internal decision-making processes. The recent mayoral referendum in Salford did not exactly set the world ablaze with its 20% turnout. In Swindon, a few years ago two week's extensive coverage in our daily local newspaper (12 editions in all) and an online campaign yielded barely 100 signatures for the petition required to call a mayoral referendum.

11. I support the use of a referendum if the council wishes to change its system. However, I feel that asking the public every eight years will impose a heavy cost on local authorities without delivering any real benefit. Not only is my email inbox quite empty of questions calling for reforms of the cabinet-leader system, I cannot even recall the last time a resident even asked me about changing the system.

12. I would oppose article 6.3 allowing councils to vary their electoral systems. The plurality system we use here (single member plurality for elections by thirds or multi-member plurality for all out elections following boundary changes) is simple, well understood, and generally accepted. The proposal for alternative vote for parliamentary elections (known as instant run-off in the USA) was soundly defeated in the referendum.

13. The supplementary vote system used for mayoral elections has not stimulated higher turnout or greater support. In fact, one study has shown that in 60% of all the cases where the winner was decided by allocating second preferences, there were more unallocated second preference votes than the winner's majority. This is because voters, not being blessed with prophetic powers, could not predict which candidates would come 1st or 2nd on first preferences and so could not use their second preference votes effectively.

14. The additional member system used in Greater London Authority elections also fails to meet the high standard of proportionality delivered, for example, by the German first vote, second vote system. In 2004, the political party that received 27% of the London-wide votes received 0% of the London-wide seats. I am not aware that single transferable vote has provided any democratic benefits to residents in Scotland, although I will accept that it has been beneficial to some political parties. That alone tells me it might be suspect.

15. The risk is that by leaving the choices to individual councils you could end up with something like this—a preference-based system as devised by the 13th Century Catalan scholar Ramon Llull, operations lied in the 15th Century by Cardinal Nicholas Cusa, re-invented in the 18th Century by the Marquis de Condorcet, and re-invented again in the 19th Century by the Reverend C L Dodgson. It's better for all of us that any changes to the electoral system be determined through the Electoral Commission and Parliament, not councils.

ARTICLE SEVEN

16. Sorting out local government finance is the most important element to any reform.

17. I support the principle of equalisation as set out in article 7.1 but I have concerns about how equality can be determined. Swindon has suffered since 1997 by being an underfunded local authority. In 2009–10, for example, we received central government funding of £265 per person. Milton Keynes, a town of similar size and challenges being an expanding town was funded to the tune of £365 per head. Swindon receives £20 million less than the average unitary authority.

18. The risk of Article 7.1 is that it will reward those councils that are best at pleading their own poverty.

19. I am also not sure about councils losing their ability to determine the level of at least one source of local taxation. Making all council dependent on a share of income tax may work in other European countries. However, it is difficult to transfer individual elements from nation to nation without understanding the full cultural context. Britain has distinctive local government traditions and British residents may have different attitudes towards taxation and local services than their European counterparts.

20. My other concern about funding local authorities from income tax is that when things become difficult it will be a lot harder to get money out of Whitehall if it has been collected by Whitehall.

21. I would like to see a system, as the present Government is advocating, by which councils can keep a share of the new wealth created by businesses in their local communities. This system will encourage growth. At the moment, Swindon is one of the net contributors to the pooled national business rate so our local growth goes anywhere else but to Swindon. In fact, if we were to keep our business rates and forgo our government grants, we would be £8 million a year better off.

22. Can I suggest that this article needs redrafting and that the new version should give urgent consideration about how to stimulate and reward economic growth?

23. A further concern is about the funding of demand-led services such as adult social care. Any system of national equalisation will require such an amount of data, duly processed and weighted, that it could render any new system as opaque and unfair as the current one.

24. Above all, it will not address the fundamental issue that a budget planning cycle can only guess how many people will fall into high dependency. If we are out by a mere three cases—and we have a population of over 200,000 from whom they can come—the cost can be equivalent to a 1% rise in council tax. Serious concern should be given to how national programmes and national duties are funded by national government.

ARTICLE EIGHT

25. While I support the sympathies of article 8, especially 8.1, is this article largely redundant given the power of general competence, especially if your article 2.4 is also adopted?

ARTICLE NINE

26. I support the use of the independent Electoral Commission's standards for the conduct of a referendum. However, as each referendum costs around £250,000—nearly 0.33% of an increase in council tax—each time, I worry about this being an expensive and ineffective form of democratic participation.

ARTICLE TEN

27. I support this article.

28. I hope you find my comments of assistance as I am generally in favour of your code.

September 2012

Written evidence submitted by George Jones and John Stewart

PART ONE-WHY WE SUPPORT THE CODE

1. We fully support the proposal for a statutory code to cover the role of local government and central-local-government relations on which the Political and Constitutional Reform Select Committee is consulting. We have already made the case for such a code in written and oral evidence to the Committee. In this submission to the Committee, Part One sets out the reasons for our support for the statutory code; Part Two makes general comments on the illustrative draft code; and Part Three comments on the specific Articles of the code.

2. We support the need for a statutory code because of the lack of formal recognition of the constitutional position of local government and its role in the overall system of government, and therefore the lack of understanding of the role of local government in much of central government and at times in local government itself. This lack of understanding underlies the defective condition of central-local relationships dominated by prescription and control by central government that limits the role of local government and prevents it from realising its full potential.

The Constitutional Position of Local Government

3. The starting point for the code should be the recognition of the position of local government in the constitution of the United Kingdom. Local authorities are political institutions elected by local citizens, and their relationship with the United Kingdom Parliament and the devolved institutions is the relationship between elected political institutions, making it a key constitutional relationship. Too often central government has failed to recognise the constitutional status of local government and therefore the constitutional importance of the central-local government relationship. As an elected political institution local government should therefore be recognised as part of the constitution, as in the majority of countries of Europe.

4. Local authorities as elected institutions have a primary accountability to local people with a responsibility for the well-being of their areas, and the communities and citizens within them. That responsibility is expressed in the services provided, but extends beyond those services to a general responsibility for community well-being, involving a concern for the problems and needs of local communities and for the action taken by all public bodies in their areas and for their use of resources. This wider role is well understood by their citizens who turn to local authorities and their councils when faced with community disasters and threats to their well-being.

5. Central government's approach to local government has given too little recognition to the role of local authorities as political institutions with a capacity for local choice in enabling community well-being or to the constitutional relationship as critical for effective government based on the work of local authorities. Rather there is a tendency in central government, both ministers and civil servants, to see local authorities as mere agents for the delivery of national services in accordance with central government policy. This disregard of the constitutional position of local authorities leads to a failure to recognise the importance of the role of local authorities in community governance, indeed in local democracy. It leads to a failure to understand that the primary accountability of local authorities is to local people by whom they are elected rather than to central government. This confusion limits the effectiveness of the central-local government relationship and of the overall system of government.

6. The statutory code should recognise the constitutional position of local government, its accountability to local people based on local democracy, and its responsibility for community well-being with a capacity for local choice. Such recognition should underpin the working of the whole system of government, enabling the rich resources of local abilities and experiences, and of community understanding, to be fully utilised in securing economic, environmental, social and cultural well-being. We support the proposal to commit Parliament and central government to strong local government with a wide-ranging concern for community well-being as necessary for the effective government of the United Kingdom. We support the proposal so that local authorities are recognised as having a constitutional role enabling them to play that role as local government.

The Central-Local Relationship

7. The central-local government relationship is currently defective because it is based on a limited view of the role of local government, giving too little recognition to the value of local choice, and local innovation and initiative. Instead the relationship is based on prescription and control by central government, which are expressed and enforced in detailed legislation, regulations and orders, centrally-prescribed procedures and almost endless pages of guidance to which local authorities are expected to have regard. Government should act and Parliament should legislate only when there is a clear national interest; but there is no national interest in attempting to ensure that what happens in each and every local authority conforms to detailed requirements laid down nationally rather than to local choice reflecting local needs and conditions. Scope for local choice should be widened to enable initiative and innovation, and responsiveness, to local needs and conditions. The central-local government relationship should not be based on prescription and control, but on mutual learning. The code's provisions should enhance the capacity for local choice based on accountability at the local level, challenging the dominance of prescription and control in central-local government relationships.

8. Central-local government relationships have changed over time as the tendency to prescription and control has deepened and widened. These changes have gone unrecognised in the working of central government, even by those bringing forward proposals for legislation, regulations and guidance. The relationship changes not so much because of explicit policies for local government but because of the cumulative effect of departmental initiatives, taken on their merits as seen by departments, without any regard or even awareness of the Government's stated policies for local government. Examples of such ignorance have been shown by witnesses to the CLG Select Committee about the Concordat agreed between central government and the Local Government Association, which lacked any statutory force. A statutory code would command attention in central government in a way that did not apply to the Concordat.

9. The statutory code would provide benchmarks and criteria against which specific proposals from government and the legislature could be assessed and general changes appraised. The cumulative impact of changes could be highlighted if appropriate administrative machinery, like a Cabinet Office unit and a cross-departmental Cabinet committee, were created within central government to monitor the application of the code's provisions across departments. Even more important Parliament should be able to monitor the application of the code. The code should itself set out the procedures by which the application of the code should be assessed within central government and by Parliament. We have advocated proposals for a joint committee of both Houses with responsibility for reporting on the general application of the code within government, and on the state of, and trends in, central-local government relationships, as well as on particular proposals before Parliament that affect local government.

The Purposes

10. The code can take different forms fulfilling different purposes. To clarify consideration of the code we set out three main purposes a code could fulfil.

11. It could be an expression of existing roles and practices to ensure accepted good practice. This model would not however require significant change in the relationship, and was in many ways embodied in the Concordat between central government and the Local Government Association. It had little impact partly because it did not have any statutory force. However, it would not have had a major impact, even if it had received more attention in the departments of central government, because it did not change their fundamental assumptions about existing practice. It did not challenge the centralist culture and assumptions of Whitehall.

12. A second model would seek to change the relationship. It would set out the role of local government, its constitutional position and the principles that should govern central-local-government relationships. It would set out procedures to be followed in that relationship and their enforcement. The purpose would be to change roles and relationships.

13. The third model involves a new constitutional settlement, including specific provisions on such issues as local government finance and local government structures. There is a case for their inclusion in a code based on the second model, if expressed in general terms, provided they are likely to be part of the permanent arrangements of local government and central-local government relations. There is no point in expressing the specifics of financial arrangements or methods of structural reorganization in a constitutional settlement, since they are likely to require amendment from time to time. These matters, appropriate for statutory change, should not be seen as part of an entrenched constitutional change as proposed by the Committee. The code should focus on the principles that should govern such matters and general procedures not specific policies.

14. We favour a code based on the second model that contains elements of a constitutional settlement that are likely to be part of the continuing role and nature of local government and central-local government relations. They include recognition of:

- the constitutional position of local government;
- the primary accountability of local authorities to local people;
- the responsibility of local authorities for community well-being and the use of community resources;
- the need for local authorities to have a wide scope for local choice to discharge that responsibility;
- the need for parliamentary legislation and central government actions to be limited to where there is a clear national interest;
- the need for governmental and parliamentary means for assessing the impact of the code and for its enforcement, including a cross-departmental cabinet committee, a Cabinet Office Unit and a Joint Committee of both Houses of Parliament.

PART TWO—GENERAL POINTS ON THE ILLUSTRATIVE DRAFT CODE FOR CENTRAL AND LOCAL GOVERNMENT

15. Article One is confusing in its present form and requires further examination. The questions that have to be discussed are whether the code should be entrenched and, if it is, whether the form in which entrenchment is expressed in Article One is likely to be effective and what the other options are. The minimum requirement is at least to review the wording of this Article taking into account our paragraph 24 below.

16. “Independence” is a misleading term for use in a code about local government. It fits Scotland in which the SNP seek independence from the UK, but hardly sits easily with local government which does not seek to be a separate country. Independence implies independence from something, but what does local government seek independence from—not from the rule of law or Parliamentary sovereignty? Autonomy is a better word, but local government would not want total autonomy. Perhaps “discretion” or “freedom” are better words.

17. “Within the law” and similar phrases are used many times in the draft code, but they give Parliament and the Government considerable leeway to curtail local discretion simply by changing the law. What is important is to ensure the law gives space to local government to make significant choices locally. The code should specify the principles governing legislation and government policy that should ensure local government has that space. Parliament and central government should restrict local choice only when clear national interests are at stake. Protecting local people is often used to justify central-government intervention, even though that should be the right of local people to decide for themselves in holding the local council to account. Such legislation, even when there is a clear national interest, should not go beyond that role by specifying in regulations and guidance that extend beyond the national interest into the detail of local-authority action.

18. The code should state firmly that local authorities are not agents of central government but have a constitutional position in their own right as political institutions with the capacity for local choice for which they are accountable to local citizens not to central government.

19. There is a need to review the provisions in the code requiring referendums, both binding referendums and advisory referendums in which the majority vote will carry moral force but be subject to review and final decision by the council. Local authorities are based on representative democracy, ie decision-making by elected councils. It should be for a local authority to determine where advisory referendums would help its decision-making. Binding referendums should be introduced in the code only where there are clear reasons for them,

and such reasons should be stated in the code. Binding referendums are justified for the choice of a council's electoral system since it constitutes the council and touches all voters (Article Six 3.). The same reason could be argued to apply to decisions on the boundaries of a local authority, when a new authority is being created (Article Five 1.). But in this case there are problems because the results can be ambiguous. In an amalgamation of two authorities, what result should be treated as binding if the majorities in the authorities differ, with one being in favour and the other against? Even more complex issues can arise where only parts of existing authorities are involved in the new authority but other parts of those authorities are affected. In these circumstances referendums could be required but the result should not be binding because the complexities outlined mean that the results have to be interpreted by the councils involved. Where appropriate the code should explain the reasons why a referendum should be binding. Otherwise the holding of a referendum should be left to the discretion of a local authority. For example, binding referendums are not appropriate for decisions about the internal decision-making system of a council (Article Six 1.), nor for decisions about budgeting and local financing (Article Seven 2.) since binding referendums would undermine the authority of the local council. These decisions are not about the creation and constitution of the authority. Decisions about the budget, where policies, expenditure and local taxation are all involved together, cannot meaningfully be reduced to a single decision appropriate for a referendum.

20. Centrally-assigned levels of taxation for local government, as proposed for income tax, do not represent local choice. They are in essence grants because they do not allow local authorities to determine the rate of the tax. The code should state that local authorities should draw most of their revenues from their own voters with taxes whose rates the council determines.

21. The phrase "codifying" can mislead. The Select Committee has to face the issue as to whether it means codifying existing practice or specifying what should be changed or, what we prefer, principles that can be used to judge present practice and guide action for the future. The draft code does both and at times causes confusion. In some places it sets out proposals for change in how local government should be financed and how its boundaries and structures should be reorganised. Rather the code should be concerned with the principles that should govern central-local government relations, and not codify specific present policies or proposed changes in those policies. In stating the principles it provides signposts to the criteria for judging both present practice and proposals for change.

22. The code should lay down in general terms both the parliamentary procedures for monitoring whether the code's principles are being applied in current practice and in proposals for legislation and changes in policy, and central government's administrative procedures for ensuring all government departments are adhering to the code.

PART THREE—NOTES ON SPECIFIC ARTICLES IN THE CODE

PREAMBLE

(i) Be sure of what is meant by "independent". Apply the test "independent" of what? See above paragraph 16.

(ii) Town and parish councils should be included since they are directly-elected local authorities.

(iii) What is meant by "all that is required at local level"? Who requires? Clarify the phrase.

(iv) "within the law". See paragraph 17 above.

(v) The Preamble rightly makes clear the application of the code is to England. Should it express here a hope its principles will be adopted by the devolved administrations in Scotland, Wales and Northern Ireland?

ARTICLE ONE

(1) Referring to an amendment to the 1911 Parliament Act will baffle most people. What is this amendment? What are the fundamental freedoms of local governance? Are they different from the code? This article needs redrafting taking account of the points raised in paragraph 15 above.

(2) Put instead of "The code" "This code", for clarification.

(3) (i) Note "subject to the law"—see paragraph 17 above.

(ii) Put "their" before "rights".

ARTICLE TWO

(3) (i) Note "independently"—see paragraph 16 above.

(ii) Replace "dealt with or attended to by" with "allocated to".

(4) Note "in accordance with the national legal framework"—see paragraph 17 above.

ARTICLE THREE

- (1) Why have “due”? Omit.
- (2) Why have “full”? Omit.
- (3) Instead of “reform” put “change”. You do not want to be against “reform”.

ARTICLE FOUR

(1) This sentence is very centralist. “Independent” local government should not be subordinate to external inspection and standard-setting regimes. Local government should be setting and maintaining its own standards. The word “allowed” should not be in the code—why should local government be able to do something only if it is “allowed”, and by whom? Setting and maintaining standards are highly-political responsibilities and should be carried out only by elected representatives of the people. If local authorities wish to set up collaborative activities, they should do so, as in Article Eight. Why single out inspection and standard-setting for separate treatment. Omit this Article and rely on Article Eight.

ARTICLE FIVE

(1) (i) What is meant by “with the involvement of” the Local Government Boundary Commission? Giving advice would be fine. Let local authorities devise their own boundaries jointly with each other.

(ii) “within the law” again. See paragraph 17 above. Omit such words.

(iii) There must be a good reason given why the code demands a local referendum and does not empower the elected council to take the decision. The code should stand for representative democracy, ie decision-making by elected councils, not populist referenda which diminish the role of councils. The good reason should be stated in the code, which is that this process constitutes the local authority. The use of binding referendums in the code needs to take account of the points made in paragraph 19 above.

ARTICLE SIX

(1) Councils should be able to decide on their internal political decision-making systems and not be diminished by being subject to a “binding” local referendum. They may find it helpful to ask for people’s views in an advisory referendum. And why should a referendum be the “first” stage in the process of deciding on internal structures?

(2) (i) The 8-year review is an unnecessary constraint. If citizens object to the system they have, they should be able to achieve change within eight years. The provision for 8-year reviews in this section is costly and redundant. Why this desire to curb local councils? The code should express trust in local government.

(ii) Replace “alternative” with “other”, since there may be more than two approaches.

(3) (i) There is a case for a binding local referendum on the electoral system, since an electoral system constitutes the council and touches all voters. This example is different from the other referendums proposed in Articles Five 1 and Seven 2.

(ii) The Electoral Commission should be involved here in an advisory role, as proposed for the Local Government Boundary Commission in Article Five 1.

ARTICLE SEVEN

(1) (i) Omit the weak phrase “to the greatest possible extent”. It allows central government wiggle-room to impose its views on local government.

(ii) It is dangerous for local government to give such highly-political powers to a national quango. Redistribution is such a political process reaching to the heart of politics that it should not be allocated to an appointed board. Redistribution is a matter for national ministers accountable to the House of Commons. An “Equalisation Board” may be justified if it is composed of representatives of local authorities, engaged in redistributing resources drawn from local authorities and without any central government grant.

(2) (i) We like the idea of enabling local authorities to raise “additional sources of income in their localities”, if they can win the support of their citizens, but not if the referendum is “binding”. It should be advisory.

(ii) The phrase “additional sources of income” needs clarification—does it mean local additions to national taxes or only new taxes, such as tourist taxes, or both?

(iii) Omit “[subject to the rule of law and human rights legislation], because it is unnecessary, since everything done by a local authority is subject to the rule of law and human-rights legislation. There is no need to emphasise it for finance.

3. We oppose most strongly the inclusion of this section in the code for two main reasons given in paragraphs 20 and 21 above. First, the code should lay down principles that will be permanent and not specific policies that could be changed as circumstances change. Second, the assignment of “a guaranteed annual share of the

yield of income tax” is not a sound foundation for local government finance. Such an arrangement is only a government grant, since the local authority is not allowed to determine the rate of the tax and account for that decision to its local voters. It remains dependent on central government subsidy. All that needs to be in the code is the principle that “local authorities should draw most of their revenues from their own voters with taxes whose rates they determine”. There is no need to specify what taxes.

4. Our comments on this proposal are given for Article Seven 1 (ii) above. We oppose this section, as we did Article Seven 1 (ii). Sections 1 and 4 of Article Seven which deal with equalisation should be merged.

5. Who does the credit rating?

6. (i) Omit mention of “rolling three-year budget” cycles, “the comprehensive spending review process”, and “the medium term budget planning process”, because such detail is inappropriate in a code of principles for the reasons we give at paragraph 21 above.

(ii) Insert a new first sentence along the lines of “Central government shall not control local government self-financed expenditure”, before moving on to ban capping.

31. ARTICLE EIGHT

1. “independent” again. Omit it here.
2. Change sentence to “geographical area wider than that of a single local authority”.
3. Insert a new sentence about the accountability arrangements for joint activities.

32. ARTICLE TEN

1. (i) Omit “in order”
- (ii) Change “the code” to “this code”.
- (iii) Surely it should be “the general power of competence”, as in the Localism Act 2011, however much we prefer the “power of general competence”
- (iv) Omit “or individual rights” and “or evident in Human Rights legislation”. This code is about the principles to underlie central-local government relationships. There is no need to include obvious extraneous matters.

CONCLUSION

33. While we fully support the need for a code as set out in Part 1, we consider the present draft needs to be very carefully revised in the light of all the points made in Parts 2 and 3.

April 2012

Written evidence submitted by Chris Himsworth

1. By notice on its website, the House of Commons Political and Constitutional Reform Committee has invited views (by 5 October 2012) on an “Illustrative Draft Code for Central and Local Government” (the “draft code”). The question to which the Committee seeks a response is “what appetite exists, if any, for any form of codification of the relationship between central and local government”.

2. In my earlier evidence to the Committee of 17 December 2010 (L&CG 19), whilst thoroughly sympathetic to the general objectives of the Committee in seeking a revised relationship between central and local government, I rather stood back from taking any particular position on whether the adoption of a (justiciable) guarantee of the status of local government should be sought. Instead, what I did was to start from the assumption that such a guarantee should be sought and to offer some thoughts on the “legal and technical aspects” of the issue. I am inclined to adopt a rather similar stance in relation to the new draft code. This approach might be interpreted as unlikely to reveal evidence of an “appetite” for codification but it seems to me essential that any such appetite that does exist should be accompanied by a commitment to a constitutionally and technically sound strategy for enshrining any such code. Once again, I should state that, although I remain the UK member of the Group of Independent Experts which has the responsibility for advising on the European Charter of Local Self-Government (the “Charter”) for the Congress of Local and Regional Authorities of Europe, an organ of the Council of Europe, I submit this evidence in an entirely personal capacity.

3. A further starting commitment on my part is to be brief. The draft code has been published on the back of a substantial history of evidence-taking, both by the PCRC itself and, in their earlier inquiry on “The Balance of Power: Central and Local Government”, by the Communities and Local Government Committee (for their Report, see HC 33-I (2008–09), and, for the then Government’s Responses, see Cm 7712 (2009) and Cm 7801 (2010)). The draft code itself, taken with its Annex, is also a long document. A complete response, providing a full assessment of all this documentation is not, I think, appropriate in a response to the current consultation.

4. Instead, it seems to me that two characteristics of any code in this area need to be addressed—and discussed in relation to this particular draft code. These derive from what is the presumed overall aim of the exercise which is to secure for the future a rebalanced relationship between central and local government. One issue is the *content* of a code; the other is its *status* ie the basis for its future durability and resilience to amendment. Both issues prompt questions about the current Draft.

5. The issue of *status* is probably dominant in a UK (or, as here, English) context. This involves arguments I elaborated in my previous evidence and I won't rehearse them all here. The absence of a written constitution for the United Kingdom (to which might be added, if it did exist, new articles on local autonomy) and the doctrine of parliamentary sovereignty make the notion of any constitutional "guarantee" highly problematic. What I suggested, in my earlier evidence, however, was that, in the light of experience of, in particular, the Human Rights Act 1998 (although not a direct parallel), it was not beyond the reach of constitutional imagination to achieve for a statutory guarantee of local autonomy rights a status similar to that assured to the European Convention on Human Rights.

6. The current draft code, however, seems to be very vague as to its formal legal and constitutional *status* and its durability. The preamble suggests that it is Parliament which "recognises" free and independent local councils and Parliament which "makes plain" that councils have co-equal status etc. But how is Parliament to do this? In the ordinary way, Parliament does things by enacting legislation in Acts of Parliament. But, although the terminology of a code might imply legislation, this draft code is not at all prepared in the form of a (draft) bill. It may be suggested that it constitutes, in effect, drafting instructions for a bill but, in that case, there would be room for a multitude of questions about how actual drafting might proceed. The language of the current draft code does little to resolve obvious difficulties about terminology—eg "independence", "subject to the law", "legal adjudication" and many, many others.

7. Although Article One refers to "fundamental rights and duties" of local councils and to their "entrenchment" and under the "Article Rationale" there is a further reference to "constitutional protection for the code", few clues are given about how these qualities of fundamentality and entrenchment are to be achieved. There is a curious reference to an "elected joint committee of both Houses" (elsewhere, but not in the draft code itself, said to include local authority representatives) and an even more curious reference to "the amendment to the 1911 Parliament Act" but no explanation of how this might work or why the involvement of approval of amendment by the unelected chamber might be of assistance. (The reference to "amending" the Parliament Act may derive from the references (Q112 and Q273) in oral evidence to the Committee).

8. Turning to the *content* of the draft code, there are, once again, many, many questions about how it might be turned into a document capable of becoming a Draft Bill. Many of these are technical. Terms would have to be defined and clauses elaborated. But many would surely be hugely controversial and, I imagine, vulnerable to obvious central government and parliamentary resistance. The financial provisions in Article Seven would perhaps be the most controversial but, for instance, Article Six (3) which asserts a right for "councils or local citizens" (which?) to adopt "any electoral system" would surely provoke a substantial debate? I ask the question in ignorance but do any local citizens anywhere in the world have the right to do that? There is, in any event, scope for huge uncertainty and controversy about this provision and many others.

9. What is, I think, most puzzling about this particular draft code initiative is why the Committee has gone down the track of a freshly devised series of provisions of (thus far) very doubtful status instead of at least giving consideration to the "incorporation" of the European Charter. The Communities and Local Government Committee recommended (Rec 26 and para 134 of the Report) that "constitutional legislation" should place the Charter on a statutory basis. The then Government's response was quite measured (Cm 7801) and noted that evidence to the Committee had also ranged widely to include "a more tailored set of rules" as either a stand-alone document or as part of a wider written constitution. The Government would "continue to give close consideration to the issue".

10. In evidence to the PCRC, the Chair of the Communities and Local Government Committee, referred to the perceived advantages of the adoption of the Charter (Q 273). And, in written evidence, some other enthusiasm for the Charter was expressed (eg at L&CG 05, L&CG 11, L&CG 17) although it is true to say that suggestions of other model codes were also made. That presented at L&CG 2B does, however, prudently track the terms of the Charter quite closely.

11. The incorporation of the Charter might not be an ideal solution—it does not, of course, offer the specificity that some proponents of a new custom-built settlement might hope for—and it might carry with it its own snags. The two big advantages it has, however, are that (1) it contains provisions which are already accepted as binding on the United Kingdom and whose content should not, therefore, be controversial; and (2), if the model of the Human Rights Act were to be adapted and adopted, there would be a route to a status for the Charter equivalent to that of the ECHR. It would be naive to suggest a complete parallel with the ECHR, however. There would be an absence, in the case of the Charter, of the equivalent of recourse to a Strasbourg Court and its case law authority. To some, this would be a disadvantage. Others might consider it an advantage.

The overall point, however, is to argue that, both in terms of its relatively uncontroversial content as an off-the-shelf document of high authority and of its susceptibility to incorporation with “constitutional” status, the Charter should be given very serious consideration before resort is had to other less-tested candidate documents.

May 2012

Written evidence submitted by the National Association of Local Councils (NALC)

1. As you know, the National Association of Local Councils (NALC) is the nationally recognised membership and support organisation representing the interests of around 9,000 parish councils and many parish meetings in England.

2. The parish councils and parish meetings we support and represent serve electorates ranging from small rural communities to major cities, and raise a precept from the local community. Together, they can be identified as among the nation’s most influential grouping of grassroots opinion-formers. Over 15 million people live in communities served by our parish councils, around 35% of the population, whilst over 200 new parish councils have been created in the last 10 years.

3. Parish councils and parish meetings work towards improving community well-being and providing better services at a local level. Their work falls into three main categories:

- representing the local community;
- delivering services to meet local needs; and
- striving to improve quality of life in the community.

4. Through a range of powers, parish councils provide and maintain a variety of important and visible local services including allotments, bridleways, burial grounds, bus shelters, car parks, commons, community transport schemes, crime reduction measures, footpaths, leisure facilities, local youth projects, open spaces, public lavatories, planning, street cleaning, street lighting, tourism activities, traffic calming measures, village greens and litter bins. These existing powers were strengthened by the extension of the well-being power to eligible parish councils in 2008.

5. NALC provides support and advice directly to our member councils through a network of county associations. Working with and for our member councils, we are actively involved in working with, and influencing, government and other bodies at a national level to advance and protect the interests of local councils and the communities they serve.

6. The National Association welcomes in principle the publication of the draft Concordat, but does rather wonder why it was not asked to present evidence to the Political and Constitutional Reform Committee during its deliberations on the first draft. The fact that local (parish and town) councils are hardly mentioned at all in the draft document reflects this formative fact, and belies a lack of vision and breadth of understanding of the wider local councils’ sector because of this omission. That said, commenting on the draft document *per se*, we welcome Parliament recognising free and independent principal local authorities and local councils in England, accountable to local citizens. It is an if truistic statement that such councils should independently be able to represent, unfettered, the needs of their residents. We welcome the Painesian reference to equality and protection under the law for principal local authorities and think that, despite the General Power of Competence coming the way of local councils—they should also be covered by this umbrella.

7. Below are the National Association’s thoughts on the Concordat’s nine draft articles; responses received from the wider local councils’ sector are included in the Annex to this submission;

ARTICLE ONE: GENERAL INTENT

8. We agree that the draft Code should represent a consensual agreement between central and local government, but obviously think that this should include local councils and not just principal local authorities. The suggestion that councils or central government could seek legal adjudication should it be felt that there had been a breach in the Code is acceptable, but somewhat defeats the localist object of autonomy and *laissez-faire* non-interference.

ARTICLE TWO: LOCAL AUTONOMY AND LOCAL SELF-GOVERNMENT

9. We agree with the statement that councils are democratically elected and autonomous bodies. It is also right that councils are codified to govern the public affairs of residents within their boundaries not otherwise the responsibility of other public authorities. We re-enforce our support for the General Power of Competence being extended to local councils. Local councils and principal local authorities should be trusted to use such powers and do so without being fettered.

ARTICLE THREE: SCOPE OF LOCAL GOVERNMENT:

10. We agree with the assertion that local government should be consulted as early as possible by central government departments, within decision making processes. This obtains especially if local government and their communities will be directly affected by changes in central government policy.

ARTICLE FOUR: INTER-GOVERNMENTAL ACTIVITIES

11. There is no intrinsic problem with central government and local government being allowed to set up suitable joint inspection regimes, but in the current financial climate the transparency agenda will weed-out incompetence and malpractice anyway.

ARTICLE FIVE: TERRITORIAL AUTONOMY

12. It is obvious that any changes in the boundaries for local councils and principal local authorities should be conducted by the Local Government Boundary Commission for England, involving a referendum.

ARTICLE SIX: COUNCIL GOVERNMENTAL SYSTEMS

13. Whilst we agree it is right that any principal local authority should be able to adopt the system of governance it wishes, having to review such systems every eight years (unless there have been obvious and public problems with the same), would be a mammoth waste of officer time and money.

ARTICLE SEVEN: LOCAL GOVERNMENT FINANCIAL INTEGRITY

14. We agree that local government should not be capped in terms of its fiscal taxation abilities. This applies to council tax as much as the parish precept. We also agree that transparency should apply as much to central government as to local government.

ARTICLE EIGHT: COUNCILS' RIGHT AND DUTY TO CO-OPERATE AND ASSOCIATE

15. It is obviously true that councils should be able to freely associate, domestically and internationally, with any honourable and transparent body which will help ameliorate the quality of life of its residents.

ARTICLE NINE: LOCAL REFERENDUM

16. Again, it is axiomatic that any local authority conducting a referendum should be judged against the Electoral Commission's standards for such referenda.

ARTICLE TEN: LEGAL PROTECTION OF LOCAL GOVERNMENT

17. It is right that local councils and principal local authorities should be able to use the General Power of Competence free from legal or political interference.

June 2012

Annex

RESPONSES FROM THE LOCAL COUNCILS' SECTOR TO THE NATIONAL ASSOCIATION ON THE DRAFT CENTRAL/LOCAL GOVERNANCE CONCORDAT

<i>Respondent</i>	<i>Comments</i>
Christine Lalley	I am afraid the first paragraph of the concordat illustrates the fact that this tier of local government is always forgotten and not treated as an integral part of local government. Town and parish councils are not included in the list of local authorities. The document appears to be an academic exercise rather than a document which would be of use to our sector.

Written evidence submitted by Cllr Terry Snow Mid Devon District Council

REF TO YOU WANTING FEEDBACK ON A MAGNA CARTA FOR LOCAL GOVERNMENT

1. My worry is the ability of parish and town councils not being able to instigate their own questions having to go through the district council with regard to the Sustainable Communities Act.

2. A parish in my MDDC wants to know what the definition of affordable homes is as they have one allocated in their village which is *not affordable to any local people*.

3. How can therefore this be called an affordable home. The proposal now is to let the builder sell it on the open market at his price which the parish does not want. Income within a parish needs to be the base as to

what is an affordable home not on national or regional wage sums or what the builder thinks. This also affects AONB National Parks as well as rural areas and is very important for sustainable communities.

4. This question has to go through Mid Devon DC who approved it in the first case and could stop any further investigation into this. This needs clarification. What is an affordable home and how is the selling priced based within a rural communities.

5. To date I have got nowhere ref this. Why are parish and town councils being denied this right?

Annex

SUPPLEMENTARY WRITTEN EVIDENCE

Mid Devon District Council planning notice 12-00201/full Ashleigh Park Bampton Devon

Page 7-5 under *Proposed Development*

The proposal is for the provision of seven dwellings (one to be affordable) on the site allocated under Policy AL/BA/3 of the allocations and Infrastructure Document.

At the planning meeting it was admitted that the so called affordable home would not be affordable to the local people due to development cost. So affordable to whom!

July 2012

Written evidence submitted by Cllr Doug Ross, Chair, West Somerset Council

1. Thank you for sending a link to this document. As the Chair of one of the smallest district councils in England (in population and resources but not in area) I strongly support all proposals to make local government truly local, and more independent of the overweening influence/interventions of central government, which are often quite irrelevant to our situation.

2. I strongly support of the elements of the Select Committee's proposed code as reproduced in the LGA's document and wish to add my voice to those calling for their adoption.

September 2012

Written evidence submitted by The Constitution Society

1. The Constitution Society (CS) is an independent, non-party educational foundation which works to promote informed debate about constitutional reform. We take no position on specific reform proposals but advocate better legislative standards and oppose ill-considered, piecemeal change.

2. We have read the draft code with interest and welcome it as an important contribution to the debate about the role and status of local government in England. This submission is not intended as a comprehensive commentary on the draft code but focuses on two issues of particular constitutional interest and additionally offers some thoughts on the practicalities of local government financial autonomy.

COMMENTS ON THE DRAFT CODE

Entrenching the Code by an Amendment to the Parliament Act 1911

3. The draft code proposes that the fundamental rights and duties of local councils, as defined in the code, "...may only be changed by the consent of Parliament as authorised firstly by an elected joint committee of both Houses, and then by the approval of both Houses of Parliament as prescribed in the amendment to the 1911 Parliament Act." (Art 1.1). This proposal raises several questions of significant constitutional interest.

4. The draft code does not specify the nature of the proposed amendment. Section 2 (1) of the *Parliament Act 1911* provides that the curtailment of the Lords' power to obstruct legislation which has passed the Commons does not apply to a Bill containing any provision to extend the maximum duration of Parliament beyond five years. The effect intended by the draft code could be achieved by amending Section 2 to widen the categories of excepted legislation to include any provision to alter the fundamental rights and duties of local councils.

5. For the proposed mechanism to be effective, the provisions of the code would first need to be embodied in legislation. It is noted that the draft code is not written in the form of a statute, and that many of its provisions are of a very general nature and uncertain legal effect. Although this is nowhere stated, we assume that the intention is that the principles of the code would be embodied in a bill, drafted by Parliamentary Counsel, which Parliament would then enact into law in the normal way.

6. A statute embodying the provisions of the draft code would be exempted from the general provisions of the *Parliament Act 1911* if the Government introduced the bill in the Lords rather than the Commons. This

would seem to be a simpler method of achieving the intended result because no amendment to the Parliament Act itself would be necessary.

7. The proposed amendment of the Parliament Act would be a relatively radical constitutional innovation. CS questions whether, if such a measure were adopted, it would be appropriate to extend exemption from the general provisions of the Parliament Act to a local government code alone. There are other fundamental constitutional arrangements which, in the opinion of many, would have an equal or superior claim to this protection: the principle of the independence of the Courts is one example.

8. If the principles of the code were safeguarded by amendment to the Parliament Act, CS is unclear what additional protection would be achieved by the proposed requirement for prior authorisation by an elected joint committee of both Houses.

9. There are other mechanisms which could be used to entrench the principles of a local government code, most obviously incorporation in the legislation itself of a “manner and form” restriction on subsequent amendment without a majority in both Houses, or a Commons supermajority (1).

10. Under our current constitutional arrangements, mechanisms which purport to bind future parliaments, including amendment of the Parliament Act, can be introduced by ordinary legislation. It can be argued that any such provision is inherently ineffective because it can equally be overturned by ordinary legislation in a future parliament (2).

11. The incorporation in the text of the draft code of the particular proposed entrenching mechanism is likely to act as an obstacle to consensus. Some may support the principle of entrenchment but oppose an extension of the powers of the Upper House in this context.

12. In any event CS questions whether formal entrenchment, even if thought to be legally effective, is altogether necessary to protect the code against subsequent amendment. The *Scotland Act 1998* is an ordinary statute, but it is generally agreed that its provisions are not in practice reversible by a future UK parliament. The recognition in law of the principle of the Military Covenant in the *Armed Forces Act 2011* is similarly probably irreversible in practice. It is suggested that, assuming the principles of a local government code are supported by a broad political consensus, it would be politically extremely difficult for a subsequent government to tamper with its core provisions.

The Role of Referendums

13. The draft code envisages a significant role for binding local referendums on both constitutional and financial issues. Referendums would be required to approve changes in local authority boundaries (Art. 5), council decision-making systems (Art 6.1) voting systems (Art. 6.3) as well as additional tax-raising powers (Art. 7.2).

14. CS questions whether an extensive use of referendums is the most effective way of securing the local accountability of councillors who have already been locally elected.

15. Voter turnout in referendums on constitutional issues is likely to be low. Turnout in the May 2012 referendums on elected mayors was below 30% in most cities and in some cases below 25%. Turnout in a referendum on a change from, for example, a committee system to a system of council and leader is likely to be lower still: most voters, even if politically well informed, have a very limited interest in structural issues of this kind.

16. The code should specify how referendum questions are to be set. It would seem contrary to the general spirit of the code for central government to set local referendum questions (as in the 2012 referendums on elected mayors). However if councils set the questions there must be a danger that outcomes are biased towards the interests of current office holders. A system in which a referendum could be triggered by a petition of local citizens has some attractions but would be capable of abuse by single-issue groups. It is suggested that the draft code might include a provision to give the Electoral Commission a determinative role in the framing of local referendum questions (3).

17. Referendums on local authority boundaries would present particular difficulties since the outcome will often depend on how the electorate is determined. Who should vote on a proposal to transfer Town A from District Council X to District Council Y? The electorates of X and Y and the burghers of A might all take different views.

18. CS questions whether local control of decision-making and voting systems, whether or not endorsed by referendum, is a necessary precondition for strong, independent local government. In Sweden, a country with a long tradition of local government autonomy, council structures and procedures are prescribed in detail by statute (4). However, if these decisions are to be taken locally, then councils should not have powers to adopt novel, untested or undemocratic decision-making or voting systems even if endorsed by referendum. The code should include a menu of approved decision-making and voting systems for local councils, agreed by central and local government.

The Structures of Local Government

19. The provisions of the draft code are most directly applicable to the relationship between central government and the single-tier authorities; unitary authorities and metropolitan districts. It is not entirely clear how the draft code would apply to the two-tier authorities. Consideration should be given to the effect of the code on the relationship between county and district councils in the ‘shire’ counties and between the Greater London Authority and the London boroughs.

Financial Autonomy

20. The draft code proposes that local councils should “to the greatest possible extent” be financially independent of central government (Art 7.1). English Councils’ lack of effective control over local taxation under the current arrangements is extremely unusual both historically and by international standards. As others have observed, increased constitutional independence for local government would have little practical consequence unless underpinned by greater financial autonomy. However, the proposals outlined in Art 7 represent a very significant change from the current position, arguably too big to be undertaken in one step. It is also questionable whether these proposals are likely to be acceptable to central government in their current form.

21. The history of central/local government relations over the past half century strongly suggests that central government of whatever party will not easily relinquish its power to cap domestic rates. In the current economic environment, financial independence for local government would likely result in the introduction of an effective “mansion tax” by one mechanism or another across large parts of the country, with potentially dire political consequences for the Conservative vote. CS suggests that this is not an argument that the advocates of greater financial autonomy for local government are likely to win.

22. As a more modest proposal, and one more likely to find support in central government, the code might incorporate a provision for the reintroduction of local government control over the level and proceeds of the business rate (5).

Borrowing Powers

23. The draft code’s proposal that councils should be permitted to borrow for capital investment (Art 7.5) is in line with the general objective of maximising financial independence from central government and accords with international practice. However, there are some significant issues which would need to be addressed before this proposal could become reality.

24. It can be assumed that the Treasury would not countenance any explicit guarantee to holders of local authority bonds and that individual councils’ borrowing costs would thus be higher—in many cases much higher—than those of central government. In aggregate, this would represent a very significant cost to the taxpayer and arguably too high a price to pay for the financial independence of local government.

25. Most councils do not have expertise in capital markets. Without some expert oversight, there is a significant danger that the investment banks would exploit this new business opportunity by selling councils complex and expensive financial instruments which were not in the long term interests of local taxpayers.

26. The experience of US municipalities in recent years suggests that local governments can be easily tempted to borrow unwisely to compensate for a shrinking tax base. A requirement to run annual balanced budgets as proposed in the draft code (Art 7.5) is not in itself sufficient to prevent reckless borrowing. Deferred-interest bonds and similar instruments, common in the US municipal bond market, enable the burden of debt servicing to be transferred to future generations of taxpayers, often at egregiously high cost.

27. To address these issues, CS suggests that consideration should be given to establishing a national financial institution modelled on Norway’s Kommunalbanken (6) which, at least in the early years, could act as the sole lender to local authorities and the sole bond issuer.

NOTES

(1) The *Fixed-term Parliaments Act 2011* has arguably created a precedent for the entrenchment of legislation by a requirement for a Commons super-majority.

(2) There is an extensive academic literature on this issue. See Goldsworthy J (2010) *Parliamentary Sovereignty: Contemporary Debates*. CUP.

(3) The Electoral Commission’s current role in the framing of referendum questions is consultative only (*Political Parties, Elections and Referendums Act 2000; s104*)

(4) the Swedish *Local Government Act 2004* <http://www.sweden.gov.se/sb/d/574/a/29535>

(5) In effect a restoration of the position prior to the introduction of the *Local Government Finance Act 1988*.

(6) *KBN Kommunalbanken Norway* is a state institution with a mandate is to provide low-cost finance to the Norwegian local government sector. KBN is effectively guaranteed by the state and can thus access cheap funding in international capital markets. <http://www.kommunalbanken.no/kbn-uk/>

**Written evidence submitted by Andrew Muter, Chief Executive,
Newark and Sherwood District Council**

1. The council recognise the Government's aim to decentralise powers and increase local democratic accountability, and cautiously welcome the principle of devolved powers to local authorities. However, the council would wish to express reservations in relation to the emphasis that was being placed on the holding of referendums and the extent to which any new powers may result in local authorities not being able to fulfil their obligations.

September 2012

Written evidence submitted by SOLACE

1. The Society supports the principle of a code that would establish the position of local authorities within the constitution and enable it to operate as a fully respected and trusted equal alongside central government.

2. We consider that the right of local authorities to manage local affairs, within a framework of law and of accountability to local people, should be recognised in the same way that the right of central government to set national policy and manage national affairs is also recognised.

3. The code should aim to give certainty to local authorities' powers and ensure there is enough flexibility to develop local solutions to local problems. If the code were a meaningful devolution of powers to local government with minimum reporting to central government this would clearly be popular with local authorities.

4. The elements of the current draft code that SOLACE members particularly welcome are:

- full retention by local authorities of uncapped and locally-decided council tax and business rates, subject to retaining mechanisms for fairness and redistribution;
- restating the General Power of Competence, and extending its principles, by making it a default position that local authorities should have the power to provide any local public service, not explicitly reserved to another body. These powers would need to be intrinsically linked to local democratic processes thereby giving local people/taxpayers influence to ensure that these are of relevance to the place concerned;
- entrenching local accountability by limiting central government's supervisory powers to areas where there is a clear need, eg a safeguarding role;
- entrenching the legal position of local authorities in a way that would make it harder for future Parliaments to alter; and
- removing central government's and Parliament's power to decide local authorities' boundaries, structures and governance models, leaving those matters up to councils and local communities with the support of the independent Boundary Commission.

5. We welcome the code as long as it enforces some improvement in local authorities' autonomy and that it is to be properly enforced. We suggest that an effectively enforceable legal embodiment of the most strongly supported elements in the Committee's draft code could well be a powerful way of embedding and advancing councils' autonomy.

6. We would like to emphasise that a clear position for local authorities is likely to be beneficial to central government, which would be free to concentrate on national issues and macroeconomic policy. It would also be a means of re-engaging the trust and interest of local citizens and unlocking once more the creativity and enterprise of local authorities.

7. Whatever Parliament's intentions when a new code was enacted, it would be vulnerable to change or repeal by any future government. We therefore strongly support the Committee's suggestion that the new provisions should have special protection, making them a quasi constitutional law like the Parliament Acts.

8. SOLACE supports the Committee in the work it is doing on this issue and hopes that the above comments will prove to be helpful.

October 2012

NOTES:

The Society of Local Authority Chief Executives and Senior Managers (SOLACE) is the professional body representing Chief Executives and Senior Managers in UK local authorities and other public sector organisations. SOLACE is committed to promoting public sector excellence and seeks to influence debate

around the future of public services to ensure that policy and legislation are informed by the experience and expertise of our members.

**Written evidence submitted by Howard Thackray, Corporate Policy and Performance Manager,
Huntingdonshire District Council**

1. The response from Huntingdonshire District Council is that we are in support of codification as it would enable us to set our own council tax.

September 2012

Written evidence submitted by, Cllr Ray Manning, Leader South Cambridgeshire District Council

1. I did not reply to the original email because this is of no interest to me or the Conservative Group on SCDC. We do not agree with the proposals. I assumed that it was just Labour Party policy to aid their metropolitan power base and have seen nothing to change my mind.

2. Please could you formally log our comments; it is no to any change and SCDC reject the proposals. It would lead to more bureaucracy and all sorts of demarcation disputes rather than helping relationships.

September 2012

Written evidence submitted by Cllr Mark Crane, Leader, Selby Council

1. Thank you for seeking views. My personal view is “if it aint broke don’t fix it”. I see no reason or logic for this legislation. I acknowledge that Mr Allen means well but do not agree with legislating on this.

August 2012

Written evidence submitted by Cllr Peter Martin, Leader, Essex County Council (LG 22)

1. Local and central government must work together closely if they are to play their respective parts in reducing the deficit, stimulating growth and improving the public services. The Political and Constitutional Reform Committee’s inquiry into codifying the central-local relationship, and the LGA’s Independent Local Government campaign, have the potential to support closer collaboration around a set of clearly articulated principles. I am writing on behalf of Essex County Council to register our support for the development of a draft code and for the LGA’s efforts to promote this.

2. We must, of course, recognize that the idea of codifying the relationship between central and local government is nothing new. Previous attempts to codify the relationship—most notably through the European Charter on Local Self-Government and the Central-Local Concordat—have failed, not because of their particular provisions, but because they have been ignored in successive governments’ policy making.

3. The CLG Select Committee’s 2009 inquiry into the balance of power between central and local government noted that the European Charter “has hardly been in the thinking of government since they ratified it. It was put on the shelf.” The Committee also noted that “nothing much appears to have changed as a result of the [central-local] concordat.” Again, the key failing is that it has not been taken up across government as the means by which inter-governmental relations are to be conducted.

4. These lessons suggest that the success of any new code will depend on two things: the content of the code itself and attitudes towards the code. In the case of the former, we consider the draft code prepared by Professor Copus to be a sound starting point for debate. We would, however, seek to amend the following elements:

- Article two states that councils should decide upon, administer and regulate those matters within their boundaries that are not attended to by other governmental bodies. We consider that this article should be strengthened to highlight the role that councils play in championing local concerns and influencing governmental bodies to ensure that their work properly reflects local needs, aspirations and circumstances.
- Article six states that changes in local governance systems should be subject to local referenda and that councils should review their governance models every eight years. We consider this article to be overly prescriptive. Councils should be free to review their governance arrangements at such times as they see fit and should be able to change these arrangements either by reference to a local referendum or through a council resolution. By requiring referenda, the current draft code could unnecessarily increase costs facing local authorities and local tax payers.

- Article seven presents a model of local authority finance that sits in tension with recent reforms to localise business rates. In so doing, it makes a call for substantive financial reform without reference to any evidence base. We consider that any articles on local authority finance should be restricted to high level principles (eg that local authorities, as a collective, should be financially independent of central government) and should steer clear of advocating particular technical reforms.

5. History has shown that the relationship between central and local government will be shaped by the day-to-day realities of government and public service delivery rather than by written codes and charters. It is therefore important to ensure that central departments act in ways that respect both the code and the autonomy of local government.

6. Although progress has been made in recent years, this will require a continued shift in attitudes at the centre. There is therefore a strong case for the LGA strengthening its campaign to improve perceptions of local government across Whitehall. But individual councils must play their part too. Only by working with the grain of government policy to reduce the deficit, stimulate growth and improve public services, can local authorities secure a role for themselves as valued partners to Whitehall.

7. Essex authorities' commitment to this approach is being showcased in our whole place community budget pilot. The pilot unites local government, local partners and central departments behind a single programme of reform. Through this, Essex authorities are demonstrating to Whitehall colleagues the role that local government can play in tackling intractable challenges and improving quality of life. This first-hand experience will help deliver a change in perceptions across Whitehall—a change that will make the success of a new central-local code more likely. We would therefore like to see the LGA showcase the whole place community budget model as part of its ongoing campaign work.

8. Essex County Council will continue to support the LGA, and the wider local government family, in changing perceptions and attitudes. But we should be clear throughout this work that improvements in perceptions are not sought for their own sake. They are necessary if we are to create the conditions in which all levels of government can work effectively together to tackle the issues that matter most to our communities.

May 2012

Written evidence submitted Cllr Michael White, Leader of the Council, London Borough of Havering

1. Thank you for your correspondence regarding the draft code for local and central government.
2. I am pleased to advise that I support the draft code: the codification of the relationship between local and central government it entails and the recommendations made.
3. As constitutional reform is debated across the whole country, it is only right that we re-evaluate and strengthen the position of local government, so as to ensure that it can serve its citizens in the best possible way.
4. I will placing a motion before Full Council in support of the code and its provisions, which will be debated on Wednesday 19 September 2012.
5. Thank you again for writing to me on this very important matter.

August 2012

Written evidence submitted by Nigel Slack

1. Comments and Concerns on the draft code.

ARTICLE ONE

2. This should be viewed as a new Magna Carta, complete with scrolls, seals and a copy in every council. This will assist in the necessary cultural change for ministers, civil servants and media.

ARTICLE TWO

3. Provides for greater emphasis on local issues and should make local representatives of national parties more accountable.

4. It is imperative to maintain the mandatory nature of the electoral register and prevent voting becoming a lifestyle choice, as advocated by this Government.

ARTICLE THREE

5. This is a basic written guarantee of LG rights and responsibilities and it is essential for it to be safeguarded by law.

ARTICLE FOUR

6. Education, environment, housing policy, what else? The primacy of central government should be as limited as possible.

ARTICLE FIVE

7. Suggests this would allow authorities to amalgamate. If so, this would have to have a different trigger than a local government decision. Sheffield, Rotherham, Barnsley, Doncaster. All Labour controlled. Could result in a new South Yorkshire authority. The types of policies that could be covered by such arrangements should be limited to prevent regional centralisation.

8. Overall however, this would tip the scales back to town hall from Whitehall.

ARTICLE SIX

9. Needs a trigger for referenda other than local government itself.

ARTICLE SEVEN

10. This opens the way for alternative forms of local taxation. It should prevent party political blame culture in local spending.

11. Need to understand what impact would this have on PFI and similar schemes, where funding is only available within constraints.

12. Is it possible to set an arrangement where the Bank of England could issue LG bonds (similar to treasury bonds) which would avoid poor credit scoring LG's being overly penalised by ameliorating the credit scoring over all LG's combined?

ARTICLE NINE

13. Referenda would need rules on minimum turnout and minimum yes vote to prevent initial low turnouts skewing decisions.

14. It should be noted that many councillors are currently not voted for by some four out of five of the electorate.

GENERAL

15. Professor Copus comments on concerns over essentially rogue LG's and the cost of local legal challenges if central government is not "overseeing" the LG. I would suggest a form of Legal Aid scheme funded jointly by all LG's would alleviate this concern.

PROHIBITIVE COSTS

16. A good excuse but if we can find the funds for the Olympics we can find the funds to fix our broken political system. It does, however, require a determination from central government to implement a truly radical solution to our current local government malaise.

September 2012

Written evidence submitted by Mrs Linda Arkley, Elected Mayor of North Tyneside

1. I welcome the opportunity to comment on the draft code and wish to submit the following comments on behalf of North Tyneside Council.

2. It is critical that councils have the means to address the issues that matter to local residents and make a difference to their lives. It is also important that residents understand the respective roles and responsibilities of central and local government.

3. The Government has already given councils a number of new tools to address the issues that matter to their local communities, for example through the general power of competence in the Localism Act 2011.

4. While I support initiatives that strengthen council's powers to address local issues and help residents to understand the respective roles of central and local government, I think it is unclear at this stage whether codifying the relationship between central and local government would help address these issues.

5. If the response to the consultation identifies support for codifying the relationship between central and local government and the draft code is taken forward I have provided some comments on Article Seven: Local Government Financial integrity in Annex 1.

September 2012

COMMENTS ON DRAFT CODE ARTICLE SEVEN: LOCAL GOVERNMENT FINANCIAL INTEGRITY

<i>Principles</i>	<i>Comments</i>
1. Local councils shall to the greatest possible extent be financially independent of central government. Equalisation will be conducted by an independent Equalisation Board on an annual basis.	I would generally be in agreement with this particular point, including the full retention of business rates. However, I need to bear in mind the relatively low resource base of North Tyneside Council in comparison with some other areas of the country including London and the South East. As such, clear and transparent mechanisms for fairness in the redistribution of resources are important. An independent Equalisation Board would be an option in this context, but it would need to be ensured that such a body is truly independent of the central government and the influence of specific groups of councils.
2. Local citizens through their councils may raise additional sources of income in their localities in any way they wish (subject to the rule of law and human rights legislation) if they gain the consent of their electorates through a binding referendum or local propositions.	The principles here are not unreasonable, but the extent of the proposals would have to be tempered by what is realistic and reasonable, particularly in the context of the current economic climate. There are also issues in relation to referendums etc of both practicalities and cost.
3. Local government shall be given a guaranteed annual share of the yield of income tax. This share shall be increased as and when service responsibilities are transferred from central to local government so that councils are always able to benefit from the growth in buoyant tax resources available to the state as a whole.	Such proposals guaranteeing local government an annual share of income and adequate funding for the transfer of services would be welcome from a financial perspective and would greatly assist medium term financial planning. It may however be the case that such an unequivocal guarantee may not be possible, but this at least should be an aspiration of central government.
4. The process of equalisation, ensuring fairness as between local councils, shall be undertaken by a body independent of central government.	The same comments here apply as for number 1 above.
5. Councils shall be able to raise any loans which their credit rating allows and will be exclusively responsible for repayment. For the purpose of borrowing for capital investment, councils shall have access to the national capital market at their own discretion. All councils shall operate an annual balanced budget so that all outgoings, including interest repayments on borrowings, shall not exceed income.	I would suggest this is largely the position at the present time, and as such this would not represent a significant change.
6. Central government will not cap, or in any way limit, council's taxation powers. Central government must consult with councils on how it will distribute and allocate government funding when using local government as an agent to pursue its own policy objectives. Government funding to councils, in pursuit of central government policy objectives is to be based on a rolling three year budget cycle to coincide with the comprehensive spending review process. Once the three year medium term budget planning process has been agreed and announced no significant changes in funding levels will be made by central government.	I would be in agreement with these proposals which would seem to be in the true spirit of the Localism Act 2011, though we're aware that the setting of limits for council tax for example by central government has been an enshrined principle for some considerable time. I would strongly support the principle that once a three year medium term budget has been agreed that no significant changes are made to the funding levels by central government. This would greatly assist financial planning over the medium term and give some certainty to our income streams.
7. The same financial transparency standards will apply to local and central government, alike.	I would be in agreement with this point. North Tyneside Council have implemented all of our requirements in relation to the transparency agenda and it seems logical that the same rules should apply to central government as to local government.

Written evidence submitted by Cllr Jillian Creasy, Sheffield City Council

1. I wish to comment on the move to codify the relationship between central and local government and the draft code. I am a city councillor, representing an inner city ward of Sheffield and leader of the Green Group on Sheffield City Council.

2. I am very supportive of the idea of codifying the relationship, rather than leaving it to the whim of successive central administrations. One of the most disheartening and destabilising challenges facing local politicians is the rapid changes to the very structure of our institution. In the short time I have been a councillor (since 2004) we have had to adjust to the imposition of the cabinet/strong leader system, then to the threat of having an elected mayor imposed upon us (at one stage it even looked as though the council leader would automatically become an elected mayor prior to a referendum). Now we are enabled to look again at a committee system, but my guess is that few councillors will have an appetite for yet more change, however much they would prefer that system.

3. A key element of the draft code is to give local councils more tax-raising powers and financial freedom. This would be very welcome.

4. There is a great deal of rhetoric about “localisation” but without giving real power and accountability to local authorities it amounts to no more than responding to a myriad of minority interests, each campaigning for their own interests. Local authorities are in a position to encourage, listen and understand these many (and often conflicting) voices and to decide how to prioritise them within an overall strategy. Devolving to the lowest possible level of expression without democratically accountable leadership is a recipe for the survival of the fittest and the disintegration of society.

September 2012

Written evidence submitted by Bruce Lang, Corporate Director, West Somerset Council

1. The Council received with interest the documentation regarding the consultation process initiated by the Political and Constitutional Reform Select Committee and Local Government Association into the possibility of codifying the relationship between central and local government.

2. This matter was the subject of two discussions at one of our Policy Advisory Groups before being considered at a meeting of the West Somerset Council held on 19 September 2012 when it was resolved that the council welcomes the initiative and would wish to explore with other local authorities and central government the possibility of codifying the relationship between central and local government. I shall be grateful therefore if you will report this council’s support for the initiative in principle and look forward to being kept advised of the next steps, as I know that councillors are keen to be closely involved in any subsequent discussions as to the detailed nature of what such a code should include.

September 2012

Written evidence submitted by Cllr Gordon Keymer CBE, Chairman, South East England Councils

1. Following your presentation to the South East England Councils Executive (SEEC) in July 2012, I write on behalf of my SEEC colleagues with our response to your Committee’s consultation on how to achieve a more independent local government. We have also encouraged individual authorities in membership of SEEC to respond directly before your deadline of 5 October.

2. I would also like to take the opportunity to thank you for taking the time to speak to SEEC members and to set out your proposals in detail.

3. SEEC promotes the views and interests of all tiers of local government across the South East, who together represent more than eight million residents. SEEC is a voluntary body, funded by member council subscriptions, and carries a unique mandate as the single democratic voice of the South East.

4. SEEC members welcome the principles and ambition behind the proposals for independent local government and support the view that the localism agenda creates an opportunity for change.

5. While supportive of the principles, SEEC members have also identified a number of practical questions and barriers that we feel must be addressed before real progress can be made in delivering genuine independence for local government. We do very much support the aim of greater independence, so offer these comments in a constructive manner and hope that they are helpful in identifying the next steps in the Committee’s work.

FINANCIAL INDEPENDENCE

6. Members strongly agree that greater financial independence for local government is very attractive and funding should be fairer and more transparent. However members have also identified two critical areas that need to be addressed before this aim could be achieved:

- Will central government agree to relax spending controls to permit real local control of finances?
- How would a self-financing local government handle the need for equalisation between rich and poor authorities?

LOCAL RESPONSIBILITY

7. Genuine local democratic responsibility for local authorities and councillors is very welcome and vitally important. Thanks to successful local political leadership, local government has transformed itself in the past 20 years, delivering innovation, efficient services and has shown it is ready for more responsibility.

8. However, once again SEEC members have identified areas of uncertainty that need to be addressed before progress can be made on a long term solution offering real independence for local government. These include:

- how could a statutory role for local government be enforced effectively under the UK's unwritten constitution?
- work is needed to identify which laws and Acts of Parliament would need to be repealed to allow local government autonomy;
- there is a need to clarify which are local powers and which are central powers. Debate is needed on whether local government should take on some services currently delivered centrally, and how such transferred services would be funded;
- work is needed to persuade residents, central government and the media to recognise that service levels could, legitimately, be very different in different areas. Any bid to set minimum standards centrally would reduce councils' autonomy and independence; and
- clarity is needed on how to identify and deal with failing or "rogue" councils and what actions could be taken to address such problems without undermining the principle of local independence. For example, any sanctions imposed on such councils should not be applied to all other local authorities.

September 2012

Written evidence submitted by the London Borough of Ealing

1. Overall London Borough of Ealing would support the implementation of the draft code of articles to codify the relationship between central and local government. We welcome the opportunities set out in the draft articles providing local government greater independence and powers to make key decisions based upon local needs, notably the focus on the general power of competence. In addition we welcome the provisions around local councils being allowed to become financially independent and able to explore the potential to raise additional income from their locality.

September 2012

Written evidence submitted by Chesterfield Borough Council

1. We have discussed the draft code with our members and have the following comments to make:

ARTICLE 1

2. We support the aims of independence and autonomy of local government and the protection of rights and duties. We have some concerns about the potential for legal adjudication; this must be accessible to all authorities regardless of their size and only be used for the benefit of the communities that we serve.

ARTICLE 2

3. We support the development of this article.

ARTICLE 3

4. We support the establishment of a consultative working relationship which includes the consultation of councils as early as possible on any matter affecting the council or its communities.

ARTICLE 4

5. We support the move towards mutually agreeable service standards and the development of inspection regimes etc. This supports the work already being undertaken by the Local Government Association.

ARTICLES 5-7

6. We have concerns about the potential over-use of referenda. There is no evidence to suggest that the public want more elections, particularly around issues such as council governmental systems. There are major

resourcing issues which would need to be considered should these clauses go ahead. Spending more money on elections would inevitably take money away from front-line service delivery.

7. We are concerned that these particular articles could result in a postcode lottery for those accessing public services. We would like to seek reassurances that core minimum provision in service standards would be maintained across the country.

ARTICLE 8

8. We support further co-operation between authorities, partner agencies and the third sector.

ARTICLE 9

9. No comment.

ARTICLE 10

10. No comment.

October 2012

Written evidence submitted by Cllr Mehboob Khan, Leader, Kirklees Council

1. We strongly support the proposal to codify in statute the principles and mechanics of the relationship between central and local government, and welcome the opportunity to respond to the Select Committee's inquiry.

2. Over recent decades there has been increasing centralisation and a successive erosion of local government's autonomy and financial responsibility, with a Whitehall mindset that local government is simply the delivery agent of central government. The cumulative impact of successive government's policies and culture has to be to undermine the importance and significance of local government. The cultural mindset that local government's accountability is to central government has had an erosive effect on local democracy. Codifying the central-local relationships as co-equal and making it clear that local government's primary accountability is to local citizens through the elected council, accountable not to central government, but to the law as enacted by Parliament, would be an important step towards radically revitalising local democracy.

3. Greater autonomy for local government would be a significant step to removing barriers to economic growth. The over-centralisation of economic policy currently stifles local authorities' ability to lead economic development. Greater freedoms for local government and a more explicit economic leadership role would lead to better outcomes for communities and increased local prosperity.

4. There needs to be a degree of permanency in any new settlement and as such we support the proposal for a *statutory* statement of principles on the constitutional position of local government, with government being accountable to Parliament for any breach of the provisions. It is essential that any new constitutional arrangements are expressed in statute, as experience has shown that otherwise they will not permeate into departmental and ministerial culture and behaviour, and we risk a future slide back towards more centralising tendencies. The previous Labour Government's Central-Local Concordat, for example, has had little if any practical impact and seems to have been routinely ignored by most government departments, probably in part because it has no statutory authority.

5. It is impossible to achieve independent local government without an underpinning system of local government finance which provides for financial independence and financial accountability of local government to its local citizens. The proposed principle of equalisation by an independent body on an annual basis is welcomed. However, clearly, the devil would be in the detail in terms of the criteria used. We see no strong rationale for not providing local authorities with complete discretion to set their own levels of taxation and raise funds through other means, provided there is a strong local mandate from the communities we serve. With effective local accountability and the need for a local democratic mandate, there is no need for central government capping or other restrictive powers.

6. Whilst greater devolution of powers to local government is a considerable step in the right direction, this needs to be accompanied by fundamental funding reform so that local government is able to raise more funds locally, to have confidence in the sustainability of their finance and a greater ability to coordinate public service expenditure and activities in our localities.

7. Similarly we support the proposal in Article 6 that there should be complete devolution of power over electoral systems and political decision-making arrangements to councils and citizens. Restricting changes to an eight year period (two electoral cycles) would seem a sensible proposition, to ensure new arrangements have a reasonable opportunity to bed in and that local administration is not paralysed through continued flux in electoral or political decision making arrangements.

8. We recognise that many of the big issues faced by communities we serve cannot be solved by local government, or central government alone, but require effective joint working as co-equal partners. We strongly support the draft code's emphasis on the need to develop more negotiated approach to joint policy in this regard. However, we would go further and suggest a stronger subsidiary test as to which services, functions and outcomes could be decentralised, enabling local decision making to reflect local sensitivities and circumstances. There are many spheres of public policy where more radical, complete decentralisation of power and responsibility to the local level could and should be made.

October 2012

Written evidence submitted by Sheffield for Democracy

1. We held a public meeting, jointly organised by ourselves and Sheffield City Council, attended by over 50 people, in June 2012; our response is informed by their opinions.

2. Our response overall is to recognise the significance of the proposals, described by some as a Magna Carta for local government. They would create a very different basis for the relationship between national and local government, which would demand a change in perspective, attitude and culture. It would mean national politicians ceasing to feel they must act whenever there was a scandalous situation locally for which they would no longer be seen as responsible (Baby P case springs to mind).

3. We also recognise that the code contains not only statements of intent but also practical measures that would ensure the moving of power from central to local, including legal remedies.

4. On both counts, we welcome the proposals. The move to local choices, which will be different in different places, as suits the local environment, and preferred ways of tackling issues, instead of a one-size-fits-all approach, seems eminently sensible and democratic. Concern has been expressed over the potential difficulties that could arise when a local authority has inadequate revenue or resources to meet its legal obligations.

5. We also wish to urge early action to implement the code; we see the need to act as urgent.

SPECIFIC ARTICLES

Article 1

5. There is wide agreement amongst our supporters for the balance between central and local government to shift; we are seen as having a hugely centralised state, in stark contrast to other European countries, with many decisions that affect a locality taken remotely in Whitehall instead of by local people and their representatives. We want to see this change, including the possibility of local legislation that would stabilize these powers.

6. Backing up the proposed changes with the right to challenge via judicial review seem to us to provide a necessary safeguard and strengthening of local powers.

7. We have seen some attempts at localism that has meant secretaries of state taking decisions about awarding permissions and funding to groups of local people: free schools being the obvious example. This is not the kind of local powers that we seek: self-selected groupings with no accountability to their communities, and empowered by central government, is the opposite of local democratic governance.

Article 2

8. We welcome the clarification that accountability is to local people rather than to central government.

Article 3

9. This helps us be clear about the rights and duties of local government as well as clarifying the relationship with central government.

Article 4

10. We also recognise that for some issues, it would be good for central and local government to work together so we welcome this.

Article 5

11. We welcome this provision because it would prevent central government, or new or existing local authorities, from annexing territory from other local authorities without the involvement and consent of local people, even if the local authorities concerned have given their consent. People should have the right to determine which local authority is responsible for their area.

Article 6

12. We welcome the proposal to put decisions about local democratic processes into local hands. Whilst there are situations in which an elected mayor is the local preference, the recent large-scale repudiation of them, seen in this instance as an unwarranted imposition by central government, was a sharp lesson in the dangers of central government interference.

13. In particular, we see the opportunity it provides for changes in the voting systems for local councillors, via a local referendum, to create more representative local government.

14. We are interested in local structures “below” the local council: community forums and assemblies where local people can participate and make an input into decision making. To function properly, they need some (small) resource. We would welcome a more explicit reference to how more community involvement can be achieved, and indeed entrenched, if this is the local will.

Article 7

15. This is a crucial and fundamental part of the code; without financial autonomy, the code would have no teeth. We find interesting the idea that local councils could issue bonds and provide mortgages.

16. We would also like to see, where there is a tendering process, the facility to take account of the benefit of local knowledge and local employment that local firms, including small enterprises, would bring to the process.

17. We want to see local services run locally, with local decision-making over how to make those most difficult of decisions about how to allocate resources.

Article 8

18. There will be some issues that need a wider perspective than that of a single local council and the ability to join with other local authorities on issues like economic development, transport, planning energy production, and land management is welcome. The larger-scale of a regional picture is sometimes needed, including the ability to override some of the NIMBY issues.

Article 9

19. It is useful to have this accountability for process built into the code

Article 10

20. Having the option of recourse to remedies is essential and welcome.

September 2012

Written evidence submitted by Hartlepool Borough Council

1. Please find below the discussion and resulting response from Hartlepool Borough Council in relation to this particular consultation exercise, which came before a meeting of council on 13 September 2012, and which followed an initial reference from the council’s Constitution Committee.

2. I would ask you to note that the minutes of this council meeting as set out below, are still in draft and will be considered by the next ordinary meeting of council to be held on 18 October 2012. However, the draft below has been seen and agreed by the Chair of Council, Councillor Stephen Akers-Belcher and I have also copied Councillor Akers-Belcher into this response, for his information.

3. It would assist if you could acknowledge receipt of this communication and in due course inform this council as to the outcome of this joint initiative between the Select Committee and the Local Government Association.

October 2012

APPENDIX

DRAFT MINUTES OF MEETING OF THE COUNCIL, 13 SEPTEMBER 2012

TO RECEIVE REPORTS FROM THE COUNCIL’S COMMITTEES AND WORKING GROUPS

(i) *Report of Constitution Committee—Consultation on Code of Independence for Local Government*

1. The Vice Chair of the Constitution Committee presented the report which set out the Political and Constitutional Reform Select Committee’s consultation on a Code of Independence for Local Government. The Code was intended to formally state through legislation “the principles and mechanics of the relationship between central and local government”.

2. The consultation had been initially considered by the Constitution Committee on 24 August, 2012. The Committee had recommended that this item should be placed before Council for a debate and such response to the Select Committee as Council deemed appropriate. This initiative had the support of the Local Government Association and comments had been invited on or before Friday 5 October, 2012. A model resolution as produced through the Local Government Association was set out within the report.

3. Following presentation of the report, concerns were expressed with the Code of Independence. Views were expressed that Successive Government's had eroded the financial viability of Local Authorities. It was highlighted that the Comprehensive Spending Review had had an impact on Hartlepool equivalent to a cut of £200 for every resident over a three year period. Hartlepool was now disproportionately disadvantaged by the current Central Government Grant Regime due to the current system failing to recognise our borough's high levels of deprivation. There was no dispute with the principles and mechanics of the relationship with central government being formally stated in legislation if and when the Government redresses the balance in grant allocation so as not to permanently disadvantage Hartlepool.

4. The main concern in the documentation related to Article 7 pertaining to Local Government Financial Integrity which stated "Equalisation will be conducted by an independent equalisation board, on an annual basis". The principle of autonomy and independence was accepted, as alignment between Central and Local Government financial processes were required to add certainty and consistency to financial planning.

5. It was considered that the proposed code of independence would ultimately mean a permanent change to the current settlement between Central and Local Government. At the present time, until equalisation was addressed, it was not considered to be acceptable. It would, in its current format, embed the detrimental impact of the Comprehensive spending review. This permanence could deliberately deny those Local Authorities hardest hit, like Hartlepool, the ability to prosper and deprivation needed to be reinstated within Central Government grant allocation. It was further considered that concerns had been realised as Clause 4 of Article 7 rested on the assumption that the existing rules would be agreed for equalisation and the current mechanism for allocation would continue. If this continued it would affect long term ability to borrow and affect the Council's credit rating.

6. In terms of the indicative draft resolution which had been circulated, support was expressed in relation to the following:

- (1) This Council recognises the stated aim of Governments to decentralise powers and increase local democratic accountability.
- (2) Council also recognises there is an appetite for more opportunities for local decision- making and greater freedom from centralised control.
- (3) Council welcomes:
 - (a) the joint campaign between the Local Government Association (LGA) and Political and Constitutional Reform Select Committee (PCRSC) to stimulate debate about the relationship between central and local government; and
 - (b) the opportunity, through the Select Committee's inquiry on the prospects for codifying the relationship between central and local government, to comment on these issues.

7. Members spoke in support of the views which had been expressed. It was agreed unanimously that a response should be submitted on behalf of the Council encapsulating the comments which had been made at the meeting.

Written evidence submitted by Cllr David Hodge, Leader, Surrey County Council

1. I personally, and Surrey County Council welcome the progress made by the Coalition Government in support of Localism. Building on this, we support the proposals being put forward by the Political and Constitutional Reform Select Committee to codify the relationship between central and local government. Increased autonomy for local government, through a legally binding set of rights, would clearly benefit local authorities in Surrey by providing them with the freedom to design, deliver and fund local services that tackle the specific challenges faced by our local communities.

2. We would add, however, that while an ambitious programme of constitutional reform, such as the proposals set out by this Committee, has the potential to increase the freedom of local government, an alternative strategy could focus on expanding recent central government initiatives. For example, if local authorities in England were offered the same freedoms as those set out in the recent City Deals (eg long term funding agreements, devolved budgets and legislative freedoms) and embraced new funding mechanisms set out in the Local Government Finance Bill (eg Tax Increment Financing) this would result in significant new powers for local government. We hope that as part of its work on reforming the central-local government relationship, the Committee also considers the merits of expanding these existing initiatives.

3. We look forward to seeing the responses to the consultation and would be interested to understand the scale of support for the Committee's proposals across Whitehall.

September 2012

**Written evidence submitted by Dr Catherine Durose, Institute of Local Government Studies,
University of Birmingham**

1. The Political and Constitutional Reform Committee have commissioned the draft of an illustrative code for the relations between central and local government. Cross-party espousals of localism and the new general power of competence set out in the Localism Act, the context of debate on decentralisation and constitutional reform, the severe fiscal constraint faced by local government and ongoing and worsening local economic disparities, all highlight the need for radical re-thinking of the relationship between central and local government. The prominence and space for debate, which the development of this code has given to the oft neglected issue of central-local government relations, is to be welcomed.

2. The code, "written constitution" or "Magna Carta" which this document has variously been referred to, provides the basis for establishing the sovereign status of local government and its independence from central government. In a context of significant cuts to local government, an overall reduction in grant of around 40%, and of spending power of around 25%, in real terms, over the four-year Comprehensive Spending Review period (Hastings et al 2012), this attempt to curb the power of central government over local government is understandable. The code also recognises the significant role which only local government can play in ensuring the social, economic and environmental wellbeing of local communities (APSE 2012).

3. Yet, the suggested aim of this "written constitution" is neatly espoused in Phillip Blond and Graham Allen's posing of the question, "What if everyone everywhere could make a difference to their neighbourhood and their communities?", in their recent article in the Independent. This suggestion raises the further question of, is a code the most appropriate and effective way of driving local change and empowering local civic action? The link between this code for central-local government relations and the driving of change at the local level is not clear or evidenced and there are several reasons why this approach should be considered further:

UNLIKELY TO BE ADOPTED BY CENTRAL GOVERNMENT

4. Despite the protestations made in the assessments of the draft code, it is unlikely that the current government will adopt a written constitution for local government. This stance could be dismissed as mere ideological disagreement, but it could also be reasoned on several different grounds:

Drive for Localism

5. The current Government has continued the agenda of the previous Government in localism, as evidenced through the once flagship, now increasingly invisible, "Big Society" agenda, measures contained in the Localism Act and initiatives such as the Neighbourhood Community Budget pilot, and policies to encourage civic action, for example Community First, Community Organisers. Central government is likely to argue and evidence its existing activity to meet the ambition set out by Allen and Blond.

Lack of Alignment with the Wider Political Agenda

6. The link between this code and the Government's localism or "Big Society" agenda, which the author of the code seeks to draw, is highly questionable. A written constitution is likely to be interpreted as a highly formalised and interventionist approach rather than fitting with the rhetoric of "bottom up" empowerment espoused in the "Big Society" agenda. It is also clear that central government do not see local government as the primary driver for their localism agenda, whilst this is in part due to the association made between local government and "big state" bureaucracy, it is also because local government is usually perceived as a site for political challenge, particularly once past the mid-point of the first term of government. Whilst these may be reasons to support a written constitution for local government, they are also reasons conversely that reduce the likelihood of it being introduced.

Failure of Constitutional Reform Agenda

7. The current Government are not in favour of further decentralisation of powers to Scotland, Wales or Northern Ireland, but even if they were disposed to such changes, their experiences and those of the previous Government in attempting constitutional reform, have demonstrated the wide-ranging frustrations likely to be faced. However, the response to devolution in other parts of the UK should not automatically be greater decentralisation to local government in England. The referendum on regional devolution in the North East and the more recent lack of support for elected mayors, suggests a lack of public appetite for what is widely perceived as a further layer of government bureaucracy.

Curbing of Central Powers

8. In a context of unprecedented recession, it is unlikely that central government will act to further curb its own local influence. Indeed, removing these levers for action would also impede future progressive actions, for example, the ability to re-distribute locally according to levels of poverty and deprivation and fuel accusations of a so-called “postcode lottery” in local service provision. Whilst, it may be argued that codifying the separation between central and local government may boost local government finances through facilitating local taxation, such measures are likely to disproportionately benefit areas of affluence and exacerbate economic disparities between different localities.

CHOICE OF INSTRUMENT

9. Written constitutions are notable by their absence in British politics and previous attempts to codify the relationship between central and local government relations have sunk without trace. A written codification is a blunt instrument that will not in itself drive change and is likely, in whatever form, to be subject to varying interpretations in different circumstances, which could lead to extensive wrangling between central and local government and within local government and act to inhibit rather than catalyse reform.

MORE CREATIVE ALTERNATIVES

10. The choice of a code or “written constitution” as a tool for change seems to misdiagnose and then incorrectly prescribe a solution to the current issues in central and local government relations. In its defensiveness about the role of local government, the code underestimates the existing capacity of local government to act. There has been a bewildering array of creative and radical thinking about how local government can respond to the unprecedented challenges it now faces. Empowering visions now abound of how local authorities can be more efficient and effective in providing and commissioning services, income generating and able to engage other local stakeholders, most importantly, local communities. These include the “co-operative council”,² the “ensuring council”³ and the “catalyst council”,⁴ amongst others. Taking the approach of a written code is a statist approach which does not sufficiently recognise the multiple actors and scales which are involved in contemporary governance and the more subtle yet arguably more effective ways of “steering” local change which should be the focus of attention.

September 2012

Written evidence submitted by Adur District Council and Worthing Borough Council

1. Adur District Council and Worthing Borough Council make the following joint submission in response to the Parliamentary Select Committee’s consultation on the democratic and practical issues around the desirability of codifying (or formally writing down) in statute the principles and mechanics of the relationship between central and local government.

2. The councils agree with the principle that it would be of benefit to have a codified system, clearly setting out the spheres of competence of central government and local councils with regard to the provision of services to secure and improve the well-being of citizens and communities within the local councils’ areas.

3. ARTICLE 1

3.1 The councils agree with the proposals in Article 1(1).

3.2 The councils agree with the proposals in Article 1(2).

3.3 The councils agree with the proposals in Article 1(3).

4. ARTICLE 2

4.1 The councils agree with Article 2(1) (2) and (3).

4.2 The councils agree with Article 2(4), subject to the need to clarify the term “to pass local legislation”. A question arises as to whether this means by-laws or some other form of legislation?

5. ARTICLE 3

5.1 The councils agree with Article 3(1), subject to it being clear that central government should not, unreasonably, seek to limit the irrevocable general power of competence referred to in Article 2(4).

5.2 The councils agree with Article 3(2).

² See <http://www.councils.coop/>

³ See <http://www.apse.org.uk/page-flips/2011/the-ensuring-council/files/the-ensuring-council.pdf>

⁴ See <http://www.wakefield.gov.uk/CouncilAndDemocracy/Council/CatalystCouncil/default.htm>

5.3 The councils agree with Article 3(3), subject to the need to build in a provision which ensures that consultation is carried out in a timely fashion and that central government considers and responds to consultation responses.

6. ARTICLE 4

6.1 The councils agree with Article 4(1), provided it is clear that it is “shall be allowed” and that central government will not seek to impose such regimes.

7. ARTICLE 5

7.1 The councils agree with Article 5(1).

8. ARTICLE 6

8.1 The councils agree that there should be local autonomy with regard to the selection of the appropriate internal political decision-making system, however, it is concerned about the use of the term “or some other political decision-making arrangement” which could be so wide as to undermine democracy. In addition, the councils, having undertaken consultation with regard to changes to the internal political decision-making systems under the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007 are of the opinion that local interest in the internal political decision-making system of the councils may not be significant enough to justify a local referendum, with its associated costs. However, the council is of the opinion that local referenda, at the same time as local elections, would add democratic credibility to the change.

8.2 The councils are of the opinion that the requirements proposed in Article 6(2) would impose an unnecessary cost and burden upon the councils, particularly should they move to four yearly elections. The uncertainty that is caused by reviewing the political decision-making system outweighs the potential benefits of reviewing it every eight years.

8.3 The councils do not agree with Article 6(3), as it has the potential to lead to a multiplicity of systems which have been chosen for party political benefit, rather than the clear democratic process.

9. ARTICLE 7

9.1 The councils agree with Article 7(1).

9.2 The councils agree with Article 7(2).

9.3 The councils agree with Article 7(3).

9.4 The councils agree with Article 7(4).

9.5 The councils agree with Article 7(5).

9.6 The councils agree with Article 7(6).

9.7 The councils agree with Article 7(7).

10. ARTICLE 8

10.1 The councils agree with Article 8(1).

10.2 The councils agree, in principle, with Article 8(2), but propose that there should be an amendment which reads, “these councils shall, where appropriate, co-operate to maximise the well-being of those within that area”. This is on the basis that it will not always be appropriate for such co-operation. Also an imposition to co-operate may undermine the principles of independence agreed in earlier Articles.

10.3 The councils agree in principle with Article 8(3), but are of the opinion that there should be some restriction placed on the nature of international associations and the purpose for co-operation with other councils. Such limitations should ensure that the membership of the association or the co-operation with councils in other countries is shown to be of benefit to the citizens and communities within the local government area.

11. ARTICLE 9

11.1 The councils have found, with regard to the referendum on voting and the Police & Crime Commissioner elections, that the Electoral Commission is excessive with regard to its requirements and, therefore, is of the opinion that should they be required to follow standards set by the Electoral Commission, there needs to be some freedom to balance the local knowledge of electoral requirements, such as the number of polling stations, with the guidance provided by the Electoral Commission.

12. ARTICLE 10

12.1 The councils agree with Article 10(1).

October 2012

Written evidence submitted by Richard Harbord

1 I welcome any attempt to codify the relationship between local and central government. It is, of course, not new. I suppose the most recent attempt to bring about a new relationship was the Lyons Report in 2007. There have been many attempts before and there was an interesting discussion on the independence and accountability of local government in a select committee post Lyons.

2 In the past most commentators have sought to make local government financially independent from central government. The argument being that local authorities cannot be truly accountable to their electorate if they have little discretion over their tax base and indeed how they spend their money.

3 There can be no disguising local authorities' near total dependence on central government over its funding particularly. This is evident by grant, by allocation and apportionment of business rate and by control over the level of council tax that can be set and indeed in the recent past by embarking on council tax freezes which are not sustainable in the long run.

4 I recognise that some local authorities have the opportunity for considerable amounts of other income. I note that the City of Westminster collect more from the motorist than they collect by way of grant. That reflects their geographical position and for the great majority of local authorities there is a very real trade off between raising these charges and reducing footfall in town centres.

5 Lyons advocated a revision to council tax which mirrors some of the Coalition Government's current thinking. He suggested more tax bands at each end of the current scale so that those in the lowest valued houses paid less and those who lived in highly valued properties paid more. There seems to be little fairness in a banded scheme which charges people the same if they live in a £500,000 house as the person in a £30 million house. Such changes are long overdue and would produce some buoyancy in the tax base.

6 Currently council tax is difficult to understand because houses are valued at 1991??? values. I know that this is a politically difficult change but with extended bands it does produce a more viable tax.

7 However, the realistic expectation of local authorities being able to command their own income in the current economic climate is not realistic. Nor do I think it is essential for local accountability. As long as Grant is a General Grant, that is to say a grant without targeted purpose, it would give authorities freedom to maintain their own expenditure programmes and to discuss them and change them after discussion with the resident.

8 If expenditure programmes cannot be owned by local authorities then a code becomes problematic.

9 It is unfortunate that the very welcome and sensible change to a power of general competence should come at a time of austerity. It would be interesting to understand how local authorities will use this power to assist in maintaining services under financial pressure.

10 I note that the National Audit Office are currently completing a study on the sustainability of local authorities over a period of severe cutbacks such as are currently being experienced. There is I think some particular concern for small district councils where there are limited reserves and flexibility in expenditure programmes is not easy. We await the outcome of that study with particular interest.

11 Local authorities believe that the current system is liked by central government as it gives them virtually complete control over expenditure totals and tax raising powers. The incentive for change by them is not great.

COMMENTS ON THE CODE ITSELF

Preamble

12 There can be little argument with this. I note that parish and town councils are not included although falling under the same financial regime. In the case for localisation the delegation of services and the Community Right To Challenge are important parts of parish and town councils armoury. The definition is actually very specific and does not mirror legislation elsewhere where local authority is taken to cover a wider body of organisations such as national parks, joint boards etc.

ARTICLE ONE

13 This seems to me to be quite straightforward. I assume the rights of local authorities to be consulted on the changes in the first paragraph would be included otherwise there is not co-equal status.

ARTICLE TWO

14 I would broadly support this and assume that there will be no attempt to define the services provided in paragraph 3. I would only mention that in the recent past local authorities have been urged to take on the role of Community Champions and from that came the possibility of inviting to a Scrutiny Panel other bodies such as health authorities, hospitals etc in order that community concerns can be expressed. This is an important role for local councillors particularly as it is not always clear to the average person who is responsible for each service.

15 My own authority has just carried out a very large scrutiny involving all parts of the community on the effects of inward migration to Boston. That has involved police, health, schools and colleges, gangmasters etc and has been a very useful piece of work in expressing local resident's views on matters not totally the concern of this local authority.

ARTICLE THREE

16 The same point arises here. I am not sure if a new comprehensive statute is envisaged on the scale of the 1933 Act but I think it unnecessary as the powers are generally known to authorities albeit spread over many Acts. Also this would go against the power of general competence.

17 I think the basis of consultation should be agreed as currently there are examples of very complex matters with relatively short deadlines.

ARTICLE FOUR

18 This very small article is of great interest. In the past inspection regimes have largely been imposed on local authorities. With the exception of education and social care inspection regimes have largely disappeared. I expect I am in the minority in regretting this. Clearly the Audit Commission had grown too large to be effective but much useful work was done and the Use of Resources and CPA did a great deal to raise standards in local government. There is a concern that failing local authorities will go unnoticed under the current relaxed inspection regime. The jury is still out on whether the LGA Peer Review scheme can be resourced sufficiently to be effective and comprehensive.

ARTICLE FIVE

19 This is broadly as the current system is although the community views are expressed mainly by representation to the Boundary Commission or at public meetings. Referenda are actually quite blunt instruments which do not allow individual expression of different views. Referenda also tend to irritate elected members who feel their role is lessened where the community expresses its views via the ballot box.

ARTICLE SIX

20 It is a good idea to build in a review period to political arrangements although it is very difficult to capture the public imagination about what these different systems mean to them. Generally referenda are poor in turn out and costly in consultation.

21 I am not sure of the wisdom of allowing freedom on adoption of voting systems and feel the current national direction works well in ensuring fair elections and as little corruption as possible.

ARTICLE SEVEN

22 This is a very good article indeed. I think that Lyons considered workable the proportion of income tax coming to local authorities and I believe that system has been used in part of Europe over many years.

23 I am an enthusiastic devotee of equalisation schemes and these are what a true bureaucracy is about, turning apparently simple calculations into extremely complicated ones. I cut my teeth on the London Equalisation Scheme in the 1960s after London Reorganisation when from memory, Westminster, Camden and Kensington and Chelsea paid into the pool and everyone else benefited to some degree. This was a statutory scheme negotiated annually by the 32 London Treasurers.

24 Since then, of course various grant regimes have had various equalisation schemes. These are very difficult to get right. There is a trade off between a simple but not entirely fair system and a very complicated and spuriously accurate system.

25 Part 5 is very important. There must be no departure from the balanced budget approach which has served UK local government so well.

26 Part 6 is very laudable but I am sure the Treasury will resist the stability element. I think that is what should happen at present. The Spending Review sets out figures that should be capable of being relied on but for instance in 2012–13 we have been warned that as the Government has not met all its targets in year

spending cuts cannot be ruled out. This makes planning and future policy development very difficult and it should be avoided if at all possible.

ARTICLE NINE

27 This is fine but I hope that recourse to referenda is not a regular way of judging public opinion. As I have said elsewhere it does undermine the role of elected representatives, they cost money and a number of them will lead to increasing apathy. There are major issues which affect an authority where they are appropriate but they should be used with caution.

ARTICLE TEN

28 This is fine.

October 2012

Written evidence submitted by Reading Borough Council

1. The Reading Borough Cabinet, at its meeting on 1 October 2012, considered the consultation documentation and draft code for central and local government, as issued by the Select Committee as part of its national debate on codifying the relationship between central and local government, and resolved to make the following response to the Select Committee:

- 1.1 That Reading Borough Council recognises the stated aim of the Government to decentralise powers and increase local democratic accountability; and through the Localism Act 2011 there is now an appetite for more opportunities for local decision-making and greater freedom from centralised control.
- 1.2 That the authority therefore welcomes:
 - (a) the joint campaign between the Local Government Association (LGA) and the Political and Constitutional Reform Select Committee (PCRSC) to stimulate debate about the relationship between central and local government;
 - (b) the opportunity, through the Select Committee's inquiry on the prospects for codifying the relationship between central and local government, to comment on these issues.
- 1.3 That the Select Committee be advised of the authority's support for a revised constitutional settlement which recognises that locally accountable bodies are often better placed than central government to know what is best for local people, and which devolves power, responsibility and funding for decision-making permanently from central to local government to provide the maximum local discretion to individual local authorities to innovate and adapt in the light of local circumstances to deliver public services more effectively and at lower cost, and to take decisions in the best interests of the local electorate to whom the authority is directly accountable for those decisions.
- 1.4 That the Director and Council Manager write to the Chairman of the Political and Constitutional Reform Select Committee and the Borough Members of Parliament to advise them of the authority's support for the joint LGA and PCRSC campaign and its local ambitions for the central-local government relationship.
- 1.5 That the authority urges all political parties and central government to engage with the Select Committee and the LGA to consider whether an entrenched statutory codification of the independence of local government should be part of the constitutional settlement of the United Kingdom

2. I am sending you this response, on behalf of Councillor Jo Lovelock—the Leader of the Council—and the Council Manager, in line with 1.4 above.

October 2012

Written evidence submitted by Sunderland City Council

OVERVIEW

1. Sunderland City Council welcomes the opportunity to provide to the Committee comments on the proposed codifying of the relationship between central and local government.

2. Local government is an important part of the constitution, and the relationship between it and central government is a constitutional one. The council fully supports the proposal for the adoption of a statutory code to cover the relationship because of the lack of formal recognition of the constitutional position of local government and its role in the overall system of government. This leads to a lack of understanding of the role of local government within much of central government, at times in local government itself and most importantly amongst local residents.

3. The council considers that there is much for local authorities to welcome in the illustrative draft code prepared by Professor Colin Copus on behalf of the Committee, notably the recognition of councils as equal partners with central government, the establishment of an irrevocable legal status for councils and the freedom to raise and spend revenue in any legal ways open to individuals or companies, subject to local people's consent.

4. It is the view of Sunderland City Council that the Committee should regard codifying the relationship between central and local government as a priority because there is a compelling case for action now to deal with the ongoing crisis in the relationship between central and local government.

KEY ISSUES

5. Sunderland City Council considers that there are a number of key issues associated with codifying the relationship between central and local government which should be borne in mind as part of further considerations on the matter.

- The adoption of a code has the potential to give local residents increased freedoms and opportunities to have a greater input into and influence on the decisions that affect their everyday lives.
- A Code would shift the relationship between central and local government from the current top down, centralised model to one based on greater negotiation and partnership. This, in turn, would enhance the constitutional status of local government.
- Codification would enable central government to be fully freed up from the detailed monitoring of local government to support the localism principle of full local authority accountability to local residents.
- The costs associated with codification, including negotiations and consultations, will potentially be significant and must be borne in mind and provided for if codification is to be complete and effective.
- The success of a code would rely on achieving considerable cultural change within both central and local government, but particularly in central government ministries who would need to adhere to it in all of their interactions with local government.
- Mechanisms for dealing with breaches of the code would themselves need to be codified in order to ensure the integrity and effectiveness of the code.
- Enhanced freedoms to make local choices will almost inevitably result in the diversification of the quality, type and nature of public services. In order to ensure that local residents are able to exercise their increased freedoms, the public (and the media) will need clear and easily accessible information enabling them to understand the potential impact of devolution of power to the local level upon them.
- The adoption of a code could genuinely increase localism, stimulating a more active civic culture within communities who will feel they have a greater say and stake in the future of their local area.

SPECIFIC PROVISIONS

6. Specifically, the council considers that the code should provide for the following:

- Financial independence for local government anchored in the full retention of, as far as possible, uncapped and locally determined council tax and business rates, subject to clear and transparent mechanisms for fairness and redistribution for all authorities.
- Entrenching local accountability by removing unnecessary central government supervisory powers, accepting that government has a legitimate role in certain areas.
- Removing central government power to intervene in councils' boundaries, structures and governance models.
- Making it a default position that local government should have power to provide or commission any public service not explicitly assigned to another body.
- Entrenching local government's constitutional position so that it is not subject to re-regulation (whether this is done through the 1911 Parliament Act or some other mechanism).
- Clarifying the right of councils to set up formal or informal joint arrangements, at regional or sub-regional level, to deliver or support their functions.

COMMENTARY

7. For some years central government has been encroaching on local government and, despite the Localism Act, is continuing to do so; further upsetting the balance that should exist between central and local government.

8. Successfully codifying the relationship between central and local government in order to shift the balance of power in favour of local government relies, first and foremost, on the willingness of the centre to permanently devolve political and governmental power to councils.

9. As is pointed out in the annex to the code, the Localism Bill's (now Act's) General Power of Competence does start to support this shift in power. However, the Act contains around 140 reserve powers for the Secretary of State. This not only points to the need for a code, but also to the potentially significant barriers that the introduction of one could meet, largely in the form of a reluctance to cede power amongst politicians and Whitehall officials.

10. To challenge these barriers, local residents who are not currently engaged with their local authority or active in their community will need to be added to the debate, in creative ways and with a message that is immediately relevant across a wide range of concerns. Only through doing this will the momentum and pressure required in central government to bring the code to fruition and ensure that it is applied be generated. The code is clearly in the interests of citizens and of local government as it would deliver localism with a stronger, more vibrant and empowered citizenry coupled with a less bureaucratic state with services that can truly respond to local need.

11. Codification should not be confined to just describing existing practice, it should focus on establishing desired practices. Laying out current arrangements may be a useful preliminary step, but the Committee should go further and make recommendations about what those arrangements should be.

12. The code should not just deal with relationships between formal institutions, but by charting new processes in central and local government for officials, ministers, and parliamentarians to follow it should help change the political and public culture. Local government would then appear more important in the lives of the public than it has for many years and would no longer be seen as just an agent of central departments; thereby further encouraging local residents to engage with local authorities and the localism agenda.

13. Codification would promote a greater public understanding of the relationship between central and local government, thereby making accountability clearer.

14. Although there is a lack of popular demand for a code, the decline of public support for local government (although less than the decline of public confidence in central government) is part of the crisis in the system of government that needs addressing. Whilst the general public is not crying out for codification of the relationship between central and local government that, in itself, is no reason for codification not taking place.

October 2012

Written evidence submitted by Angus Campbell, Leader, Dorset County Council

1. In Dorset, we have discussed the draft code with elected members of the County Council and the six district and borough councils in Dorset through a Joint Scrutiny Review Panel and Dorset Leaders and Chief Executives' Group. This response is therefore on behalf of all seven councils, namely; Christchurch Borough Council, Dorset County Council, East Dorset District Council, North Dorset District Council, Purbeck District Council, West Dorset District Council and Weymouth and Portland Borough Council.

2. We welcome the joint campaign between the Local Government Association (LGA) and the Political and Constitutional Reform Select Committee (PCRSC) to stimulate debate about the relationship between central and local government.

3. Generally, we welcome the proposals and feel that the more autonomy that could be achieved, the better for local authorities. We agree that codifying the relationship between central and local government would sit well with the Government's localism agenda. It would underpin these policies by reducing centralisation and by providing the ground on which councils and communities could experiment with local initiatives that reflected local priorities.

4. We recognise the stated aim of government to decentralise powers and increase local democratic accountability and recognise that there is an appetite for more opportunities for local decision-making and greater freedom from centralised control. We also recognise the problems of finance and budgeting, particularly in the continuing financial climate, and agree that alignment is required between central and local government financial processes to add certainty and consistency to financial planning.

5. Specifically, we support the five elements highlighted by the LGA in its next steps paper published in June 2012:

- (1) full retention by local government of uncapped and locally-decided council tax and business rates, subject to retaining mechanisms for fairness and redistribution;
- (2) entrenching local accountability by removing many of central government's unnecessary supervisory powers (although there is a feeling that it is good for central government to retain a backstop role in areas such as safeguarding);
- (3) removing central government's and Parliament's power to decide councils' boundaries, structures and governance models, leaving those matters up to councils and local communities with the support of the Independent Boundary Commission;

- (4) restating the General Power of Competence, and extending its principles in the spirit of community budgets, by making it a default position that local government should have the power to provide any local public service not explicitly reserved to another body; and
- (5) entrenching those elements of local government's legal position in a way that made it harder for future parliaments to re-regulate local government.

6. Thank you for the opportunity to comment on the draft code for central and local government and for the work that you are leading as the Chair of the Political and Constitutional Reform Select Committee. We will follow the next stages of this important initiative with interest.

October 2012

Written evidence submitted by Cllr Ron Halliday, Chair, Corporate Performance Overview & Scrutiny Committee, Wakefield Council

1. The issue of codifying the relationship between central and local government was discussed at our overview and scrutiny committee meeting in September. The general views of the committee on this matter are summarised below.

2. Most of us became councillors in order to make a difference to our local communities, but too often we feel restricted in how much we can achieve because of interference from central government. The committee feel that local government is undervalued and that central government needs to demonstrate greater trust in the abilities of local government to operate effectively and do their best for the people they serve. One size does *not* fit all and what works for Westminster City does not necessarily result in the best outcomes in Warwick or Wakefield.

3. In order to improve the relationship between central and local government we believe that:

- Central government should be less prescriptive and allow local authorities to do what they are democratically elected to do—to help improve things for our local people. Some things are best decided at a local level and we would like our central government colleagues to allow us the freedom to make those decisions. We may not always get it right, but we would prefer to make our own mistakes and learn from them rather than be faced with implementing decisions that we feel are not right for our area.
- Along with greater independence we would also like greater financial autonomy and the freedom to decide for ourselves where our income is spent. When participating in the annual budget consultation, the committee has previously noted the relatively small proportion of the Council budget over which it can exercise any real choice.
- Greater dialogue between central and local government is essential as good relationships are based on good two-way communication. We wish to be consulted and involved in meaningful discussions on any issues that affect local services and local people, in order that we can effectively represent those who elected us and put their views forward. Similarly, we would want to be able to petition central government to be able to run other services that are failing to deliver for local people.
- We are well aware that unsuccessful attempts have been made previously to strengthen the role of local government and create a more equal partnership (eg 2007 Concordat) and are concerned as to whether this proposal will fare any better. We hope that the more formal nature of this proposal will be more binding and ensure that all elements of central government remain committed to it.

4. The elements of the draft code that we generally support are therefore:

- Local autonomy and local self government.
- Scope of local government.
- Local government financial integrity.

5. Thank you for the opportunity to participate in this debate and comment on the proposals.

October 2012

Written evidence submitted by Councillor Philip Atkins, Leader of Staffordshire County Council

1. I am writing on behalf of Staffordshire County Council in response to the consultation on the proposed code between central and local government. I would first like to express my thanks and appreciation to the Political and Constitutional Reform Committee for inviting authorities to give their views and insight into these proposals from a localised perspective.

BACKGROUND

2. The whole of Staffordshire County Council recognises that many core aspects of the code reflect our council's continued approach to incorporate the Localism Agenda into our corporate strategic planning through

striving for greater involvement of local people in the services we commission and provide for them. We want to continue to ensure that their local voice is a key influence in our decision-making processes and builds on the existing community spirit in Staffordshire.

3. In September 2010, we introduced a New Operating Model central to which are the nine priority outcomes that form our Strategic Plan.⁵ One of which maintains a commitment that “Staffordshire’s people are involved in shaping the delivery of public services”. Personal and social responsibilities are values that underpin our belief in the appropriate involvement in the appropriate decision at the appropriate level and we feel that the proposed code emulates and supports this.

4. Our response is the result of wide consultation informed by our Cabinet, County Council Members, officer leadership teams and through the challenge of our Corporate Review Select Committee. Final approval has been given by myself as the Leader of the County Council on behalf of the organisation.

5. Our response therefore captures the range of views and opinions that we have received, as well as our internal discussions and what we anticipate to be corresponding or conflicting issues in implementing a reformed constitution.

6. Staffordshire County Council welcomes the further clarification to Localism from codifying the relationship between central and local government. We fully support the very honourable intentions the regulatory proposals are offering; to empower communities through equalised and autonomous local authorities acting on their behalf.

7. The Localism Act has already made provisions for greater powers in local authority decision-making; provisions that, as an innovative commissioning organisation, we have been enthused by.

8. However, it is a concern of ours that such proposals must have the full backing of all departments across Whitehall to ensure a consistent and meaningful approach in practice as well as principle. Any freedoms from more restrictive bureaucratic controls are welcome, provided that these are genuine freedoms on which we can operate independently, relinquishing existing bureaucracy and burdens.

RESPONSE TO THE DETAILS OF THE DRAFT CODE

9. Our response is based generally around the 10 articles as set out in the draft code. By the very nature of the proposals set out in the code, there are cross cutting issues which arise throughout our response and these are considered as appropriate.

THE SCOPE AND AUTONOMY OF LOCAL GOVERNMENT

10. Staffordshire County Council is in full agreement with the legalities outlined in the first of the recommended articles and acknowledges that the powers and duties of local councils must be enshrined within the law as part of this proposed consensual agreement with central government.

11. We further appreciate that the rights of our citizens will be protected and will not be affected by the code. We recognise that we will be expected to act within accordance of the code should it be enforced after the consultation.

12. As emphasised at the beginning of this response, we embrace the compelling concepts of local autonomy, self-government and the freedom and flexibility that this will allow us to meet the more specific needs of Staffordshire’s communities. Staffordshire County Council takes pride in demonstrating accountability to its citizens and welcomes involvement and support from the community in the decision-making process. We envision our Members and Cabinet in their respective representative roles as crucial stakeholders in this communication process.

13. However, in the practical implementation of our strategy we have been aware of the potential tensions between localism and efficient wide-scale provision, particularly from the context of commissioning services in an effective manner.

14. It is noteworthy that Staffordshire is a two-tier county, and as such has experienced some difficulty in negotiating the differing political and organisational views of district and borough councils which fall within the county’s boundaries. The extent and shape of council geography is a recurring key concern arising from this consultation, balancing the need for a sustainable size to maintain high quality service delivery, whilst being recognisable to citizens living and working here and who contribute to council tax and business rates bases. Thus, we recognise that many of the issues to be resolved would have to be looked at on a case-by-case basis in the spirit of local co-operation as further examined below in this response.

15. We are in full agreement with article three regarding the scope of local government, as again this reiterates Staffordshire’s commitment to the decentralisation of policy from central government. We recognise the benefits of the ability to exercise full powers of discretion in relation to matters within the county boundaries. In the planning and commissioning of our services, alignment of budgets to work at both county

⁵ Please see our Strategic Plan 2012–17—<http://www.staffordshire.gov.uk/yourcouncil/strategicplan/strategicplan2012–2017.aspx>

and community level is crucial; co-ordinating solutions to local need with partners and encouraging community and volunteer projects through initiatives such as our Local Members Community Fund where appropriate.

16. However, in relation to article 3.3 whereby councils and government will consult early in the policy and decision-making process, we would ask again that all departments across Whitehall have consensus on these principles and to have full regard across all departments in consultation processes if true devolved power is to be achieved by local authorities.

17. Furthermore, we would like to ask that the Government is fully transparent in presenting the evidence of any realistic differences that are made through such consultations with local authorities, and how central government will demonstrate how genuine consultation can lead to effective outcomes in policy development from the perspective of councils.

ASSESSING QUALITY

18. We welcome the opportunity for local government to take an increased role in the design and organisation of arrangements for inspections, and other assessments of the quality of service provision. Our own experiences in Staffordshire suggest that the value of peer reviews and assessments can provide very useful feedback around areas to improve, and in the identification of areas where best practice can be shared.

19. Notwithstanding the desirability of local government playing a greater role in such activities, the independent challenges provided by existing inspectorates, in ensuring that appropriate quality standards are maintained within the context of local priorities. It will be important to ensure that any emerging arrangements pick up on the multi-partner, and multi-dimensional approach that is being prescribed through for example the planned changes to inspections of children's social care services within the remit of applicable service areas. The design and management of any frameworks that may result will need to encompass a move towards improved outcomes for citizens and communities rather than service standards. They should harness the expertise of different organisations and respect the diversity which exists between different "types" of local authorities based on their demographic, geographic and other circumstances.

20. We would expect that the recent consultation around the Draft Local Audit Bill will take into account the principles and spirit of working contained within the draft code of conduct, and our observations as set out above.

COUNCIL ORGANISATION AND GOVERNANCE

21. We welcome the principles set out in article five, with councils and local citizens having greater control over council boundaries. Staffordshire County Council has within the past 18 months been subject to a countywide review of its Electoral Division boundaries. At a time of significant change both nationally and locally, Members felt the timing of the review was unhelpful and raised concerns around the cost of the review. The cost in officer time associated with this review has been substantial (and is likely to be so for other future reviews).

22. As highlighted above in this response, council geographies must be of a size that is recognisable to the citizens that pay council tax, business rates and live or work in the area. Beyond that, council geography must be of a size that enables the delivery of services to be sustainable. In a two tier area such as Staffordshire it isn't possible to start with a blank sheet of paper. Because our recent boundary review was separate to any review of the district and borough boundaries, this has resulted in a process of perpetual catch up between the corresponding county and district and borough boundaries, particularly in areas where there was an impact on parish councils.

23. The illustrative code points to the risk of councils wanting simply to maintain or expand their boundaries. The local government landscape is however becoming increasingly complex and councils are working across boundaries more than ever recognising the benefits this provides to improved service delivery and cost effectiveness. Whilst physical boundaries are important the reality of commissioning enhanced services for local people will mean that physical proximity will not be the sole means of ensuring sustainable local government in the long term.

24. Staffordshire County Council has entered into a tri council agreement with Worcestershire County Council and Shropshire Council to identify ways of sharing best practice, expertise and potentially save money (link). It was the clear potential for mutual benefit to the citizens of each of the county councils rather than geographical considerations that were the driving force behind the agreement. Physical boundaries should thus retain a focus upon local connections and neighbourhood configurations that make sense to local communities. Boundary changes in and of themselves will not respond to the challenges facing local government now and in the future.

25. Staffordshire has some concerns about the concept of local referenda around boundary changes. During the recent boundary review undertaken by the Local Government Boundary Commission for England (LGBCE) there were well publicised opportunities for the public to involve themselves and comment on proposed boundaries throughout the process. As well as the statutory processes run by the LGBCE, the County Council also conducted our own consultation exercise which unfortunately did not generate a high level of response.

Any consultation would need to provide appropriate detail of how various options could impact on communities. The cost of running such an exercise would seem to be prohibitive, especially with the possibility for there to be a low turnout.

26. The practicalities of commissioning and service delivery will vary dependant upon geographical boundary changes and are matters which require careful consideration to ensure council service delivery remains sustainable. Whilst much of this can be explained to local people and communities the County Council's view is that elected Members in their representative role and with their local knowledge should be the primary decision makers in Council consideration of boundaries.

27. The continued support and involvement of the LGBCE is something the County Council supports. It will be able to act as an objective body that is able to support, advise and arbitrate on boundary issues in the context of protecting the wider interests of any proposals beyond the council(s) directly affected. We would simply ask that the balance shifts to local citizens and councils driving change rather than the Commission's criteria for review.

28. Staffordshire broadly supports the principle of local autonomy over electoral and political arrangements set out in article six. The Localism Act has already extended the provisions open to local government to determine its own political decision making arrangements. The County Council continues to believe that its Cabinet and Scrutiny model offers strong and decisive leadership. The swiftness of liaison and decision making we made to secure Jaguar Land Rovers investment in Staffordshire is one such example. The deal required close liaison and negotiation with district and borough council colleagues and neighbouring Wolverhampton City Council, the Local Enterprise Partnership, MPs and central government departments.

29. We are not convinced of the need to produce a political governance report every eight years, and recommend that it should be for the political administration of a council at the time to determine, post election, the governance arrangements that most effectively enable it to deliver its manifesto commitments and be accountable to the local electorate.

30. Our consultation work suggests that most local people and communities are more concerned with high quality and cost effective services rather than models of political governance. We are building on our ongoing dialogue with local communities to determine how well the County Council is doing and what its priorities it should be. This, we believe, offers a more effective way of maintaining the trust in local democracy rather than a periodic evaluation.

31. We support the key principle of local autonomy, but have some concerns over the prospect of local determination of electoral systems. The percentage turn out for elections in Staffordshire like elsewhere in the country is in decline, and there is a danger that differing voting arrangements could lead to little other than confusion and further disillusionment at a local level.

32. The key priority should be that whenever a voter walks into a polling station or fills in a postal vote they understand the value of the "x" they put in the box. We believe that there is some risk that if local changes take place frequently, and in different tiers of local government in the same area then the confusion risks the reputation of the whole process.

LOCAL GOVERNMENT FINANCIAL INTEGRITY

33. In general, the proposals set out in article seven of the draft code look to provide a sensible way forward in terms of devolving to, and confirming to local government the extent of the financial powers and responsibilities that we will have.

34. In comparison to previous legislation and statute relating to financial regulation, these offer a fairly radical approach, and offer a very different model to some of the changes to the finance system currently being introduced.

35. It is difficult to comment in detail on the merits of the proposals without further technical details of their extent and coverage. In general, however, Staffordshire County Council has long since argued that it should have much more control over its finances and those set out in the draft code seem to take this a step further. Whilst the intentions of the code appear to be based around rewarding areas in which success can be demonstrated, it will be important to ensure that proposed arrangements do not disadvantage those areas where there has been less economic growth, or which may have suffered disproportionately as a result of economic recession. This could, in the most extreme circumstances, lead to a potential "postcode lottery" and will need careful independent management.

36. Any proposals for the remodelling of local financial arrangements should not replicate the legacies of previous funding regimes such as the Standard Spending Assessment and Revenue Support Grant which led to some significant variances in central government spending for areas of similar socio-economic and demographic characteristics. Funding allocations need to be based on principles of fairness and equity, and with appropriate flexibility and local discretion to be used in the decisions made around the spending of money.

37. Alongside the issue of other policy issues being determined by public referenda as set out in the draft code, it will be fundamentally important for the public to totally understand what is being asked of them

(including being given appropriate detail around the implications of different options) to vote for around differing financial options. The “speed” of decisions made through referenda will also be an important consideration, particularly in the respect of where challenging financial decisions will need to be made.

38. As well as the proposals set out within the code for local authorities to take a share of income tax, we would welcome any opportunities for local government to take shares of other taxation streams. For example VAT (which may provide a powerful incentive for town centre renewal). We would also recommend that safeguards need to be in place to ensure that the infrastructure needs of areas which are not uniformly affected by potential recession are not disadvantaged by their inability to raise income through such streams as those proposed in the draft code.

DUTY OF CO-OPERATION

39. The proposed duty of co-operation in order to maximise local residents’ wellbeing is significant to Staffordshire from two angles. The first of these is Staffordshire’s close relationship with other authorities, in particular Stoke-on-Trent City Council, which is a unitary authority surrounded by the geographic boundaries of Staffordshire, meaning that a large number of services and demands overlap the two authorities’ boundaries. The two authorities already work closely together to maximise the wellbeing of those living within the wider area, many of whom may live within the boundaries of one authority and cross daily into the other to work.

40. Very close partnership working already exists between the two authorities in terms of the economy through the Stoke-on-Trent and Staffordshire Local Enterprise Partnership, which itself is responsible for the economic priority of the Staffordshire Strategic Board. Cross-boundary and cross-tier working also exists in arrangements for the Health and Wellbeing Board in the context of an understanding of the benefits this can offer for all key stakeholders.

41. Staffordshire County Council feels that this extension of the “duty to co-operate” to include services is right in principle and also workable, with the potential to deal with it through use of the partnership arrangements which are already in place. However, there are also concerns about potential conflicts or tensions which could emerge in these situations. The duty to co-operate, in the terms of town planning matters which currently exist, have historically not always proven enough to foster truly effective joint working of their own accord. Further potential challenges are identified in the two-tier working approach, in terms of governance and the tensions between ideals of localism and economies of scale.

42. As well as strengthening the duty of co-operation with other local authorities, we would urge that the code should be explicitly extended to include the relevant partner organisations overseeing services which contribute to the improved quality of life in local areas (for example the police, fire and health services). The code should also specify that where appropriate, co-operation exists between areas which are not necessarily coterminous with each other. Staffordshire County Council, and other authorities nationwide, are working across their boundaries more than ever, through recognition of the benefits which this can provide to improved service delivery and cost effectiveness.

43. It is also recognised that positive relationships and joint working will never be realised merely by a legal duty alone. The key to effective co-operation will ultimately rely on strong working relationships being built up outside of an official duty to co-operate.

LOCAL REFERENDA

44. Staffordshire County Council does not see the added value attached to using referenda as the key mechanism on which to base the democratic mandate attached to the development of policy options as set out in the draft code of conduct. As a Member led and customer focused organisation, our Members are given the appropriate democratic mandate to represent and act on the needs of their electorates through the relevant election cycles.

45. There is a real danger for referenda to be hijacked for political reasons, which could potentially lead to difficult situations for local government administrations in their later years. Whilst our position around the use of referenda is clear, in the event of referenda being used as set out, strong safeguarding measures to prevent this would need to be set out. We also feel that there could be problems with the wider concept of the referendum-driven policy direction and way of working which is set out in some articles of the draft codification.

46. The most unsustainable of these is that the countrywide trend of shrinking voter turnout at elections and referenda is reflected in Staffordshire—if only a small proportion of the population engages with a referendum process, it is difficult to maintain the credibility of, or support for any following actions. This is particularly relevant as it is often the most disaffected members of society who will lose their voices in this situation.

47. There are also potential issues associated with the costs of running, publicising and explaining the various details of a referendum (in relation to financial and other resources) which need to be carefully balanced against the value gained by using referenda as a means of determining priorities.

48. There is also a potential issue of voter fatigue amongst the currently active electorate in the case of multiple referenda.

49. The real question revolves around the actual local appetite for some of the measures involved. Article six, for example, assumes that the public as a majority have a major interest in voting and governance arrangements, where their real priority is more likely to be high quality and cost effective services. There are also questions of whether extreme localisation of decision-making could lead to paralysis or at least a slowing of the system, which would be exacerbated unless the trend mentioned above, of reducing voter turnout, was reversed.

50. Staffordshire, like many other councils has effective existing community engagement mechanisms and ongoing dialogues with residents. As part of our commitment to involve people in the shaping of public services we are moving our engagement activities to a much earlier stage of our policy development work to establish the real needs of communities. We believe that in many cases, these would provide a more effective and preferable approach to gaining public opinion than the stark choices offered by the use of multiple referenda.

51. Our approaches to Localism which encourage a much greater sense of personal and community responsibility provide people and communities with a much greater opportunity to shape how resources are managed. Staffordshire County Council's approaches towards the greater personalisation of social care budgets empower people to select the packages of help and care that best meet their own needs. At a community level, our Neighbourhood Highways Teams place community engagement at the very heart of maintenance and service planning to improve the highway network, and in the future will involve the devolution of budgets to communities themselves to commission the most appropriate highways activity for their localities.

LEGAL PROTECTION FOR LOCAL GOVERNMENT

52. Staffordshire County Council recognises that in undertaking their powers and duties (and any future powers which may emerge as a consequence of the implementation of any code between central and local government), local authorities will enjoy the freedoms set out within the General Power of Competence, but will also be subject to principles of self government enshrined in law, or contained within the code or evident in human rights legislation.

IN SUMMARY

53. We are, in general, very supportive of the intentions of the draft code and the provisions that it sets out through the various articles included within it, recognising that they incorporate and build on many of the elements that we are building in to our own Localism strategy.

54. The practicality of the proposals set out in the code will ultimately rest with the consistent acceptance of central government departments in delegation of power to local government, and central government having appropriate trust in local government to act in the best interest of local communities. Whilst in the past there have been attempts to formalise relationships between central and local government, the application between various Whitehall departments has not been totally consistent and this must be tackled and addressed through any proposals that emerge through the code.

55. Our fundamental approach as a council is one of increased personal responsibility, and appropriate service delivery at appropriate levels to the right people. The proposals set out in the code certainly complement this approach; however, we do recognise the value of independent bodies such as the Local Government Boundary Commission for England, to act as an independent arbitrator in cases where local agreement cannot be fully secured.

56. Our position in relation to the use of referenda is clear, and the potential challenges presented, particularly around the issues of voter fatigue, maximising turn out, and ensuring that "less heard" groups do not become disaffected need careful consideration. Where referenda are seen to be an appropriate option, they will need to be carefully managed to ensure that electorates have a thorough understanding of the issues on which they are being asked to vote.

57. Above all, local government will need to embrace the potential offered by the codification, improving and strengthening connections with local citizens, and communicating the many benefits that it can bring.

October 2012

Written evidence submitted by the National Association of Councillors

1. The General Secretary in conjunction with the Equalities Officer of the National Association of Councillors, presented a report to our National Executive Committee. Which set out the Political and Constitutional Reform Select Committee's consultation on a code of independence for local government. The code was intended to formally state through legislation "the principles and mechanics of the relationship between central and local government". This was subsequently circulated to all members, cross-party, within our association for response.

2. Following consultation with our members, concerns have been raised with the proposed Code of Independence as it is. The collective view was that at the present time the Government has eroded the financial

viability of some council's. It was highlighted that the Comprehensive Spending Review had had a disproportionate cut in some council's with those hardest hit suffering the greatest levels of deprivation. It is deemed grossly unfair that some of the poorer areas are disproportionately disadvantaged by the current Central Government Grant Regime due to the current system failing to recognise the significant levels of deprivation within some of the councils we represent. There was no dispute with the principles and mechanics of the relationship with central government being formally stated in legislation if and when the Government redresses the balance in grant allocation so as not to permanently disadvantage some of our hardest hit councils.

3. The main concern in the documentation related to Article 7 pertaining to Local Government Financial Integrity which stated "Equalisation will be conducted by an independent equalisation board, on an annual basis". The principle of autonomy and independence was accepted, as alignment between central and local government financial processes were required to add certainty and consistency to financial planning. It was considered that the proposed code of independence would ultimately mean a permanent change to the current settlement between central and local government. At the present time, until equalisation was addressed, it was not considered to be acceptable. It would, in its current format, embed the detrimental impact of the Comprehensive Spending Review. This permanence could deliberately deny those local authorities hardest hit the ability to prosper and deprivation needed to be reinstated within central government grant allocation. It was further considered that concerns had been realised as Clause 4 of Article 7 rested on the assumption that the existing rules would be agreed for equalisation and the current mechanism for allocation would continue. If this continued it would affect long term ability to borrow and affect the some council's credit rating.

- The National Association of Councillors recognises the stated aim of government to decentralise powers and increase local democratic accountability.
- The National Association of Councillors also recognises there is an appetite for more opportunities for local decision- making and greater freedom from centralised control.
- The National Association of Councillors welcomes:
 - (a) The joint campaign between the Local Government Association (LGA) and Political and Constitutional Reform Select Committee (PCRSC) to stimulate debate about the relationship between central and local government
 - (b) The opportunity, through the Select Committee's inquiry on the prospects for codifying the relationship between central and local government, to comment on these issues.

October 2012

Written evidence submitted by Bristol City Council

INTRODUCTION

1. We welcome this opportunity to make a contribution to this important debate on the prospects for codifying the relations between central and local government.

2. Bristol is the largest city in the South West (7th in England outside of London) and one of the eight "Core Cities"⁶ in England that are recognised as driving the UK economy in their respective regions. The city council administers an area of 110 square kilometres (42 square miles) and serves a resident population of 428,200 (2011 census initial release). The council also works with the wider city region area (known sometimes as the West of England and including our neighbouring authorities of Bath and North East Somerset, South Gloucestershire and North Somerset) with a population of just over one million people.

3. Our response is set out below and offers some general as well as specific points on the draft code and principles around it.

GENERAL PRINCIPLES

4. In general, Bristol is supportive of the move to codify the relationship between national and local government.

5. The English Core Cities are engines of economic growth for UK plc. Bristol is competing on a global stage with the likes of Barcelona, Frankfurt and Boston. These are all cities with municipal authorities that retain a much greater share of the local tax base. This creates a major incentive for local authorities to invest in the local economy. English cities are not incentivised this way and are disadvantaged by the fact that the majority of the taxation generated by our relatively successful economy in Bristol is returned to London. Therefore codifying the relationship between local and national government must be backed by a new financial settlement for local government that recognises the critical role councils play in driving economic growth.

6. The City Deals in England set a precedent for a new approach to policy development, which saw local and national politicians, and officials, working together to develop policy. Whilst far from a perfect process, the development of City Deals was a welcome break from the culture of dependency that often characterises

⁶ The "core cities" are: Birmingham, Bristol, Leeds, Liverpool, Manchester, Newcastle, Nottingham and Sheffield (excluding London)

our relationship with Whitehall, with funding and policies “handed down” after the policy design phase has been completed in relative isolation.

7. A more formalised relationship between local and national government must also be underpinned by some common competencies and behaviours amongst both civil servants and council officers. These should seek to overcome organisational inertia and approach policy development with an open mind, placing the interests of local communities at the heart of the conversation, free from tendencies to defend organisational territory.

DETAILED POINTS

8. It is suggested that the term “central government” is replaced with “national government” throughout the draft code, as the word “central” perpetuates a sense of subsidiarity, (quite apart from the fact that Westminster is not centrally located in the country anyway).

9. Under *Article Three, Paragraph 3*, the wording could be strengthened to recognise that policy should be jointly developed, rather than developed in isolation, “consulted on” and “received” by local authorities.

10. *Article Seven, Paragraph 3*, should include all forms of taxation linked to economic growth, not just income tax. National Insurance contributions, VAT, capital gains tax, and so on, are all linked to the success of the local economy. The quality of local leadership and service provision can have a major impact on the success of the local economy, yet the rewards of this success primarily reaped by the Treasury. The Local Government Resource Review was a missed opportunity to go much further with local government finance reform, and will do little to change the incentive system for councils.

11. *Article Seven* should include a commitment by government to conduct a Local Government Financial Integrity review as part of every Comprehensive Spending Review. The aims of this review will be to assess whether every step possible has been taken in that settlement period to further decentralise local government finance and enhance the self-determinism of councils.

12. The international co-operation referred to in *Article Eight, Paragraph 3*, should be extended to include public and private bodies, any voluntary, charity or third sector organisation, or any financial, commercial or private enterprise, to replicate the provisions in Paragraph 1.

October 2012

Written evidence submitted by Wolverhampton City Council

1. Please find enclosed Wolverhampton City Council’s response to your proposals around codifying the relationship between central and local government.

2. Many aspects of the illustrative draft code are welcomed by the council.

Article One

FUNDAMENTAL RIGHT AND DUTIES

<i>Article</i>	<i>Response</i>
1. The fundamental rights and duties of local councils herein are defined protected and entrenched. They may only be changed by the consent of Parliament as authorised firstly by an elected joint committee of both houses, and then by the approval of both Houses of Parliament as prescribed in the amendment to the 1911 Parliament act [enabling the second chamber to reject changes to the fundamental freedoms of local governance].	The council note this proposal.
2. The code represents a consensual agreement between central government and local councils. Councils, local government representative bodies, all ministers, government departments, MPs, civil servants, courts of law and all public agencies interacting with local government are bound by the articles within this agreement and will act in accordance with these articles.	The council note this proposal.
3. All of the provisions of the code are subject to the law. The individual rights of citizens are not affected by this code and citizens may seek judicial review against any injustice or infringement of rights as now. Councils and government can seek legal adjudication should it be felt that a council, councils or central government are not acting in accordance with the code.	The council note this proposal.

Article Two

LOCAL AUTONOMY AND LOCAL SELF-GOVERNMENT

<i>Article</i>	<i>Response</i>
1. Councils' accountability is to local citizens.	The council note and agree with this article.
2. Councils shall operate within the rule of law and with regard and respect to human rights legislation.	The council note and agree with this article.
3. Councils are autonomous, democratically elected bodies which independently decide upon, administer and regulate the public affairs of and deal with all matters of concern within their boundaries which are not dealt with or attended to by other governmental bodies.	The council note this proposal.
4. Councils operate within a framework of an irrevocable general power of competence with a full legal personality. Powers rest with councils, acting in accordance with the national legal framework, to pass local legislation on matters affecting the affairs and interests of their area.	The council note this proposal.

Article Three

SCOPE OF LOCAL GOVERNMENT

<i>Article</i>	<i>Response</i>
1. The powers and responsibilities of councils shall after due consultation be prescribed by statute subject to safeguards in article 1.1.	The council note this proposal.
2. Councils have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence or assigned to any other authority or body.	The council note this proposal.
3. Councils are to be consulted, early within the policy and decision-making processes, by the Government if it is proposing reform, which will affect any council and its communities.	The council note this proposal.

Article Four

INTER-GOVERNMENTAL ACTIVITIES

<i>Article</i>	<i>Response</i>
1. Central and local government acting jointly shall be allowed to create inspection regimes to set and maintain service standards.	The council note this proposal, and welcome involvement in setting inspection regimes and service standards that effectively measure our performance.

Article Five

TERRITORIAL AUTONOMY

<i>Article</i>	<i>Response</i>
1. The boundaries of local authorities are an issue for councils and their citizens. Any proposal for boundary changes must be conducted with the involvement of the Local Government Boundary Commission for England and within the law and subject to a local referendum in the area concerned.	The council note this proposal.

Article Six

COUNCIL GOVERNMENTAL SYSTEMS

<i>Article</i>	<i>Response</i>
1. Local citizens through their councils have autonomy to choose their internal political decision-making systems (including, whether to adopt a directly elected mayor and cabinet, cabinet and leader, committee system, or some other political decision making arrangement). Changes to political decision-making systems must first be subject to a binding local referendum.	The council note this proposal.

<i>Article</i>	<i>Response</i>
2. Councils must review their political decision-making system every eight years and produce a publicly available “Political Governance” report setting out the effectiveness of the system and if appropriate considering alternative approaches.	The council note this proposal.
3. Councils or local citizens can adopt any electoral system for use in council elections, after consultation and a binding referendum.	The council note this proposal.

Article Seven

LOCAL GOVERNMENT FINANCIAL INTEGRITY

<i>Article</i>	<i>Response</i>
1. Local councils shall to the greatest possible extent be financially independent of central government. Equalisation will be conducted by an independent Equalisation Board on an annual basis.	The council are largely supportive of this proposal, however, further information is required concerning the Equalisation Board.
2. Local citizens through their councils may raise additional sources of income in their localities in any way they wish [subject to the rule of law and human rights [legislation] if they gain the consent of their electorates through a binding referendum or local propositions.	The council is supportive of the raising of additional sources of income, however, the council is strongly opposed to the requirement to gain consent from the electorate by way of referendum, which, does not provide councils with the financial autonomy that is required, in addition there will be potentially significant financial implications associated with each and every referendum that is required to be held. the requirement should therefore be to consult in order that locally elected councillors can make fully informed decisions.
3. Local government shall be given a guaranteed annual share of the yield of income tax. this share shall be increased as and when service provision responsibilities are transferred from central to local government so that councils are always able to benefit from the growth in buoyant tax resources available to the state as a whole.	The council agree in principle with the proposal, however, further detail is required on the “guaranteed annual share” and the impact that national economic issues may have on this share.
4. The process of equalisation, ensuring fairness as between local councils, shall be undertaken by a body independent of central government.	The council are supportive of this proposal, however, further information is required concerning the independent body.
5. Councils shall be able to raise any loans which their credit rating allows and will be exclusively responsible for repayment. For the purpose of borrowing for capital investment, councils shall have access to the national capital market at their own discretion. All councils shall operate an annual balanced budget so that all outgoings, including interest repayments on borrowings, shall not exceed income.	The council agree with this proposal subject to the addition of the use of reserves to achieve a balanced budget and the requirement to comply with sector best practice with regard to borrowing.
6. Central government will not cap, or in any way limit, councils’ taxation powers. Central government must consult with councils on how it will distribute and allocate government funding when using local government as an agent to pursue its own policy objectives. Government funding to councils, in pursuit of central government policy objectives is to be based on a rolling three year budget cycle to coincide with the comprehensive spending review process. Once the three year medium term budget planning process has been agreed and announced no significant changes in funding levels will be made by central government.	The council agree with the proposals, however, it is stated that the Government will not cap or limit the council’s taxation powers and it is not clear if this refers to existing taxation powers or all potential taxation opportunities, eg local income tax, local sales tax, local tourism tax etc.
7. The same financial transparency standards will apply to local and central government, alike.	The council agree with the proposal.

Article Eight**COUNCILS' RIGHT AND DUTY TO CO-OPERATE AND ASSOCIATE**

<i>Article</i>	<i>Response</i>
1. Councils as independent legal entities are entitled, in any undertaking, to co-operate in any way with other councils, public and private bodies, any voluntary, charity or third sector organisation, or with any financial, commercial or private enterprise.	The council note this proposal.
2. Where more than one Council is responsible for services in a geographic area, these councils shall co-operate to maximise the well-being of those within that area.	The council note this proposal.
3. Councils are able to belong to any association for the protection and promotion of their common interests and to belong to an international association of any sort. Councils are entitled to co-operate with councils in other countries for any matter.	The council note this proposal.

Article Nine**LOCAL REFERENDUM**

<i>Article</i>	<i>Response</i>
1. The administration of any local referendum process shall follow standards set by the Electoral commission, and those responsible for the conduct of any such referendum shall be accountable to the Electoral Commission for their performance against those standards.	The council agree with the proposals in article 9(1)

Article Ten**LEGAL PROTECTION OF LOCAL GOVERNMENT**

<i>Article</i>	<i>Response</i>
1. Councils have the right of recourse to a judicial remedy in order to secure free exercise of their powers and respect for the power of general competence and any other principles of local self-government or individual rights enshrined in law or contained within the code or evident in Human Rights Legislation.	The council note this proposal.

OCTOBER 2012

Written evidence submitted by Mark Lloyd, Chairman, Association of County Chief Executives

1. I am writing to you as Chairman of the Association of County Chief Executives to lend support to the Political and Constitutional Reform Select Committee's exploration of codifying the principles and mechanics of the relationship between central and local government.

2. The Association's view is that the creation of local authorities as financially independent sovereign bodies would revitalise local democracy. The adoption of a legally enforceable code would give local authorities the freedom they need to deliver for local people and communities. Without the reforms that the Committee is proposing it will be very difficult for local councils to realise their ambitions, particularly given the difficult financial backdrop we are working against.

3. ACCE recognises that achieving the aims set out in the draft code will require:

- (i) secretaries of state and their departments to let local government take the lead in their own affairs and resist the temptation to dictate local policy;
- (ii) the repeal and/or amendment of the mountain of legislation which describes what central government requires of local authorities; and
- (iii) a code which enables local authorities in areas where there are three tiers of local government (county, district and town/parish councils) to work together for shared purposes and outcomes.

4. Any legislation should enshrine local government's legal position in a way which gives local authorities roles a permanence which would endure beyond the lifespan of a Parliament.

5. ACCE wishes you and your Committee well and would be pleased to contribute further to its work and activities.

October 2012

Written evidence submitted by Graham Chapman, Deputy Leader, Nottingham City Council

1. We at Nottingham City Council welcome the move to codify the role of local government.
2. When local government works it is a powerful organisation for change in the community. We in Nottingham are proud of the council's achievements, such as cutting crime by over 50%, being England's Cleanest Big City and increasing the percentage of children achieving five GCSEs from 24% when we took control of education in 1998 to 79% today.
3. We believe local government should be given greater freedoms and flexibilities, especially encouraging councils to take the initiative. Local government should feel empowered to take the lead and try new approaches.
4. However, independence must be enshrined in a constitutional statute. With clearly set out freedoms that do not depend on the mood of the next national government. This certainty of freedom would allow councils to take a longer term strategic approach, rather than worry about short term changes to their role.
5. Finance is of course key to independence. Local authorities must be given financial freedoms to raise funds. Local funding would allow councils to shape the kind of city they wish to create.
6. Of course greater financial freedom creates financial risk and it is imperative councils are encouraged to adopt strong financial management. Independence for local government must also not be used as a way of devolving burdens without the finances to fund the service.
7. Any movement towards greater financial freedom must also reflect the need for equity and balance. Local government funding has been cut disproportionately in recent years from cities and the north. A city such as Nottingham is facing the brunt of the Government's cuts. Other changes in council funding, such as business rates, threaten to increase that divide. Therefore any system of funding needs to start from a fair point.
8. In any new system there needs to be a mechanism of checks and balances, however this cannot be the LGA because of the risk of "the kids squabbling over the inheritance". Increased freedom will increase the need to oversight and we welcome that.
9. On some of the specific elements:
 - We are concerned about references to referenda. (eg the wording of Article 6, part 3 could potentially lead to the abandonment of wards if so decided in a referendum)
 - Also, Article. 9—this has the potential for the Electoral Commission to be swamped with accountability for referenda across all local authorities
 - Article. 7, part 3—we read this as receiving a percentage share of national income tax distributed on a per capita basis—which would potentially greatly advantage Nottingham (and other economically disadvantaged areas), so would be very keen to see this explored.

October 2012

**Written evidence submitted by Charlie Adan, Chief Executive,
Babergh and Mid Suffolk District Councils**

1. Leading councillors at both Babergh and Mid Suffolk District Councils broadly support the Committee's illustrative draft code for central and local government and the proposition that such a code should be entrenched in our constitutional arrangements in such a way that minimises the risk of future re-regulation.
2. In particular, both councils would we believe support the principle of codification of the relationship between central and local government so as to enhance and give weight to local government's autonomy. It should be set out in primary legislation and be free from arbitrary amendment or repeal by central government.
3. There is, however, a risk that through formulating a written code to govern the central local relationship, government will wish to retain residuary powers and the codification could lead to a reduction from current levels of autonomy and general powers. If that were to happen such codification would be counter-productive.
4. In its current form the illustrative code contains some anomalies and contradictions that would need to be ironed out. In our view the code would require significant further work and consultation before all the detail of its operation could be settled. We are therefore somewhat concerned that the proposition, given the lack of resources and expert officer time currently available to local government, will not be supported and will not receive the attention it deserves.
5. Clearly, successful implementation of the code would require significant behavioural and attitude change across both central and local government, and legal entrenchment of a code would not be effective without that cultural shift.
6. The following specific comments relate to the Articles of the code:

ARTICLE 1

7. The broad statements of principle in Article 1 and the mechanisms for entrenchment are supported and they provide purpose and context for what follows. However, we are concerned about enforcement of this broad principle and the sanctions that would flow from non compliance. To be of effect, the code would require oversight and enforcement by an independent body eg local government commission or through a constitutional court within our established court system.

8. We welcome the degree of constitutional protection but would wish to see within the code a requirement for the proposed joint committee to consult local government on any proposed future changes to the code.

ARTICLE 2

9. The proposition that local government should be accountable to its citizens is supported. There is, however, an anomaly in the explanatory notes that make reference to *primarily accountable*. This anomaly needs clarifying. It also needs to be explicit, on the face of the code, the extent to which this accountability *trumps* or replaces current accountability mechanisms to central government. For local government to be truly accountable or primarily accountable to local citizens, central government will need to provide greater freedoms to local authorities to act autonomously, set their own priorities and service standards and to do so in response to local circumstances.

ARTICLE 3

10. It is unclear what purpose the separate statements of scope in this Article add to the more general provisions in Article 2. We believe that if there is to be a statement of purpose of local government focusing in its broad function eg to promote wellbeing, economic growth etc would be more useful.

11. Essentially though, local government should be of local people, for local people and by local people. In other words it should be self determining and as unfettered by central government as possible. The default position should be “local” determination and central control and regulation should only be imposed when it can be shown it is essential.

ARTICLE 4

12. Any provision in the code that enables local government to influence the nature and extent of any central government controlled performance regime for local government should be welcomed. However, the article and the explanatory notes are not entirely clear as to the mutuality of the proposed arrangement. The explanatory notes suggest that central government would have primacy in any process for establishing performance measures. The code should provide the mechanism to guard against unwarranted or overly stringent performance regimes imposed by central government.

13. Local government’s power to set its own performance regimes to reflect local circumstances should not be fettered by the code.

ARTICLE 5

14. The proposal to establish territorial autonomy of local government is supported but if local authority boundaries are to become a local matter, there needs to be robust mechanisms for ensuring local authorities cooperate with one another across existing boundaries in any process of review and that specifically the code makes provision for the conduct of local reviews in two tier areas.

ARTICLE 6

15. The principles of self determination in matters of governance and local voting arrangements are welcomed.

16. In two/three tier local government areas, local authorities at the different levels should be required to adopt a common standard of voting.

ARTICLE 7

17. The provisions of Article 7 require further work in our view but we support the move to greater financial autonomy and the increase in local revenue raising powers. The proposals do not in our view go far enough. Local authority funding should be as local as possible and further work is required to explore local taxation and distribution models that make this a reality. The current resource review proposals are a step in the right direction but do not go far enough.

ARTICLE 8

18. As co-operation and collaboration both within local government and more broadly across the public and other sectors, any provision that strengthens and clarifies the requirement to work jointly in the best interests of the locality or its communities are welcomed. Any code should recognise that other non local authority

bodies will need to initiate and/or seek collaboration and co-operation and as such, the code should operate within a framework that requires collaboration and co-operation across non local government organisations. In our view though to extend the code to non local government bodies in order to achieve this broader application, would be a mistake.

ARTICLE 9

19. We agree that the Electoral Commission should have a role in setting standards for local referenda but should not be required to oversee all such processes. Local authorities should be responsible for the conduct of all local referenda and accountable to local people for so doing. The cost of local referenda should not be under-estimated and unless local authorities are properly resourced to undertake these processes, the requirements in the code that are dependent on such referenda are unlikely to have the desired impact.

ARTICLE 10

20. This provision is a helpful restatement of what would be the legal position of any local authority if the code is enshrined in a statutory framework. Local government powers include the ability to take legal action where legal remedies and sanctions are available.

21. Legal action should be a last resort. Our proposal in response to Article 1 for the creation of a local government commission to regulate the adherence of all parties to the code would in our view provide the basis for an independent arbitration and review process to take place before any party resorts to legal action in the courts.

CONCLUSION

22. Babergh and Mid Suffolk welcome the work of the Political and Constitutional Reform Committee and subject to the specific comments set out above supports the Local Government Association's position on the proposed code.

October 2012

Written evidence submitted by Cllr Ruth Dombey, Leader of the Council, London Borough of Sutton

1. As a Leader of a local authority and as a Liberal Democrat, I agree strongly with the principles that lie behind the illustrative draft code. Chiefly, the fundamental principle that power should be exercised by the people, as close to their lives and natural communities as possible. There are certain things that people expect to be decided at the local level and that they elect their local representatives to be responsible for. Yet too many of the duties that are naturally local are subject to the interference of central government. By assuming so much control and treating local government simply as an agent to be directed, the centralised state is taking decisions out of the hands of local people. This is something that Liberal Democrats have been speaking out against for decades, (no one more eloquently than my colleague on Sutton Council, Lord Graham Tope).

2. I therefore welcome any move to address the situation we find ourselves in, whereby England is one of the most centralised states in Europe, and the constitutional position of local government is so weak that local authorities could in theory be abolished if Parliament so wished. The establishment in law of local authorities as free and independent entities, with clearly defined rights, duties, and full discretion to exercise their initiative in any matter not explicitly excluded from their competence, is something that would have many benefits.

3. For example, under the system sketched out in the illustrative draft code, central government would be obliged, when proposing reforms, to consult with local government *early* within the policy and decision-making process, and in the context of a fixed three year financial settlement. This is important because all too often the government imposes profound changes on local authorities with far too little notice or consultation. This hasty decision making denies councils the time to design and test proper local schemes for implementing the new policies—schemes that take account of local circumstances so as to actually deliver the underlying policy objectives. This has been a constant risk with the pace of the current Government's Welfare Reforms, particularly Council Tax Localisation. Greater certainty around financial settlements would also be a welcome feature of the regime envisaged by the draft code. For my own authority the continuing uncertainty around our Decent Homes Backlog funding seriously impedes our ability to plan for the future, in particular our plans to build new social housing.

4. Another important principle behind the draft code is the idea that local government should have co-equal status to central government, and that the relationship between the two should be one of partnership. The way in which the centre too often treats local authorities as either a subordinate agent to be commanded, or worse, as an inconvenient impediment to be bypassed, is not at all conducive to good policy. Government initiatives, even well intentioned ones, are frequently so prescriptive that they deny local government the scope to apply the local knowledge and experience that can make the difference between a successful or failed intervention. There needs to be a relationship of trust and respect between central and local government, in which the value of local insight and discretion is recognised as a way to enhance rather than undermine well designed policy. We would then avoid a situation where the Government is dictating to local authorities who the Troubled

Families in their communities are, rather than allowing councils to draw on their valuable local knowledge to target their interventions, or widen the definition to other groups with the *potential* to be the focus of significant public resources, (such as young male NEETs).

5. I welcome the way that the draft code is seeking to establish a relationship between central and local government characterised by maturity and acceptance of diversity, a system that is at ease with different councils doing things differently. I particularly support the principle that the way in which councils are organised to make decisions, even how councillors are elected, are matters to be resolved through local democracy, rather than through the imposition of uniform procedures. However, the primary reason why I support the principle of codifying the relationship between central and local government, or indeed any initiative calling for the decentralisation of power, is that I believe that a renaissance in local government, a return to the spirit of Joseph Chamberlain and the muscular civic activism of the late Victorian city councils, is vital to Britain's economic recovery.

6. The great cities of the late nineteenth century showed what local democracy can achieve when it operates with freedom and confidence. Their proactive, can-do spirit is never more in need of imitation than now, in this time of economic recession, when we cannot rely on clumsy, top-down policies from Whitehall to deliver the sustainable economic growth we need. The greatest argument for local government independence is that it would empower local authorities to make the intense, targeted interventions in their local economies, (guided by local knowledge and leveraging well established relationships with local businesses), that are the best hope for kick-starting the UK economy as a whole.

7. Ironic then that it is the ministry responsible for encouraging economic recovery, the Treasury, that is clearly the greatest obstacle to establishing the freedom of local government in the way proposed by the draft code. This is because the proposal to give councils an independently determined share of the national tax take is anathema to the Treasury—but is arguably a greater guarantor of local government autonomy than the proposed legal changes. I agree entirely with Graham Allen MP that “political independence for councils would mean nothing without financial independence”. The prospects for establishing this financial independence though would appear to be very slim given the centralist mindset of the Treasury, exacerbated by its commitment to deficit reduction, and indeed the threat an independent body arbitrating over tax revenues would pose to Parliamentary sovereignty. Therefore while I support the principles and objectives behind the codification enterprise, I must express profound doubts that it will be successful.

8. Legal codification is not likely to succeed in the foreseeable future, due to the unfeasibility of the radical financial independence on which it rests. I would argue though that legal codification of the relationship between local and central government is not the only way to change that relationship. The LGA has portrayed the broader purpose of the codification project as “clarifying the relationship between local and central government” in the minds of ordinary citizens. I would argue that there are other ways to achieve this clarification, and the enhancement in the status of local government that would inevitably result from a better understanding of its purposes. Constitutional change is actually not the most important. What we really need is a change in our over-centralised political culture that would be twofold.

9. First, much greater self-control from government ministers, (indeed all politicians), in resisting the urge to intrude into matters that are actually the responsibility of councils. It is this sort of petty interference, for example around bin collections, which so erodes the sense of local authorities as independent entities, amongst the public but also amongst spirited councillors themselves. Members of Parliament could take a lead here by resisting the temptation to act as “super councillors” and instead more consistently refer council related issues to locally elected councillors. Second, a decentralisation of media focus, so that not every issue is treated as the responsibility of the Government. We need an end to the “something must be done” culture in which the media bypass local government and head straight to the nearest minister for a reaction. The corollary of this would be that it would be councillor “heads”, rather than ministerial ones, that the media would be calling on “to roll”, but this would at least be recognition that local government has genuine responsibilities, and therefore a relevance to residents' lives.

10. For it is this sense of irrelevance that is such an obstacle to attempts to revitalise and empower local government. We have seen a direct example of this recently, where the poor turnouts and lack of enthusiasm for the elected mayor referendums meant many of our cities risked missing out on the chance to test the Government's promise of greater autonomy.⁷ While I have my reservations about elected mayors, the lack of interest in local government was palpable and disheartening. Central government will always resist initiatives to devolve power, such as the codification project, unless they are compelled to act by genuine public demand. Scottish devolution is secure and has deepened over the years because it is grounded in solid public support, or rather the existence of a vibrant political conversation focused at the regional level. I would argue that there will never be strong, autonomous and confident local government in England until we see a blooming of the political conversation at the local level, the emergence of vital and vibrant local democracies.

11. This does not just mean better attended council meetings or better turnouts at election time. It means more people engaged in decision making and participating in the affairs of their communities. I'm talking about Neighbourhood Planning, involving residents in the design and delivery of services, genuinely devolving

⁷ I recognise that City Deals are going ahead in many cities regardless of the results of the Mayoral referendums. The fact that this is a result of central government policy, rather than the will of the communities concerned, is still disheartening.

power, and working more closely with the voluntary organisations through which many people engage in their communities—what some people call the Big Society but what Liberal Democrats have (for much longer) been calling Community Politics. What all of these things involve, under whatever label, is local authorities devolving power themselves. This “double devolution” is essential for the prospects of greater local government independence. On one level, more people engaged in local affairs would mean more awareness of the limitations that bind the hands of local government. Indeed more people participating in their communities, trying to get things done, would mean more people running up against Whitehall obstacles themselves, sharing our frustrations and increasing the public pressure for the decentralisation of power. On another level, double devolution would make councils more accountable to their residents. This is very significant as no government will grant local authorities more independence unless they are convinced that councils will be rigorously held to account by their communities.

12. The importance of local accountability cannot be stressed enough. The system outlined in the draft code is fundamentally predicated on citizens holding councils to account. Local authorities are to be granted more powers and more control over their finances on the condition that “[citizens] holding their own local representatives to account will constitute a firmer discipline...than any statute.” What’s more, for me and many others, making local government more accountable to residents is not just a condition to be met, but the most convincing argument in favour of devolution. The draft code is never more right than when it says in article two that “Councils” accountability is to local citizens’.

13. More important than codification then is the deepening of accountability in local government, and the nurturing of vibrant local democracies. This is something my own council has always taken seriously. We have always engaged our local voluntary and community groups in a sustained conversation with the council. We pioneered our own model of Community Policing, where accountability to individual neighbourhoods is essential. We became a “Big Society Vanguard Authority” to demonstrate how we put out Community Politics principles into action. But we need to do more. We are committed to devolving budgets and decision making powers to our six “Local Committees”—community forums that are much more open and accessible to our residents. And we want to “do” strategic commissioning in a way that involves residents from the start—as decision makers, service designers and contributors to the delivery of services.

14. This is what we mean by double devolution and it is something that councils can and should be doing much more to pursue. While constitutional change is ultimately something that is out of our hands, (dependent as it is on the inclination of central government), devolving more power to our residents is something that all councils have the opportunity to start doing right now. For if we want to see local government independence become a reality, we need to uphold our side of the bargain and make ourselves more accountable to our residents. Given that local government autonomy is predicated on genuine local accountability one could argue that the empowerment of local authorities should proceed at the same pace as the public’s ability, and appetite, to participate in local affairs. This would be a step-by-step gradualism rather than the “big bang” of codification, and is arguably the approach we should adopt in regards to the issue of financial independence too.

15. As I stated above, I absolutely agree with Graham Allen MP that “political independence for councils would mean nothing without financial independence”. The way in which central government dictates how councils can raise and spend money, for example through announcing blanket council tax “freezes”, is the grossest abnegation of local government autonomy. Gross because it is so unjustified: central government has a much worse record for delivering value for money than local government, and certainly no greater claim to prudence when it comes to borrowing. I fully support the draft code’s demand that councils be given much greater freedom to borrow.⁸ There would be so much more that local authorities could do to address the critical shortage of affordable homes, or stimulate local economies through investments in infrastructure, if we were able to back ambitious projects through borrowing.

16. Ambitious and innovative programmes from local government require proper funding and financial flexibility. It is incredibly frustrating when central government gives councils new responsibilities without the resources with which to deliver them effectively. Indeed it is often the case that local authorities are given significantly reduced resources, so that what should be the devolution of power becomes more like the outsourcing of tough decisions. The “localisation” of council tax would be the most recent example. However, without a doubt the most frustrating example, one that illustrates that there is no power without money, no operational autonomy without financial flexibility, is the issue of public health.

17. The decision to give local authorities responsibility for public health is something that I welcome wholeheartedly. In theory it presents an invaluable opportunity to join together all those public policy areas—housing, transport, education—whose impact on the health and wellbeing of our residents has not been properly recognised while responsibility for public health has been siloed within the NHS. Local authorities have the ability to look at public health holistically and the ambition to affect a real and much needed shift towards prevention, making use of our unrivalled capacity to know and communicate with our communities. However

⁸ I have less faith though that credit rating agencies and the market in general could be relied upon to rationally allocate capital to the best and most needed projects: there would be a very real risk that small authorities, or those in economically depressed areas, would be unable to borrow. That is why I would argue that the freeing up of Councils to borrow should be accompanied by the establishment of a National Investment Bank, similar to the Green Bank, that would help enable a wider range of local authorities to have access to finance and not be unfairly disadvantaged. I am also wary that the balanced budget stipulation, featured in the draft code, would preclude Councils from responding to local economic downturns in a Keynesian fashion, or from increasing local investment to capitalise on a unique opportunity, such as the Olympics.

our ability to innovate and do things differently is seriously imperilled by the woefully inadequate financial settlements that many councils have been granted in respect of the new public health responsibilities.

18. The current allocation methodology is based on historic spend rather than actual local need, deprivation levels, or health inequalities. In some places the financial settlements being calculated are enough merely to cover the costs of TUPEing over public health staff from the PCTs, or in other words, enough for councils to maintain the “status-quo” public health service. The promise of genuine local government control over public health, the autonomy to respond to our communities’ specific needs in ways that are right for our communities, cannot be realised without an adequate financial settlement, one that is calculated on the basis of future need not the status-quo. I would argue that a more urgent need than the codification of the relationship between local and central government is a campaign calling for the partial devolution of public health to be turned into real devolution, one where a revised method of allocating funds allows councils to actually exercise their potential powers in this crucial area of public policy.

19. Under the model envisaged by the draft code, local authorities would be free to raise additional local taxes in order to support public health initiatives, perhaps through a tax on takeaways. Assuming that ministers would resist the urge to defend Britons’ “right to a kebab on a Friday night”, any such tax would have to run the gauntlet of a local referendum. I am not as convinced as the authors of the draft code appear to be that local government independence could have as its fiscal foundations the ever-unpredictable, single issue referendum. Where referenda are a commonplace component of local democracy, such as in America and Switzerland, local government is rarely the outward looking, ambitious, place-shaping force that I believe the authors of the draft code wish free and independent councils to be. The crude tax raising referendum is arguably a dead end, or at best a tool only useful in very specific circumstances. I believe there are much better tools that have the potential to represent a much surer basis for local government fiscal independence.

20. In the context of public health, a commissioning model based around Payments by Results and Social Impact Bonds could in theory allow local authorities to pursue experimental, prevention-focused approaches without endangering financial discipline. By setting up a PBR contract the financial risk inherent in innovative approaches would be passed on to the service provider, who themselves would use Social Impact Bonds to spread the risk among investors. Successful preventative programmes would deliver savings for other council budgets whilst unsuccessful providers would be entitled to only minimal remuneration. PBR, Social Impact Bonds, and (for the funding of major infrastructure projects) Tax Increment Financing have significant potential to make local government more fiscally independent, because they expand the scope of what can be achieved with the same amount of money. By passing on risk and opening up new sources of finance, councils can make finite resources go further and support a wider range of discretionary initiatives.

21. Therefore I would argue that some important tools for increasing local government’s freedom to act exist already, albeit in outline, and have been promised by central government on many occasions. What is needed more urgently than constitutional change is for the Government to be put under pressure to deliver on those promises—to make PBR, Social Impact Bonds and TIF a real feature of public sector commissioning. For central government has a crucial role to play in developing these largely untested ideas into viable solutions. There is much the Government can do to encourage the market for Social Impact Bonds, or to tackle an issue that is crucial to the proper functioning of PBR models, which is finding a way to trace and measure the savings generated by a preventative programme and then share them in an equitable way with the original commissioning body. Currently there is no way for local authorities to share in the savings that their preventative programmes are responsible for, but that are realised through other public bodies, the NHS or police, having less demand for their critical stage services. Finding the solution to this challenge is the kind of fillip to local government autonomy that Whitehall is quite capable of delivering, and is something that ministers have repeatedly promised. Pressurising them to fulfil this promise is something that local authorities should prioritise ahead of any call for a radical new tax settlement that central government has demonstrated little enthusiasm for.

22. The extension of Community Budgeting is another promise that local government should pressurise central government to fulfil. Joining up funding and service providers in place-based, goal-focused partnerships is, for me, localism at its most productive. Surely the main argument in favour of greater local government independence is that it would free councils to make the Community Budgeting approach the norm, by allowing much greater flexibility when working with other public sector partners to pool budgets and redesign services. Given the lack of government enthusiasm for the big bang of constitutional change, surely the most constructive alternative would be for local authorities, individually and in concert, to push for more Community Budgeting powers in specific areas. Every council should be proactively proposing initiatives, forming partnerships with local public services and then demanding that Whitehall clear the bureaucratic obstacles in the way of joint working and pooled budgets. The New Local Government Network’s idea of a local government “right to bid”, whereby ministers would be obliged to give serious consideration to any local authority proposal for a Community Budgeting scheme, is something that the sector could choose to get behind.

23. If we take this pragmatic approach to devolution, where the “independence” being sought is the freedom to get things done, then we quickly realise that a practical, place shaping form of local government devolution depends a great deal on a similar form of devolution taking place across the entire public sector. This is because the extent to which local authorities can transform services through Community Budgeting is really determined by how far other public sector partners, like the police and NHS, are able to fully engage in the process. If our

major partners do not have the freedom and flexibility to pool their budgets and redesign their services, then the capacity for councils, (no matter how independent), to really shape their communities, will always be restricted. The centralisation that characterises the wider public sector is already a barrier to collaboration and innovation. It is very difficult to get the police, and particularly the NHS, to contribute to preventative programmes (such as the Troubled Families initiative) because their budgets are simply not set up to fund prevention, and they have so little discretion over how their funds are spent. I would therefore strongly suggest that any call for the empowerment of local government should be accompanied by a demand for greater devolution across the entire public sector. Independent local authorities would only be able to get things done if they could work alongside equally autonomous partners.

24. In conclusion, as an idealist, I welcome the draft code and the radically devolved settlement between central and local government that it envisages. I have described the benefits that I believe this settlement would bring, not least the rediscovery of the proactive, can-do spirit of the Joseph Chamberlain era, the muscular civic activism that is the best hope for delivering local economic growth and therefore kick-starting the entire UK economy. But as a realist I can see that the Government has little appetite for the profound constitutional change, nor the radical tax settlement that underpin the system outlined by the draft code. Therefore as a pragmatist I believe the local government sector and its champions, should focus on the more practical, “doable” alternatives, and pursue a piecemeal, step-by-step devolution of power, rather than the “big bang” of codification. Therefore, local authorities should do everything they can to build more vibrant local democracies, to devolve more decision making to communities, and through this “double devolution” increase their own accountability to their residents. This would be for councils to deliver their “side of the bargain” first, for the empowerment of local government must always be accompanied by an increase in its accountability to the people. We must also fully explore those fiscal tools, (Social Impacts Bonds, Tax Increment Funding), that have the potential to deliver greater financial independence for local government, and push the Government to support us in this exploration. Where opportunities for greater freedom and innovation exist, and where devolution has been promised, local authorities individually and in concert need to campaign to make sure they are genuinely realised. This means demanding a proper financial settlement for Public Health, seizing the invitation to set up more Community Budgeting initiatives, and campaigning for devolution across the entire public sector, so that when councils are empowered, they have similarly flexible partners with which to effect real change. These are the pragmatic steps towards the future that I want to see, a future in which free and independent local authorities, accountable to their residents at the apex of vibrant local democracies, work in mature, co-equal and productive partnership with central government. This is the vision outlined by the draft code and I have great gratitude for its authors. When taking the hard, pragmatic steps along a road it is important to be able to see the destination ahead.

October 2012

Written evidence submitted by Suffolk County Council

1. Please find below an article-by-article critique of the proposed draft code for central and local government relations. This builds on our original submission to the Committee in April 2011. Once again, we have not discussed the overall implications of the code as these are addressed perfectly well at the end of the draft document itself. However, our general comments are:

- We support the principle of codification of the relationship between central and local government insofar as it may enhance and give weight to local government’s autonomy. However, to be meaningful, any such code should be entrenched in primary legislation and should be protected from arbitrary amendment or repeal by central government.
- This is a very radical document and it is highly unlikely that any government would ever sign up to it. In our view, if it is to progress further, both local and central government would no doubt identify elements on which they would or would not be prepared to give (potentially quite a lot of) ground, the upshot of which would be lengthy consultation and a compromise that may satisfy no-one.
- In its current form, the code contains some contradictions that clearly would need to be ironed out. Also, in some areas it assumes an “as is” scenario and in others not, but not in a way that consistently ties up with the Government’s current policy proposals.
- There is clearly a great deal of work to be done on the detail that would need to lay behind the code, both shaping it and being shaped by it. As already suggested, this may include a good deal of primary legislation. But this could also be another reason why government would back away from it—too difficult to do.
- Clearly, successful implementation of the code would rely very heavily on cultural change across central and local government, regardless of its legal basis. But everyone appears recognises this.

ARTICLE 1

2. We would not take issue with any of the provisions of this article as they serve to set the purpose and legislative context of the code. In our earlier submission we suggested a role for a “local government

commission” to oversee implementation of the code, to work alongside the proposed joint committee and would like to repeat that, in the event of the code being taken forward, this option should be explored further.

3. We welcome the degree of constitutional protection afforded by the fact that change will require the consent of the joint committee and both Houses of Parliament. However, any changes (certainly significant changes) to which the joint committee consents should be first subject to consultation with local government.

ARTICLE 2

4. With reference to our original evidence, we would not have a problem with the principles behind any of these provisions, though we note the following:

5. *Clause 1:* The wording of Clause 1, which states that local authorities’ accountability is to local citizens is inconsistent with that of the explanatory notes, which state that accountability is *primarily* to local citizens.

6. We would argue that the wording of the clause is incorrect, as it does not reflect local authorities’ accountability to central government in terms of performance and associated inspection and regulation regimes. However, we believe that any code should act to further strengthen local accountability through the removal of unnecessary central regulatory/supervisory powers, and greater financial freedom.

7. We agree that care would have to be taken to define “citizens” in a local context, although equally we are not clear what benefit there would be in framing such a definition. In strict terms, Suffolk County Council is accountable to the local electorate but the council regards itself as accountable to *all* the people of Suffolk. Although only those entitled to vote in county elections can effect any democratic change, changes in policy can be effected by a number of other means. The fact is that local authorities have a degree of *responsibility* that extends far wider than traditional notions of accountability.

8. *Clauses 3 and 4:* We would welcome any measures that strengthened the ability of local authorities to act independently of central government and in the interests of local people on “...all matters of concern within their boundaries...[and] matters affecting the affairs and interests of their area.” The ability to do so is central to the notion of developing local solutions to local problems and of ensuring public services meet local needs and circumstances.

9. With regard to the General Power of Competence in particular, we continue to support this but also continue to argue it should be less restrictive and less subject to ministerial interference, both of which run contrary to the spirit of localism and act to undermine the Power’s effectiveness. We would support a specific definition of the Power in any final version of the code.

ARTICLE 3

10. According to the explanatory notes, the purpose of Article 3 is to set some limits on the autonomy of local government as defined by Article 2. We believe this to be adequately served by the wording of Clauses 1 and 2 and are not clear as to what is intended by the explanatory notes’ stated need to agree and define some particular powers, and the “agreed distribution of functions and responsibilities”. We would like these statements to be explained in much greater detail:

- There is a risk, particularly in agreeing to a set distribution of functions and responsibilities, and particularly if it is done in too great a detail, that codification could act to unnecessarily restrict local authorities’ room for manoeuvre, imposing a one-size-fits-all model where it is not needed. We must be sure that codification embraces the spirit of localism and allows local authorities maximum rein to adapt to and meet local needs, priorities and circumstances.
- When considering the distribution of functions and responsibilities across the tiers of government, codification must take into account the differences unitary areas and two-tier areas, where responsibilities are split across county and district/borough authorities.
- As stated in our initial evidence, we believe that referring to the *role* of local government, as opposed to its scope, would be a more preferable option. Although the clauses quite rightly avoid a lengthy definition of local authorities’ functions and responsibilities, we still believe that the code must be clear enough to secure cross-departmental co-ordination of central government’s relationship with local government. Therefore, this draft may still need more detail on the role of local government, along the lines originally suggested, ie:
 - promoting the well-being of communities and citizens;
 - shaping places so that they are attractive places to live, work and visit;
 - promoting economic growth and prosperity;
 - promoting local democracy and the role of councillors;
 - empowering local people and local communities;
 - co-ordinating spending and facilitating the delivery of services at a local level, and;
 - increasing levels of participation and engagement.

11. *Clauses 1 and 2:* Subject to our comments above, on the role of local government, these serve to underline other provisions within the code and we have nothing further to add.

12. *Clause 3:* As in our previous submission, we believe this is very important and in practice will be a fulcrum of the central/local relationship. The Government already consults widely, just not with any real cogency and, as perhaps local government would argue, without any real sense that consultation will make that much difference. Codification has the potential to change that. However, we would like clarification on the wording of the Clause, as, unless there is some particular meaning attached, the phrase “if it [the Government] is proposing reform”, appears to be superfluous.

13. Although the explanatory notes no longer draw attention to it, there is still a risk that a more formal central/local negotiation process will slow-down decision-making, delay implementation and frustrate government intentions and we could well understand why any government, when faced with this prospect, would back away and perhaps cite its own democratic mandate as the basis to pursue its policies. Nevertheless, we welcome the opportunity to give central/local consultation a greater coherence and sharper focus, and believe it has the potential to improve policy-making and generate better policy outcomes.

14. We are pleased to note that there no longer appears to be any reference to codification of local consultation. As previously stated, we do not believe it is a matter for the code to bind small local-level organisations to a particular duty in respect of matters that may be really quite minor. Local level consultation and co-operation should be a local matter, though the code could strengthen this by quite legitimately referring to local authorities’ role in helping to co-ordinate the development of policy and organisations’ expenditure in their area.

ARTICLE 4

15. Where inspection and the maintenance of standards is a matter for central government then a codified requirement to work in collaboration with local government will help ensure regimes are efficient and effective and do not impose unnecessary burdens. Although, as the explanatory notes suggest, the government may expect to have primacy in the process, the code should act to prevent the imposition of unwarranted or unnecessarily burdensome regimes. Equally, the code should not prevent local authorities from having the freedom to design and implement local regimes where they are clearly required to meet local needs and circumstances.

16. Furthermore, although we broadly support this Article as it stands, we believe it would be worth considering its expansion to take in the totality of central/local co-operation.

ARTICLE 5

17. We believe the first draft of the code was right when it said that local control of boundaries “exemplifies local autonomy and independence.” Equally, the revised version is right to assert that boundaries are no longer linked to issues of service management and efficiency.

18. Therefore, there is no need for central government involvement in Periodic Electoral Reviews and other forms of internal re-organisation; and perhaps, short of final sign-off before a local referendum, there is no need for the involvement of the Local Government Boundary Commission either, though we accept there are arguments as to why it should be involved, for matters of transparency. Either way, the shift to such an approach could be easily achieved.

19. However, it should be noted that in two-tier areas, such as Suffolk, boundary reviews can be doubly expensive and time-consuming, given the need to consider each tier separately. If decisions on local authority boundaries are to become a local matter, we would expect there to be provision to allow for cross-tier reviews where required or practicable.

ARTICLE 6

20. *Clause 1:* We agree that any code should allow for different practices at a local level and for new forms of decision-making to develop, appropriate to local needs and circumstances, and beyond those allowed by the *Local Government Act 2000/Localism Act 2011*. Any arguments that the development of a multiplicity of approaches would somehow inconvenience central government are largely specious. There is no need for central government control of these matters. Instead, we agree with the suggestion that changes should be subject to local referenda.

21. *Clause 2:* We agree that local authorities should regularly review their decision-making structures and processes; and the suggestion of every eight years seems about right. However, care must be taken to ensure that any proposed Political Governance report adds genuine value to the working of the council. As it stands, at face value, we find it difficult to envisage what measures could be developed to truly ascertain the effectiveness of any particular system, be it in absolute or relative terms.

22. *Clause 3:* As regards changes to electoral systems, we would have no objection in principle to the proposed use of local and binding referenda. However, in two-tier areas, where electors may cast votes for two

or even three councils (if towns and parishes are included) at the same time, there should be an expectation that local authorities would look to adopt a common standard of voting.

ARTICLE 7

23. *Clause 1:* We agree that local authorities should be financially independent of central government to the greatest possible extent. If they are not they will always be the poor relation and unable to assert their political autonomy. The proposed reforms to business rates, as per the Local Government Resource Review, are a step in the right direction but only 50% of these are to be retained locally, which will enable central government to control local government spending for the foreseeable future, at least until the business rates retention system is reset in 2020. We would argue that true financial independence will require the full retention of locally-decided business rates (and council tax), which are not subject to central capping, though they would of course operate within an equalisation mechanism to ensure fairness and appropriate redistribution.

24. *Clause 2:* We would support in principle the power for local authorities to raise additional income by any means subject to local consent. However, would it be the case that any such taxes or levies, once introduced could be abolished or varied by a similar process? If so, we would suggest that measures be put in place to prevent sudden and unforeseen losses in income that could not be planned for.

25. Furthermore, in two-tier areas such as Suffolk, care would have to be taken to avoid an unnecessary complication of levies across the tiers and the extension of double taxation. The latter is already an issue here and though not significant at the moment it may become more so if local communities are charged for services they take on themselves, a key feature of the council's current policy direction.

26. *Clause 3:* Although we note it rests on an assumption that central and local government have reached an agreement on reallocation of local services and division of income tax, as it stands, this clause is clearly at odds with the Local Government Resource Review, whereby the Government has already decided that 50% of business rates should be retained locally to fund services. It would be inconceivable that local government would also get to keep a percentage of income tax receipts as well.

27. This clause may also run contrary to Clause 7, which is couched in terms of a three-year budget cycle and does not allow for any subsequent significant changes be central government.

28. *Clause 4:* We would welcome a process of equalisation that was undertaken by a body independent of central government. However, if based on the assumption that existing rules and means of allocation will continue, the clause appears to propose retaining a system that does not work well. Although we accept it is always difficult to assess fairness in this respect, the current system is supposed to be needs driven whereas in reality the damping mechanism ensures resources are distributed less on need and more on historic grant patterns. This process is being baked-in to the Local Government Resource Review. A distribution mechanism based on fairness and need will always create winners and losers but it is how these are dealt with that will determine the acceptability to the wider local authority population.

29. *Clause 5:* This seems to allow local authorities to not only borrow for capital purposes but also for revenue, so long as they can afford the payments. As this is not allowed at present, we would welcome the greater freedom, though cautiously, given its potential to make local authorities less stable in the future, as past borrowing can cause financial difficulty later on. Also, the explanatory notes are right to draw attention to the implications for PSBR and the possibility that linking loans to credit ratings may be limiting for poorer areas with lower ratings and thus less scope to borrow. So again, there would be equalisation issues to consider. There may also need to be credit rating "protections" for prudent authorities who may otherwise suffer from any who fail to manage their borrowing effectively.

30. *Clause 6:* The suggestion that central government should not limit or cap local authorities' powers of taxation chimes with our argument for genuine abolition of council tax capping as well as full retention of business rates, and also underlines the proposal that local authorities should have much wider tax-raising powers, subject to local consent. The suggestion that central government must consult with local government on its distribution and allocation of funding would be covered by Article 3 but there is no harm re-emphasising it here, although the notion of central distribution and allocation runs contrary to Clause 1's provision that "Local councils shall be financially independent of central government."

31. We welcome the explanatory notes' assertion that partnership mechanisms should be voluntary and that those choosing not to participate should not be penalised. This would also mean that any local authority choosing to limit its autonomy by opting in to partnership arrangements did so of its own volition.

32. We would welcome funding based on a rolling three-year budget cycle to coincide with the CSR process, and of course the fact that once the medium term process has been agreed the Government could make no significant changes in funding. However, as already referred to above, it is not clear how this would square with Clause 3, which talks of an annual allocation process; and again it appears to contradict Clause 1's assertion of financial independence.

33. *Clause 7:* We agree that the same standards of financial transparency should apply to central and local government alike. We also agree with the suggestion in the explanatory notes that a set of emergency provisions would need to be agreed to allow for mid-cycle financial emergencies or a change in government.

34. Finally, overall, we would like to stress the important role of financial freedom in re-invigorating local democracy and supporting the principles of localism.

ARTICLE 8

35. *Clause 1:* As co-operation and collaboration both within the public sector and across other sectors becomes increasingly important, any provision that serves to strengthen and clarify this would be welcomed. It may also serve as a useful adjunct to the General Power of Competence. Presumably, it would need to apply equally to co-operation and collaboration sought or initiated by bodies other than local authorities.

36. *Clause 2:* We would like to see codification ensure either that such a duty to co-operate is extended to any organisation delivering services in partnership with, in collaboration with, or on behalf of a local authority; or that local duties to co-operate should be framed to take account of local needs and circumstances.

37. We support Clause 3 and have no further comment.

ARTICLE 9

38. We welcome the fact that the revised code appears to have moved away from the notion that the Electoral Commission would oversee all local referenda, which we felt to be impractical. The use of set standards, so long as they allow for approaches proportionate to the scale and scope of different referenda, and accountability to the Commission is the better option.

39. The draft code suggests that linking local referenda to electoral cycles would help reduce costs but in two-tier areas where different authorities operate on different cycles (though see our response to Article 6) this would be impractical. And in general, the financial burden of referenda should not be under-estimated.

ARTICLE 10

40. We would welcome the additional protection this afforded in the context of clarifying that local authorities would have recourse to the courts in the event of any breach of the code. Presumably the same option would be open to the Government.

October 2012

Written evidence submitted by Ian Fytche, Chief Executive, North Kesteven District Council

1. I am writing to confirm that the Executive Board of North Kesteven District Council has considered the consultation document on a draft code for central and local government. On behalf of the council, the Board wishes to support the proposal for a draft code. The Board believes that the code would be beneficial in clarifying the roles of central and local government.

2. The Board noted the broad cross party support for the code, and would encourage your committee to develop thinking in this area along with the Local Government Association and central government.

3. The draft code includes important concepts which would provide clarity to the role of local government and ensure that local government is able to provide effective community leadership, and promote the economic, social and environmental sustainability of its area.

4. The Board was particularly keen for the code to include article seven—the financial independence and financial integrity of local government—and article two related to local autonomy and local self-government.

5. We would be happy to provide further information if that would be helpful and we wish your Committee every success in its deliberations.

October 2012

Written evidence submitted by Tim Gilling, Acting Executive Director, Centre for Public Scrutiny

1. This response draws on our thinking about transparent, inclusive and accountable public services; our work on public service reforms to date; our experience of developing policy and supporting successful practical programmes; and our work with local councils and partners to help implement reforms locally.

ABOUT THE CENTRE FOR PUBLIC SCRUTINY

2. CfPS (an independent charity) is the leading national organisation for ideas, thinking and the development and application of policy and practice to promote transparent, inclusive and accountable public services. We support individuals, organisations and communities to put our principles into practice in the design, delivery and monitoring of public services in ways that build knowledge, skills and trust so that effective solutions are identified together by decision-makers, practitioners and people who use services.

3. CfPS believes public services should be transparent, inclusive and accountable. In the context of the prospects for codifying the relationship between central and local government these principles should be applied to ensure that local people understand how they can influence local decisions; councils capture a range of views, understand them and respond; and councils regularly demonstrate credibility. These principles should underpin any redefinition of the relationship between central and local government.

WHY TRANSPARENCY, INVOLVEMENT AND ACCOUNTABILITY ARE IMPORTANT

4. Organisations building a culture based on these principles are more likely to demonstrate themselves as credible to people who use services and communities. Putting these principles at the heart of any new settlement between central and local government will help demonstrate credibility. Our “Accountability Works for You” framework⁹ can help people reflect on our thinking about good governance.

KEY POINTS

- Robust, evidence-based local accountability and scrutiny should be a key element of any proposed greater autonomy for local government and should be recognised and supported.
- Local accountability extends beyond elections and annual reporting—transparency and involvement should be at the heart of a new approach to local democracy that enables local government to present itself as credible.
- Council scrutiny should take a lead in validating self-evaluation and improvement to ensure an objective and honest assessment, involving local people in the validation process.
- Council scrutiny can act as a channel for “armchair auditors” and councils, providing opportunities to investigate concerns raised by the public about published data to assess whether the claims made are well-founded and what action should be taken as a result.
- Peer support should be more available to scrutiny members and officers and the peer group should be refreshed to ensure scrutiny skills are available
- Our “Accountability Works for You” framework offers a tool to help councils and their partners assess their own accountability and transparency to ensure their governance systems are fit for purpose.
- Council scrutiny should have “powers to refer” concerns which would act as one of the early warning signals and trigger a discussion with key individuals, some sector-led support for improvement, an earlier peer assessment than planned, or even an earlier inspection (in the case of children’s and adult’s safeguarding).
- Council scrutiny should have an on-going role in monitoring and challenging any improvement plans.
- Ineffective council scrutiny should be seen as one of the warning signals that an effective governance system is not in place.
- Developing a positive relationship between regulators such as CQC and Ofsted and council scrutiny is a key way of lifting the burden of national inspection and reporting by providing assurance that effective local challenge is in place.

OUR RESPONSE

5. We welcome the strengthening of self-improvement in local government to replace top-down regulation. We believe that effective local mechanisms for scrutiny and accountability can make a vital contribution to future freedoms for local government and must be viewed as central to any future code. We welcome the thread throughout the annex to the draft code that councils should be accountable to local citizens but we think any future code should be clear about key tools that would strengthen this. We think that council scrutiny can make a real contribution to achieving the aims of effective local accountability which should underpin any emerging code but we think this should be linked to greater transparency of decision-making and shared decision-making with local people. Annual reports and elections are important but councils should be clearer about how they can provide citizens with “real time” opportunities to judge credibility.

6. We respect the rights of councils to choose governance arrangements but we think safeguards should be built in which we explored in our policy paper “Musical Chairs”.¹⁰

7. We support councils taking more responsibility for their performance and for leading the delivery of improved outcomes for local people. We also support councils taking collective responsibility for the performance of the sector. We think that any future code should make this more explicit as part of greater freedoms for local government. We think effective scrutiny should be part of well-run councils’ arrangements to review performance but councils should also demonstrate how the experience of people who use services changes the way services are commissioned and delivered.

8. We believe that stronger accountability through greater transparency can help local people drive further improvements if councils go beyond requirements to publish historic spending data and connect data and

⁹ <http://www.cfps.org.uk/accountability-works>

¹⁰ <http://www.cfps.org.uk/publications?item=7090&offset=0>

information to mechanisms for people to directly challenge performance. Council scrutiny is a key way of ensuring that executive councillors are more accountable to local people for the services which they are responsible for leading, and that public officials are more accountable to elected councillors and local people for the services which they are responsible for managing and providing. Democratic scrutiny complements transparency and provides a route by which the public can raise their concerns about published information and get things investigated and action taken—strengthening accountability between elections.

9. We believe that one pre-requisite for a new settlement between central and local government will be greater parity of esteem for local scrutiny and accountability. Our paper “Accountability Works!”¹¹ established that there are many different kinds of accountability that need to interact and be mutually reinforcing if accountability is to be meaningful and contribute to improvement. No single form of accountability can deliver on its own. For example, elections only take place every four years and there need to be other ways of holding politicians and public services to account between elections. In “Accountability Works!” we set out how this “web of accountability” is one pillar supporting a healthy democracy, alongside involvement and transparency, and how all three bolster traditional representative democracy by bringing participative mechanisms into play.

10. We endorse the value of peer support and challenge as a way to assure practice and performance to justify further freedoms for local government and we are able to provide support to local scrutiny and scrutiny councillors through the Local Government Association’s programme. We believe council scrutiny can play a role in recognising risks, spotting early signs of things going wrong and bringing people together to find solutions. We believe it is important for councils to give a true and honest assessment of their strengths and weaknesses that should be validated either through local scrutiny or combined with involving and engaging local people in contributing their views on how well the council is doing. For councils to be open about their challenges and need for improvement requires them (and local people) to trust and respect mechanisms for judging success or failure. Where political relationships in councils are effective, they enable constructive challenge to be both made and accepted. The opportunity for objective, evidence-based challenge and review is key to developing a culture of open decision-making. Our paper “Musical Chairs” was a response to our concern that councils returning to the committee system risk losing the essential quality of scrutiny.

11. We believe that local scrutiny functions could have a formal role in being able to “trigger” potential sector support. While we acknowledge that there might be concerns over inappropriate/politicised “triggers”, we think these would easily be discredited. As part of the attempt to build a culture of trust and openness, just as government needs to trust councils to be responsible for their own improvement, councils have to trust local scrutiny to have real teeth. Where service risks are identified, scrutiny should have a role in providing on-going challenge to ensure improvement continues.

12. Under any future settlement, indicators of ineffective scrutiny could themselves be an early warning signal that a council’s political management processes are not working effectively and that poor decision-making may result. Signals to look for might include:

- High numbers of “call-ins”, suggesting problems with decision-making processes (although we recognise legitimate political debate in local government).
- Low number of reports and recommendations, suggesting that scrutiny does not reach conclusions.
- Poor engagement with scrutiny, suggesting councillors are disengaged.
- High proportion of recommendations “noting X, Y or Z”, suggesting a passive approach to scrutiny.
- Most scrutiny activity taking place in council committee rooms, suggesting a traditional approach to scrutiny.

13. Although there may be a strong argument that services for vulnerable children and adults, as well as councils’ financial positions should be treated differently, with a higher degree of external inspection and audit, we think the first port of call should be reliance on effective local challenge to ensure standards are maintained. For example, in relation to health and social care, it is now recognised that health scrutiny has a continuing and vital role in providing challenge to all health and social care providers. The Care Quality Commission also recognises the importance of relationships between health scrutiny and its local assessment staff. The same relationship could begin to be developed with Ofsted. The more assurance can be provided to regulators about the quality and robustness of local scrutiny and challenge, the less need there is for central inspection and reporting. The experience of health scrutiny is valuable reassurance that scrutiny can monitor performance of external providers, which is likely to become increasingly important as service provision diversifies.

14. Local councils’ claim to act as the leader and coordinator of other public services in their area rests on their democratic legitimacy. We believe that this means developing the role that all councillors play as champions, mediators, sign-posters and convenors—monitoring and challenging all providers of services, whoever they are, on behalf of local people and for the benefit of their local community. We believe that local scrutiny has a major role to play in the new world that local government is developing and we look forward to helping make this happen.

October 2012

¹¹ <http://www.cfps.org.uk/publications?item=91&offset=0>

Written evidence submitted by Ruth Marlow, Managing Director, Mansfield District Council

1. Further to your presentation to the Nottinghamshire Local Government Leaders Group in April 2012, on the work of the Political and Constitutional Reform Select Committee seeking consultation responses to the draft Code for Central and Local Government, the directly elected Mayor of Mansfield, Tony Egginton, placed a motion, acknowledging the work of the Committee and the Local Government Association and encouraging debate on this subject, before full council on the 30 July 2012.

2. Tony Egginton is very interested in this debate as he believes that greater independence of local government from central government, with associated direct accountability for the spending of local taxes, would increase public interest and participation in local democracy and, through this, improve local decision making and outcomes for local people. He believes that historic low turnout at local elections in Mansfield has been a consequence of entrenched party political loyalty rather than performance satisfaction which has, in the past, returned local councillors to safe seats. The introduction of a directly elected Mayor in 2002 with greater local accountability has, he believes, revived interest in local decision making and accountability for those decisions, and driven improvements in the council services and performance. He believes this can only be a good thing and is interested in your Committee working with the Local Government Association exploring these issues further. He supports the broad principles set out in the draft code, however, he would need more assurance that the impact on local funding that such a step would have (the retention of local income tax) would not disadvantage a district such as Mansfield which experiences higher than average deprivation and significantly lower than average wages.

3. The council, however, in its debate did not share the Mayor's position on this subject. The majority group were broadly happy with the current relationship between central and local government and also expressed concerns that in a council such as Mansfield more power to an Executive Mayor, that such a code may bring, may not be in the interest of local people. A number of Members expressed the view that the interest in the code was a minority interest and took focus away from the real everyday issues that affected the lives of local people which should be the focus of the council's efforts, particularly in the current difficult economic times.

4. The motion, therefore, that the council encourage debate on greater independence for local government and in support of the PCRSC and LGA campaigns was defeated.

5. The Mayor has requested that I draw his views and those of the majority group on the council to your attention to feed into the work you are undertaking.

October 2012

Written evidence submitted by Kent County Council

1. We welcome the opportunity to respond to your proposed draft code for central and local government. In principle, we can see the rationale for a code for intergovernmental relationships—reducing central government's ability to change the rules to suit short-term needs against building long term relationships is a long overdue measure and one that is a natural progression from the recent Localism Act. However, we are mindful that a code will only fundamentally alter the existing central-local government settlement if the premise of local and central government being equal partners is accepted and implemented across central government. So while we are supportive, and agree with the ethos and the particular proposals in the code, our expectations are tempered by historic government policy toward local government.

2. The subject of codification has been looked at several times recently—through the inquiry into the “Balance of Power: Central and Local Government”, the Central-Local Government “Concordat”, the “Well-Being Power” and most recently the Localism Act and the associated “General Power of Competence”. Predating all these was the “European Charter of Local Self-Government” which has never been fully implemented in the UK simply because the UK Government does not have a single codified (written) constitution to which to append it: but in any case successive governments' have shown little interest in applying its substance. This lack of codified constitution and the fact that the UK Government is highly centralised—has led to local government all too often being primarily viewed as a delivery agent of central Government—and this is at the crux of the issue when it comes to the central-local relationship. That said, we feel that what sets this proposed code apart from previous endeavours is that it is more detailed and specific than, for example, the Central-Local Concordat, and that it proposes details of the machinery needed to entrench local government's constitutional position.

3. For our comments, we have grouped our response to some of the proposed Articles together where the themes appear to fit together.

A LEGAL BASIS FOR LOCAL GOVERNMENT

4. We agree that a constitutional type arrangement to secure the sovereign nature of local government is a reasonable suggestion and that amending the 1911 Parliament Act is a creative way of doing this. The further “lock”—requiring a change in local government legislation to be agreed by a joint committee of both Houses,

with local government representation—would give local government a seat at the table, and make it harder for Whitehall to take decisions unilaterally.

LOCAL AUTONOMY, LOCAL SELF GOVERNMENT

5. The “General Power of Competence” is a welcome legislative measure within the Localism Act 2011 and moves from the ill-defined “well-being” power. However, defining the General Power in legislation does not mean that it will be taken forward in any more meaningful way than the “well-being” power and in this context a codification of the central-local relationship may well help to change attitudes in central government and affect culture change.

6. We agree that the foundation of what the code concerns should be laid out in the preamble to the code, to set the context—and we suggest that it is specific about the role of local Government. Presently the code refers to councils being the masters of all matters of concern within their boundaries and we would propose that similar language to that used in the 2007 Central-Local Concordat could be employed to lay the foundation of local government’s leadership role with respect to public services in their communities. For example, the Concordat stated that—“*Councils have the right to address the priorities of their communities as expressed through local elections and to lead the delivery of public services in their area and shape its future without unnecessary direction or control*”.

SCOPE OF LOCAL GOVERNMENT

7. The suggestion is made that local government’s powers and responsibilities could be defined in law at some undefined point in the future, following consultation. While this might appear desirable, experience dictates that detail like this is best left out of legislation. Using the analogy of the Localism Act and the reform of National Planning Policy Guidance (NPPG), the Government specifically did not place the guidance or an explanation of “Sustainable Development” on the face of the legislation for the explicit reason that it would be harder to amend this in the future. The “General Power of Competence” legislates for councils to be able to do anything unless it is prohibited by statute and to codify what it can’t and can do could restrict its activities and negate a “General Power” from the outset.

LEGAL PROTECTION OF LOCAL GOVERNMENT

8. Although we can see the premise behind the suggestion of the right of councils to be able to take legal action if their autonomy is threatened—we feel this could be problematic if a code does not contain any specific duties or responsibilities of local government, and consequently this measure may be difficult to argue in a court of law.

9. If there is a new relationship and this is codified in law and a lock, such as the revision to the Parliament Act, put in place, any proposed change by central government can be agreed on by early consultation with local government without the need for recourse through the courts.

INTER-GOVERNMENTAL ACTIVITIES

10. We are of the view that local government should be able to devise its own inspection regimes and service standards—either through a sector-led body, like the LGA, or by an independent board or organisation. Certainly if we look at the Coalition Government’s direction of travel, there have been significant steps in this direction such as the abolition of the Comprehensive Area Assessment (CAA) and the Audit Commission. What is important is to guard against previous excessive audit and inspection regimes and the proposed Article achieves this.

TERRITORIAL AUTONOMY, LOCAL REFERENDUM & COUNCILS’ RIGHT AND DUTY TO CO-OPERATE AND ASSOCIATE

11. As the guidance note to the proposed code states “*without territorial integrity and autonomy council boundaries can be re-organised for the benefit of central government*”. Having the power over boundaries further exemplifies local autonomy and it would be the ultimate form of localism if councils, in a spirit of co-operation, decide amongst themselves and with their electorate what boundaries should be.

12. The “Duty to Co-operate” was enshrined in the Localism Act, ostensibly for the provision of planning law, but there is no reason why this spirit of co-operation should not be extended to governance issues.

13. The proposal that any decision should be open to local referenda and that a local referendum must be arbitrated by the independent Electoral Commission seems eminently sensible.

14. The draft code is not specific about which tiers of local government it would be applicable to. We have heard Sir Merrick Cockell raise this question in a recent DCLG Select Committee, and our comment is that if a code is to reflect a spirit of co-operation—then the code should be applicable equally across all principal local authorities.

COUNCIL GOVERNMENTAL SYSTEMS

15. Councils, and their electorates, must be the decision makers about which form of governance is suitable locally, which is essentially an extension of the options available following the Local Government Act 2000. Following this Kent County Council opted for a Leader and Cabinet model. The Localism Act's provision to return to a form of committees, has also resulted in Kent County Council opting for a hybrid Cabinet Committee model that introduces pre-scrutiny and shared decision making with the Executive.

16. The idea that governance systems could be reviewed every eight years is healthy if this is just an internal sense check, as what is proposed is a "Political Governance" report—but if there is an expectation that there should be a full review, this may not be a good use of taxpayer's money and could actually be counter-productive in terms of the workings of a council.

17. In terms of choosing an appropriate electoral system, we feel that while this appears to be a localist measure, this is something that is probably best left at the national level to avoid fragmentation, confusion in the minds of the electorate and ensure that local electoral systems are not changed for narrow party political advantage.

LOCAL GOVERNMENT FINANCIAL INTEGRITY

18. We believe that many of the proposals on financial integrity strike the right balance. In an ideal world local authorities would, as far as possible, be financially independent from central government, however the equalisation issue first needs to be resolved (see paragraph 8.6). We also accept that there are exceptional circumstances where we may require central government assistance, for example in a state of emergency, flooding, or for a national emergency which may transcend every-day service provision.

19. Councils should be empowered to be able to raise additional sources of income—this may increase local democratic accountability and reinforce what it is locally elected councils fundamentally exist to do. For example, if an electorate vote a particular political party into power it may well be on a pledge to fund services via a particular income stream—like raising council tax. Linking service provision to finance in electors minds and strengthening local democratic legitimacy. There should be no government intervention to raising powers—like "capping"—unless there are exceptional circumstances.

20. The code should make explicit reference to buoyancy and diversity of funding. At the least, it could build on the wording of Article 9 (4) of the European Charter—financial systems "*shall be of a sufficiently diversified and buoyant nature to enable them [ie local authorities] to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks*".

21. Raising additional taxes as proposed in the draft code could be given a supplementary democratic mandate via a referendum—however, it is important to note that referenda are very expensive—in Kent this would equate to a cost of in the region of £1 million [0.2% on council tax, or £2.10 per household], unless a single issue referendum is held at the same time as another issue.

22. The Government may wish to fund local government to pursue specific national overarching policy objectives—and this is to be expected. The proposal in the code that this could be on a three-year budget cycle to coincide with the Spending Review process is welcomed. A three-year rolling cycle would assist in planning and measures that give a guaranteed amount that you can plan with are helpful. The current situation is uncertain ie no indicative settlements announced yet for 2013–14 and, ideally, the proposed creation of an independent equalisation body could be in place to oversee situations like this.

23. We would agree that there should be an independent body to arbitrate on the equalisation issue, as we are of the view that the current distribution of grant is inefficient, which leads to questions about its equity. As the recent South East Councils' report (from June 2012)—said "*South East residents face unfairly high levels of council tax as a direct result of low central funding for South East authorities. Inequitable grant allocations over many years have put increasing pressure on our council tax payers, with some of our residents having to pay 40% more than residents in London or metropolitan areas*".

24. This report also recommended a solution that would require a root-and-branch review of the Formula Grant allocations "*and their use as the baseline for the new Business Rates Retention Scheme by a new 'independent commission'*". Consequently, although it is recognised that this could be a drawn out process, an alternative rebalancing could also be achieved by enabling those "*councils assessed by the 'independent commission' to have been disadvantaged by the old system to retain a greater share of locally levied business rates than is currently proposed in the Local Government Finance Bill*".

Written evidence submitted by Cllr Mike Jones, Leader, Cheshire and West Chester Council

1. Thank you for the opportunity to comment on the draft code for central and local government.

2. Cheshire West and Chester Council would welcome greater autonomy for local government from central government. We believe that giving local government greater decision making powers has the potential to reinvigorate local democracy and will enable councils to deliver what local people really want. This will build on what we have already achieved through our own localism initiatives.

3. We agree that in order to achieve a real change in the relationship between central and local government there is a need for something such as the code and for it to be properly enshrined in legislation. We also believe that increased financial freedom is an essential element in changing the relationship.

4. We are currently one of the pilots for a whole place community budget. Our experience as part of this programme has highlighted the potential benefits that could be achieved by also extending additional freedoms to other public sector organisations. For example, allowing more information and intelligence to be shared between partners.

5. Overall, we are supportive of the principles set out in the draft code. There are some issues arising from the proposals which will need to be addressed prior to implementation. There is also a need for greater detail to be provided in relation to some elements. We would therefore like to be consulted further on the detail and practical application of these principles if they were to be taken forward.

6. We feel that the draft code represents a positive first step and that overall the content appears sensible. We do have some comments on specific aspects which are set out below.

ARTICLE 1

7. There is some comment about the definition of “citizens”—should this also include “businesses”?

ARTICLE 3

8. The principle that central government should consult with local government on issues which affect it is to be welcomed. There are practical issues which would need to be addressed, in terms of how this would operate. There is a need to ensure that the forum for consultation had the authority of local authorities to act on their behalf and that it does not become a talking shop which slows down decision making for both central and local government.

ARTICLE 5

9. The principle of local autonomy is to be welcomed. However, care needs to be taken in framing the provisions to allow local people to determine how local referenda would be administered.

ARTICLE 6

10. Clause 2—There seems little evidence to support the view that citizens (as opposed to politicians) have significant or indeed any concerns about the decision making structures of local authorities. They are concerned about the quality of decisions not about how they are made. The imposition of a requirement to review political governance arrangements every eight years seems artificial and unnecessary. Any concerns could be addressed by the ability of citizens to trigger a review through a mechanism such as 5 or 10% of local electors signing a petition to do so.

11. Clause 3—This needs to be carefully considered. What range of electoral systems would be available for consideration? How would referenda be triggered? What would the implications of having numerous types of electoral arrangements operating across the country be on electoral administration/voter understanding/cost of elections? A referendum at national level resoundingly rejected a change from first past the post what evidence is there that there is an appetite for it at a local level?

ARTICLE 7

12. Clause 1—It is not clear how the “annual equalisation” would work. The Government’s current proposals for business rate localisation involve resets at set intervals to address inequalities. However an annual equalisation could be complex and costly and create uncertainty over funding. It is also not clear how this would work in a situation where all councils are independent and have powers to raise additional income. It may be better for councils to be given the opportunity to “grow and prosper” once we have been given our independence at the outset.

13. Clause 2—The practicality of this provision needs to be examined. In what circumstances would the need for a referendum arise? Would an annual increase in council tax/income to reflect inflation trigger this clause?

14. Clause 3—If local government is to be given a “guaranteed annual share of the yield of income tax”, then we feel that it is important that the sector is given some input into what level income tax is set at. Local councils need as much certainty and stability over funding as possible, to enable us to plan effectively for the

future. We would be very uncomfortable with a situation where our income could suddenly reduce due to a decision on income tax made by central government. We therefore believe that local government would need to be given a say in these decisions, to help ensure that we continued to receive sufficient income to fund local services. We would also not want to see increased responsibilities coming our way without a corresponding increase in income to meet the additional costs.

15. Clause 5—We do have some concerns that this could have unintended adverse consequences. Removing the implicit assumption (which we have now) that central government will support any council that gets into difficulty would push credit ratings assigned to councils down, in turn pushing up the cost of raising loans. A revived Local Government Bond market may be a possible consequence. However, money laundering regulations, high one-off set up costs and tax implications would all be hurdles to a local government bond market developing in reality. We do not necessarily agree that Clause 5 would lead to an increase in the amounts borrowed by councils and impact on the PSBR. It is more likely to result in a possible change to the cost of borrowing by councils and a possible change to the source of that borrowing.

16. We also agree that there will remain a need for central government to provide funding in emergencies.

ARTICLE 9

17. There are a number of areas where it is being suggested that referenda could or should be held on a range of issues. This seems to be moving away from the system of representative government, which has been a fundamental principle of British government. We are concerned that referenda will be costly to implement and slow down decision making. Their use should therefore be limited to those issues of greatest significance. We believe that the primary method of accountability should be through elections, rather than referendums, as is the case for central government. The local electoral system should provide the necessary accountability to local residents in most circumstances.

18. In conclusion, Cheshire West and Chester Council welcomes the draft code and supports many of the proposals contained within it. We feel that it provides a positive first step would like to be involved in developing it further.

October 2012

Written evidence submitted by Durham County Council

1. Overall we strongly welcome this consultation by the Political and Constitutional Reform Select Committee, and the linked dialogue facilitated by the Local Government Association.

2. It has been clear for a number of years that local government in England is in a much weaker position than in other European Union countries. The commitments made by the UK Government in 1998, in signing the Council of Europe Charter on Local Self Government seem to us to have not been fully honoured over recent years and governments, for example:

- The principle of local self-government is undermined when central government can make the decision to abolish local councils and move council boundaries.
- The commitment to limit central supervision of councils to a proportionate extent has not been reflected in the extensive network of central government driven performance and inspection regimes giving us some of the most inspected and audited councils in Europe, albeit with some reductions in recent years.
- The centralised handling of local government funding and limitations on local tax raising powers amounts to a high degree of central supervision and confuses lines of accountability from local government to its citizens.

3. Overall England is one of the most centralised western democracies, with centralisation extending not just to government, but also encompassing the media and the economy. As such, this proposal to codify and formally enshrine an autonomous local government represents an important step which could start to redress the balance, and lock the principles of localism into the heart of Britain's governance. It will also go some way towards redressing the balance between England, where many regional governance bodies have been scrapped in a further example of our centralised approach, and devolved governance in Scotland and Wales.

4. In terms of addressing the current national economic challenges, the role of local government is also critical, as solutions must be locally driven. A stronger local government with more financial autonomy can drive economic improvement more effectively.

5. Turning to the draft code, we think it is important, first of all, that a code is a formal legislative instrument, which can be enforced. An informal concordat doesn't go far enough, and does not acknowledge local government as an equal partner in delivery. We support in particular the core message within the proposed preamble of the draft code which emphasises councils as an equal partner of central government, accountable to local citizens. This positive reinforcement of the independent role of councils, if carried through into day to day policy and practice, will make councils more visible and accountable to local citizens.

6. Article One focuses on the protection of the “rights and duties” of local councils, with the ability to change these only through elected joint committee of both Houses then approval of both Houses, giving the House of Lords the opportunity to veto fundamental changes. We support strongly the need to protect and enshrine the role of councils, but the implication here will be to rethink fundamentally how the Government interacts with councils. There are a large number of duties placed on councils, with the introduction of a new duty being a common way to place additional requirements on local authorities. A review of the current set of duties and rights would be useful here.

7. Article Two on local autonomy makes the concise statement “council’s autonomy is to local citizens”. We support this, but think it may be helpful to emphasise that for both councils and central government also, accountability is to local citizens—setting the principle that both arms of government have the same accountability. It may also be worth considering whether some statement should be included that central and local government will govern together/cooperatively (in Article Two or Article Eight).

8. We support the draft Article Three: Scope of local government, and in particular that councils are consulted early on any changes proposed by government that will affect them and their communities. Article Four: Inter-governmental activities deals solely with the ability to create inspection regimes. Although England’s councils are currently in our view over-inspected, we support the retention of an oversight role, and it is appropriate for this to be jointly developed by local government and central government as proposed.

9. We also believe it’s vital that central government should not be able to abolish a locally elected body or change its boundaries unilaterally, a situation that does not exist in other similar European countries. Although Article Five deals with territorial autonomy in terms of council boundaries, perhaps this needs to include the opportunity for locally driven structural review?

10. Article Six gives freedom for a range of political decision-making systems, but with the requirement to review every eight years. These proposals seem sensible. The proposal for councils to be able to adopt a range of electoral systems is interesting, although we do not have strong views on this.

11. We strongly support the principles of Article Seven, relating to Local Government Financial Integrity, and in particular the principle that funding equalisation is conducted by an independent board with regular review, and the principle to allow councils to raise additional sources of income locally.

12. Article Eight, headed “Councils” right and duty to cooperate and associate’ talks of entitlement to cooperate and that “councils shall cooperate” where jointly responsible for services in a geographic area. However the word “duty” isn’t used—this may benefit from review, as the code should be about duties for both local government and central government, as well as rights and entitlements. We also consider that cooperation with neighbouring councils is important, in particular around agendas such as the economy, transport and planning.

13. We generally support the proposals within Articles Nine and Ten of the draft code in relation to administration of local referenda and legal protection for local government.

14. The only additional area we would like to mention is that we would like consideration to be given to the powers already devolved in Scotland and Wales, and whether a menu of additional optional powers could be made available to English local authorities alongside the code (as suggested by Clive Betts MP).

15. Overall we think it’s important that a desire to include stronger measures in the code does not block agreement. Having core elements of rights and duties, geographical and financial autonomy enshrined in legislation, linked to the general power of competence, will significantly strengthen the constitutional position of local government, and the central-local balance in England compared to Scotland and Wales.

October 2012

Written evidence submitted by Lutfur Rahman, Mayor of Tower Hamlets

1. Thank you for your email and inviting my views on the draft code.
2. I commend the efforts of the committee in drafting this code. It succinctly captures in one place the statutory and common law principles relevant to local government and its relationship with central government. However although there are proposals to regulate fairness between councils the code does not make any proposals to regulate any of the difficult aspects critical to the relationship between local and central government. I am concerned therefore that the code does not fully advance the committee’s aim to establish the “co-equal” status between local government and central government.
3. As the first directly elected Mayor of Tower Hamlets, I am also concerned that the code does not set out how this (and other) recent developments in local government structures can enhance the “co-equal” relationship between local and central government.
4. The requirement under Article 6.2 for councils to produce a publicly available “Political Governance” report does not make clear how this fits in with the existing rigorous system of annual governance and audit

reports by councils. The exact purpose of this report and whether this report will have input from central government is also not clear.

5. Article 7 sets out the most difficult aspects in the relationship between local and central government.

6. Article 7.4 proposes a “body independent of central government” to regulate fairness between local councils. Given that this code also seeks to secure the status of local government as “co-equal” to central government, I am disappointed that Article 7.4 did not also include that the independent body regulate fairness between local and central government. Independence will be of paramount importance to the success of this body therefore I look forward to hearing more details of how the body’s independence will be assured.

7. Article 7.6 sets out the requirement of central government to consult with local government when it wishes local government to pursue central government policy objectives. This does not add more to the long standing principle of consultation which is more honoured in the breach than adherence by central government. I would welcome a requirement that local government be consulted prior to public announcement on such central government policy objectives. It would also be helpful if the requirement for further consultation on “significant changes” highlighted in Article 7.6. also stipulated that consultation should take place before such significant changes were publicly announced and implemented. An indication on what is meant by “significant” would also be useful.

8. The cross party support for this initiative demonstrates the need for this code. I look forward to a final code that not only usefully provides the current principles of local government and its relationship with central government but provides a way forward for all to adhere to them.

October 2012

**Written evidence submitted by Cllr John Hart, Cllr Brian Greenslade and Cllr Saxon Spence,
Devon County Council**

1. The Council is pleased to have the opportunity to consider your Committee’s proposals for a formal code governing the relationship between national and local government.

2. As Leaders of Devon County Councils three main parties we would support legislation to give local government greater independence and freedom, We would reiterate the points which the Chief Executive, Phil Norrey, made in his letter to you of 23 August:

- The creation of local authorities as financially independent sovereign bodies to revitalise local democracy; and
- The adoption of a legally enforceable code to give local authorities the freedom they need to deliver for local people and communities.

3. However, we recognise that achieving these aims will require:

- (i) secretaries of state and their departments to let local government take the lead in their own affairs and resist the temptation dictate local policy;
- (ii) the repeal and/or amendment of the mountain of legislation which describes what central government requires of local authorities; and
- (iii) a code which enables local authorities in areas such as Devon where there are three tiers of local government (county, district and town/parish councils) and two National Park Authorities to work together for shared purposes and outcomes.

4. We support the five principals set out on page 9 of the LGA’s *Independent local government: next steps* June 2012 publication. We feel particularly strongly that any legislation should enshrine local government’s legal position in a way which gives local authorities roles a permanence which would endure beyond the lifespan of a parliament.

5. We wish you and your Committee well and would be pleased to contribute further to its work and activities.

October 2012

Written evidence submitted by Cllr. Geoff Driver, Leader, Lancashire County Council

1. Lancashire County Council welcomes efforts to stimulate debate on the relationship between central and local government and this specific opportunity to comment on your Committee's inquiry into a new draft code.

2. The code, and the localist ethos it seeks to amplify, relies on the principle that local decision making is a more efficient way of producing better results, including revitalising local democracy and reducing the deficit, democratic or otherwise. In general, the county council agrees that subsidiarity is a laudatory principle and that localism offers some promise for restoring both our fiscal and civic health. Since 2009, we have introduced a number of localist initiatives like our 3-Tier Forums that bring together parish and district councils to work with us on a range of service issues, area-based commissioning across the county, and new service models made possible by the Localism Act. These new models contributed to our efforts at budget consolidation and our success in keeping council tax at 2009–10 levels.

3. As noted by the Committee, recent attempts to introduce more parity into the relationship met with mixed results. The Lyons Report, The Balance of Power inquiry, and the LGA-inspired "Concordant", for example, while praised for boldness of thought, did not have the desired effect in practice. Despite the acceptance of localist thinking and rhetoric, the reality remains that both our political traditions and contemporary pressure on our finances point to the continued likelihood of central primacy absent any new attempts at reform. The draft code would address the historically weak position of councils within the UK's constitutional settlement.

4. Whitehall's cultural resistance to localism and the public's expectation of nationally-uniform service standards remain the two primary barriers to wider acceptance of the localist viewpoint. The codification of the relationship between central and local, therefore, could provide a constitutional basis for regulated and incremental decentralisation and establish the rights and duties of municipal government more firmly in the public mind. Strong local leadership will be vital. The spirit of the code—emphasising attitudinal changes across the civil service and the importance of "re-balancing" the central-local orientation of policy development—seeks intelligently to introduce cultural change rather than impose reform. The code rightly notes that any new provisions must be accorded sufficient status (via an Act of Parliament) to ensure the longer-term credibility and sustainability of the new relationship and (via constitutionally appropriate mechanisms) prevent future parliaments from reversing the reforms.

5. There is much to support in the draft code. We welcome its emphasis on territorial autonomy and agree that "the boundaries of local authorities are an issue for councils and their citizens". We seek clarification, however, on whether the code would allow for voter-initiated referenda on boundary changes. Similarly, we agree that "councils are to be consulted early within the policy and decision-making process" and that councils ought to be able to raise more money locally. We also welcome provisions to develop a forum for policy consultation between local and central government. Overall, the code would do much to make the roles of Whitehall and councils clearer to local residents.

6. There are a number of points we would like to raise within this context of overall support for the Committee's efforts, while noting that attempts have been made to assess these issues in terms of likelihood of implementation:

- The code may over-estimate the public's appetite for considering alternative approaches to internal political decision-making systems; voter turnout in last May's local mayoral referenda indicated low levels of public demand for this type of policy, especially during a time of mounting fiscal pressures.
- Equalisation is the vital component in the national financial settlement between central and local government, and its most controversial. The Barnett Formula demonstrates how some councils are more independent than others and are less reliant on central payments to make up for narrower local tax bases. It is currently unclear how the code would resolve the tensions expressed in Article 7.1 ("Local councils shall to the greatest possible extent be financially independent of central government. Equalisation will be conducted by an independent Equalisation Board on an annual basis."). Any efforts to do so could prove problematic given the UK's preference for national service standards.
- We agree that giving local authorities increased responsibility for their finances and local area means they should be more accountable to their residents. However, calls for council to operate annual balanced budgets (Article 7.5) necessarily undermine the case for locally independent decision-making. Conversely, allowing residents, through their councils, to "raise additional sources of income in their localities in any way they wish" if given voters' consent (7.2), may undermine the sector's hard-won reputation for competence and efficiency if left completely unregulated. These are broad points, however; we merely seek to highlight the tensions between freedom and accountability within localist policy structures. Ultimately, we support the final verdict of the electorate at the ballot box.
- While we have some concerns that provisions outlined in Article 7.6 may prove restrictive of central government, especially at a time when financial uncertainty and a crisis of competitiveness means it should be given more, not fewer, options to tackle the economic downturn, we acknowledge that councils need some reassurance that funding levels will not be significantly changed once budgets are set. However, it again highlights that localism is not simply a debate between total local autonomy and one hand and complete dependence on Whitehall on the other—both sectors rely on each other.

- We note the potential benefit of the proposed draft code in freeing central government from having to carry out detailed monitoring of local government.
- The draft code conflates “unitary, county, district, metropolitan districts and London borough councils” and says little about the relationships between councils governing a common geographic area. Article 8.2 states that “where more than one council is responsible for services in a geographic area, these councils shall co-operate to maximise the well-being of those within that area.” We are very interested in the Committee’s views on the precise nature of the proposed mechanism(s) for achieving this outcome.

7. Fundamentally we agree with your acknowledgement of the difficulties in changing the mindset currently governing central-local relations and the code’s determination to make a contribution in that regard. The draft code represents a needed step in the localist debate, particularly its emphasis on re-balancing the overall relationship. We agree that “independent central and local government would need to devise effective arrangements to work together in partnership” and have long called for a forum for these issues to be formed on a permanent basis.

8. Other ideas for strengthening links between local government and the civil service in our previous submissions included greater use of secondments and cross-staffing between town halls and Whitehall and an increase in “laboratory” projects where localist policies are road-tested in one area of the UK. Similar codes in the devolved governments could help embed these new principles.

9. Lancashire County Council believes that codifying the central-local relationship would free local councils and introduce vital but prudent reform into a sector closely linked both to policy outcomes and civic energy. It would help to surmount cultural scepticism about how councils support their communities and clarify our role for voters often confused by the patchwork quality of UK policy development. We sound a note of caution, however, over the propensity of localists to look longingly at our European neighbours for advice and counsel. Given the unique nature of our public institutions we must be careful not to mimic continental innovations too closely and remember the historic primacy of Parliament in our island constitution.

10. We would like to thank you for this opportunity to contribute to your Committee’s inquiry and look forward to following it over the coming months. We would be very happy to supply additional information or comments on future iterations of the code and/or the deliberations and final recommendations of the inquiry.

11. We wish you every success in your endeavours.

October 2012

**Written evidence submitted by Cllr Nicholas Paget-Brown, Deputy Leader,
Royal Borough of Kensington and Chelsea**

1. I write in response to your invitation to comment on the draft code for central and local government. Councillor Sir Merrick Cockell has asked me to give a perspective from the Royal Borough of Kensington and Chelsea. This is not a formal response from the council, but as a Councillor of 26 years’ standing who has held a variety of posts in the council and its current Deputy Leader, I believe I know both the culture of the organisation and the minds of my colleagues well.

2. Firstly, I congratulate the Select Committee for generating interest in and debate about the relationship between central and local government. This is both timely, because national policy is currently sympathetic to arguments in favour of localism, and important, because local government is facing decisions of unprecedented difficulty as it adjusts to the new realities of reduced public finance.

3. The Royal Borough has been a long-standing advocate of greater autonomy for local government. We have been very willing to work with national governments (whatever their politics) where we have felt this to be in the interests of Kensington and Chelsea residents; however, we have never fought shy of criticising or resisting initiatives emanating from Whitehall when these have taken insufficient account of the priorities and circumstances of this Borough. Efforts to codify the autonomy of local government are therefore to be commended.

4. I very much support the underlying purpose of the code—to enhance and cement local government’s independence, authority and local accountability. There is also much in the specific wording of the code that I support. The comments below are therefore not intended to be critical of the draft code, but rather to help the Committee to strengthen it and make it even more effective.

ARTICLE ONE

5. No comment.

ARTICLE TWO

6. Paragraph 2 might be shortened and simplified by stopping at the word “law”.

7. Paragraph 3 might be strengthened by pointing out that local government’s electoral accountability is unique among providers of local services, and that its responsibilities include holding other public and private bodies to account on behalf of local residents. Also in this paragraph, there is an implication that the roles and responsibilities of governmental bodies can be clearly delineated (as between the health service, the police and local authorities, for instance). In reality we know these boundaries to be necessarily blurred, and this is not always a bad thing. One of local government’s most notable successes over the last 20 years has been the establishment of successful partnerships with organisations that share its goals and ambitions. Nothing in the code should encourage a return to a more restrictive or compartmentalised approach to addressing local needs.

ARTICLE THREE

8. Paragraph 1: As the Committee will be aware, the powers and duties of local authorities are set out in myriad Acts of Parliament, statutory instruments and regulations. I fear that bringing all this together and giving it coherence—valuable and necessary though that is to the ambitions of the code—will prove to be a difficult and very time-consuming task.

9. Paragraph 2: the wording here could be taken to imply that councils ought NOT to exercise initiative or influence on matters that have been assigned to another body. I am sure this is not its intent, and suggest that the detailed wording be revisited.

ARTICLE FOUR

10. No comment.

ARTICLE FIVE

11. The issue of electoral boundaries is a deeply sensitive one. I am conscious that the roles and responsibilities of national and local government and bodies such as the Boundary Commission in the establishment and review of ward and local authority boundaries have been very carefully prescribed. Any new set of arrangements must be equally carefully designed and deliver an equivalent degree of transparency, impartiality and objectivity.

ARTICLE SIX

12. No comment.

ARTICLE SEVEN

13. Paragraph 1: The principle here is right, though as the Committee has recognized in practice a balance between central and local sources of funding is necessary. The range of services delivered by English local authorities and the variation in councils’ opportunities to raise revenue locally makes some reliance on nationally allocated funding inevitable.

14. Paragraph 3: Given that income tax yields can go up as well as down measures would need to be put in place to avoid exposing local authorities to additional financial uncertainty and risk.

15. Paragraph 4: as the intricacy of the revenue support grant formulae show, the concept of “fairness” in the allocation of funding to local authorities is fraught with complexity. And as we know from the variety of lobbying groups that councils have established to influence the complexion of the formulae, it is also prey to arguments based partiality and self-interest rather than objectivity. Establishing an independent body to mediate between competing arguments and weigh different ways of measuring “need” will not make the task any easier, nor does it necessarily guarantee a better outcome. At present decisions on allocations are made by ministers accountable to Parliament and ultimately to the electorate. It is very important to ensure equivalently strong accountability on the part of the independent board.

ARTICLE EIGHT

16. Paragraph 2: The completion of local government reorganisation in England would be controversial and time-consuming and could not be achieved other than in the long-term. Nevertheless, I think it must be recognised that a stable and well understood relationship between national and local government would be far more easily achieved under a uniform system of unitary local authorities. The existence of unitary local government in Scotland and Wales is perhaps one reason why those countries have been able to make greater strides than England in defining the respective roles of their national and local governments.

ARTICLE NINE

17. Local referendums feature in several places in the code. Referendums are expensive and somewhat blunt instruments for testing the public mood and should therefore be used sparingly. Nothing in the code should require or encourage the holding of frequent or repeated referendums.

ARTICLE TEN

18. No comment.

19. I hope you find these comments helpful and look forward to a lively and well informed debate within the local government community.

October 2012

Written evidence submitted by Henry Peterson, Consultant on Local Government and Public Service Reform

1. These are the views of a practitioner who has worked over several decades in local government, and at the interface of local and central government.

2. The task of making sense of, and explaining to the public, the workings of local authorities, local partnerships, Local Area Agreements (from 2004–10) and now Community Budgets and NHS reforms, has been made much more difficult by the lack of any clear explanation of the relationship between central and local government. A basic level of codification is needed.

3. For reasons of history (and partly because certain issues around the principle of parliamentary sovereignty have never been wholly resolved) the UK has fought shy of constitutional codification. It is impossible to measure the balance of positive and negative consequences that have flowed from this outlier stance. There is at least a case for arguing that it has led to a dangerous level of constitutional illiteracy amongst the public, which will become a growing problem in a decade of severe austerity.

4. Even if comprehensive codification of the UK constitution remains a bridge too far, the more limited aim of codification of the central-local relationship surely remains worth pursuing?

5. The fact that successive governments have interpreted this relationship inconsistently over time has been an added problem. Some governments (including the present Coalition) have used language that acknowledges that local authorities have a substantive role in “governing”. At other times, the role of local authorities has been presented as that of a mere agency, a public body at the end of a centralised “delivery chain” with specified responsibilities to be undertaken on behalf of ministers.

6. The present description of the role of local government as expressed in the 2011 Cabinet Manual is an uneasy compromise between the two, stating that:

Local authorities are statutory bodies created by Acts of Parliament. They are not accountable to Parliament, as they are directly elected by their local communities. However, ministers can direct local government to adhere to national policy frameworks where legislation permits (Para 8.27 of Cabinet Manual).

7. The *constitutional* basis for the assertion in this last sentence above is arguable. Many would see it as conflicting with the European Charter of Local Self Government, to which the UK is a signatory. It is a classic example of why codification is needed.

8. At the same time, it is clear that local authorities *do* have a degree of accountability to ministers, and Parliament, when using funds voted by Parliament—as is the case for the bulk of local government resources. Hence the second sentence in the brief (but important) statement in the Cabinet Manual is also confusing.

9. These financial accountability arrangements are now being pinned down and made more explicit in the series of Accountability System Statements demanded by the Public Accounts Committee. These are themselves a step forward in codification of the central-local relationship, even if one largely incomprehensible to a lay audience.

10. The political reality within which local government has had to operate in recent decades is one in which ministers consider themselves able to pronounce and intervene on almost any aspect of local government activity. Efforts by incoming governments to “let go” (as were promised by the Coalition Government) are rarely sustained over time.

11. Hence codification of even the most basic kind would offer hope of greater consistency in central/local relationships, over the parliamentary electoral cycle.

12. There is insufficient clarity at the moment about the local government’s relationship with the Legislature, as well as with the Executive. Parliament grants specific powers and duties to local authorities, and (nominally) votes most of its funds. But, as noted by the LGA, we remain “one country with two systems” of elected

government.¹² While this has strengths in terms of pluralism, it also has weaknesses when there no framework for dialogue between the two systems.

13. The relationship between local councils and Parliament is also one way. There is no means through which local government can enter into direct dialogue with Parliamentarians over public spending plans. Nor is there a means through which localities can signal, in any systematic way, that these national resource allocation decisions need some fine-tuning, in year or over a spending round.

14. Meanwhile, local government's relationship with the Executive (ministers, Cabinet and Whitehall) is ill-defined. Efforts to achieve a more systematic central/regional/local dialogue have been made in the past (as with Local Area Agreements). But the framework that emerged was turned by Whitehall into an instrument of top-down performance management and swiftly abandoned by the Coalition Government.

15. As suggested later in this note, a finalised version of the PCRC illustrative code would be a step forward in informing and familiarising the general public on how they are governed, as between central and local government. This is an aim which many other nations seem to achieve, with less agonising and more success.

16. But of itself, such a code would not resolve the ambiguities and present inadequacies in the set of relationships between local government, Parliament, and the Executive. A wider set of reforms would be needed.

THE ILLUSTRATIVE DRAFT CODE

17. It is not immediately apparent why the Select Committee did not choose the European Charter of Local Self Government as a starting point for UK codification, rather than commissioning a wholly new draft?

18. The European Charter has several merits:

- it is a longstanding set of principles to which successive UK governments since 1997 have claimed to be signed up (albeit in theory rather than in practice, especially in relation to Article 9 on local government resources);
- its “articles” are expressed comparatively briefly and clearly; and
- it is based on concepts of devolution, delegation and subsidiarity which are relatively straightforward for citizens to understand.

DEVOLUTION OF DECISION-MAKING

19. Article 3 of the European Charter states that Local self-government “denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population”.

20. The UK public are becoming more accustomed to the principle that decision-making can be devolved to a body below the level of Parliament, as is the case with the Devolved Regions. There is also increased public understanding that such delegation of decisions, once made, is absolute and that Parliament is no longer in a position to change its mind or to meddle with the detail. Decisions on health services and further education in Scotland and in Wales are obvious examples.

21. The current relationship between central and local government is not one of genuinely devolved decision-making. It is an uneasy form of delegation. Until the Localism Act and its general power of competence, there was permanent uncertainty as to what local authorities could and could not decide for themselves.

SUBSIDIARITY

22. Genuine devolution of decision-making flows from the second important principle of the European model, that the responsibility to address a social, economic or environmental need should lie exclusively at the level of social organization with the greatest competence regarding that issue, to the exclusion of higher levels of social organisation.

23. As noted above, local government in England has yet to achieve a position where, within those areas of decision-making devolved from Parliament, it has true autonomy of action. Whitehall prefers to maintain the principle that ministers can intervene over the smallest detail, as and when they choose (as reflected in the Cabinet Manual statement quoted above).

24. The Copus draft is insufficiently clear on these core issues. The Preamble in the draft states that “*Parliament makes plain that, within their spheres of competence, local councils have co-equal, not subordinate, status to central government and that their rights and duties shall enjoy equal protection in law*”.

25. The phrase “co-equal status” seems both insufficient and a recipe for discord and confusion. Where Parliament has devolved clear responsibilities, decision-making by regional government (as in the case of the London Mayor and GLA) and for local government should surely be fully autonomous, within the law.

¹² *One country, two systems—how national and local democracy can work together to improve political culture*, LGA 2008

26. This principle is well expressed in Article 4(4) of the European Charter, which reads “Powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law.”

27. Article 2 of the Copus draft starts with the statement: “Councils accountability is to local citizens”. While it is true that councils are elected via elections which are wholly separate from Parliament, Parliament can vary by statute or regulation the way that local authorities go about their business, and the scope of their functions. On the use of funds voted by Parliament, local authorities are also accountable. Hence the above statement in the Copus draft is too simplistic, in not reflecting the constitutional principle that Parliament and central government choose which decisions to devolve and to delegate (as set out in Article 3(1) of the Copus draft code).

28. The formulation in Article 4.1 of the European Charter may work better, in stating: “The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law”.

29. With the passing of the Localism Act 2011, local government in the UK has finally reached the stage where Article 4(2) of the European Charter can be said to be fulfilled. This article reads Local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority. Do Articles 2(3) and 2(4) of the Copus draft code improve upon this wording, or is the Charter version easier to understand?

30. Article 4 of the Copus draft seems unnecessarily specific in referring to inspection and improvement regimes. These are surely matters of administrative process, on which different governments take very different views. The more fundamental issue is the extent to which Parliament and central government should be entitled to set national standards for public services, and then to enforce compliance on local government and other local agencies.

31. Article 8 of the European Charter deals with this issue (*Administrative supervision of local authorities' activities*). The wording is helpful in terms of requiring “proportionate” intervention from the centre, but is also opaque in arguing that “*Administrative supervision may however be exercised with regard to expediency by higher-level authorities in respect of tasks the execution of which is delegated to local authorities*”.

32. Who gets to judge what is “expedient”? Local electors, or non-elected officials or agencies of central government such as the Audit Commission? Lack of resolution of this question has been at the heart of an often dysfunctional relationship between localities and the centre under successive governments from the 1980s until the present.

33. Article 7 of the Copus draft (on *Local Government Financial Integrity*) addresses the core issue of the central-local financial settlement and the taxation powers of local government. This remains the issue on which the UK falls furthest short of the European Charter, in that the requirements in Article 9(4) are not remotely met in reality (“*The financial systems on which resources available to local authorities are based shall be of a sufficiently diversified and buoyant nature to enable them to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks*”).

34. The Copus draft suggests funding of local government through an assigned slice of income tax, along with an independently managed equalisation process and unrestricted access to capital markets. These parts of the draft feel too specific for inclusion in a constitutional code. It may be that the best that can be hoped for is a commitment from Parliament to work towards the genuine achievement of the requirements of the European Charter, including the crucial clause 9(4).

35. Article 9 of the European Charter deals in broad terms with issues of equalisation, borrowing and access to capital, and it may be harder to go much further than this within any new code.

Is there public demand for codification of central-local relations?

36. The response to the LGA/Graham Allen *Independent Local Government* campaign has been modest, albeit that this was perhaps predictable at a time when local and central government are grappling with pressing problems on public finances.

37. There is never likely to be a good time to progress constitutional reform. Continued inaction carries dangers in a period of increasing public concern over the impact of prolonged austerity and public service cuts.

38. As noted by Professors George Jones and John Stewart in their July 2012 evidence to the PCRC,¹³ “*The general public are not crying out for codification of either central-local-government relationships or of the UK Constitution, but that is no reason why such codification should not take place. To achieve a healthy system of government and a healthy polity requires action by the elected representatives of the people: they should give a lead*”.

¹³ Mapping the Path to Codifying—or not Codifying—the UK's Constitution evidence from George Jones and John Stewart CDO4 July 2012

What might underpin the codification of the central-local relationship?

39. Various suggestions have been made for bodies such as a joint committee of the two Houses of Parliament, to underpin and secure adherence to a central-local code. Previous efforts in this direction (such as plans to monitor the 2007 Concordat via the Ministerial Central Local Partnership) have got nowhere.

40. London Councils submitted evidence to the PCRC previously, with detailed suggestions on how a standing committee might monitor and entrench a set of principles or code on central local relationships.¹⁴

41. A more radical option would be to combine the progressing of a central-local code with a related set of new institutional arrangements and reforms of parliamentary oversight of public expenditure.

42. The issue of parliamentary involvement in, and accountability for, the preparation of national expenditure plans for public services is a subject in itself. UK arrangements (especially for England) are acknowledged as falling behind those of most advanced nations. The Hansard Society has commented that “*the UK is considered to have among the weakest systems for parliamentary control and influence over government expenditure in the developed world*”.¹⁵

43. The new landscape for local public services currently emerging from government reforms on health, policing, education, and local government is highly complex. Accountability arrangements, and the citizen’s question of “who decides” on the allocation of resources, have become virtually unanswerable even to the expert. The Public Accounts Committee has been exploring in depth the issues around *Accountability for Public Money*.

44. For local authorities, local NHS, policing and other bodies the achievement of large-scale public service savings through preventative measures, early intervention, and joined-up delivery remains a distant goal—rarely achieved in practice. Many valiant efforts have been made, over many years, the latest being the Community Budgets programme and various models of Payment by Results (PBR) introduced by Whitehall departments.

45. NHS reforms, and the introduction of statutory Health and Wellbeing Boards from April 2013, are a further example of efforts to join up and integrate key public services (in this case NHS services, public health, and social care). Yet under the Health and Social Care Act 2012, the accountability arrangements for planning and allocating resources will remain highly complex, and will be almost impossible for the general public to understand. The new relationship between elected Police Commissioners and local authorities, with separate but overlapped electoral mandates, looks likely to create similar confusion in the minds of the public.

46. There is a case for arguing that traditional arrangements for financial accountability to government and Parliament, and our silo-based systems for delegation of authority, from ministers downwards, stand in the way of serious further progress on public service reform. As Sir Merrick Cockell has said, “*we are using 19th century machinery to address 21st century problems*”.¹⁶

47. A set of measures aimed at tackling these issues, and building on work already undertaken by the Public Accounts Committee, Communities and Local Government Committee, and the PCRC, might gain traction in the run up to the next Parliament. They would breathe life into a codification exercise, and would ensure that codification had much greater impact on the ground than was the case with UK’s 1997 signing of the European Charter.

October 2012

Written evidence submitted by John Austin, Chairman, Association of Democratic Services Officers

1. The Association of Democratic Services Officers (ADSO) is the professional association representing staff in local authorities who support the work of elected members. It seeks to promote and develop excellent democratic services which play a key role in ensuring that there are robust governance arrangements in local authorities. ADSO welcomes the opportunity to submit evidence to the Select Committee.

2. ADSO believes that the articles set out in the draft code represent a sound basis for further consideration of the constitutional relationship between central and local government which at present is characterised by an approach in which central government often regards local authorities as agents rather than independent bodies responsible to their citizens for the functions they exercise.

3. Although the current Government has formally stated its commitment to “localism” and has taken some steps to put this into practice it has, however, in the main behaved in a similar fashion to its predecessors over many years by adopting a “centralist” approach. ADSO believes that this helps to demonstrate that mere commitment is not sufficient for genuine local democracy to flourish and that more formal steps enshrined in statute are necessary for this to happen.

¹⁴ London Councils evidence to PCRC February 2011 at <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmpolcon/writev/592/11mar11/m23.htm>

¹⁵ The Fiscal Maze, *Parliament, Government and Public Money*, Alex Brazier and Vidya Ram, Hansard Society 2006

¹⁶ Oral evidence to the CLG Select Committee January 16th 2012

4. ADSO agrees with the conclusions in the commentary on the articles that putting these principles into practice is not a technical issue but is primarily political and ideological resting on the willingness of the centre to accept a fundamental change in its relationship with local government. A new constitutional settlement would acknowledge the democratic mandate of local government enabling it to act on behalf of the citizens it represents in ways which might well differ across the country but which would have the effect of giving people more control over their lives. The current devolved administrations, and what is in effect the regional government in London, have demonstrated that this is both possible and practicable.

5. Achieving this will, in ADSO's view, more likely increase the engagement of local people in the affairs of their local authorities.

October 2012

Written evidence submitted by Cllr Ray Nottage, Leader of Christchurch Borough Council

1. This council has considered the illustrative draft code for central and local government and welcomes in principle the joint campaign between the Local Government Association (LGA) and the Political and Constitutional Reform Select Committee (PCRSC) to stimulate debate about the relationship between central and local government.

2. The council urges all political parties and central government to engage with the Select Committee and the LGA to consider whether an entrenched statutory codification of the independence of local government should be part of our constitutional settlement.

3. Generally, the council welcomes the proposals and feel that more effective autonomy for local government would be a good thing. The council agree that codifying the relationship between central and local government is a step in the right direction for the Government's localism agenda. It should underpin these policies by reducing centralisation and by providing the ground on which councils and communities could experiment with local initiatives that reflected local priorities.

4. Within the Localism Act, the Government has retained powers, which allows it to control in many ways what local government does, whilst at the same time passing greater opportunities to local citizens to shape the workings of their local communities.

5. Various aspects of the code require councils to hold referendum if they wish to take certain decisions and thus bear additional associated costs. The council does question just how much actual independence it would be getting and whether control is not simply being spread between central government and local communities with the council in the middle.

6. The council supports the principles of the Big Society and its citizens playing a more active role in shaping our communities. That said Members are worried that the ideology surrounding the principles of the Big Society, where everyone gives of their time freely, are still a long way from being realised. This will not happen on its own therefore both central and local government need to invest in growing a more resilient community sector which has greater capacity and where a more open and trusting relationship between those elected to serve our communities and those who give of their time freely results in the need for less regulation.

7. The council supports the five elements highlighted by the LGA in its next steps paper published in June 2012 namely:

- (1) The full retention by local government of uncapped and locally-decided council tax and business rates, subject to retaining mechanisms for fairness and redistribution;
- (2) entrenching local accountability by removing many of central government's unnecessary supervisory powers (although there is a feeling that it is good for central government to retain a backstop role in areas such as safeguarding);
- (3) removing central government's and Parliament's power to decide councils' boundaries, structures and governance models, leaving those matters up to councils and local communities with the support of the Independent Boundary Commission;
- (4) restating the General Power of Competence, and extending its principles in the spirit of community budgets, by making it a default position that local government should have the power to provide any local public service not explicitly reserved to another body; and
- (5) entrenching those elements of local government's legal position in a way that made it harder for future Parliaments to re-regulate local government.

8. I am copying this letter to Christopher Chope O.B.E MP, advising him of this council's support for the joint LGA and PCRSC campaign and asking them to support this councils position.

October 2012

Written evidence submitted by Sarah Ayres, Senior Lecturer in Policy Studies, University of Bristol

INTRODUCTION

1. The secretariat invited me to submit a short commentary on the “Draft Code for Central and Local Government” in advance of the round table discussion in London on the 16 October 2012. My views are based on research conducted into sub-national governance arrangements in England over the past decade. In particular, research examining Whitehall motivations for decentralisation, inter-governmental relations and emerging local structures post the election of the Coalition government in 2010.

OBSERVATIONS

2. Constitutional arrangements in parts of the UK have been transformed by political devolution, but they have evolved piecemeal and insufficient attention has been given to the governance of England in the process. Government in the UK remains highly centralised despite past and present government rhetoric around decentralisation, local discretion and enhanced fiscal autonomy. The draft code for central and local government offers an avenue to address this imbalance and the Committee’s work on this issue is welcome. However, in the context of the enduring “Westminster Model” and deep-rooted departmental cultures that promote centralism, the following issues are observed:

- (i) The “explanatory note” suggests that the feasibility of codification rests on political and ideological grounds and on the “willingness of the centre to accommodate a new constitutional settlement”. But, how might this be enacted systematically across Whitehall departments? Is there any indication of a drastic change in mood music across the civil service or amongst politicians that makes this prospect any more feasible than past attempts to promote local autonomy and discretion, eg regionalism?
- (ii) The suggestion that codifying the relationship between central and local government would “sit well with the government’s localism and Big Society agenda” is plausible. Nonetheless, “localism” means different things to individual government departments. Indeed, there is no standard interpretation of localism in Whitehall and considerable differentiation remains in terms of emerging inter-governmental relations and enthusiasm for fiscal and political autonomy at a local level.
- (iii) Local discretion will lead to variation in policy design, delivery and evaluation. One view is that, during the last government, Whitehall struggled to deal with the variation between eight standard English regions in any depth. Whether it has the capacity or inclination to develop meaningful dialogues with over 300 local authorities remains untested.
- (iv) The emphasis on “negotiation” has the potential to result in policy delays, although the benefits in terms of more tailored and evidence based policy is acknowledged. How might this impact on the ability of central and local structures to promote joint working *across* policy areas/sectors and departmental activities? So-called “joining-up” remains a considerable challenge and synchronising investment is a huge task. Is there evidence to suggest that a codified relationship would help or hinder this process?
- (v) An interesting reference is made in the explanatory note about “local authorities being willing to use new found freedoms”. Indeed, there are huge variations in local governance capacity, expertise and slack resources. While some may rise to the challenge, others will lack the leadership and resources to take advantage. What support might be provided to encourage *all* councils to exercise their rights and who might provide it? In the absence of support a two tier system of local authority might emerge between those “who can” and those “who can’t”.
- (vi) Variation between localities has the potential to enhance place based competition and public perceptions of a “postcode lottery” in service delivery. While local autonomy and discretion is desirable there is a danger that these outcomes could undermine a stable constitutional settlement as citizens in “less buoyant” areas question economic and social provisions.

October 2012

Written evidence submitted by Louise Goldsmith, Leader, West Sussex County Council

1. As the Leader of West Sussex County Council (WSSCC) I welcome the work that the Political and Constitutional Reform Committee (PCRC) has undertaken, in conjunction with the Local Government Association (LGA), around the issues arising from the potential codification of the relationship between local and central government.

2. For some time the balance of power in this relationship has been weighted too heavily in favour of central government, and interactions between us have at times been more akin to a parent-child relationship rather than a healthy partnership of equals.

3. The Localism Act represents a shift in the right direction although I suggest the time may be right for a more fundamental reappraisal of the relationship, and the proposed codification could represent a significant step forward.

4. In general terms I support the position the LGA presents in its paper *Independent Local Government: Next Steps*, which will form the basis of the LGA's submission to the PCRC.

5. I can, however, also foresee a number of arguments that may be levelled against pursuing such a codification of the relationship at this time. The most difficult of these for proponents of codification to overcome could be that during this continuing period of economic challenge this would be an unnecessary diversion of parliamentary time and resources. Those supporting this change will need to be aware of the work required to raise the profile of the issue within their local communities.

6. With this in mind I would make the following specific points in relation to the articles and provisions included in the PCRC's illustrative draft code:

ARTICLE ONE

7. For the codification of the relationship to meaningfully define and protect the rights and duties of local authorities, it would be essential for all councils, their representative bodies, ministers, government departments, MPs, courts of law and public agencies to be bound by, and act in accordance with, the articles set down in the code.

8. The provision that these rights and duties can only be changed by, initially, an elected joint committee of both Houses of Parliament and subsequent approval of both Houses, would also be an essential safeguard against continual upheaval and interference.

ARTICLE TWO

9. The provision establishing councils' accountability to local citizens, subject to the rule of law and human rights legislation, and giving councils autonomy over all public affairs within their boundaries not dealt with by other government bodies would represent a welcome affirmation and consolidation of local authorities' rights and responsibilities. Our scope for delivering greater efficiency and effectively co-ordinating action for the benefit of local communities would be advanced by the inclusion of this provision.

ARTICLE THREE

10. I agree with the provision requiring councils' powers to be prescribed by statute, and for councils' to have full discretion over any matter not assigned to another authority or body.

11. It also seems essential to me that councils be consulted from the outset on all proposed reform affecting a council or its community.

ARTICLE FOUR

12. Recent experience provides ample evidence for the need for the provision that central and local government should jointly create inspection regimes to set and maintain standards. This would provide a clear demonstration of greater maturity in the relationship and help avoid divisive, resource consuming and unnecessary bureaucracy.

ARTICLE FIVE

13. Territorial autonomy can be an emotive and politically sensitive issue. The provision that boundary change proposals be conducted through the Local Government Boundary Commission and be subject to local referenda could provide a distancing mechanism to remove national party interest from the equation and help diffuse this potentially divisive issue.

ARTICLE SIX

14. The provision that provides citizens, through their council, freedom to determine their governance systems, subject to a binding local referendum, would also be welcome. I recognise the risk that regular campaigns could be mounted to force referenda on this issue but support the right of local communities to have the form of governance that they want.

ARTICLE SEVEN

15. It is clear to me that effective, proactive and locally responsive government requires that local authorities have financial independence from central government. I think provisions within Article Seven offer the potential for creating a more mature relationship between local and central government.

16. It is also clear, however, that not all local authorities will have the same opportunities for generating income. I think there is a legitimate debate to be had about the extent to which it is desirable to try to artificially level the playing field through equalisation. If an effective case for equalisation can be made, I can see benefits to such an approach being undertaken through an independent body.

17. There is also a question to be addressed around the extent to which referenda on additional sources of income may conflict with the electoral mandate of the majority party on a council.

18. There appears to be some conflict between the consistency sought by the fixing of the three year medium term budget planning process and the annual equalisation process being suggested. The code might be clearer about the objectives of taking this approach.

19. The final sentence of paragraph 5 needs more work as it currently restricts the use of reserves.

20. I strongly support the provision that central government must consult on funding when using local government as an agent for delivering its policy objectives.

ARTICLE EIGHT

21. The ability of councils to co-operate in any way with other councils, public, private or third sector bodies or enterprises for the wellbeing of those within the area is an essential right to enable them to achieve efficient, targeted and joined up solutions.

ARTICLE NINE

22. It is appropriate that the conduct of local referenda follow standards set by the Electoral Commission.

ARTICLE TEN

23. It is also appropriate that councils should have the express right of recourse to judicial remedy to secure the free exercise of their powers and rights contained in the code, or elsewhere.

October 2012

Written evidence submitted by Stephen Greasley, University of Exeter

1. Thank you for the opportunity to comment on the proposed code. I understand the purpose of this session is to focus on the content of the code rather than the more general question of the necessity for a code. My specific comments relate to those parts where I think I can make sensible points, and the absence of comment on an article does not indicate that I agree or disagree with it. The issue under discussion is quite normative and what I write is not closely related to an evidence base, it is just my response to the draft document. I provide a brief summary of my opinion on the more general issue of a written code at the end of this note.

2. Having read some of the evidence presented to previous meetings, I support the decision to keep the code relatively short and general, especially if one of the purposes of the code is to help the public understand the respective roles of local and central government. Some details will have to be filled in by negotiation with various parties.

3. In *Article 2*. 'Council's accountability is to local citizens' whereas, in the explanatory note to *Article 2* the accountability is 'primarily' to citizens. The latter is more realistic. The actions of a local authority will often spill-over to affect people who live outside the authority. Examples include parking levies and air pollution. Part of the reason for central action is to manage such spill-overs, and this seems a reasonable justification. Other types of political and non-political accountability—professional ethics, accountability through the national media—are relevant, important and, in my view, legitimate.

4. *Article 3*. It seems likely that if this is agreed it will involve a change in the scope of local authorities' operations. As someone who writes from a public policy and management perspective, my view is that the policy goals should (for the most part) influence the organisation of delivery not the other way around. However, I recognise that the Committee has endorsed the principles that local government should have a constitutional status and should be considered autonomous, this raises the question which bundle of responsibilities will be appropriate for such organisations.

5. *Article 4*. To what extent does this assume a consensus among local authorities about inspection regimes?

6. *Article 5*. I do not have detailed knowledge of local boundary control in other countries. I imagine that in England this would be a very party political process. I also doubt that devolving the power on boundaries would remove national party politics from the equation, although it might make its involvement more opaque. I would also expect this power to have a negative impact on the potential for co-operation between councils, referred to in *Article 8*. Would a moratorium on reorganisation be a better alternative? A period of stability, in which relevant actors can adapt and make best use of the existing system in the knowledge that no change is imminent, might be preferable.

7. *Article 6*. I do not have detailed knowledge of other local government systems, how many give to local governments wide discretion on selection of electoral system? I am not confident that allowing local discretion on these matters will always produce decision-making arrangements and voting systems that will 'suit local circumstances' rather than suit the people who happen to have power at the time. One advantage of allowing

variation of electoral systems may be local elections that are less influenced by national politics. On the other hand, this may have negative consequences for the operation of national democracy.

8. *Article 7.* I have no expertise on this issue. Some recent analysis has suggested that the current system is not working well (Stone 2012). It's not clear to me that equalisation and the guaranteed share of income tax are consistent with the aim of autonomous and locally accountable councils. These provisions may also lead to unintended consequences, such as central government switching away from income tax to avoid sharing revenue with local government. In particular, I think the part on borrowing will need to be considered carefully and I doubt that, if a council did have difficulty repaying debt, it would be allowed to go bankrupt (7.5). If councils are too big to fail, then there is a justification for regulation of borrowing. I am not confident that credit rating agencies are a suitable means for delivering this regulation.

What is missing from the code?

9. Neighbourhood government structures operate in many councils and they deserve protection and encouragement as much as the local authorities. After all, the impetus to expand, over-regulate and curtail the autonomy of others is not limited to national government. A neighbourhood level of governance may also have a better claim to legitimacy than some local authorities some of which have seemingly arbitrary boundaries, weak party organisations and nearly non-existent media scrutiny.

GENERAL DESIRABILITY OF A CODE

10. Governance in England is over-centralised. Some means of decentralising revenue raising and expenditure is desirable. But I do not think that the proposed code will work as a mechanism for addressing the problem. First, because it is unlikely to gain agreement from central government and second, as highlighted in the explanatory note, even in systems that give constitutional protection to local government the centre does 'encroach'.

11. I don't think the code is necessary, but this is because I don't agree with the assumptions it is based on. It threatens to make the process of policy implementation rigid and difficult to adjust, or will encourage Whitehall to by-pass councils entirely. Of the written evidence submitted to the Committee in previous sessions, I agree to the greatest extent with Manchester City Council and the LGA.¹⁷ Both were quite sceptical of the need for a code and argued that there is discretion available within the existing system.

October 2012

Written evidence submitted by Cumbria County Council

1.0 EXECUTIVE SUMMARY

1.1 The codifying of the relationship between local and central government is a welcome opportunity to enshrine the role of local government in the UK's constitutional settlement. The commitment required from central government is to embed an assumption towards devolution of powers to local government, rather than centralisation.

1.2 Financial independence is vital for councils to fulfil their role as free and independent and accountable to local citizens. The code's focus should be very clearly about increased powers and recognising the difference between powers and responsibilities.

1.3 Increased powers in respect of taxation and charging, and spend through reduced ring-fencing of funding, are key. Restrictions on council's powers to generate income, and to spend their resources flexibly to meet the needs of local communities, should be removed where possible based on the assumption towards devolution of powers to local government.

1.4 The devolution of powers from central to local government is required to provide the flexibility to enable councils to respond to the diverse needs and aspirations of communities, particularly in large rural areas such as Cumbria. Councils are best placed to respond based on local knowledge and intelligence, and are directly accountable to local citizens.

1.5 Distribution of the income tax take by central government requires independent input; however, the process needs to take issues into account such as cost of service delivery in rural areas, local demography, and deprivation.

2.0 INTRODUCTION

2.1 Cumbria County Council is clear that its role is to create the conditions for Cumbria's communities to thrive by putting people at the heart of everything we do, and work with others to deliver excellent services for those who need us most. To fulfil this role and achieve the ambitious aspirations that we have for Cumbria

¹⁷ Written evidence published by the Committee to date for the inquiry into *Prospects for codifying the relationship between central and local government* published 1 February 2011.

the council needs the powers to make the decisions and deliver the services that meet the needs of communities, the right relationship with central government to support us in this, and the right resources used in the right way.

2.2 The codifying of the relationship between local and central government is an opportunity to ensure the fundamental building blocks of an effective relationship with central government, and the role of local government, are enshrined in the UK's constitutional settlement. The decentralisation of power and increased local decision-making are central to re-establishing the relationship between local and central government.

2.3 The prominence of localism in previous and current government policy is recognised as progressing some devolution to local government and local citizens; however, the Localism Act 2012 contains over 100 reserved powers for the secretary of state. Whilst the localist agenda is also reflected through a number of areas of current national policy the code's focus should be very clearly about increased powers and recognising the difference between powers and responsibilities.

3.0 PURPOSE OF THE CODE

3.1 The overall purpose and objectives of the code to re-establish and strengthen the position of local government are welcomed. It is important to recognise that enshrining this within the constitutional settlement will be a useful foundation but will only be effective if its principles are genuinely embedded across central government and are reflected in central government policy development and decision-making. Legal action should be a last resort; adherence to the code by central government departments and others needs to be effectively enforced.

3.2 The preamble to the draft code appropriately sets out the need for parliamentary recognition of councils as free and independent (in both powers and finance) and as accountable to local citizens. In respect of councils' spheres of competence, it is important to recognise the progress made by the introduction of the General Power of Competence but also stress that this power should not have limits placed on it by central government.

4.0 LOCAL AUTONOMY AND LOCAL SELF-GOVERNMENT

4.1 The expression of councils as autonomous, democratically elected bodies is welcomed. In setting out councils' independence to pass local legislation on matters affecting the affairs and interests of their area within the national legal framework, there should follow a debate on the nature of the national framework and ensuring appropriate local variation.

4.2 There should be a clear recognition from central government within this code of the value of local government as governing and politically representative institutions accountable to local citizens. Councils are closer to citizens than central government and therefore can be more responsive to the needs of different communities. Strong local leadership is as important as ever to support communities through the significant changes and challenges facing people at this time. Local leaders need powers to ensure they can take the necessary actions to support communities and meet their needs, not more so than in large rural areas like Cumbria.

4.3 Cumbria is the second largest county in England with a population of 499,800 living in diverse communities across the county. Responding to the diverse needs of communities is a challenge for the council. The council requires the flexibility to make decisions and consider the way services are delivered to each community. For the council to operate in this way there needs to be more powers transferred from central to local government, and central government control minimised.

4.4 There is huge difficulty in explaining to citizens, to whom we as a council are accountable, that services are not provided, or are provided in a way that doesn't meet their needs, because the central government policy which the council is delivering has been designed without taking their particular needs into consideration. Central government policy is generally designed with urban areas in mind, rather than large rural areas with two-tiers (or three tiers including parish councils) of local government.

4.5 For example the new funding formula for schools fundamentally disadvantages small schools, endangering schools who are currently central to community life in communities across rural areas such as Cumbria. If the council had more power to make decisions on how this funding is distributed for schools in Cumbria, distribution of school funding across Cumbria could be decided on the basis of local knowledge and intelligence to meet the needs of children and families in small communities across the county.

4.6 This is just one of many instances of the implementation of central government policy not recognising the additional complexity and costs of delivering services across a large rural area. Councils need powers to be able to design and fund services in different ways to meet the needs of diverse local communities—local decision-making and flexibility.

4.7 The approach to local government funding is at the core of the debate around devolution. Through the introduction of the business rate retention scheme central government is providing an opportunity for councils in those areas that can achieve growth in business premises to increase their income; however, nationally it is recognised that business rate growth ultimately is dependent upon geography, major infrastructure, and high speed rail links.

4.8 Cumbria, like other large rural areas, is inherently disadvantaged by this approach. At the same time, central government places restrictions on other ways in which councils can generate income—for example the ability to review the council tax single person discount. Councils also face restrictions from central government on their powers to generate income through council tax rises in order to ensure that services are delivered. Embedding the assumption towards devolution of powers and funding to local government into central government decision-making is vital to resolve these issues.

4.9 This code is an opportunity to ensure that councils are no longer primarily seen as a vehicle for delivery of central government policy objectives but as independent and representative bodies with the powers required to meet the needs and aspirations of local communities. This will require a fundamental shift in thinking across central government where the assumption should be towards devolution of powers to local government—a default position of passing powers to local government rather than retention of powers by central government.

4.10 Councils are directly elected bodies and are therefore directly accountable to citizens. Councils need to be able to be held to account for its decisions rather than for centrally-prescribed implementation of central government policy. Local government is best placed to make decisions on robust knowledge and intelligence about the needs and aspirations of local communities.

5.0 SCOPE OF LOCAL GOVERNMENT

5.1 The inclusion in the draft code of a commitment to early consultation with councils in central government policy and decision-making processes is welcomed. If councils are to genuinely have co-equal status with central government on issues which affect them, involvement from the beginning of policy-making processes is vital. This would also help to embed the assumption towards devolution to local government across central government.

6.0 INTER-GOVERNMENTAL ACTIVITIES (INSPECTIONS)

6.1 The provision in the draft code to allow central and local government acting jointly to create inspection regimes could be strengthened to require negotiation and agreement on the assurances relating to service standards.

7.0 FINANCIAL INTEGRITY

7.1 The commitment to the financial independence of councils is crucial and this is where many of the barriers currently exist. The powers to raise income and spend council resources with as much flexibility as the law allows would have the biggest impact in terms of councils being able to meet the needs of communities, achieve economic growth and achieve our aspirations for Cumbria.

7.2 The Coalition Government made a commitment to reduce ring-fencing as much as possible, however, decisions are being made to ring-fence, eg the recent decision to ring-fence early years provision for additional two year olds into the Dedicated Schools Grant. Unless central government departments sign up to the distribution of unring-fenced funding to local areas, councils cannot be considered as co-equals. Councils are better placed than central government to decide where and how to commit resources for the biggest impact on the wellbeing of communities.

7.3 Whilst the involvement of an independent body in ensuring fairness in resource allocation across councils is welcome it should be noted that fairness will not necessarily be achieved through equalisation. Any such process should include consideration of need—this includes consideration of issues such as the cost of delivering services in rural areas, local demography, and deprivation.

7.4 Part of true financial independence is the power to make decisions in respect of charging. Whilst councils have some charging powers there are specified limitations placed on these powers, eg freedom of information.

7.5 The capping or limiting of council's taxation policies also needs to be addressed in order to achieve financial independence. The recent decision not to relax limitations on the ability to review the single person council tax discount is an example of central government limiting the ability of councils to raise additional income to address the impact of central government decisions on the localisation of council tax.

7.6 As co-equals it should be a fundamental principle that central government should have the same requirements in respect of financial transparency as those placed on local government.

8.0 CONCLUSION

8.1 The devolution of more powers to local government is a pre-requisite to an effective relationship between central and local government enshrined in a code. Such a code should mark the beginning of a joint debate between central and local government on what powers should be devolved.

Written evidence submitted by Cllr Frank Prince, Broxtowe Borough Council

1. I did enjoy yesterday's meeting. All party support from all types of council was impressive. Our "paragraph":

- *Yes*, more independence locally, we have always wanted it.
- *Keep* taxes collected locally.
- *Raise* money for projects locally required.
- *Local* referenda as and when.
- *You* reassured meeting that central help for less economically viable areas is available.

2. You require a view from us by next week. I am confident that we will be supporting your Committee's work on a draft code for central and local government.

3. Amplification by the leadership might follow. On with the battle.

September 2012

Written evidence submitted by Cllr Spencer Flower, Leader, East Dorset District Council

1. This council has considered the illustrative draft code for central and local government and welcomes in principle the joint campaign between the Local Government Association (LGA) and the Political and Constitutional Reform Select Committee (PCRSC) to stimulate debate about the relationship between central and local government.

2. The council urges all political parties and central government to engage with the Select Committee and the LGA to consider whether an entrenched statutory codification of the independence of local government should be part of our constitutional settlement.

3. Generally, the council welcomes the proposals and feel that more effective autonomy for local government would be a good thing. The council agree that codifying the relationship between central and local government is a step in the right direction for the Government's localism agenda. It should underpin these policies by reducing centralisation and by providing the ground on which councils and communities could experiment with local initiatives that reflected local priorities.

4. Within the Localism Act, the Government has retained powers, which allows it to control in many ways what local government does, whilst at the same time passing greater opportunities to local citizens to shape the workings of their local communities.

5. Various aspects of the code require councils to hold referendum if they wish to take certain decisions and thus bear additional associated costs. The council does question just how much actual independents it would be getting and whether control is not simply being spread between central government and local communities with the council in the middle.

6. The Council supports the principles of the Big Society and its citizens playing a more active role in shaping our communities. That said Members are worried that the ideology surrounding the principles of the Big Society, where everyone gives of their time freely, are still a long way from being realised. This will not happen on its own, therefore both central and local government need to invest in growing a more resilient community sector which has greater capacity and where a more open and trusting relationship between those elected to serve our communities and those who give of their time freely results in the need for less regulation.

7. The council supports the five elements highlighted by the LGA in its next steps paper published in June 2012 namely:

- (i) The full retention by local government of uncapped and locally-decided council tax and business rates, subject to retaining mechanisms for fairness and redistribution;
- (ii) entrenching local accountability by removing many of central government's unnecessary supervisory powers (although there is a feeling that it is good for central government to retain a backstop role in areas such as safeguarding);
- (iii) removing central government's and Parliament's power to decide councils' boundaries, structures and governance models, leaving those matters up to councils and local communities with the support of the Independent Boundary Commission;
- (iv) restating the General Power of Competence, and extending its principles in the spirit of community budgets, by making it a default position that local government should have the power to provide any local public service not explicitly reserved to another body; and
- (v) entrenching those elements of local government's legal position in a way that made it harder for future parliaments to re-regulate local government.

8. I am copying this letter to Christopher Chope O.B.E MP, Mrs Annette Brooke MP, and Robert Walter MP advising them of this council's support for the joint LGA and PCRSC campaign and asking them to support this council's position.

October 2012

Written evidence submitted by London Borough of Lambeth

1.1 Lambeth council welcomes the Political and Constitutional Reform Committee's inquiry into the codification of the relationship between central and local government. The debate over the relationship between central and local government, and the means by which that relationship should be mediated, is not new, but the current political and economic circumstances provide a new impetus to re-examine the case for a clearer constitutional settlement.

1.2 Local government has undergone radical transformation over the last twenty years, carving out a new role in the democratic and public services landscape. Councils across Britain have shown their ability to lead and innovate, empowering local communities and strengthening accountability to citizens.

1.3 The reform of local government has been accompanied by a growing public engagement with localities. The areas in which people live and work, their neighbourhoods and communities, are the areas that matter.¹⁸ People now show a stronger interest in how things work in their local area than ever before, stronger than their interest in national politics. Yet there is also frustration with the systems of government, that can act as a barrier to people's aspirations.¹⁹

1.4 The UK therefore faces a double challenge; of rising public engagement and interest in shaping the areas in which they live, and heavily constrained resources. It is imperative that local government has the freedoms and resources to respond.

1.5 Codifying the relationship between central and local government is a welcome step, and some of the specific reforms within the draft code offer the possibility of greater local autonomy and independence. However, a code will not be enough to change the direction of travel that has seen a steady centralisation of power in the UK over the last 30 years.

1.6 For genuine change in the central and local government relationship to occur, and more importantly, for devolution of power to take place, three changes will need to happen:

- Government will need to be prepared to give away power and see local government lead.
- An intermediate institution will need to be developed to facilitate an equal relationship between central and local government.
- Local government and communities will need to be prepared to step up.

2. THE ROLE OF CENTRAL GOVERNMENT

2.1 The Coalition Government has committed to "promote decentralisation and democratic engagement, and ... end the era of top-down government by giving new powers to local councils, communities, neighbourhoods and individuals".²⁰

2.2 To achieve this "new localism" the Government has introduced several pieces of legislation, including the Localism Act 2011 and the Local Government Finance Bill 2012. But the task of genuinely devolving power to councils, communities, neighbourhoods and individuals is far greater than the scope of the legislation.

2.3 Legislation that has as its object the reform of local government, or the empowerment of citizens and communities will always be limited in its impact, if it is not accompanied by reform of central government to encourage and facilitate the devolution of power.

2.4 The UK has witnessed a gradual centralisation of power over the last thirty years, and has developed a set of practices, customs and cultures that have consolidated that power in the centre. The barriers that this creates for decentralisation can be illustrated by the recent initiative, deriving from the Local Government Finance Bill, to give local authorities greater influence over business rates.

2.5 At present, the organisation of our national politics and system of government does nothing to incentivise the distribution of power. The principle of ministerial responsibility holds individual politicians accountable for the actions of civil servants within their departments, encouraging an ever tighter grip on decision making. This is exacerbated by a public and media that have also historically held secretaries of state responsible for failings not only in their departments, but in the devolved institutions associated with their area of responsibility.

2.6 It is perhaps unsurprising then, that national politicians have sought to maintain influence over those things that they are formally, or informally, held accountable for. Greater devolution of power and responsibility will mean more variation in how services are delivered, and how local systems of government are formed.

¹⁸ Audit of Political Engagement: Wave 8, Hansard/Mori, March 2011

¹⁹ Audit of Political Engagement: Wave 8, Hansard/Mori, March 2011

²⁰ The Coalition: our programme for government, HMG, 2010

This has the potential to drive innovation and strengthen democratic cultures. However, there will inevitably be examples of failure and a government that is committed to localism will need to be prepared for that failure to be addressed through local democratic systems.

2.7 The reform of local and regional government over the last twenty years has been extensive. In contrast, Whitehall and the structures of central government, particularly public finance, have been relatively unchanged, placing further constraints on efforts to bring about change. If this Government is genuinely committed to devolving power to the lowest possible level, then there needs to be a public debate on what this means for the role of national government, leading to an extensive programme of reform. In the absence of a clear vision for the role of national government, and its limits, the incremental accumulation of power in the centre is inevitable.

2.8 It is not only the way that national politics is conducted that will need to change if local government, communities and neighbourhoods are to be empowered. The structure of Whitehall also inhibits effective relationships between central and local government. So many of the challenges facing Britain, from the reform of welfare provision and raising educational attainment for more pupils, to stimulating growth and increasing employment, depend on the actions of local government. The current structure of Whitehall gives the false impression that local government is the business of one department. In reality all departments need to have the skills, understanding and capacity to work collaboratively with local government.

3. INTERMEDIATE INSTITUTIONS—THE CODE

3.1 The second condition for genuine decentralisation are institutions that mediate the relationship between central and local government; empowering local government to lead and innovate, ensuring local priorities identified through the democratic process are protected, and that discussions about funding settlements are transparent.

3.2 The draft code offers a pragmatic step towards achieving this. It recognises the need for local government autonomy, and that local government must primarily be accountable to citizens, not central government. In a diverse country, the code acknowledges the need for variation in systems of local government, and that if the Government's commitment to renewing democratic engagement is to be realised, then localities must have the freedom to design systems that work in their area.

3.3 The code would not be the first agreement put in place between central and local government, and although the Political and Constitutional Reform Committee goes further by suggesting that the code is embedded within legislation, it is clear that codes and concordats are rarely enough to bring about lasting change. Governments under pressure to "do something", can too easily renege on previous commitments to partnership working when it looks as if it will inhibit rapid action. A change in cultural attitudes, among national politicians, civil servants and the wider public, will be equally important in giving any code real influence.

4. EMPOWERED LOCAL GOVERNMENT AND COMMUNITIES

4.1 The third plank of a new localism is an empowered local government and communities. Councils need a tax system that gives them the ability to act flexibly and respond to local circumstances. Localities vary greatly in the resources they are able to raise directly, and the support they are required to provide to citizens, and therefore the tax system will always have to ensure resources are shared fairly. However, it is clear that giving councils greater freedom to retain a proportion of the taxes raised locally can be effective in incentivising local action on, for example, stimulating growth.

4.2 Central government funding will remain an important part of local government finance. However, local government is more than just a delivery arm of central government. Democratic engagement will only improve if people are able to see their priorities, expressed through the ballot box, enacted in their local areas. It is therefore vital that the terms and conditions of central government funding are clear, and that local government is able to reject those funding streams that counter locally agreed priorities. The draft code, in setting down some firm principles to underpin the financial integrity of local government, could offer a degree of certainty that would empower local government.

4.3 Public attitudes data shows the importance of localities to peoples' sense of identity, and the extent to which they care about decisions taken in their communities and neighbourhoods. These are important indicators that citizens and communities are willing to play a greater role in civic life. In Lambeth, the council recognises that local government is not an end in itself, but the means by which stronger communities and resilient neighbourhoods can be built, and individual life chances improved. The council is therefore actively seeking to place the resources of the state in the hands of citizens.

4.4 This civic interest and engagement presents a huge opportunity to redistribute power. All our evidence suggests that giving citizens real power to shape how services are designed and delivered not only improves the quality of those services, but that the experience for citizens of being recognised as an equal partner—of having their experience and insight truly valued—can be transformative. This is the thinking behind Lambeth's mission to become a cooperative council.

4.5 Lambeth council will work within the existing constraints to change the relationship between citizens and the state, to empower individuals and communities. However, greater freedoms to design local systems of government, and a tax system that gave councils more flexibility to respond to local circumstances could allow Lambeth to undertake more far reaching reforms.

5. CONCLUSION

5.1 The UK faces the prospect of a decade of slow growth and heavily constrained public spending. This has the potential to inflict lasting damage on the social fabric of the country; increasing inequality and straining cohesion. However, periods of adversity can also generate innovation, if individuals and institutions are granted the freedom to challenge old orthodoxies and develop new solutions. The rising tide of local public engagement puts local government in a unique position to become the mechanism by which power can be redistributed to citizens, and a new localism established. With the freedom to create local systems of government that reflect local circumstances, councils can not only improve the quality of public services, but also strengthen local democracy becoming a powerful force for cohesion.

5.2 The draft code published by Political and Constitutional Reform Committee has launched a vital debate on the UK's constitutional settlement, and in particular the independence and autonomy required by local government to improve the wellbeing of their communities. Lambeth council welcomes the draft code, but also calls on the Committee to examine the other factors, outlined in this submission, that act to limit decentralisation in the UK.

October 2012

Written evidence submitted by Cllr Clarence Barrett, Leader of the Residents' Association, London Borough of Havering

1. Our group, made up of twelve members in the London Borough of Havering, fully support the proposals set out by the Local Government Association in codifying in statute the relationship between central and local government.

2. While supporting the principle of localism, it should be recognised that local councils are best placed to identify and respond to the needs of their respective communities. The generic one-size-fits-all approach is not always the most appropriate approach as each community has different needs and priorities. We submit that the freedom to adopt different approaches to deal with a diverse range of pressures is an important feature of any community strategy and should be included in the code.

3. The draft code sets out many positive proposals, in particular we support the full retention of council tax and business rates, removing many of central governments supervisory powers, removing central government's power to decide council governance models—leaving such decision making to local authorities and extending the principles of community budgets.

October 2012

Written evidence submitted by Cllr Paul Bayliss, Leader, Derby City Council

1. The Leadership of Derby City Council welcomes this opportunity to contribute to the work of the Political and Constitutional Reform Committee and play a role in determining the relationship between central and local government.

2. Strengthening local democracy is at the heart of our manifesto for the city. We believe that our citizens should know what they pay for and why they pay it to be able to hold representatives to account. It is for this reason that the council is currently carrying out a cross party campaign—A Fair Deal for Derby?

3. There is undeniable evidence that Derby has been unfairly affected by government cuts in the following ways:

- Since 2010, Derby has lost £75.77 for each person compared to the national average of £61.90 across similar sized councils.
- Out of 55 unitary councils in the country that are a similar size to Derby the majority are better off than us.
- Derby has lost £8.7 million in government grants and financial support between 2011–12 and 2012–13. This equates to a cut of 4% compared to an average cut in “spending power” in the East Midlands of 3.1% and 3.3% nationally.
- Some of the most deprived areas are receiving disproportionately high cuts compared to significantly less deprived areas, for example Liverpool (7.1%) compared to Richmond-upon-Thames (1.8%).

4. The council is lobbying government to act to address this injustice.

5. It is acknowledged that in the long term the causes of this injustice can only be resolved through greater political and financial independence for local government that enables voters in our city to decide how revenue is created and spent. This will also stimulate a renewed interest in local government and begin to address the democratic deficit that exists in national politics.

6. We therefore support fully the codifying in statute the principles and mechanics of the relationship between central and local government and consider this necessary to give democracy in the UK the legal foundations commensurate to those of other advanced western democracies.

7. It is acknowledged that the implementation of a “draft code for central and local government” similar to the illustrative draft set out would change and increase the responsibilities of Derby City Council, but this is welcomed as the authority has both the experience and expertise to meet these. The overall outcome for our city would be greater engagement in local democracy, stronger local government and improved services and life chances for our citizens.

October 2012

Written evidence submitted by Cllr JR Knight, Leader, Ashfield Council

1. I enjoyed the presentation on the “Independence from the Centre” event and of course, wish to fully support the proposals.

2. Most of the issues I wanted to raise have been done so better by others in the documents you have already prepared, and as such there is no point in re-hashing these.

3. I feel however that the real opposition to your legislation will come, as you yourself alluded to, from both senior Whitehall mandarins, who will see it as a stripping of central bureaucratic powers, and more dolefully from certain sections of the Labour Party in Westminster, who simply have a low opinion of both local government and the councillors who represent it.

4. I would propose the following—particularly on the basis that civil servants love to hear of historic precedent (particularly Victorian precedent) when examining an argument.

5. It could be argued, that Britain when it was “Great”, and ruled over a quarter of the globe, did so not because of the political hegemony exuding from London, but rather because of the industrial and commercial might that flowed from its major industrial cities.

6. Birmingham, Sheffield, Liverpool, Glasgow, Leeds and Nottingham were the driving forces behind Victorian political dominance and economic prosperity, and these cities owed their wealth and potency, in no small part, to the independence they retained from London.

7. I would ask this simple question—is British regional politics currently able to produce politicians of the type that fashioned the Chamberlains in Birmingham, the Lever brothers in Liverpool or the Firths in Sheffield? These individuals took mundane cities and paved, parked, assized, marketed, gas, watered and improved them, producing public works that are revered even today.

8. The emphatic answer must be no, and it is this lack of radical politics—be it from the right or left, which regional government is now missing. Without true independence from the centre, we can only ever be managing a steady decline in the fortunes of this country. I believe your programme would go some way to removing these shackles. regional government needs a national voice.

9. Please contact me if I can be of any further assistance in this or any other issue.

October 2012

NOTE

As this letter is from an individual councillor it does not necessarily represent the views of the council or any of its committees.

**Written evidence submitted by Chris Game, Institute of Local Government Studies,
University of Birmingham**

1. First, my apologies for the extreme haste in which the following comments have been written, but I received my invitation only last Friday and was only able to confirm my availability this morning. Apologies also that several of the “thoughts” are simply initial reactions to my first reading of the code and to particular words and phrases, to which the Committee may already have given plenty of consideration.

2. I have a general concern that some of the language in the draft code is used with a similar looseness to much of that in the *Central-Local Concordat*, of which I was rather critical and, I understood, the Committee was also somewhat sceptical. The following points include several examples of where it seems words are used

for rhetorical force, rather than with a view to how they might be operationalized into an enforceable requirement:

PREAMBLE

3. “free and independent local councils”. If these words, and others like them (eg autonomous/autonomy, co-equal status), mean anything, they are surely, in a unitary—as opposed to federal—state, contestable; “discretion” (as in Article 3.2) seems a preferable term to independence or autonomy.

4. “Local”, as in local councils, will profoundly annoy the National Association of Local Councils, which seems unfortunate in an opening sentence, when the next sentence makes it clear that parish and town councils are excluded. “Principal authorities” is likely to be less provocative and more legally precise.

ARTICLE 2.4

5. “an irrevocable general power of competence”. “Irrevocable” seems another of the loose words in a system with parliamentary supremacy.

6. “General power of competence” is a Conservative/Coalition formula for what was previously—when used as a synonym for the abolition of *ultra vires*—known as a “power of general competence”. The “general power” comes with a whole Section (in the Localism Act) of boundaries and limits. If the intention is to give local authorities unfettered discretion, is there a reason for the use of this term, rather than “power of general competence” and the implicit or explicit abolition of *ultra vires*, as for private companies in the 1989 and 2006 Companies Acts?

ARTICLE 6.1

7. I question generally the extensive recourse to referendums throughout the draft code, this being one example, unless the model being either adopted or abandoned was one directly involving the electorate—ie a directly elected mayor?

ARTICLE 6.3

8. This is another example, although my greater concern here is the principle of councils having even more variegated electoral systems and cycles than they have already. Present practice is hugely confusing to the electorate and democratically unfair—as it means electors in one district having three times as many opportunities to influence the composition and policies of their council as those in a neighbouring district in the same county. The Electoral Commission has long advocated (and the Councillors Commission more recently), mainly in the interests of increasing turnout, a standardisation of electoral systems and cycles, with all-out local elections for all councils being held on a single national, or at least regional, “Local Election Day”. I’m all for local choice, but electoral systems seem to me to constitute an acceptable exception.

ARTICLE 7.1

9. “Local councils shall to the greatest possible extent be financially independent ...”. This seemed a real “Concordat” form of words: imprecise, untestable, something that any government could sign up to fearlessly. In its early discussions I believe the Committee considered specifying that local authorities should raise a certain proportion of their income from local taxation. If the specified proportion were only “at least 50%”, it would still represent a more meaningful hurdle than “greatest possible”.

ARTICLE 7.2

10. “Local citizens through their local councils ...” I was unsure what this meant, and whether it meant anything more than “local councils”. This is another referendum I would question. Why should an already elected council wishing, say, to levy a “bed” or hotel occupancy tax—if one were legally permissible—have to seek, and pay for, the additional authority of its electors?

October 2012

Written evidence submitted by Sir Howard Bernstein, Chief Executive, Manchester City Council

1. Further to my involvement in the early stages of this inquiry last year I thought it would be useful to write to you again as part of the consultation on the illustrative draft code.

2. In view of the evidence which I have already contributed I do not intend to comment on the individual provisions of the code in detail, but would like to take the opportunity to reflect on some of the developments during the past year which impact on this debate. These include among others the appointment of a Minister for Cities and the conclusion of City Deals with the eight Core Cities; progress on the Local Government Resource Review; and the launch of the Community Budget pilots.

3. Throughout the work of the Committee there has been a clear focus on repositioning local government and on entrenching its independence within the constitution. I welcome the ambition which the Committee has shown in this regard, and the drive to promote the independence and integrity of local authorities in their community leadership role.

4. However, I feel that in some places the code focuses perhaps too strongly on local autonomy at the expense of addressing the relationship between central and local government. What emerged from much of the evidence to the inquiry was the broader change in cultural attitudes which would be required in order to bring this level of change about. There needs to be a sea-change in the attitude of central government towards the role and importance of local government, which can only be achieved over a period of time. Whilst codification would be a significant achievement, it would be only one step as part of a much longer process, and further mechanisms to improve the relationship would need to be explored at the same time. One example previously discussed is revising the Cabinet Office Manual to ensure that there is effective guidance for civil servants on working with local government, and accompanying this with training and awareness-raising across departments. Another is the important role which the Communities and Local Government Committee can play in monitoring the progress reports on decentralisation, which will consider how each government department is responding to localism.

5. As I mentioned above, one of the developments since my original involvement in this inquiry has been the negotiation of City Deals between government and the Core Cities. I was closely involved in the development of the Greater Manchester City Deal, which was agreed and announced at Budget 2012. Our deal includes responsibility for economic development, transport and housing and bespoke arrangements to support economic growth including the innovative 'earn back' model which allows Greater Manchester to capture a proportion of the economic benefits of local infrastructure investment to reinvest in growth enhancing projects.

6. The City Deals are a significant step forward and have involved a major transfer of powers and responsibilities from central government to Greater Manchester and the other Core Cities. They have challenged cultural norms across departments and have required government to work with and respond to local government in new ways. However, the negotiation process around the deals has served to highlight a major barrier in the central-local relationship—namely the difficulties which central government can encounter when dealing with place, and the impact which this has on the central-local relationship. The City Deals have been a step forward and have challenged some of these longstanding ways of working, but can only be the first step in a much longer process. Therefore whilst the draft code could play a significant part in this wider cultural change, I would advocate a shift in focus so that the code give more attention to the relationship between central and local government.

7. The draft code underlines that if local authorities are to be independent from the centre, this must be accompanied by financial autonomy. This is something that I have raised many times in the past, including during the evidence session with the Committee last year, and is also something that we had advocated as part of the Local Government Finance Review. The resulting Local Government Finance Bill does not however appear to meet the stated aims of the Local Government Resource Review—there is no longer evidence of an incentive for local government to deliver growth or to achieve financial independence. The Bill therefore appears to be in conflict with the spirit of Article Seven of the draft code, and this inconsistency should be referenced. In addition the draft code should include a commitment that the ultimate aim is still for local authorities to become financially independent in the future.

8. In addition to this financial independence with respect to income, it is also essential that local authorities have more control over the other public sector resources which are spent in their area. Our Greater Manchester Community Budget Pilot has been working on this over the last year, addressing how to transform the way we deliver services in order to reduce dependency and demand, and to increase productivity through work and skills. Our final submission to government at the end of October will include a number of new delivery and investment models which cross traditional public sector boundaries and can achieve improved outcomes through earlier intervention and prevention. The key priority for us in a future round of negotiations on City Deals will be to take the results of the Community Budgets pilot forward as the basis of a new settlement between national and local government that supports, incentivises and responds to public sector reform. The results of the Community Budgets pilot and implications for the role of local authorities could be reflected in a future iteration of the draft code.

9. I hope that these thoughts will provide a useful additional contribution to your current thinking. In view of the further developments which there have been around devolution and localism since the beginning of this inquiry, I imagine that the Committee may wish to do some more detailed work on the code after the consultation has ended. I would be very happy to be involved in any working groups on this in the future if this would be of assistance and look forward to hearing from you on further progress.

Written evidence submitted by Plymouth City Council

1. Plymouth City Council welcomes the clarification generated by codifying the relationship between central and local government, and supports the principles of the code based on the information available at this time which promotes local decision making and greater freedom from centralised control. The code provides increased reassurance to local authorities as it puts in place safeguards to ensure that any changes are only made following due process.

2. Plymouth City Council is fully supportive of the following aspects of the draft code:

- The requirement to consult with local authorities on any new policy or legislative proposal that may affect them—this is particularly welcomed, especially because of recent experience with Regulations under the Localism Act 2011. Those Regulations would have been clearer and much improved by earlier consultation with the local authorities which have the responsibility of implementing them.
- The move to local choices, which suits the local environment and preferred ways of tackling issues, instead of a one-size-fits-all approach.
- That accountability is to local people rather than to central government.
- Clarity about the rights and duties of local government and how local and central government can work together on certain issues.
- Recognition that some issues require a wider perspective than that of a single local council, who will need to work with other local authorities on cross boundary/regional issues including but not limited to economic development, connectivity, transport, land management and the new health system.
- Financial integrity—that local services will be run locally, with local decision-making over how to allocate resources.

October 2012

Written evidence submitted by Derbyshire County Council

THE COUNCIL'S RESPONSE

1. Derbyshire County Council welcomes the joint campaign between the Local Government Association (LGA) and Political and Constitutional Reform Select Committee (PCRSC) to stimulate debate about the relationship between central and local government. The council welcomes the opportunity, through the Select Committee's inquiry on the prospects for codifying the relationship between central and local government, to comment on these issues. The council agrees with the principle that it would be of benefit to have a codified system, clearly setting out the spheres of competence of central government and local councils with regard to the provision of services to secure and improve the well-being of residents and communities within Derbyshire.

LEGAL STATUS

2. The council agrees, to a limited extent, with the provisions set out in the First Article to provide local government with legal protection in a codified document where it serves to address the current constitutional weakness of local government within the existing system of governance. However this should be enshrined in such a way that does not just preserve the status quo, but would ensure that, where appropriate, local government size and structures have the flexibility to be altered to be of a sustainable size to maintain high quality service delivery whilst still being recognisable to residents living and working in an area.

3. We agree that the rights of our residents should not be affected by the code and understand that, the council would be expected to act in accordance with the code should it be implemented after the consultation.

LOCAL AUTONOMY AND SELF GOVERNMENT

4. The council agrees with the code's concepts of local autonomy and self government. The General Power of Competence contained in the Localism Act 2011 provides the framework of freedoms for the council to deliver its strategic goals. However this code takes the principles of localism to a level far in excess of that recently devolved through the Localism Act and as such would require a significant shift in the way Whitehall currently operates. For example removal of some of the 140 reserved powers that the secretary of state currently holds in the Act.

5. Local government has clearly demonstrated that it can transform the way it operates in order to best meet the needs of its communities whilst securing value for money. However, the capacity to continue this improvement and entrepreneurialism will be significantly hampered if the current centralised constraints within which it works are maintained.

SCOPE OF LOCAL GOVERNMENT

6. The council is in agreement with provisions within Article 3—*Scope of Local Government* as it reiterates the decentralisation agenda. Whilst the Council welcomes early government consultation with local government in its policy and decision making processes, this will require consensus across Whitehall on implementing these principles to make a real difference. The Government will need to be transparent in presenting the evidence of any realistic differences made by such consultations with local government. Furthermore, the council would seek clarification over whom and in what format would the proposed consulting forum would be and how this would reflect the views of the authority.

INTER-GOVERNMENTAL ACTIVITIES

7. The council welcomes the code's provision for central and local government working in partnership to devise inspection regimes and maintain service standards. The council has embraced the self-regulation agenda but is open fully to other external challenges in its drive for continuous improvement. However, whilst the council recognises that national standards have to be maintained in the delivery of national policy, it would wish to retain the ability to have local standards where it meets local citizen and budgetary needs. The council would also urge that any jointly devised inspection regimes are developed in the spirit of self-regulation and the principles held within the Draft Local Audit Bill.

TERRITORIAL AUTONOMY

8. The council is in agreement with the code specifying that boundaries are an issue for local authorities and their citizens. The council also welcomes the continued involvement of the Local Government Boundary Commission (LGBCE). In the last year, the commission conducted an Electoral Review of Derbyshire and the authority is confident that the final recommendations will be for the benefit of local communities. The council does have concerns about the concept of using local referenda in any boundary change process. During the recent Electoral Review of Derbyshire County Council by the LGBCE, there was a limited response from the public to widely publicised consultations by both the LGBCE and the council. The council would seek assurances that any consultation processes are proportionate and would not be financially detrimental and/or pose unnecessary burdens on the council.

9. Finally, the council would like to see the code clarify the powers that the LGBCE have in regard to boundary changes and would recommend the council and its citizens are able to adapt their boundaries to local need rather than solely on the LGBCE's criteria.

COUNCIL GOVERNMENTAL SYSTEMS

10. The council broadly agrees with the code's principles over local autonomy on its decision making processes, which strengthens the provisions in the Localism Act 2011. However, the council has reservations over the need to review its political decision-making system every eight years and the need to produce a "Political Governance" report. The council's experience from carrying out wide and regular consultation with residents shows that citizens are far more concerned with the quality of services delivered, rather than models of political governance. Furthermore, the code should allow for the council's administration at the time to determine how it is governed, and to consult with citizens in its preferred forms should it feel necessary.

11. Finally, the council does not agree with the need for local determination of electoral arrangements in the form of a referendum. We feel that there would be little public interest, as evidenced by the recent referenda for directly elected mayors in some areas of the country. This provision would potentially be an unnecessary and expensive burden on the council and its residents.

LOCAL GOVERNMENT FINANCIAL INTEGRITY

12. It is difficult to provide a detailed comment on the approach for devolving financial powers without further understanding and sight of the technical detail of such a proposal. However, in principle, the council welcomes the code's proposals for financial independence from central government. This Article extends the provisions from the general power of competence and the proposals in the Local Government Finance Bill. The council welcomes the principle of equalisation, so no areas are disproportionately affected by external economic pressures. The council supports the principle of citizens to be able (through their local authorities) to raise additional sources of income, if consent is agreed by a binding referendum. However, any such undertakings need to ensure that the public are well informed of the implications of such a referendum. The council also welcomes the code's provision for a guaranteed annual share of the yield of income tax, as appropriate for the level of services it is responsible for and the ability to raise loans. This compliments the Tax Increment Financing powers provided in the Local Finance Bill. Finally, the council welcomes the code's provision to remove central government's capping powers or ability to otherwise limit a local authority's taxation powers, and would welcome the ability to work in partnership to ensure their policy objectives are delivered.

Councils Right and Duty to Co-operate and Association

13. The council broadly agrees with the code's provision for being able to co-operate in any way with other councils and other organisations, which extends to services. This further assists the council's ability to deliver value for money and enhance wellbeing to its citizens. However, the council would like to see the code recognise the co-operation between other relevant partner organisations, to ensure delivery of services to citizens and with other local authorities not in their geographic area. This would further enhance the ability for the Council to explore delivery efficiency savings whilst maintaining excellent services to its citizens.

LOCAL REFERENDUM

14. The council is not wholly in agreement with the code's provision for using local referenda as the key mechanism on which to base a mandate for agreeing policy decisions. The council has well established engagement forums and consultation processes which allow for citizens views to be regarded by democratically elected members as part of the election cycle. Elected Members are mandated to represent and act upon the needs of their electorate through the current election cycles and referenda haven't been used as a means of replacing this democratic mandate. However, the council supports the need for any appropriate referendum to follow the standards set by the Electoral Commission.

LEGAL PROTECTION OF LOCAL GOVERNMENT

15. The council welcomes the code's provision for the right of recourse to seek judicial remedy to ensure it can freely exercise powers in respect of the general power of competence.

IMPLEMENTING THE CODE

16. A key challenge will be ensuring that agreement to a code and abiding to its conditions extends across government and that it is not restricted to the Department for Communities and Local Government alone. Considerable cultural change will be required to ensure that all central government ministries were aware of and adhered to the code in all activities and to recognise that a constitutional rebalancing had occurred as a result of the codification of the relationship between central and local government.

October 2012

Written evidence submitted by the Local Government Association

1. The Local Government Association is here to support, promote and improve local government. We will fight local government's corner and support councils through challenging times by focusing on our top two priorities:

- representing and advocating for local government and making the case for greater devolution; and
- helping councils tackle their challenges and take advantage of new opportunities to deliver better value for money services.

SUMMARY

2. The LGA welcomes the Select Committee's inquiry into the prospects for codifying the relationship between central and local government. We have been working with our member councils across England to inform the content of our submission through our Independent Local Government campaign.

3. Councils are at the heart of every local community. They provide the services people rely on; they change lives every day; and they are directly accountable to their local electorate. As more powers are devolved to local communities and neighbourhoods, councillors in different roles are more able to be active amongst their communities, making a real impact on people's lives.

4. Granting councils more freedom will empower them to deliver more effective services for local people. But greater freedoms and flexibility must go hand-in-hand with a fair and simple funding system that gives greater financial autonomy, supports local services, and encourages economic growth.

THE LGA'S INDEPENDENT LOCAL GOVERNMENT CAMPAIGN

5. There is a pressing need to remove barriers to economic growth. The over-centralisation of economic policy is such a barrier. The evidence from other countries is that growth and investment are stronger where local authorities have the autonomy to lead economic development effectively.

6. The Local Government Association (LGA) is campaigning for stronger democratic accountability for public services and greater freedoms for local government to enable better outcomes for their communities and increase local prosperity. Since February 2012 we have been consulting with our members on the issue of codifying the relationship between central and local government.

7. The LGA has been speaking and listening to its members through regional events, discussion groups, online communication, public debates and a variety of other means to ask our members what they want to happen. These conversations have informed the LGA's position on codifying the central-local relationship.

CENTRAL AND LOCAL GOVERNMENT IN ENGLAND

8. The LGA firmly believes that powers should be decentralised to the lowest appropriate level and that services should be democratically accountable. If councils are given more powers which currently sit with national government, more freedom and more flexibility, they can promote local growth so taxpayers and public services can share the proceeds of growth and avoid damaging frontline service cuts.

9. At the same time, public services are changing because tax payers demand it; they want services to be affordable, give better value for money and put people in charge of the services they use. Furthermore, the models by which public services have been delivered for the last 50 years are no longer affordable. In large part this is due to reductions in public spending, but we are also on the brink of significant increase in demand for services and increased public expectation about the quality of services.

10. Councils are at the forefront of meeting these challenges and are driving transformational change and redesign of services, developing new partnerships and ways of working to break down silos to result in services that are fundamentally better—in terms of results, value for money and efficiency.

11. Councils also have key roles to play in supporting economic growth, promoting consumer and business confidence and supporting the private sector.

12. Across local government, councils are ambitious for even better outcomes for their communities and are developing innovative ways of working to deliver them. Examples such as the City Deals negotiations, creation of Enterprise Zones and Community Budgets pilots have all illustrated that there is a demand for greater autonomy and a determination to take action.

13. Recent developments under the localism agenda such as the introduction of the General Power of Competence have demonstrated that there is a willingness from the current Government to begin to devolve powers to local government. Indeed, in the Open Public Services White Paper Government recognised that strong local government should be at the heart of the reform and modernisation of our public services. Government also recognised that councils are not only the most efficient part of the public sector; they are also now recognising that they are the most reforming and innovative.

14. However, control over local government's powers and funding remains in the hands of Westminster and Whitehall. Any improvement in councils' autonomy granted in the last few years could be eroded by the stroke of a future secretary of state's pen or completely reversed at the whim of a future government. The LGA believes government can go much further in embracing the principles of localism and encouraging local growth.

LOCAL GOVERNMENT FINANCE²¹

15. Devolving powers to local government without the funding to execute those powers would be a largely empty gesture. At events around the country, our members told us that any statutory change in the central-local relationship would need to be underpinned by reform of the funding mechanisms for local government.

16. The LGA would like to see the public sector finance system reformed such that councils raise more funds locally, have confidence their finance is sustainable and fair and have greater ability to coordinate local public services and ensure that those services continue to be delivered in future.

17. In the spirit of true localism, spending decisions on money collected locally should be determined locally by councils and not national government.

18. An illustration of how the failure to recognise the maturity of councils is damaging to the nation as a whole is the way English councils' borrowing is organised. Even though councils collectively have a strongly positive balance sheet (and some individual councils, such as Birmingham, have secured triple "A" credit ratings that many European governments can only envy), the balance of regulation and Treasury financial pressure means there is no municipal bond market in this country. This limits the nation's ability to undertake the infrastructure investment that is so urgently needed now to kick-start growth.

19. Contrast this with Sweden and Denmark, where local government-run agencies are able to borrow directly from the markets. Swedish and Danish local authorities, often working in partnership with central government, have created collective agencies which allow councils to work together to raise infrastructure finance.

20. The Scandinavian agencies such as the KommuneKredit in Denmark are highly rated, with conservative risk management strategies and tight financial rules to ensure they only lend on the basis of agreed financial standing of councils. Those agencies and authorities have never defaulted, boast strong guarantee structures

²¹ For more detailed analysis of the future of local government finance and the LGA's suggestions for reform, see the LGA's recent paper 'Funding outlook for councils from 2010–11 to 2019–20: preliminary modelling' available at http://www.local.gov.uk/web/guest/publications/-/journal_content/56/10171/3626323/PUBLICATION-TEMPLATE.

and are in a strong liquidity position. Member councils borrowing from this source have a strong appreciation of their financial responsibilities.

21. As a starting point, any investigation of fiscal transfers throughout the UK should learn from the success of the Scandinavian model of local autonomy and finance. This could be a way of putting local government in England on a more stable footing and equal footing, thereby giving councils the power to unlock economic growth.

22. Only with fundamental change to the funding system will local government be able fully to realise its potential and ambitions.

THE EUROPEAN PERSPECTIVE

23. Lessons can be drawn from comparing the central-local government relationship in England to those which are seen elsewhere in Europe.

24. The Council of Europe Charter on Local Self-Government, which now has 43 signatories, lists a number of commitments on areas including taxation, management of public affairs and limiting central supervision. The UK Government signed the convention unconditionally in 1998.

25. A brief review of the constitutional arrangements of other European countries shows the UK lags behind many others in anchoring these provisions in statute. A number of reviews of the Charter have concluded that the UK has not fully implemented its provisions. A 2006 Council of Europe report found that the UK was one of seven out of 28 countries where central control or supervision is increasing. The next review of the UK is due in 2013 and might be a useful marker in assessing progress on this front.

THE SELECT COMMITTEE'S DRAFT CODE

26. The draft statutory code commissioned by the Select Committee has formed the basis of the LGA's engagement with its member councils. Overall, the prospect of codifying local government's autonomous status has been welcomed provided such a codification has legal teeth.

27. Members have told us that any such code must be an enforceable legal document. Previous experience of the 2007 Concordat²² has shown that any document concerning the relationship between central and local government must be protected from change or repeal at the whim of any government in future. The LGA therefore believes that an Act of Parliament would be necessary to give the key provisions force and also supports the Select Committee's suggestion that any new provisions have special protection through the Parliament Acts, making them a quasi-constitutional law.

28. We have discussed the draft code extensively with our members. There are six points around which there was strong cross-party consensus:

- (1) full retention by local government of uncapped and locally-decided council tax and business rates, subject to retaining mechanisms for fairness and redistribution;
- (2) giving councils more freedoms and flexibility to continue to enable economic growth in close collaboration with their local partners, as outlined in the LGA's campaigning on growth and housing;
- (3) entrenching local accountability by removing many of central government's unnecessary supervisory powers (although there is a feeling that it is good for central government to retain a backstop role in areas such as safeguarding);
- (4) removing central government's and Parliament's power to decide councils' boundaries, structures and governance models, leaving those matters up to councils and local communities with the support of the independent Boundary Commission;
- (5) restating the General Power of Competence, and extending its principles in the spirit of community budgets, by making it a default position that local government should have the power to provide any local public service not explicitly reserved to another body; and
- (6) entrenching those elements of local government's legal position in a way that made it harder for future Parliaments to re-regulate local government.

29. These reflect many of the points contained within the draft code. The LGA believes the substantive points listed above could be contained in an the Local Government Autonomy Act shorter than the Committee's draft Code, but acknowledge that there is a substantial amount of work to be done, not only to draft such an act but also to make the necessary repeals and amendments of existing law.

30. It is important to note that any change cannot be effected by statute alone. The culture, behaviours, and systems in place throughout both local and central government reinforce the status quo. A concerted effort will be needed at all levels of government to enable what would be an undoubtedly radical change in the relationship between central and local government.

²² Full text available from <http://www.communities.gov.uk/documents/localgovernment/pdf/601000.pdf>

31. The LGA would welcome a continued close working relationship with the Select Committee in respect of the legal, regulatory and wider cultural issues raised by the development and implementation of a statutory code.

October 2012

**Written evidence submitted by Cllr Sir Albert Bore,
Leader, Birmingham City Council**

1. I warmly welcome the work of the Committee and of Graham Allen MP for over two years on the relationship between central and local government.

2. The UK is one of the most centralised of the advanced democracies and for too long local government has been seen essentially as an administrative arm of Whitehall. Even the very existence of councils is dependent on the whim of Parliament. The code would give local government a secure role within the constitution and ensure that gains made by one localist government are not lost to a future centralising one. The previous Labour Government made historic strides in modernising our constitution through devolution to Scotland, Wales and Northern Ireland but the question of England must now be addressed. I also welcome some of the localist measures taken by the current Government, in particular the general power of competence and the City Deals process.

3. But we must go further. I believe that local government as a whole should have a proper constitutional status. I also believe that you cannot have real localism without a more localised system of taxation and funding. Local government depends for far too much of its income on government hand outs and is prevented from raising money locally in a way that would make it accountable to local people. We urgently need to re-balance the system so that more of the public money we spend is raised locally and kept locally. There can be no independence for local government without financial independence as the code rightly points out.

4. But not all councils have the same role and functions and we should recognise within the code the different role played by our counties, districts, towns and the large cities and their city regions. As the capitals of their economic city regions, the core cities are vital to the economic success of the country. Giving them greater autonomy and the powers and resources to drive economic growth would help to rebalance the economy away from a dependence on London and the South East and on finance and property, allowing cities to develop their own economic strengths and to connect to today's global economic networks. From my work across Europe I have witnessed at firsthand what can be achieved when city leaders are able to draw together the funding and the vision to drive their city forwards. Thanks to the last Government, London now has a Mayor and an Assembly with such powers. It is now time to turn our attention to the rest of the nation's great cities and to create a level of genuine autonomy that will enable them once again to make their full contribution to the nation as a whole.

5. We can debate further the precise wording of the articles in the code. But I believe it is a banner behind which all localists should unite in demanding the independence for our local councils that is taken for granted in many other nations. I hope the political parties will now compete to take it forward in government.

October 2012

Written evidence submitted by Sir Robin Wales Mayor of Newham

1. I'm writing to offer my thoughts on your consultation on a codification of the role of local government.

2. First of all thank you for starting this important discussion. I have long believed that we need much greater clarity about the role of local government and clearer limits to the legitimate boundaries of national government influence over what we do. The code offers a clear starting point for a discussion about the responsibilities of local government.

3. In all discussions about localism and the roles and responsibilities of various levels of government I believe we must begin with two principles: respect for the democratic process and a commitment to devolving power to the lowest possible level.

4. I support the code's emphasis on the equal status of local government and that our primary accountability is to the local people who elect us. That accountability and respect for the democratic process must be paramount in any devolution of power. As such there will always be a legitimate role for national government in setting objectives based on the national policy direction and working with local authorities to ensure standards. Rather than agreeing an inspection regime with central government which reinforces the sense that local government is the recalcitrant child of national government to be kept in check—I would advocate a mutually agreed set of outcomes which the local authority is free to achieve as it sees fit. That, alongside greater financial freedom would also make it easier for local authorities to tackle the causes and drivers of poor outcomes rather than instrumentally deal with negative side effects.

5. I would be concerned by the move to an independent funding equalisation committee. Choices about how to redistribute funding are by their nature driven by moral and political decisions. They are not technocratic choices that can be reached through a prescribed formula. Those decisions must be made by elected representatives, accountable to the population. That said, there should be greater clarity about funding and I support the call for rolling three year settlements which are then fixed. That may mean greater efforts to build cross party consensus on funding settlements to encourage consistency across administrations.

6. It is for reasons of clearer accountability and respect for the democratic process we must end the proliferation of alternative accountability structures and tiers of bureaucracy. The creation of a series of bodies such as Local Enterprise Partnerships, Clinical Commissioning Groups and Police Commissioners adds needless layers to local structures, makes collaboration more difficult and makes it harder for local people to hold those with power to account. When, for example, our response to antisocial behaviour falls across health, the police and local government it is near impossible for residents to genuinely assess organisations' progress and relative responsibility.

7. Second tier bodies have complicated funding arrangements and dilute incentives for local development. For example, Newham has been designated an Enterprise Zone, an opportunity for us to work creatively to attract new business and build on the interest attracted by the Olympics. However, the business rates generated will go to the pan-London Local Enterprise Partnership, significantly reducing the benefits to local people of local action. These bodies simply make local service delivery more impenetrable for people and make it harder for local authorities to work holistically and collaboratively.

8. A more unified and consistent approach as advocated by the consultation's proposals could move us on from this unnecessary complexity and greatly improve the freedom of local authorities to deliver on a clear vision for local people.

9. This is an area of great interest in me, and I very much hope this sees the start of a more engaged and contentful public discussion about the future of localism.

October 2012

Written evidence submitted by Cllr Kay Cutts, Leader, Nottinghamshire County Council

1. Nottinghamshire County Council welcomes and supports the concept of a code for central and local government to define and clarify rights and responsibilities. The council also supports the underlining philosophy that local councils should have co-equal, not subordinate status to central government and that their rights and duties should enjoy equal protection in law.

2. To demonstrate our unified commitment and to further our understanding of the issues, we recently hosted an event attended by our councillors, at which, your Committee Chair, Mr Graham Allen MP gave a presentation on the initiative. Following this event, the council has submitted a letter of support from all 67 Members and signed by all of our four political group leaders.²³

3. Although we recognise that there is room for fine tuning the final narrative, the county council supports the general principles as detailed in articles one to ten as currently written and we look forward to further developments to bring this to fruition.

October 2012

Written evidence submitted by John Robinson, Chief Executive, Gedling Borough Council

1. I write on behalf of the Leaders of each political group of Gedling Borough Council to express their unanimous support for constitutional reform to make the roles of Whitehall and councils clearer to local residents.

2. The Council fully endorses the proposition that local government is capable of being independent and supports the development of a code that recognises this independence.

3. Please add Gedling's name to the list of supporters and accept our thanks for taking forward this work.

October 2012

²³ Letter signed by Cllr Mrs Kay Cutts, Leader of the Conservative Group, Cllr Alan Rhodes, Leader of the Labour Group, Cllr Jason Zadrozny, Leader of the Liberal Democrats and Cllr June Stendall, Leader of the Independents.

Written evidence submitted by Cllr Keith Wakefield, Leader, Leeds City Council

1. Thank you for writing to me and requesting a formal response to the inquiry into whether the UK should have a constitutional convention that would codify the relationship between central and local government. I very much welcome the opportunity to feed into the inquiry. As you know we have already submitted the report of the Commission on the Future of Local Government, led and initiated by Leeds City Council, and Tom Riordan (Chief Executive, Leeds City Council) and attended an oral evidence session as well.

2. The work of the Political and Constitutional Reform Committee and the work I have recently been involved with, the Commission on the Future of Local Government, have much in common. I would like to outline some of my views from this perspective, as there are complementary facets to our respective pieces of work.

3. Firstly, the Commission did not take a view on codification *per se* as our focus was on a new leadership style for local government called “civic enterprise”. The Commission did take a view on what we called “the English Question” (report attached)²⁴ which attempts to address some of the “unfinished business” of devolution and building on City Deals, which is all a fundamental part of the question you are posing.

4. The Commission did, however, find that there is a great deal of converging opinion, not only from the sector itself but far beyond, calling for local government to have a better defined and more equal relationship with the centre. I recommend that the Committee take our report into account.

5. Local government does already have a good deal of statutory responsibilities and power, including nowadays the Power of General Competence. The Commission took the view that the power of local government also lies in its ability to influence, through its democratic mandate, other actors. Creating a convention would be a good opportunity to define the respective roles and responsibilities of central and local government and this could certainly form a longer term aim for the sector.

6. We would be very keen, like you, for the proposed codification to really change things rather than pay lip service to a real rebalancing of power. You may want to consider a potential of the codification approach, which may be whether changing the framework in which we all operate would in fact change the relationship between the centre and local government. The Commission was keen that local government utilises the power we already have and increase our influence over local issues, priorities and actors. It may be that we need to consolidate an argument which states that changing the statutory and constitutional power and position of local government will match our ambition, attitude and capability. Hence, the Commission emphasised the importance of leadership capacity and democratic legitimacy to achieve better outcomes for people locally as well as “hard power”. I think this is an area where the propositions suggested by the Commission may help your inquiry define the new role of local government.

7. If a convention were to be developed you may consider in particular one of the Commission’s proposals, which was to address the current lack of a specific focus on England by Whitehall and Westminster institutions. This weakness could be challenged by, for example, considering whether there should be a Secretary of State for England, an English Office and a Select Committee for England (as there currently are for Scotland, Wales and Northern Ireland). This could be added to any reform proposals that may stem from a convention. Importantly, we advocate that this is done within current budgets.

8. Fundamentally, I think a convention would have to challenge the status quo and make a real difference. It would have to really have an impact on the centralist tendency of the UK state, which is almost beyond doubt the most centralist state in Europe. You could argue that centralisation has stifled the ability of individual cities to pursue their particular strengths and attributes. There is a general consensus both in the wider research and in government policy, that decentralising powers—both from central to local government and from local government directly to citizens—is essential if we are to meet the challenges of the 21st Century. This raises issues of how best to do this, without additional costs or fragmentation.

9. Overall, we would welcome having a convention if the outcome would be a relationship in which local government are treated as equals and where local government has sufficient power and control over its own destiny and, in particular, over local resources. This may mean thinking about how councillors are supported and remunerated in order to get the best representatives possible for this context. It may also mean that other services are scrutinised locally by elected representatives (including, for example, health services).

10. In summary, we support your aims and believe that local government would benefit from having a well defined and codified description of its powers. We are happy to support the inquiry in any way we can and ask that you keep me informed of any developments. Likewise, we will keep you updated about any developments around the Commission on the Future of Local Government which may be helpful to you.

October 2012

²⁴ Not printed

Written evidence submitted by Cllr John Shephard, Bassetlaw District Council

1. As a Labour member of Bassetlaw District Council I wish to endorse the LGA's six key recommendations for independent local government. Britain's prosperity and vibrancy will depend on independent, financially secure and innovative local councils. Local councils themselves must be free to develop their own structures and solutions without excessive and frequent interventions/control from central government.

October 2012

Written evidence submitted by Tony Pearce

1. I write as someone who has served as a member of Stoke-on-Trent City Council, Staffordshire County Council and Stafford Borough Council.

2. It is my considered view that local government has been all but destroyed by the actions of central government. The powers now held by local government, the ongoing restrictions on finance through cuts to central government funds, the interference in local fundraising and the lack of alternative sources of finance have completely undermined the ability of local councillors to act meaningfully on behalf of local residents. The provision of housing has, in most local authorities, been transferred to housing associations. Schools have been either forcibly transferred to academies or given financial incentives to do so. Outsourcing of provision to private companies is proceeding apace. Local democracy is all but meaningless.

3. I strongly support the draft code of practice. It is essential if local government is not to disappear altogether.

4. The only area of disagreement would be on finance. I would prefer to see local taxes, including income tax, as an alternative to a share of national taxation (although this would be far better than the council tax).

5. I hope that something comes of this proposal though, given the increasing powers of central government, I doubt it.

October 2012

Written evidence submitted by John W Healy

1. In response to the public consultation to see what appetite exists, if any, for any form of codification of the relationship between central and local government—I offer the following comment as an individual citizen (on the Runnymede Borough Council Electoral roll).

Article 2; para 2: "Councils shall operate within the rule of law and with regard and respect to human rights legislation"

2. Whilst I support the principle of human rights I believe I am not untypical of a majority of the citizenry in having become increasingly concerned and frustrated at the interpretation of human rights by government and judicial institutions which tend to arbitrarily place a disproportionate importance on the rights of minorities over the rights of the majority (of reasonable and fair minded citizens) and individuals prejudiced by such interpretations.

3. I specifically include in this the rights given to minorities such as the gay/lesbian community, with particular reference to the redefinition of marriage and gay adoption. I am similarly concerned at the protection given to citizens and non-citizens in matters of alleged criminality and their being brought before an appropriate court of law.

4. In short I am concerned that there needs to be a rebalance in favour of the majority whilst protecting within reason the disadvantaged and victimised.

5. Human rights legislation needs to incorporate provisions clarifying the responsibilities of any who claim human rights protection, as to their responsibilities to their communities, fellow citizens and governments providing them with their human rights protection.

Article 8; para 3: "Councils are able to belong to any association for the protection and promotion of their common interests and to belong to an international association of any sort. Councils are entitled to co-operate with councils in other countries for any matter"

6. The freedom with respect to engaging in any such associations and co-operative relationships should be carefully defined to exclude the possibility of including those which are against the national interest or which have not passed an appropriate due diligence test and which are subject to appropriate management control to protect against any relationships which could be construed as undesirable or in any way in conflict or inconsistent with local or national interest, reputation, ethics or morality.

7. There are undoubtedly many points of details which would arise from the detailed consideration of this proposal. One particular issue I would like councils to be able to locally determine is whether a fairer local tax regime would be appropriate in their area eg whether wealthier residents should contribute more through council property taxes which are more reflective of higher property values.

October 2012

Written evidence submitted by Graham Benjamin

1. I welcome and support the code. It is the correct basis for a re-definition of the relationship. Of the nine principles the most important for me are the independence of local government and the safeguards for revenue generation.

2. We must seize this opportunity not only to introduce a codification of the relationship but also set a new basis for the relationship, which has become so distorted over recent decades towards over-centralisation. To achieve independence for local authorities in England will both complement Welsh and Scottish devolution and re-create the appropriate separation of powers, which existed at the outset in the 1870s when local councils were created in the form we recognise today.

3. This is an historic opportunity on both counts and one not to be missed. I applaud the Committee's work on this.

October 2012

Written evidence submitted by J. D. Budden

SUMMARY

1. I agree with the code in principle: local government should not in effect act as agents for central government but have authority and be accountable to its local community.

2. However the fundamental assumption behind the code is that local authorities are fit to take on these responsibilities and are accountable to their local communities. While in constitutional terms this may be the case, in practice I think the current arrangements for local government fall short and question therefore whether this whole scale transfer of powers will achieve its aims.

DETAILED POINTS

Principle behind the code is right

3. I agree with the principles behind this code and think that it is worthwhile to alter the relationship so that central government can no longer use local government to bring about its own policies and hide behind local authorities.

Basic Concern

4. Can you look at the relationship between central and local government without looking at the state of local government itself, which has resulted from both the electoral system and the fact that government has emasculated local authorities?

Resourcing

5. Are all the current local authorities up to the job of taking on more responsibilities?

6. Some district authorities are very small. Exmouth town council has only a few staff.

7. Do smaller authorities have the breadth of understanding of what is required strategically to handle the issues that would need to be dealt with locally?

8. Do they have the standard of resource required?

9. Can they pay the rates required to attract and retain high quality staff?

10. Also Councillors today cannot live on what they earn so they are predominately the retired. Where there are three authorities, such as in Devon, councillors feel that to make a difference they have to be on all three authorities, which means that they rush from meeting to meeting and have little time to think strategically or to really do in depth work which may be necessary to spend money appropriately.

11. While the code aims to allow local communities to change local government structures, the electoral system, cabinet with all its patronage to committee system and boundaries, I wonder in practice whether/how it will happen?

Current system does not give a legitimate electoral mandate

12. The code suggests that the electorate gives local authorities a mandate, which legitimises local authorities in raising and spending the money. However this assumes that the current system is democratically adequate and that elections under the current system will have the possibility of changing the majority on the council. It further assumes that there is a basic level of trust in local government. This is not so. Where the council's majority is always in one direction this can breed complacency among the councillors. They don't fear the ballot box.

An example

13. Here in East Devon the district council has been Tory since its inception in 1974. With the FPTP system there is no chance of this changing. Exmouth has a population of 36,000 far bigger than all the other towns in East Devon yet it only has a "parish" council with few powers.

14. We saw with the debacle over whether Devon should go unitary that public money can be used to mount legal challenges and a magazine produced with public money can be used to press for the status quo. There is nothing that can be done about that by those who disagree because you cannot challenge elected members' decisions.

What are the checks and balances at local level?

15. At local level there isn't currently the press scrutiny that occurs nationally nor does the opposition often have much resource. Often where one party under the current system has a built in majority, the opposition atrophies because it is more fruitful to deploy the resource elsewhere.

The code talks about local communities being consulted through referenda to bring about boundary, internal LA arrangements and other electoral changes

16. However this assumes that the local authority wants to change the status quo. I wonder if the present incumbents, who do well out of current arrangements, would use their powers as they did with the debate over unitary in East Devon to press for the decision they wanted?

Odds are stacked against independents

17. Without the backing of a political party ordinary people have to be very dedicated and committed to try to get through a system where councillors and their staff know how to play the system. The problems of elected police commissioners and independents show the difficulty of independents having the resources to challenge the system.

18. Most people don't have the time or think it is worth the "battle". The idea of referenda is a good one but if it costs £12,000 in a period of austerity those that don't want one will always suggest that there are better uses of the money.

19. Alternatively you don't want the system whereby those individuals, either members of the public or on the council who have particular agendas can disrupt/almost bring to a stop local decision making by playing the system. This has happened locally and there are rumours that it has been orchestrated by a political party that most people would have nothing to do with.

Ignorance of the current system will inhibit change

20. Many people don't understand the relationship or powers and authority of the three local authorities that we have now: town, district and county, so if there are going to be changes, there needs to be a strong educational programme. While if we had local control all this might change as it would be up to local authorities to sort out the arrangements I wonder?

Appeal system

21. If the code is to be adopted—how will problems be arbitrated? Many refer to central government now because they feel this is the only way to get some redress for what they consider to be wrong/unfair practices or decisions. The only way of changing such a mindset is for local government to work well so it is well respected but the transition between one system and another is bound to throw up all sorts of issues which will need to be sorted out.

Conclusion

22. This is a good idea in principle but unless the current weaknesses and inadequacies of the present local government system are addressed as part of the process it will bring local government even more into disrepute.

October 2012

Written evidence submitted by Dr Nicky Davis

1. I just wanted to make a few comments in response to your “consultation”.
2. I live in Stoke-on-Trent and have seen huge interference in local government amounting to party political manipulation, particularly by the Labour party, but the system is open to all parties to abuse. I will come on to that.
3. But first to the idea of having a code. The principle of a code is in itself a good idea if the country were fair, but it's not. For that reason I am not going to get bogged down in commenting on details of the code, as these things are too often empty words to look good and can so easily be over-ridden if the powers that be decide to anyway.
4. I do wonder why this code is being considered at a time when governance is becoming more and more centralised, especially financially, with less and less resource given to local government to provide services and the paring down of local government towards statutory obligations only. This is accompanied by restrictions on local tax raising powers. The appalling undemocratic academy system of schools, foisted on us by first Labour and now Conservative governments is a move to central control and local education authorities are on the way out.
5. Personally I'm in favour of well resourced local government, providing for empowerment of properly local people (not parachutists, paper candidates or political party ladder climbers) to run their local areas for the benefit of residents, free from party political and central interference, but that just isn't the road we are on. So I can't really see the point of a code for a relationship between central government and a local government which is being driven out of existence.
6. A much more useful idea would be to repeal the Local Government Act 2000 which is an undemocratic act open to party political abuse as it does not require any sensible justification for central government to move in and manipulate local councils.
7. A governance commission was sent in to Stoke-on-Trent, it seems to me simply because the Labour party felt too many independent and BNP councillors were starting to be elected. Now I'm no great fan of the BNP (they don't need intervention as they are proven quite capable of instigating their own demise), but I do confess to being an independent voter, depending on the independent, some are very good proper community representatives, others are despicable. But the key point is whomever the electorate choose, be it BNP, independent or monster raving loony, it's their choice and the way to counter it is in a fair campaign, not by sending in the heavy mob. The governance commission asked the council to look at the possibility of whole council elections, the council agreed to consider this but this was later twisted into they had agreed to do it. The results of a public consultation indicated a fairly even split between retaining thirds and moving to whole council elections. Under the Local government Act 2007, which is a much more reasonable way of doing things, the council then had a vote and reflected well the views of the public with an even split. But it takes a 2/3 majority to decide on such a major change so the motion to move to whole council elections was defeated. Whilst I favoured thirds, I would have thought it perfectly reasonable if the consultation had indicated a strong public opinion for whole council elections and the council had reflected this by >2/3 vote, to move to whole council elections. I'm a democrat. But the council vote was to retain thirds. That is when the biggest outrageous event happened, central government moved in and forced whole council elections on the city, against local people and against local governance and imposed an interim board on us. The then Labour Government used the Local Government Act 2000 to do this, as no good reason is required. This was done by a Labour government to assist Labour dominance in local government. This had the further effect of undermining local opinion by foisting ward boundary changes on us. The LGBCE produced a right mess of mostly one but also two and three member wards, contrary to public opinion. Public opinion was somewhat more strongly in favour of two or three member wards than single member wards but overwhelmingly of the opinion that we didn't want a mixture, all wards should have the same number of councillors. So we were ignored on that. Furthermore we were told the council could have asked for single member wards only, which they didn't, but would not have been allowed to ask for two member wards only. Where's the sense in that? The new undemocratic system favours Labour dominance because it is easier for large parties to find candidates in whole elections and boundary changes are detrimental to independents with more of a personal relationship with the electorate in an area. It also favours Labour dominance by alignment of local and general elections in 2015.
8. Above are the facts of undemocratic government interference in Stoke-on-Trent. On top of that there are rumours I have heard, plus I was present at the local election count in 2011 though rules do not permit me discussing what I saw there. There is talk of irregularities with the postal votes, to favour Labour. I have also heard of usual polling stations especially in non-Labour voting areas being closed to the confusion of some of the electorate and forcing them to travel to other polling stations further away. There were address confusions where some electorate did not vote in the ballot that actually applied to the ward they lived in. There was lack of clarity and much speculation over whether at least one Labour candidate and likely others were actually eligible to stand for election. I have no proof of these so make no allegations, none of the rumours may be true, but I have seen no investigations and it just doesn't inspire confidence when such rumours abound, especially when they sit on top of factual central government interference.

9. So, if you are going to codify the relationship between central and local government, don't just go through the motions or do it for spin purposes, actually mean it!

10. Some other points to make which may be further off topic, but I'll have my say anyway. I think we should do away with cabinet systems in local government in favour of committee systems where all councillors have equitable roles and equal financial reward. This helps to avoid their votes being "bought" and is more democratic so every ordinary person's elected councillor gets a say in the decisions of council. I also think we should have STV at local council elections. This would encourage any number of local representatives to stand for election and be in with a proper chance and would also achieve election of the "best fit" candidate to the local views. But then I'm simply a believer in proper representative democracy rather than party politics.

11. Please include my contribution in your consultation process.

November 2012

Written evidence submitted by 2020 Public Services Hub

1. The 2020 Public Services Hub (2020PSH) is a research and policy development hub created in 2011 from the legacy of the 2020 Public Services Trust. It specialises in practice-based research on public services. Based at the Royal Society of the Arts (RSA), 2020PSH works collaboratively with local and national government as well as business and third sector leaders to help shape public service delivery and reform. We champion a "social productivity" approach in which citizens are actively involved in creating and shaping public services which enable them to live more fulfilled lives.

2. 2020PSH supports in principle the codification of the relationship between central and local government, and the recognition of local authorities as independent from and co-equal to central government. We welcome the draft code as an opportunity to agree a new settlement reflecting local government's growing role in the social, economic and political landscape of the UK. In recent decades the potential for social and economic growth in our towns and cities has been undermined by centralisation, and the seemingly constant policy uncertainty which had characterised the relationship between Whitehall and local government. No sooner have one set of institutions been created to co-ordinate growth and public services, than they have been replaced by another. What we now need is a settled environment in which local leadership, collaboration and innovation can flourish.

3. However, it is important for the code to be a means to an end. While the code establishes the political status and financial independence of local government, the next step is to clarify local government's overarching duty to improve outcomes for local citizens.

4. Alongside formalising local government's independence and status in relation to central government, the code should recognise the role that local government has played in devising innovative solutions to the pressures on public service delivery in the UK. Local government has been more successful than central government engaging with citizens and co-creating public services that support local people in becoming more capable, autonomous and resilient.

5. For this innovative work to continue, the code must be understood as a necessary first step which gives local government the freedom and finance to:

- (a) Create stronger and more mutually productive relationships across the social, public, and private sectors within a locality, in order to deliver public services in innovative and sustainable ways.
- (b) Work more creatively with the private and social sectors in sharing resources and data in order to support citizens.
- (c) Better understand and making use of resources and networks within communities.
- (d) Tackle inequality of access to services and of outcomes within a given locality.

6. It is also crucial to consider the financial implications of greater autonomy for local government and to examine local authorities' ability to independently fundraise for (and lend) working capital. The recognition of local government's equal relationship with central government must be accompanied by a rebalancing of revenue and expenditure towards cities and counties and away from Whitehall. There should be a reduction in the size and scope of Whitehall and a rolling out of further city and county deals. The current balance of expenditure and revenue between the centre and local government approaches 75:25. We should be aiming for 50:50 to create a proper revenue basis for borrowing, investment and efficiencies within local authorities, and to help UK cities to respond to the international growth opportunities which medium sized cities will be driving as the world continues to urbanise.

7. Finally, for this code to be successful local authorities will need accountable and transparent governance structures and a strong political mandate from citizens. Independent local authorities must consider shifting forms of local leadership ranging from elected Police and Crime Commissioners, Local Enterprise Partnerships

and different mayoral arrangements. They must also engage more actively and successfully with citizens or risk voter apathy in local elections, raising questions about their legitimacy.

November 2012

Written evidence submitted by Joel Benjamin, for Move Your Money UK

1. In response to the consultation document entitled “*Illustrative Draft Code for Central and Local Government*” Move Your Money UK (MYM)—a volunteer run organisation (Company—Limited by Guarantee) are pursuing a national campaign to spread the message that ordinary people can help to create a better banking system through our collective action and buying power.

2. Move Your Money UK are soon to be running a national campaign to work with and assist local authorities move public funds to mutual and ethically driven banks, and would like to raise the following matters in support of a devolved settlement for local government.

ARTICLE TWO—LOCAL AUTONOMY AND LOCAL SELF GOVERNANCE

3. Clause 1. Move Your Money UK supports the principle of autonomous local government—“*accountable to its local citizens.*” Move Your Money UK urge that any definition of “accountability to local citizens” should include “fiscal accountability”—and provide due scope for citizen involvement in, and oversight of, local government procurement and budgetary matters.

ARTICLE SEVEN—LOCAL GOVERNMENT FISCAL INTEGRITY

4. Clause 1. Move Your Money UK support the principle of fiscally independent local government and believe councils should retain the freedom to raise and spend tax revenues, in agreement with the local citizens whom they serve.

5. Clause 3. Move Your Money UK supports the guaranteed fair and equitable annual division of income tax amongst local authorities, benchmarked to growth in tax revenues.

6. Clause 7. Move Your Money UK supports the adoption of identical financial transparency standards for central and local government, and furthermore supports the right of councils to expressly exclude corporations operating subsidiaries in offshore secrecy jurisdictions and tax havens from bidding for council contracts.

ARTICLE EIGHT COUNCILS’ RIGHT AND DUTY TO CO-OPERATE AND ASSOCIATE

7. Clauses (1), (2), (3). Move Your Money UK fully supports the right of councils to freely associate and co-operate with other councils, public and private sector bodies, and voluntary organisations. Furthermore, existing capital controls regarding physical limits to, and central government protection of, council investments in credit unions and mutual funds should be reviewed in the interests of public benefit and to adapt to, and support the recent growth of alternative lending facilities such as “Peer to Peer” lending.

8. Should you require further clarification on any of the above listed matters, please do not hesitate to contact me.

November 2012

Written evidence submitted by Professor Hugh Bochel, University of Lincoln

1. If we want to more firmly define the place and role of local government then a code is probably a good way of doing it, however, it is not clear that *this* is the correct code, at least as it stands. However, it is arguably a useful starting point to enable further consideration of such an approach and what it might include.

2. If we want local government to play a significant role in local communities then a code is not in itself sufficient; rather central government would have to be willing to cede powers and responsibilities to local government, including significant “tax raising” powers. In addition, although perhaps in some respects differently from the relationship implied by some elements of the code, the key relationship and accountability should be to local people, and that should be through representative democracy. This would, however, be likely to lead to very significant differences in priorities and provision across different councils, and they, and central government, and for that matter the public, would have to be willing to accept that.

3. I would tend to agree with Professors George Jones and John Stewart that any code should set out general principles, rather than specifics about how councils should operate.

ON SOME OF THE MORE SPECIFIC POINTS:

4. Under article 3, it would be almost impossible to quantify what would constitute “early” in the policy and decision-making processes, and often such policies are likely to be framed while a political party is in opposition. This would probably need rethinking.

5. For article 4, why focus on inspection, and how would this relate, for example, to value for money, efficiency or effectiveness?

6. On article 5, it is not at all clear why a referendum is required? And there may be issues with the use of referendums, as noted below.

7. Article 6 seems unnecessarily complex. If local authorities are to be trusted, and are to be elected, then they should make the decisions about how they operate. Eight years appears to be an arbitrary figure (why not 5 or 10)? As with other elements of the code, there seems to be no necessity for a referendum, and indeed it would seem to run counter to the primacy of representative democracy. It is also unclear why local authorities should choose their own electoral systems. It is perfectly possible to argue that there are weaknesses with first-past-the-post. But that is also the case for every other electoral system. And the introduction of the single transferable vote system in Scotland has not led to increased turnout, nor to the increased representation of women, as some have suggested has happened in other states. Rather than further differentiation between elections in local authorities, it might be preferable to give people a reason to vote in local elections, such as greater powers and financial freedom for local authorities as suggested elsewhere in the code.

8. It is not clear that article 7 sets out a viable basis for local government finance. For example, levels of income tax can rise or fall, particularly over longer periods of time, and increases or cuts at particular times may not be appropriate for local councils. Such an approach might also encourage governments to use other sources of taxation, particularly if they wanted to reduce the ability of councils to spend money. However, the ban on the capping on local government expenditure would be valuable in allowing councils, and their electors, to make important decisions about levels of expenditure.

9. As a general point, there are probably always going to be tensions between representative democracy and attempts to introduce more participatory elements, such as referendums. If local authorities are to be representative democracies then they should be the ultimate decision making bodies. Any referendums, or equivalent initiatives, should therefore be advisory, and should be determined by the authority, rather than set out in a code. After all, what topics might be deemed as appropriate or inappropriate for a referendum might well change over time. And is the electoral system more likely to be important to electors than the level of taxation or the services provided by a council? Of much less central relevance, the funding of the Electoral Commission might have to be significantly increased to respond to what could be a considerable number of local referendums.

10. It is also hard to envisage what the “starting point” for many policy areas would be. For example, with school age education, would it be from a position where local authorities play a significant role in education, or one where the vast majority of schools are academies, responsible to the secretary of state? Such decisions would have major implications for the policy relevance, financing, expenditure, and local importance of councils?

November 2012

Written evidence submitted by Philip Coleman, Member Services Manager, Chichester District Council

1. I have only just become aware of the Political and Constitutional Reform Select Committee’s inquiry and I hope this brief submission will be accepted even though it is three days late.

2. One of the Local Government Association’s six aspirations is the removal of central government’s and Parliament’s power to decide council’s structures and governance models.

3. I would support this. Chapter 5 of Part 1 of the Localism Act 2011 made a tentative step in this direction by allowing councils to adopt a committee model of governance in place of the executive model, and by empowering the secretary of state to approve “prescribed arrangements” (which allows councils to design a different governance arrangement and seek approval for it).

4. However, this does not go far enough. Many, probably most, councils wish to retain an executive model of governance. However, such an arrangement is governed by a great number of regulations, which in my view are no longer necessary, notably the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

5. These regulations have the effect that the functions of a local authority executive are derived from central government regulation, rather than by delegation from the council.

6. In my view this is a major design fault of the Local Government Act 2000, and its supporting regulations.

7. It might have been necessary 12 years ago, when many local authorities had to be forced into modernising their governance. However, it is unnecessarily restrictive now.

8. The law should be changed so that local authority executives hold their functions by delegation from the council. Then councils would be free to set the boundaries of the powers of the executive; and the executive would be able to refer controversial executive matters for decision by the whole council in appropriate cases

where electors would expect their elected councillor to have a say. They would also be able to create committees of a mix of executive and backbench members to make executive decisions, for instance on the award of grants.

9. I hope the Select Committee will feel able to support this suggestion and recommend it for legislation.

November 2012

Written evidence submitted by Unlock Democracy

ABOUT UNLOCK DEMOCRACY

1. Unlock Democracy is the UK's leading campaign for democracy, rights and freedoms. A grassroots movement, we are owned and run by our members. In particular, we campaign for fair, open and honest elections, stronger parliament and accountable government, and a written constitution. We want to bring power closer to the people and create a culture of informed political interest and responsibility.

EXECUTIVE SUMMARY

2. The UK is one of the most centralised industrialised nations and this problem is particularly acute in England. While different governments have attempted to impose top down solutions—from directly elected regional government to directly elected mayors—these options have generally been rejected by the electorate. Unlock Democracy believes that we need to have stronger local government which is responsive to the needs of the community it serves rather than the targets and policy priorities of Westminster.

3. Unlock Democracy believes that to develop a democracy where localities and communities have more say over their own affairs; where different needs are met with different solutions; and where new ideas and original thinking can flourish and then be taken up elsewhere, local government needs to be given constitutional status. Only when local authorities can start to raise more money themselves and assert their independence from central government will they be able to focus on the needs of the communities that they serve. We therefore welcome and support the proposed code for independent local government.

4. As part of our response to this consultation we ran a survey on our website, asking supporters for their views on the draft code and the issues raised by it. Over 2,000 people took part and we have referred to their answers in our response. A summary of the data is included in the appendix and a full data set will be supplied separately to the Committee.

THE NEED FOR A NEW CONSTITUTIONAL SETTLEMENT

5. The UK, unlike most other countries does not have a codified constitutional settlement. Although some would argue that allows for flexibility it also leaves local government in a particularly vulnerable position. The lack of any constitutional protection means that central government could, if it so chose, abolish local government altogether. We often worry that the UK political system is becoming too presidential, yet President Obama could not abolish Wyoming or Florida, yet the UK Government can abolish tiers of local government and has done so, repeatedly, in the past. The abolition of Bedfordshire, a county whose history dated back nearly a 1000 years, in 2009 is a good example of this.

6. The history of local government in England has been one of almost constant re-structuring and re-organisation. In each case central government has determined what the structure should be and there has been little if any community involvement in what the powers and structures of local governance should be. This combined with the fact that local government is dependent on the centre for the majority of its funding means that all too often the priorities and level of service provision of local authorities are determined not by the local population but by national policy. It is this lack of independence that has led academics to describe England as having local administration rather than local government.

7. The principle of independence for local government has been widely accepted for some time. Indeed European Charter of Local Self-Government which commits member states to guaranteeing the political, administrative and financial independence of local authorities, was signed in 1985. Although this has been ratified by the UK Government, it does not seem to have influenced the nature of the central-local government relationship in England. In evidence to Department for Communities and Local Government Select Committee inquiry Jeremy Smith, Secretary-General of the Council of European Municipalities and Regions (CEMR), argued that the Charter “has hardly been in the thinking of government since they ratified it. It was put on the shelf.”²⁵

8. More recently the Central-Local Concordat was signed by the then Chairman of the Local Government Association (LGA), Sir Simon Milton, and the Secretary of State for Communities and Local Government on 12 December 2007. Like the European Charter this aims to re-dress the balance between central and local government, emphasising that they are partners and that local authorities need to be able to respond flexibly to the needs of the communities they serve. However, once again, little appears to have changed in practice.

²⁵ Communities and Local Government Select Committee *The Balance of Power: Central and Local Government* sixth report 2008/9 session paragraph 132
<http://www.publications.parliament.uk/pa/cm200809/cmselect/cmcomloc/33/3309.htm>

Professors George Jones and John Stewart felt that the Concordat had “disappeared without trace.”²⁶ The fact that the concordat had no constitutional standing meant that it was possible for it to be ignored by other government departments.

9. This Government, like the previous Labour administration has committed itself to the decentralisation of power. In September 2010 David Cameron stated that “We will be the first Government in a generation to leave office with much less power in Whitehall than we started with.”²⁷ Although the Government has passed the Localism Act 2010 and given local power a general power of competence, there is a clear tension about the reality of decentralisation of power. On key issues such as weekly bin collections and the level of council tax that can be set, it was central government that took the decision. Whilst promising local government more freedom, as soon as an issue became contentious the temptation for central government to get involved proved irresistible. We believe this will only change when local government is constitutionally independent of central government and has the ability to raise more of its funding locally.

THE PROPOSED CODE

10. Unlock Democracy welcomes the draft code for independent local government. We believe that it contains all the elements necessary ensure that the relationship between central and local government is one of partnership. 82% of those who responded to the consultation on our website agreed that there should be a code clarifying the powers of Whitehall, Parliament and local councils. The reasons they gave included:

It would give a clear framework and understanding of the powers and obligation of each level of our Government.

Peter Hockley, Brighton

A code would halt creeping erosion of local government powers by central government and stimulate confidence that local issues are the proper responsibility of local councils and their voters: ie real localism not just lip service.

Name withheld, Newcastle

It is not always clear to the public how the statutory powers of these different bodies are divided up. There is a need to avoid duplication of responsibilities so that the public know who to hold accountable for any shortcomings.

James Hicks, Birmingham

Government keeps changing the powers local government has in relation to national government and it would be more difficult if there was a codified relationship.

Steve Thompson, Swindon

11. There are three elements that we would draw particular attention to as being essential to this new relationship:

- (a) That the code is entrenched and can only be changed on the basis of consensus. Whilst it should be possible to make amendments to any constitutional document it should not be too easy. The proposed mechanism, that any changes will require the agreement of a joint committee and with the approval of both Houses of Parliament, strikes the right balance.
- (b) It gives the power over local authority boundaries to local authorities and the communities they represent. People often feel very strongly about their local identity and the way in which they wish to be represented. Many areas have experienced repeated re-organisations that have little if anything to do with the communities themselves. Unlock Democracy agrees that this should be a matter for councils and its citizens; not central government.
- (c) That the code recognises the need for local government financial integrity. Any discussion of local government finance is fraught with difficulty but we believe that for councils to be truly independent of central government they need to be able to raise more money locally. We agree with the code both that there would need to be a process of equalisation between different authorities but also that it should be councils and citizens that determine the appropriate forms and level of local taxation rather than central government.

12. Unlock Democracy believes that this draft code, if implemented, would be a significant step forward in the governance of the England.

November 2012

²⁶ *ibid* paragraph 128

²⁷ David Cameron, The Observer, 12 September 2010 <http://www.guardian.co.uk/politics/2010/sep/11/david-cameron-government-power-people>

APPENDIX

SUMMARY FROM THE ONLINE CONSULTATION ON THE DRAFT CODE RUN BY UNLOCK DEMOCRACY

Please note: 2118 people responded to this survey, which was collected on 26 October—6 November 2012. This is not a representative survey and should not be treated as such.

Should there be a code clarifying the powers of Whitehall, Parliament and local Councils?

<i>Answer Options</i>	<i>Response Percent</i>	<i>Response Count</i>
Agree	82.3%	1,744
Disagree	2.1%	45
Open Minded	13.5%	285
Don't Know	2.1%	44
Please explain the reason for your response		1,402
<i>answered question</i>		2,118

Do you agree with the code drafted by the Political and Constitutional Reform Committee? The code can be found here <http://tinyurl.com/7lr9fsh>

<i>Answer Options</i>	<i>Response Percent</i>	<i>Response Count</i>
Yes	30.3%	602
No	6.3%	126
Not sure	63.3%	1,257
Please explain the reason for your response		1,230
<i>answered question</i>		1,985

Do you think that local councils/authorities should be independent of central government?

<i>Answer Options</i>	<i>Response Percent</i>	<i>Response Count</i>
Agree	59.4%	1,182
Disagree	15.8%	315
Open Minded	21.4%	425
Don't Know	3.4%	68
Please explain the reason for your response		1,181
<i>answered question</i>		1,990

If an independent local government code is introduced, do you think it should have special protection to ensure it can only be amended by Parliament in exceptional circumstances?

<i>Answer Options</i>	<i>Response Percent</i>	<i>Response Count</i>
Yes	73.2%	1,456
No	9.9%	197
Not sure	16.9%	336
<i>answered question</i>		1,989

Should the House of Lords be able to veto legislation which threatens the rights of local Government that are included within any code?

<i>Answer Options</i>	<i>Response Percent</i>	<i>Response Count</i>
Agree	45.3%	904
Disagree	29.3%	585
Open Minded	19.0%	380
Don't Know	6.4%	127
<i>answered question</i>		1,996

Should local authorities be financially independent of Government?

<i>Answer Options</i>	<i>Response Percent</i>	<i>Response Count</i>
Agree	44.0%	856
Disagree	24.9%	485
Open Minded	26.4%	513
Don't Know	4.7%	92
<i>answered question</i>		1,946

<i>Do you think central Government should have the power to freeze council tax levels?</i>		
<i>Answer Options</i>	<i>Response Percent</i>	<i>Response Count</i>
Agree	26.0%	505
Disagree	56.1%	1091
Open Minded	14.9%	290
Don't Know	3.1%	60
<i>answered question</i>		1,946

<i>Central Government should have the power to force councils to have weekly bin collections</i>		
<i>Answer Options</i>	<i>Response Percent</i>	<i>Response Count</i>
Agree	19.9%	386
Disagree	64.3%	1,246
Open Minded	14.1%	273
Don't Know	1.7%	33
<i>answered question</i>		1,938

<i>Local Councils/Authorities should be given a set percentage on income taxes, as set by an independent committee.</i>		
<i>Answer Options</i>	<i>Response Percent</i>	<i>Response Count</i>
Agree	53.4%	1,034
Disagree	15.2%	295
Open Minded	24.8%	480
Don't Know	6.6%	127
<i>answered question</i>		1,936

<i>Local Councils should decide upon and keep all of their areas business rates.</i>		
<i>Answer Options</i>	<i>Response Percent</i>	<i>Response Count</i>
Agree	60.8%	1,178
Disagree	14.7%	286
Open Minded	19.3%	375
Don't Know	5.2%	100
<i>answered question</i>		1,939

<i>It should be Councils and local communities (with the independent Boundary Commission) who decide on their local council ward boundaries, not MPs.</i>		
<i>Answer Options</i>	<i>Response Percent</i>	<i>Response Count</i>
Agree	76.9%	1,494
Disagree	9.0%	175
Open Minded	11.5%	224
Don't Know	2.5%	49
<i>answered question</i>		1,942

<i>Local councils should be able to choose the electoral system by which they are elected, and put it to a local referendum for approval.</i>		
<i>Answer Options</i>	<i>Response Percent</i>	<i>Response Count</i>
Agree	61.5%	1,195
Disagree	25.4%	493
Open Minded	11.2%	218
Don't Know	1.9%	36
<i>answered question</i>		1,942

Written evidence submitted by Steve Bullock, Mayor of Lewisham

1. Thank you for the opportunity to offer my views on codifying the relationship between local and central government. My apologies for not responding sooner.

2. The balance of power between local and central government has shifted significantly over the past 30 years. Successive governments have enacted policies that, either by design or through unintended consequence, have been to the detriment of local decision making. Whether in the context of education, housing, planning—or even in terms of the frequency of refuse collection—central government have placed restrictions on the choices that councils can make.

3. The principles of localism are lauded by many national politicians. However, more often than not, their actions have failed to match their words.

4. I favour greater autonomy for local government and agree with much of your draft code. In particular, the need to have independence over our finances is paramount to ensure we are providing the services and facilities that our local citizens deserve. This is now more important than ever if current projections in terms of the funding received by local government turn out to be accurate. Our direct accountability to local citizens means that we are ideally placed to provide, directly or indirectly, those local public services not explicitly reserved to other public bodies.

5. Financial independence is not just about local taxation or funding however. It is also about giving councils the freedom to manage their resources as they see fit. At present, we are prevented from realising the potential capacity of our housing stock because of centrally imposed borrowing limits. Lifting this cap would allow us to leverage additional funding which can be invested in to existing and new homes to meet the needs of future generations.

6. We must have real freedom to act in the best interests of residents. But this must be within certain constitutional safeguards developed in agreement with central and local government. I fully support your desire to see local authorities created in law as independent and sovereign entities.

7. There is the genuine potential for local government, and with it local democracy, to be reinvigorated by these changes. Giving our citizens the option to decide how revenue should be raised, money should be spent or how their representatives are elected could lead to a level of engagement or involvement not seen to date. By definition, this could help provide local government with a far greater degree of legitimacy than currently experienced.

8. I look forward to seeing the report of your Committee.

November 2012

Written evidence submitted by Joe Duckworth

1. The local government constitutional reforms proposed by the Political and Constitutional Reform Committee must be supported if we are to move into the twenty first century for local leadership.

2. The complexity and tenacity of socio-political challenges faced by our local communities means that they cannot be solved at a national level. Central government should enable local political institutions to find the appropriate solutions to local issues.

3. The political and financial independence suggested by the Committee are the necessary conditions for local leadership and service delivery to flourish.

4. It would also allow the development of a solution to public finances by facilitating the effective investment in preventative solutions to social issues and so reducing the cost to the public purse of long-term dependence on the state of families and communities.

5. Whilst the overall economic environment and government macro-economic policy would still be fundamental to economic development, business support and employment initiatives at a local level can make a significant impact for local businesses and residents.

6. Whilst central government would not disagree with the outcomes, they cannot deliver localist and effective solutions. The constitutional reform suggested would remove the fetters to local solutions. It is the only way to unlock the creativity necessary for us to emerge with a strong economy and social fabric from our current socio-economic challenges.

November 2012

Written evidence submitted by John Newman

1. Thank you for the opportunity to comment as a citizen on the concept of a draft code concerning the relationship of central and local government. I think that this is something that is long overdue, all the more so given the manner in which central governments of all parties have attacked the authority of local government for decades now, and certainly over the last thirty years.

2. As examples of this last statement I would cite: the manner in which the Thatcher Government capped local authority of budgets, denying local voters the chance to determine what sort of local spending they wanted; the hugely distorting targets of the last Labour Government; and the present consequences of the manner in which the coalition has frozen council tax and reduced the central government grant, thus forcing local councils into savage cuts, not least in terms of services of people who need protecting.

3. The present system of local government financing is democratically unacceptable in many ways. It is so arcane that few really understand it, which cannot democratically be desirably. Council tax is an unbelievably

crude tax and, if it is to survive, needs more higher bands so that the rich pay something more akin to a fair share. Business rates are inherently unfair, as the incidence is inevitably going to vary massively between different local authorities; it almost compels central government control to mitigate the unevenness. Dependence on central government grants inevitably gives central government a power that it is too readily tempted to abuse—how often have we seen local councils told that they will lose grant if they do not do what central government wants? I like the idea of local government having a share of income tax—this would be the fairest tax, and, in these computerised days, surely fairly easily administered.

4. As a democrat I think that the principle of localism is unanswerable. I think that as many decisions as possible should be local, and I think that this applies both to national governments and European governments, where surely subsidiarity should be maximised.

5. I worry about exclusion in local government. It cannot be right that Tories have no seats in some of our big cities and that socialists have no seats in a place like Chichester, where I live, and which has had only one Labour councillor since 1974. There are Tory voters in Manchester and Labour voters in Chichester—first past the post leads to them effectively being excluded from local government, and it also affects the working of local politics, as local parties do not have the knowledge that they would have with some councillors, and which therefore gives them far less chance of effectively representing their supporters.

6. I understand that central government wants systematic enforcement of its policies and that this has been the justification for such policies as capping local government spending or the imposition of so-called academies. However, I also ask what is the point of local election when local councils are so hamstrung, and wonder if this is a significant factor in the consistently low turnout in local elections which I have observed from fifty years of watching politics. If local councils were seen to have genuine power, perhaps more people would think it worthwhile being involved, if only voting! I think that it is wrong, for instance, that at the present time local councils are being forced into inhumane cuts concerning provision of services for the handicapped.

7. I appreciate that I am only touching on a few issues, and realise that there is scope for a lot more detail. For instance, what is the potential impact of a national swing against a mid-term government of its viability should the bulk of local authorities be controlled by an opposition party (on probably half the turnout at elections) and therefore make it much harder for central government to operate. I do not want the sort of gridlock that there is in the USA.

8. However, that said, the fundamental question must surely be how far local government is able to contribute to the workings of democracy and thus enable local people to decide for themselves as far as possible. Surely that is what the “rule of the people” logically means.

9. I welcome the present consultation, and hope that it will lead to more financial independence for local government and a legal framework that will make it harder for local government to be trampled on.

November 2012

Written evidence submitted by Dr Robin Hooper, Chief Executive, Eden District Council

This is an indicative draft resolution prepared as an aid to debate with the advice of [but not endorsed] by the LGA

1. This council recognises the stated aim of governments to decentralise powers and increase local democratic accountability.
2. Council also recognises there is an appetite for more opportunities for local decision-making and greater freedom from centralised control.
3. Council welcomes:
 - (a) the joint campaign between the Local Government Association (LGA) and Political and Constitutional Reform Select Committee (PCRSC) to stimulate debate about the relationship between central and local government.
 - (b) the opportunity, through the Select Committee’s inquiry on the prospects for codifying the relationship between central and local government, to comment on these issues.
4. Council resolves to consider local experiences of the central-local relationship and make recommendations to Cabinet (or other such committee as appropriate) on an appropriate response to the Select Committee’s inquiry.
5. Further, council resolves to write to local Members of Parliament supporting the joint LGA and PCRSC campaign and outlining local ambitions for the central-local government relationship.

6. Finally, council urges all political parties and central government to engage with the Select Committee and the LGA to consider whether an entrenched statutory codification of the independence of local government should be part of our constitutional settlement.

April 2012

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