

The prospects for local government independence are bleak due to the centre's unwillingness to give up power

By Democratic Audit UK

*In the wake of the Scottish independence referendum, devolution of power has become the political discussion de jour. Although most discussion has focussed on the relationship between Scotland and the rest of the UK, or on the regions, local government is still an important component of the debate. Recently, the Labour MP Graham Allen proposed legislation that would provide legal independence to local government. **Chris Game** runs the rule over the legislation, and argues that the prospects for its future passage are slim.*



Could Town Halls gain their 'independence'? Credit: Paisley Scotland, CC BY 2.0

It's now two weeks since the referendum and you still have to Google to page 10 to find anything on 'Independence vote' that even looks as if might not be directly to do with Scotland. It's a piece on Puerto Rico, if you're interested – the constitutionally rather fascinating 'unincorporated' US Caribbean island with a single non-voting delegate in the House of Representatives and dreams of becoming the 51st state. Even that, though, was piggybacking on Scotland, so it was hardly surprising that the scheduled Second Reading of the Local Government (Independence) Bill, two days before the publication of YouGov's potentially constitution-changing poll, kind of got overlooked. It was unfortunate, though. After all, local government independence would be a pretty big deal too, wouldn't it?

You bet it would – though, if you were at all serious about the betting bit, you'd have wanted to check the bookies' odds first. On a Scottish Yes vote you could have got 2/1, and 66/1 on UKIP winning the General Election. On local government independence the giggling bookie would probably have let you name your own odds.

That's not to say that that recent events concerning the Bill in Westminster weren't important. They were, but they need setting in context.

The LG(I) Bill, not surprisingly given its content, wasn't a Government Bill, but a Private Members' Bill, which limited its prospects for a start. Moreover, it wasn't a Ballot Bill, introduced by one of the 20 lucky MPs whose names were drawn in the annual backbenchers' ballot and whose chosen Bills stand most chance of eventually becoming law, partly through being prioritised on the limited number of Fridays set aside for private members'

legislation.

The LG(I) Bill was a Presentation Bill, microscopically few of which get anywhere near the Statute Book. True, there was a Protection of Birds (Amendment) Bill that apparently passed all its Commons stages in 67 seconds during one Friday sitting. That Friday, though, was in 1976, which explains why the LG(I) Bill's sponsor, Graham Allen, Labour MP for Nottingham North, was not unduly optimistic, especially after seeing the [Order of Business](#).

On an already curtailed parliamentary day, the LG(I) Bill was listed behind four Ballot Bills, headed by Liberal Democrat MP Andrew George's Affordable Homes – aka Bedroom Tax (Embarrassing Coalition-splitting Amendment) – Bill, which made the improbability of Allen's Bill being debated an effective certainty.

The Affordable Homes Bill would substantially undermine one of the Coalition's most controversial welfare reforms, by allowing poor social housing tenants to retain their 'spare room subsidy' until they actually have somewhere smaller to live. The Lib Dems had indicated they would join Labour in supporting George's Bill, whereupon the Conservatives, unusually for a Friday, imposed a three-line whip on their MPs.

It guaranteed an extraordinary attendance, but not the defeat of the Bill, which received an acclaimed Second Reading by [306 votes to 231](#). It was a momentous loss for the Government, in substance, scale and in its damage to inter-party relations within the Coalition. Its immediate effect, though, was that debate on the second Ballot Bill was adjourned at 2.30, and Graham Allen's Bill wasn't reached.

It was obviously disappointing, but not much more: at worst, maybe, only the end of the beginning. For in Allen's epic constitutional reform agenda, the most immediate objective was already achieved. The LG(I) Bill exists. It's in the parliamentary machine, and Allen can proceed with his next stage of trying to convince all three main parties to pledge in their manifestos to support [such a Bill](#) in the next Parliament.

It's ambitious, but, in the present febrile post-referendum climate, perhaps not quite as quixotic as it sounds. For Allen is also the extremely active Chair of the Commons Political and Constitutional Reform Committee, whose major project throughout the present Parliament has been to explore the case for and against the UK having, like virtually every other country, a formally codified constitution.

With, I suppose, a forgivable and topical gesture, this project has been entitled 'A New Magna Carta?' and its first main product – a 400-page report, compiled in collaboration with King's College, London – was [published in July](#) and put out to public consultation.

The committee takes no views on the desirability of codifying the current heap of common law, Acts of Parliament, European treaties and unwritten conventions into a clearer, more balanced and democratic set of constitutional arrangements. That's for us to say through the ongoing consultation process.

Rather, the report presents three blueprints of how codification could be approached: a Constitutional Code, a Constitutional Consolidation Act, and, most interestingly, a completely new written constitution by which the UK, with or without Scotland, would be governed.

'Principles of local government' get just one of 53 chapters in this draft constitution, but it is these principles, embodied in a statutory Local Government Independence Code – drafted, incidentally, by my former INLOGOV colleague, Professor [Colin Copus](#) – that largely comprise Graham Allen's LG(I) Bill.

The Bill's purpose is to declare local and central government equal to and independent of each other, to separate their finances, to regulate the local-central relationship through a statutory code, and to set out procedures restricting any future parliamentary amendment or repeal of the code.

Many of the Bill's provisions may sound fairly unexceptional. Local authorities' accountability, the code would assert, is to their electorates, not to Whitehall. Local authorities are autonomous, democratically-elected bodies which independently decide upon, administer and regulate public affairs and deal with all matters of concern within their boundaries that are not the statutory responsibility of another body. A local authority's geographical boundary can be altered only by a proposal from the authority itself or from its electorate.

These things would indeed be unremarkable in most countries, with less centrally controlled systems of local government. In our system, unfortunately, concepts like local and territorial autonomy, operational independence, and 'all matters of concern' are enough to seize ministers and civil servants with a collective attack of the vapours.

And that's before we get near to the real biggie: 'local government financial integrity'. Local authorities, the code would declare, shall be financially independent of central government, which may not place any restriction on decisions by local authorities about the exercise of their financial powers.

Each local authority shall receive from central government an agreed and guaranteed share of the annual yield of income tax. Local authorities may, with their electorates' consent, raise additional sources of income in their areas in any way they wish – just like the Scots, if they behave themselves and vote No. Central government shall not cap, or otherwise limit, local authorities' taxation powers.

All that and more is in the first of nine Schedules. These substantive proposals, though, are possibly not constitutionally the most radical. That prize would probably go to the hurdles facing any future government seeking to amend or repeal the code: a minimum 'super-affirmative' requirement of unanimous approval by each parliamentary House, or by a two-thirds majority of the total membership of each House.

On any Private Members' Friday, and setting aside much of the LG(I) Bill's own content, the idea of abolishing two of Parliament's most treasured rights – to determine the country's level of taxation, and to change or repeal any previous legislation – would be several bridges too far for many MPs. That's fundamental constitutional change, they would have protested. Precisely.

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Note: this is an updated version of a piece which originally appeared on the [INLOGOV blog](#). It represents the views of the author and not those of Democratic Audit or the LSE. Please read our [comments policy](#) before posting.

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