

UNIVERSITY OF STRATHCLYDE

CENTRAL GOVERNMENT INSTRUMENTS OF INFLUENCE  
UPON SERVICES DELIVERED BY LOCAL GOVERNMENT

Edward Page,  
Department of Politics,  
Ph.D. 1982.

STRATHCLYDE

## ABSTRACT

Central government exercises policy choice in services delivered by a separate organisation - local government. The centre influences local government service delivery through using its instruments of influence of laws, money and advice to set parameters within which local services are delivered. These instruments have different properties and are used under different circumstances to influence local service delivery as the examination of Scottish evidence since 1970 shows. Collectively these instruments constitute parameters upon different services at different stages in the delivery of the service and define the discretion of local government actors. Central influence is not, however, to be confused with the use of instruments to set tight parameters at each stage in the delivery of a service. The centre also influences through use of instruments to set loose parameters. There are limits to the ability of the centre to set tight parameters for local service delivery, yet these also limit the ability of the local authority as a collective decision making body to set parameters for its own employees. The resulting model of central-local relations suggested by this analysis is not one of local government as an "agent" of the centre, nor one of near equal "resource exchange" or "bargaining" between central and local actors. Rather, through use of instruments of influence in a plurality of permutations, the centre can set constraining parameters unilaterally - instead of having to react to pressures from local government actors to modify its preferences, the centre has structural power to change the rules governing its interactions with local actors.

## TABLE OF CONTENTS

List of Tables		v
<u>CHAPTER ONE</u>	<u>The Problem: Choice and Delivery in an Interorganisational Setting.</u> Introduction. The Problem Stated. Interdependence, Parameters and Discretion. Instruments and Parameters: The Questions Asked. The Research Design.	1
<u>CHAPTER TWO</u>	<u>Central and Local Government: Pyramids or Mountain Ranges?</u> Instruments and the Organisational Setting. Central Government as a Single Pyramid and as a Mountain Range. Local Government Cohesion and Differentiation. Central and Local Government and Instruments. What Does Scotland Add? Conclusions.	38
<u>CHAPTER THREE</u>	<u>The Role of Law.</u> Laws and the Study of Central-Local Relations. What Is Local Government Legislation? The Policy Areas of Legislation. How Far does Legislation Shift the Parameters within which Local Governments Deliver Services? Laws as Negotiated Agreements. How Far do Laws Create Effective Constraints? Conclusions.	82
<u>CHAPTER FOUR</u>	<u>Does Money Talk? And, if so, What Does it Say?</u> Grant as a Financial Instrument. The Policy Areas of Financial Influence. Grants and Parameter Shifting. The Negotiability of Grants. The Constraints of Grants. Conclusions.	148
<u>CHAPTER FIVE</u>	<u>The Role of Circulars.</u> Circulars as Routine Communication. The Circular. The Policy Areas of Circulars. Circulars and Parameter Shift. The Negotiability of Circulars. How Far Do Circulars Constrain? Conclusions.	199
<u>CHAPTER SIX</u>	<u>Complementarity and Substitution in Laws, Money and Circulars.</u> Laws as a Unique Resource of the Centre. Why Use Laws when Circulars Will Do? What Do Circulars Do that Laws Do Not? Where Does Money Fit? What Do Laws Do that Money and Circulars Do Not? Conclusions.	242

<u>CHAPTER SEVEN</u>	<u>The Meaning of Local Discretion.</u> Discretion and Parameters. Local Government Discretion at Stages in the Policy Process. Local Authority Discretion and Parameters. Conclusions.	272
<u>CHAPTER EIGHT</u>	<u>Instruments of Asymmetric Interdependence.</u> The Instruments in Review. Existing Approaches to Central-Local Relations. The Resource-Exchange Paradigm. Structural Power in Complex Interdependence.	319
<u>Appendix A</u>	Sources and Methods.	348
<u>Appendix B</u>	The Classification of Circulars.	351
<u>Bibliography</u>		355

## LIST OF TABLES

1.1	Local Government Services in Scotland.	23
1.2	The Impact of Instruments upon the Parameters within which Local Governments Deliver Services.	28
2.1	Ministries with Responsibility for Five Major Services Delivered by Local Governments in Britain.	47
2.2	The Number of Points of Contact between Central and Local Government in Five Major Services.	50
3.1	Laws Added to the Statute Book 1970-79.	91
3.2	Laws Affecting Local Governments: Acts of Parliament 1970-1979.	93
3.3	The Policy Areas of Legislation Affecting Local Government 1970-1979.	96
3.4	The Variable Significance of Legislation Passed between 1970 and 1978: Number of Separate References Listed in Index to the Statutes.	100
3.5	Legislation with a Pervasive Effect upon the Parameters within which Local Governments Deliver Services 1970-1978.	101
3.6	The Nature of the Change in Local Government Parameters through Legislation 1970-1978.	105
3.7	The Amount of Legislation Governing Four Different Policy Areas.	117
3.8	Focal Laws in Local Government Services.	118
3.9	Council House Sales in Scotland 1973-1981.	130
4.1	Grant Dependence and Spending Variation in Individual Services: Scottish District Councils 1980.	154
4.2	Consolidated and Specific Grants to Local Governments in Scotland 1979.	158
4.3	Scottish and English Grant Settlements: The Ratio of English Grant Income to Scottish Grant Income.	171
4.4	Scottish and English Public Spending: The Ratio of English to Scottish Spending for Scottish Officer Services.	172
4.5	The Percentage of Expenditure Within the Responsibility of the Secretary of State for Scotland Made up of Local Government Expenditure.	173
4.6	The Similarity of RSG Orders in Britain: A Comparison of the Texts of the RSG Orders 1977 and 1978.	176

4.7	The Centre's Preferences for Local Expenditure Growth: Growth Allowance in RSG Orders.	181
4.8	Local Government RSG Income 1976-1981 (in real terms at 1979 prices).	183
4.9	The Aggregate Response to Grant Reductions: Spending (Outturn) by Local Governments Compared with RSG Spending Allowances.	185
4.10	The Relationship between Expenditure Growth and Grant Increases in Scottish Districts: Pearson Correlation Coefficients.	190
4.11	The Relationship between Expenditure Growth and Grant Increases in Scottish Regions: Pearson Correlation Coefficients.	191
5.1	The Decline in the Issue of Circulars 1975-1980: Circulars Issued by Three Major Scottish Office Departments.	205
5.2	Who Issues Circulars? Origins of Circulars Issued in Financial Year 1977-78.	206
5.3	The Addressees of Circulars 1977-78.	207
5.4	The Policy Areas of Circulars 1977-78.	210
6.1	The Policy Areas of Circulars and Legislation.	252
7.1	Loose and Tight Parameters: A Typology.	280
7.2	Financial and Manpower Resources in the Big Five Services (1978-79).	283
7.3	Central Government Parameters upon Whether a Service Should Be Delivered.	284
7.4	Central Government Parameters upon the Definition of Clientele.	290
7.5	Capital Related Expenditure as a Proportion of Total Expenditure 1981-82.	291
7.6	Central Government Parameters upon the Level of Money Resources Devoted to Local Government Services.	293
7.7	Central Government Parameters upon Material Goods Delivered by Local Governments.	297
7.8	Summary of the Centre's Parameters upon Five Major Local Services.	302
B.1	The Message of Circulars.	353

CHAPTER ONE

THE PROBLEM: CHOICE AND DELIVERY IN AN  
INTERORGANISATIONAL SETTING

## I. Introduction

Constitutions, whether written or unwritten, create, or at least reflect, inequalities between organisations. To point to constitutional inequalities does not, however, offer a description of how governments actually operate. Still less does it explain how the constitutional superior influences what is done by the subordinate - or vice versa. The object of this thesis is to examine the instruments through which a constitutional superior influences the services delivered by a separate and constitutionally subordinate organisation. Because the constitutional superior does not actually deliver services, it requires instruments of influence to affect the delivery of services. This thesis asks what are the properties of these instruments? Under what circumstances are they used and to what effect?

The object of this chapter is threefold. First the chapter states the problem. Central government has choice over what services are delivered and how, and local government has responsibility for the delivery of these services. This problem raises questions of interorganisational influence and its instruments rather than intraorganisational questions of "administration"<sup>(1)</sup>. Second, the chapter defines the terms used in the thesis within a conceptual framework that guides the treatment of the empirical material. Third, the chapter outlines the research strategy. It discusses why the instruments of influence themselves were chosen as the focus of the research and how they are examined in subsequent chapters.



## II. The Problem Stated

### a) Choice and Delivery

There are at least two analytically distinct elements to the term "policy". First, a policy is a choice about what should or can be done by government. Choice is a statement of intended activities to be undertaken by public employees. While intended activities may be stated in vague generalisations - for example, the intentions of successive governments in Britain with regard to urban decay may be expressed in terms as vague as "revitalising inner city areas"<sup>(2)</sup> - intentions become choices when they are expressed by legislation as programmes. Programmes are sets of measures, such as items of legislation and budgetary allocations, which are designed to produce desired outcomes. In the case of inner cities policy, for example, the vague goal of "revitalisation" has become a set of programmes which, among other things, seek to attract firms to locate in inner city areas (as in the case of enterprise zones<sup>(3)</sup>).

Second, there is policy delivery. Policy delivery is the activity of handing over the benefits (e.g. social security payments) or sanctions (e.g. police arrests) of a particular programme to final consumers. Most services are delivered by routines - there are routine procedures that are observed by those who pay out social security benefits just as there are routine procedures which are observed by policemen when patrolling a beat. The choice of programmes affects the routines of service delivery<sup>(4)</sup>; creating a new housing standard or providing cash assistance to new categories of recipient changes the routines of service delivery.

Within a single organisation with a simple hierarchy - a single unbroken chain of superior-subordinate relationships - choice is formally exercised at the apex of the organisation. Just as the choice of whether a firm produces tractors or motor cars is not a matter for those on the production line, so too social security clerks do not create new groups of welfare recipients by their own volition. The top of the organisation states the choice of what should be delivered by the organisation through a set of programmes. These choices are then transformed into specific sets of instructions to those at the lower level in the hierarchy who actually deliver policies.

Within a single organisation, to choose is not necessarily to determine delivery since intraorganisational outputs are contingent not automatic. There are limits on the ability of the higher levels of the hierarchy to ensure that the activities of those who deliver services at the lower end of the hierarchy conform to their intentions. Hood<sup>(5)</sup> argues that "perfect administration", the ability to "make things happen" within an organisation which conform entirely with programmatic intentions, has four preconditions in addition to a simple hierarchy chain of command; a) the uniform specification of tasks for all actors in the organisation; b) the absence of recalcitrance among members of the organisation; c) perfect information and coordination; d) the absence of time constraints. These conditions are seldom, if ever, completely found within an organisation. However, when service delivery and choice are within the same organisation, the problems of administration which result from "imperfect administration" are problems internal to the organisation. The organisation can seek, for

example, to change organisational rules, management structures and employee incentives, to ensure a closer correspondence between intentions and delivery<sup>(6)</sup>.

But government is not a simple hierarchy, it is a set of aggregated organisations<sup>(7)</sup>. Government organisations are differentiated both laterally and vertically. Central government organisations are laterally differentiated according to functions (e.g. Department of Transport is an organisation with different functions from the Department of Health and Social Security) and territory (e.g. the Department of the Environment has few responsibilities for Scotland, and the Scottish Office has no responsibilities for England). Government organisations are also differentiated vertically since those who actually deliver health services, education, police, social services and housing, for example, belong to separate organisations from the ministries which have responsibility for health, education, social services and housing policy choice. A large proportion of public services in the United Kingdom is delivered by employees of local government organisations which are separate, but constitutionally subordinate to, central government organisations.

b) Local Government and Service Delivery

By any measure local government is responsible for the delivery of a large portion of public services. Local authorities employ 38 per cent of the total public workforce, central government in the United Kingdom employs only 30 per cent, and 32 per cent are employed in other non-central government organisations such as health services and nationalised industries<sup>(8)</sup>. The services delivered by local government in the United Kingdom account for 27 per cent of total

public expenditure<sup>(9)</sup>. By international standards the services delivered by local governments in the United Kingdom form a relatively higher proportion of total public services than a number of non-federal states - e.g. Sweden's local governments employ only 30 per cent of public employees, and Italy's local governments only 15 per cent - as well as a federal state such as West Germany<sup>(10)</sup> where 28 per cent of public employees are local government employees.

There are three types of explanation for the use of local government organisation to deliver public services. The first stresses the "democratic inheritance" of local government institutions. Local government is retained to allow for the aggregation of local preferences concerning the delivery of local services, as well as offering wider opportunities for participation in public decision making than are offered by national institutions alone. This argument stresses the "democratic" or "participatory" value of local government as outlined by Sharpe: "local authorities are superior since it is only at the level of the municipality that the individual can really participate in his own government, and so government is truly democratic"<sup>(11)</sup>.

The second type of explanation stresses the contribution of local government to "efficient service delivery"<sup>(12)</sup>. Simply stated, the delivery of services - running schools, social work departments, building houses and roads - is a complex task which is more "efficiently" dealt with by separate local organisations. The concept of "efficiency" in public services is notoriously difficult to define<sup>(13)</sup>, yet it implies that government outputs per unit of input are more effectively delivered by local government organisations since they are closer to the point of service delivery<sup>(14)</sup>. For example, the West Midlands Group argued that local government is "better fitted than any

other administrative system to operate local services"<sup>(15)</sup>. As Sharpe argues<sup>(16)</sup>, local government reorganisation showed that concepts of "efficiency", however poorly conceptualised and applied, tended to dominate in the process of local government reform in the 1970s.

A third explanation stresses the political "efficiency" of local government - a metaphor referring to the value of local government in simply preventing the central government organisation from being "overloaded" by the plethora of decisions involved in the delivery of public services. Sharpe argues that one explanation for the persistence of local government is that it provides "sewage without tears"<sup>(17)</sup> - it ensures that dreary public services are delivered without central government actually having to deliver them. Bulpitt's discussion of "high" and "low" politics reinforces this argument. The centre is concerned with pursuing matters of "high politics" such as foreign affairs and defence, and the services which are delivered by local governments are matters of "low politics" which the centre has never wanted to appropriate for its own organisation<sup>(18)</sup>.

Since government in the United Kingdom is not a single organisation, and since central government has choice, or intentions which are expressed as programmes concerning services delivered, and the actual delivery of these services is vested in a separate organisation, the question of how intentions shape services delivered is one of interorganisational influence<sup>(19)</sup>. How does central government influence services delivered by local government? What instruments does it use? What is the effect of these instruments?

c) Instruments of Influence

The terms associated with the notion of "getting things done

that would not otherwise be done" are notoriously diverse and often poorly defined - terms such as "power", "control", "coercion", "authority" and "influence" have been the subject of protracted debate in the social sciences<sup>(20)</sup>. Often the definitions of such terms on offer are unoperationalisable<sup>(21)</sup>. For example, Lukes' definition of the term "power" as causing people to act against their "objective interests" is difficult to operationalise since it offers no clear methodology for identifying what an "objective interest" is<sup>(22)</sup>. This thesis is concerned with instruments of influence - a term that belongs to this category of words referring to the notion of "getting things done that would not otherwise be done". In this thesis influence is understood as the ability of one organisation to secure that the activities of another are consistent with its preferences. How does the centre exert influence upon local government?

At a minimum the centre has three instruments through which it can influence the activities of local governments. First it has legislation. Legislation can be used to define what activities the local authority is authorised to undertake. Local authorities cannot act unless there is the statutory permission or vires for them to act. Local authorities, for example, are permitted to levy rates and prohibited (in Scotland) from levying rates more than once a year. Legislation also defines what is authorised activity by mandating types of activity. Through mandating an activity upon a local authority (e.g. the sale of council houses) the centre defines the failure to conduct this activity as unauthorised.

Second, the centre has financial instruments. The money that it provides to local authorities are incentives and disincentives to

certain kinds of activity. Through the level of finance that it provides through a block grant, for example, the centre provides an incentive or disincentive to the expansion of services. Through the characteristics of the grant, it provides incentives for different kinds of activity. For example, if the grant is a specific grant it is likely to provide an incentive or disincentive for the provision of the particular service which the grant is used to finance<sup>(23)</sup>.

Third, the centre issues advice- normative guidance on the types of activity which it desires to see local government engaging in. The encouragement or discouragement may take the form of an explicit request to do something, or it may take the form of the offer of "good advice" or reporting "good practice" or merely "passing on information". For example, it may encourage local governments to provide insulation for local authority housing or discourage local authorities from levying high rates. It may offer "advice" on how to draft a housing plan or how to teach geography in schools, and examples of good practice by publishing reports of, for example, case studies of housing or land use planning in other local authorities. Or it may simply inform, as in the case of giving information concerning the performance of different stair-lifts for disabled persons.

While the centre has instruments through which it can influence local government activity there are limits to this influence. This can be illustrated by postulating the conditions of perfect influence, where everything that the local government does is consistent with the preferences of central government and contrasting

it with the actual conditions under which the instruments are used. Perfect influence would involve first of all that the centre clearly specifies the goals of a programme. Second, the centre must be able to secure that the activities of all local government actors are consistent with these goals through instruments which effectively permit local actors to do no other. In particular, this would mean that the centre would a) tightly and unambiguously specify through legislation what local government is authorised to do; b) provide the precise amount of money required to finance these activities; c) its advice would internalise central government norms among local government actors so that they would share a common "assumptive world"<sup>(24)</sup> with central government actors.

Central government influence upon local governments is imperfect because none of these conditions is fully satisfied. First, the centre does not always specify the goals of service delivery for two reasons; because it is not interested in specifying these goals - as Bulpitt argues, there are some activities of local governments in which the centre is uninterested in exercising influence; and because it is not always able to specify these goals - as the CPRS argued<sup>(25)</sup> government organisations are internally differentiated and different units have different goals and these goals can be "vague, multiple, unstable and confusing and contradictory"<sup>(26)</sup>.

Second, the centre cannot secure that all the activities of local governments are consistent with its preferences - even where these are clearly definable - since its instruments cannot confine completely the activities of local actors to those desired by the



centre. In particular, in the case of laws, there are limits to the type of activity that can be tightly specified; there are "categorisation problems"<sup>(27)</sup> which imply limits to the ability of language to define orders unambiguously, there are also problems that result from the unenforceability of rules affecting certain types of behaviour<sup>(28)</sup>. In the case of money, the precise amount of money required to finance desired activities (even if these could be clearly defined and costed) can be supplemented by local authorities through raising rates and charges. Local authorities, such as Lambeth and Lothian in the early 1980s, have demonstrated that they are prepared to raise rates to finance levels of service provision higher than those desired by the centre. In the case of circulars, there is no reason why an identical assumptive world for central and local actors can be shaped by central actors, in view of their contrasting experiences. In so far as there are national "policy paradigms"<sup>(29)</sup> which reflect shared values among central and local actors, there is no evidence to suggest that these paradigms are created by the centre as opposed to more general sets of professional and social values which influence both central and local actors alike. Furthermore, there are innumerable examples of the absence of shared values between central and local government; for example, housing officers and councillors with an interest in housing did not share the assumption of the centre that local authorities should be engaging in the costly process of insulating local authority houses.

The influence that central government exerts is imperfect because there are limits to the type of activity which can be subject to tight specification through the use of its instruments, and there are limitations to the degree to which the centre's instruments can

exercise this influence. Local government is responsible for the delivery of services. The activities of local government affect the services delivered since it is at the level of local government that service deliverers have "hands on" control over the services delivered - local authority employees actually build houses and counsel clients as part of a social work service or teach pupils as part of an education service.

### III. Interdependence, Parameters and Discretion

#### a) The Terms Defined

Central and local government are interdependent since central government depends upon local government for delivery of the services for which it exercises choice, and since local government depends upon central government for choice in the delivery of services. When one organisation is dependent upon another, the other organisation has the ability to influence it<sup>(30)</sup>, to use the source of the dependence to attempt to secure that the activities of the organisation are consistent with its preferences. Many studies of interdependent relationships tend to assume that the existence of interdependence creates equal or near equal ability among the interdependent units to influence each other<sup>(31)</sup>. However, the interdependence between central and local government in the United Kingdom cannot be characterised as one of equal ability to influence. Central government has constitutional superiority over local government - it can reorganise it, add to or take away from its vires, and has far greater fiscal power. Local government cannot reorganise or give vires to the centre or claim the same range of taxes.

To argue that central and local government have an unequal ability to influence each other assumes a common standard of

measurement of the ability to influence, with central government having more of this property and local government having less of this property. However, the bases for interdependence are different nominal categories which cannot be included in a single equation to derive some form of common expression for the relative ability to exert influence - the centre makes choices while local government undertakes service delivery<sup>(32)</sup>.

How does the centre use its constitutional superiority to influence the activities of local governments? Through its use of instruments the centre sets parameters within which local governments deliver services. Parameters are understood as a set of conditions which limit the activity of a local government. What a local government may or may not do is subject to statutory parameters which mandate, prohibit and permit. Within statutory parameters, financial incentives and disincentives and advisory encouragement and discouragement further limit the actions of the local actor.

The emphasis here is upon parameters rather than instruments limiting the actions of actors within local government, since parameters within which any one service is delivered are not necessarily set by one instrument alone. For example, the parameters within which local governments deliver rent rebates are set by a multiplicity of laws such as the Housing (Financial Provisions) (Scotland) Act 1972 and additional Statutory Instruments which set levels of rebate payments. Similarly, the parameters which constrain local government decisions concerning the number of teachers employed are set through three types of instrument: laws which define the number of pupils (by specifying school attendance age); advisory circulars which recommend ratios of pupils to teachers; and financial constraints

which limit the ability of local governments to employ substantially larger numbers of schoolteachers above the levels set through the statutory and advisory parameters.

The discretion of the local government depends upon the nature of the parameters set by the centre upon the services the local government delivers. The term "discretion", like "power", has been subject to a variety of definitions. Jowell argues that discretion is "the room for decisional manoeuvre"<sup>(33)</sup>, while Davies argues that an actor has discretion insofar as "the effective limits on his power leave him free to make a choice among possible courses of action or inaction"<sup>(34)</sup>. Both of these definitions involve a conception of the "ability to manoeuvre" within limits. The centre may set fixed parameters concerning the delivery of a service, yet the discretion of a local actor is also defined by the contingent circumstances surrounding actions within fixed parameters. For example, while the fixed parameters allow social workers discretion to take children into care, this fixed discretion is bounded by contingent circumstances such as the availability of child care accommodation or the attitude of a senior in the same social work department. Discretion is bounded by decisions other than those that emanate from the centre, as the further example of the impact of national wage negotiations on local government rating and taxing shows.

This thesis is concerned with exploring the centre's instruments of influence and the parameters it sets for services delivered by local governments rather than an explanation of the wider set of influences upon local government decision making, although where these interact with the centre's parameters, as in the case of national

wage settlements, they will be discussed. The study focuses upon the parameters set by the centre rather than the wider constraints that limit the discretion of local actors. In this sense, the focus is upon discretion as the degree to which an organisation or individual can act within parameters set by others without reference to the parameter setters. Where a wide range of actions can be undertaken within the parameters set by the centre through its instruments the discretion is large, where only one or a few activities can be undertaken by the local actor or the local authority collectively, discretion is small.

The range of action, and therefore the degree of discretion of a local authority or a local actor is a function of the looseness or tightness of the parameters (whether set by one instrument or many) within which local governments deliver services. Local government actors operate within tight parameters when the range of actions that they may undertake within these parameters is limited. Conversely, when the parameters allow a wide range of actions, the parameters are loose. For example, the parameters concerning the sale of council houses are relatively tight parameters. Because local governments are statutorily obliged to sell houses on demand, the range of actions on receipt of a correctly completed application from a tenant to buy a house is very limited. At most the applicant can be informally discouraged from pursuing his application. An example of a relatively looser set of parameters can be found in the building of houses by local governments. While the centre sets parameters such as the specification of minimum standards and the financial resources that may be devoted to house building projects, within these parameters local governments can build an infinite variety of types of

house - from high rise blocks to bungalows, or conversions of listed buildings. Where the parameters are tight, local government actors have little discretion, where they are loose local government actors have a large amount of discretion.

Central government influence refers to the ability to ensure that what local governments do is consistent with its preferences. It is important not to reduce central influence to the setting of tight parameters and little local discretion since the centre may secure activities of local governments consistent with its preferences through setting loose parameters. For example, the centre sets tight parameters for the total level of capital expenditure which a local authority may incur through specifying upper limits on capital expenditure in order to ensure that local governments do not spend above the levels that it defines as desirable on capital projects. However it sets relatively looser parameters upon the precise goods and projects on which this total is spent - individual projects are not approved, rather the centre allocates blocks of expenditure for particular services<sup>(35)</sup>. The centre influences local capital spending through parameters which are at one level (the aggregate of capital spending) tight, and at another (the particular projects upon which the aggregate is spent) loose.

The tightness of the parameters which central government sets for local government activities is a function of two sets of factors. First, it is a function of the ability of the centre to specify which activities are consistent with the centre's preferences and which are not. Some activities can be more easily specified than others because of the properties of these activities. For example, it is relatively easier to set tight parameters concerning the

level of council spending in a fixed cash target or range than to set parameters for the practices to be adopted by social workers when counselling clients through a mass of detailed procedural rules which seek to take account of "every eventuality" in a highly complex and variable relationship between social worker and client. There are a number of possible attributes of the programmes delivered by local governments which make them more amenable to tight parameters which may leave local actors little discretion:

- a) Where the local authority service results in the delivery of a material good, it is possible to set specific parameters since the dimensions of material goods can be quantified. For example, minimum floor spaces for schools, road widths and house sizes can be expressed through precise measures. Where the service results in the delivery of non-material goods or services, it is less easy, if not impossible, to set specific parameters. For example, one cannot set specific parameters governing the minimum or maximum "quality" of social work counselling.
- b) Similarly, where the programme results in the delivery of cash benefits it is more amenable to tight parameters than the delivery of non-material and other material benefits because entitlements to cash benefits, as well as levels of provision, can be quantified.
- c) Where there are accepted assumptions concerning the relationship between the inputs to the local service, in terms of manpower, finance or materials, and the service delivered, it is relatively easier for the centre to set tight parameters by specifying the inputs to produce desired consequences. This not only applies to services which result in the delivery of material goods. In education, for example, there is an

accepted set of assumptions, a "means-end technology"<sup>(36)</sup> that for the delivery of an adequate education there should be teachers teaching classes which do not exceed certain sizes for minimum numbers of hours per year. On the other hand, where there is no accepted "means-end" technology, such as in the delivery of social work counselling, the inputs to the service are less amenable to specification.

- d) Where the service is delivered to a specified clientele, as opposed to a service delivered to all citizens on demand, the centre can set specific parameters by creating a statutory entitlement to receive a defined level and type of good or service. For example, while it is relatively easy to specify the entitlement to a rate rebate or, in principle (although this is not actually specified) eligibility to receive a council house, it is less easy to set specific parameters which define entitlements to certain "amounts" of roads or environmental health services.

There are other possible attributes of a service which, arguably, make some services more amenable to specific parameters than others. For example, the degree of professionalisation within the service may reflect the absence or presence of shared terminology and values among actors delivering the service and mean that the language used in the instruments through which the parameters are set is relatively more or less ambiguous. For example, within the education profession there are common conceptions of the "adequacy" of class sizes whereas within the delivery of leisure and recreation services there is no professional consensus on the number or size of leisure centres which make up an "adequate" service.



Second, the existence of tight parameters for local government services is a function of the disposition of the centre to set tight parameters; it must not only be able to set tight parameters by specifying activities which are consistent with its preferences, but must also desire to specify a limited range of activities as consistent with its preferences. Unlike the ability to set tight parameters, the disposition to set tight parameters is highly variable over time. For example, the Conservative government of 1979 has set tighter parameters over the same activities of local government (e.g. the sale of council houses and the determination of the total level of expenditure) than previous Conservative or Labour governments. The disposition of the centre to set tight parameters is variable, but one may present some possible attributes of a service which make the centre more likely to set tight parameters over a service:

- a) Where the service makes large demands upon public financial resources the centre seeks to set tight parameters which limit the aggregate demand of these services on public resources as well as influence the use to which public resources are put. This might, for example, differentiate between housing, roads, education, social work and police which together account for over three quarters of total local government expenditure from services such as cleansing, environmental health and burial grounds and crematoria.
- b) Where the service is a defining priority of government (e.g. police services and taxation)<sup>(37)</sup> the centre might be expected to seek to set tight parameters concerning the delivery of the service by local governments since these reflect the sine qua non priorities of governments.

c) where the service involves significant externalities, that is to say, where the benefits of the service are enjoyed (or the consequences of failure to deliver the service are felt) by those outside the boundaries of the local authority. While all services can be perceived to involve some externalities<sup>(38)</sup>, this criterion would distinguish between a service where the externalities are relatively small, such as the library service, and those with more significant externalities, such as public health and sewerage.

These are some of the a priori arguments which suggest that some services, or aspects of services, are more likely to be delivered within relatively tighter parameters than others. They do not, however, lead to a single set of stable hypotheses according to which services can be divided up into services expected to be delivered within relatively tight parameters and those which can be expected to be delivered within loose parameters. There are two reasons for this. First, many of the arguments lead to different expectations; for example, the sewerage service is relatively small in terms of resources devoted to it (less than one per cent of manpower in 1981) and one would expect on the basis of this criterion, that the centre sets loose parameters. Yet it is also a service which results in the delivery of a material good which has significant externalities and therefore, according to these criteria, more likely to be subject to relatively tight parameters. Second, to define a whole service as more likely to be delivered within loose or tight parameters ignores the fact that certain components of the service (e.g. the building of social work day care centres or the delivery of cash assistance by social work departments) are likely, on the basis of any of the

single criteria discussed above, to be more amenable to tight parameters than others (e.g. social work counselling).

A discussion of the looseness or tightness of the parameters within which local governments deliver services, and consequently the discretion of local government actors, requires a systematic analysis of the parameters across a wide range of policy areas since local governments deliver a wide range of services. There are, of course, problems in defining precisely what a service is. There are no firm criteria which can be used to unite a set of activities as a single and whole service<sup>(39)</sup>. At one level of aggregation one might speak of a social work service, and at another one might speak of a variety of social work services, including child care, juvenile crime, care of the elderly and care of the handicapped, for example, as separate services. The absence of a common definition of the term is illustrated by the fact that different statistics relating to local government activities rarely use identical groupings of functional activities to describe financial and manpower resources devoted to the services delivered by local governments, as well as by the fact that labels attached to local government departments are variable<sup>(40)</sup>. There is a relatively high level of agreement across these sources about the definition of some aggregations of functional activities as services, such as roads, education, social work, police, fire, housing, water and planning, yet other activities, such as electoral registration, burial grounds and crematoria, museums and parks appear under various different labels, and grouped together with other activities under various labels, in different sources.

A description of the range of services delivered by local governments can be gained by using the Chartered Institute of Public Finance and Accountancy<sup>(41)</sup> groupings of services for the presentation of financial statistics. According to this there are 16 services delivered by local governments excluding the two residual "other categories" of services for regions and districts in Scotland (see table 1.1). In terms of financial resources devoted to them, two services dominate the Scottish local government system, housing and education, which together account for 58 per cent of total expenditure<sup>(42)</sup>. Only three other services, the regional services of roads, social work and police, account for five per cent or more of total local government financial resources (eight per cent, six per cent and five per cent respectively). The remaining 23 per cent is distributed among a variety of services ranging from fire services (one per cent) to burial grounds and crematoria (less than one per cent) to the variety of services included in the "others" category such as consumer protection, building control and district courts. The centre may set parameters for a whole variety of different services delivered by local governments.

In addition, the centre may set parameters for different stages in the delivery of a service. Parameters are not set for the service "as a whole". Instead, parameters are set for discrete activities involved in delivering a service which may be termed stages in the policy process. The centre sets parameters, for example, concerning the level of finance to be devoted to the service as well as parameters which constrain what this money can be spent on. The parameters which the centre sets for those budgeting for police stations or social work homes are not the same as those for the

Table 1.1

Local Government Services in Scotland

<u>Service</u>	<u>REGIONAL SERVICES</u>		
	<u>Expenditure</u> <u>1981-82*</u>	<u>Percentage of</u> <u>Regional/District</u> <u>Expenditure</u>	<u>Percentage of Total</u> <u>(Regional + District</u> <u>Expenditure</u>
Education	1,235	50	31
Roads	310	13	8
Social Work	249	10	6
Police	202	8	5
Sewerage	143	6	4
Transport	65	3	2
Water	59	2	1
Fire	55	2	1
Concessionary Fares	31	1	1
Other**	85	3	2
Total Regional Services	2,464	98***	61

<u>DISTRICT SERVICES</u>			
Housing	1,062	70	27
Leisure & Recreation	117	8	3
Cleansing	101	7	3
Environmental Health	73	5	2
Planning	56	4	1
Libraries & Museums	49	3	1
Burial Grounds & Crematoria	10	1	0
Other****	50	3	1
Total District Services	1,518	101***	38

- \* Estimated net revenue expenditure 1981-82 for all services except housing (gross) plus capital expenditure plus loan charges.
- \*\* Including registration of electors, leisure and recreation, consumer protection, urban programme, physical planning and school crossing patrols among others.
- \*\*\* Figures do not add to 100 due to rounding.
- \*\*\*\* Including building control, district courts, trading accounts, non road lighting among others.

Source: Chartered Institute of Public Finance and Accountancy  
Rating Review 1981 (Glasgow: CIPFA, 1981).

people who design them or who work in them. Through an examination of the centre's instruments it is possible to offer an answer to the question of which services and which stages in the delivery of these services are subject to relatively loose or tight parameters set by the centre.

#### IV. Instruments and Parameters: The Questions Asked

The introductory paragraph to this thesis stated the object of the thesis as examining the properties of the instruments, under what circumstances the instruments are used and to what effect. The properties of the instruments refers to the degree to which the instrument constrains local governments. Influence is the ability to secure that the activities of local governments are consistent with the preferences of the centre. Because the centre exerts influence in a multi-organisational setting, because it influences an array of local authorities and groups of actors within those authorities, influence is a question of the probability of securing that the activities of local governments are consistent with the preferences of the centre. The variable probability of instruments in securing that the activities of local government are consistent with the preferences of the centre is understood as the degree to which an instrument constrains local governments. If an instrument sought to encourage any activity, yet this activity were not engaged in by any local authorities, then this would suggest that the instrument imposes no constraint upon local governments. If, on the other hand most or all local governments engaged in this activity, then this would suggest that the instrument imposes a strong constraint upon local governments. How far do the instruments of money, laws and advice constrain?

Other aspects concerning how instruments are used are first, for which local government policy areas are the instruments used? The preceding section argued that the centre may not seek to influence all local government services equally; the centre's disposition and ability to set parameters for local government services varies according to the policy area and its characteristics.

Second, can the process of employing instruments be seen as a negotiated agreement, where negotiations are understood to refer to the process by which the preferences of the centre are modified through the granting of concessions to the preferences of local government actors? While the centre uses instruments of influence, it is not always the sole author of them. Local government actors may, for example, actually request an item of legislation or that a circular be issued with the content of the legislation or circular reflecting their preferences. Or, legislation, grant settlements and circulars may end up in a somewhat different form from that which the centre originally intended because of a process of central-local negotiation.

Third, can the structural outcomes of using instruments be characterised as major shifts in a wide range of parameters within which a local government delivers a service? This question recognises that there are differences between the centre's instruments which may be characterised as the difference between a "major" piece of legislation and a "minor" item of legislation. How can one specify criteria which form the basis of an allocation into a "major" or "minor" category? What is "minor" from the perspective of one actor might be "major" for another - for a housing officer the raising of the school leaving age is a "minor" change whereas for an education

officer it is one of the most "major" developments in the past twenty years.

The term parameter shift is adopted in preference to notions such as "major" and "minor" instruments since it asks to what degree can any one instrument be argued to change a number of parameters within which a service is delivered. When an instrument is invoked, it may be assumed that it seeks to make some change in the status quo. There are three types of change that it may seek to make. First, there is a purely formal change which may be termed as consolidation. By employing an instrument the centre is simply restating the provisions of other instruments of the same type - this is most commonly witnessed in consolidating legislation which has the main purpose of bringing together the diverse statutes affecting a particular policy area into one larger item of legislation. Second, by employing an instrument, the centre may seek to effect changes which are reactive since the instrument is used in response to changes in the environment of a specific policy area without setting substantively new parameters for local governments. For example, the adjustment of levels of eligibility for rent and rate rebates is an example of reactive change since they are made in order to keep pace with inflation and wage increases. Third, there is active initiative where local governments are encouraged, permitted or mandated to behave in a manner which was not encouraged, permitted or mandated previously. For example, the raising of the school leaving age is an example of active change since it placed the new obligation upon local governments to deliver education to a larger clientele.



It is not, however, possible to argue that all active change can be characterised as shifting the parameters within which local governments deliver services. Some instruments which seek active change have less significant implications for the delivery of a service than another. For example, the Indecent Advertisements Display Act 1976 permits local governments to do something they were not previously permitted to do - to display venereal disease posters in public places. Yet the implications for the public health services of local governments of this active change were not as significant or far ranging as, for example, the Housing (Homeless Persons) Act 1977 was for housing since it sought to guarantee houses to significant numbers of clients.

How can the significance of an instrument for the whole range of parameters within which a policy is delivered be assessed? The significance can at least partly be assessed in financial terms - the Housing (Homeless Persons) Act as well as the raising of the school leaving age shifted the parameters of local government services and have significant expenditure implications. Yet the financial dimension of the instrument is not the only one for assessing its significance to the service as a whole. For example, although the Social Work (Scotland) Act 1968 had some minor expenditure implications per se, its major provisions, such as unifying a social work service (as opposed to a variety of services delivered by separate departments in local government), effected changes in the organisational arrangements and procedures for delivering social work services (although this led to an increase in expenditure indirectly). Similarly, while the reorganisation of local government through the 1973 Act did not cause, per se, increases in spending on particular

services, it changed the arrangements for delivering services by allocating functions to different types of local government units.

There are thus two dimensions for assessing the implications of an instrument for the parameters within which local government services are delivered. First, the nature of the change implied in the instrument - whether it is consolidation, reactive or active change - and second, whether or not it is pervasive in its impact upon the parameters within which the service is delivered. This distinction leads to five categories of instruments (consolidation is regarded as one category whether it significantly affects the whole range of parameters or not). These are presented in table 1.2 as consolidation, overhaul, adjustment, modification and parameter shift.

Table 1.2

The Impact of Instruments upon the Parameters  
Within which Local Governments Deliver Services

<u>Type of change</u>	<u>Pervasive</u> ( <u>Affects Whole Range of Service Parameters</u> )	
	<u>Yes</u>	<u>No</u>
<u>Consolidation</u>	Consolidation (Major)	Consolidation (Minor)
<u>Reactive</u>	Overhaul	Adjustment
<u>Proactive</u>	Parameter shift	Modification

Consolidation (major and minor) merely restates existing parameters in virtually identical form and is exemplified by legislation such as the Adoption (Scotland) Act 1978 which brings together in one law much of the legislation on adoption. Overhaul makes changes to the whole range of parameters within which local governments deliver services in order that change in the environment in which

it is delivered can be accommodated. One example of this comes from the immediate post reorganisation period - the Local Government (Scotland) Act 1975 makes changes in the legislation concerning local government finance in order to accommodate the changes in local government structure. The adjustment of the parameters within which local governments deliver services is typified by instruments which make adjustments to sums of money which local governments may receive or spend in respect of relatively small parts of a local service such as the Harbours, Piers and Ferries (Scotland) Act 1972 which raises the financial limit for spending on these undertakings. Parameter modification involves an extension of vires, a mandate, a set of incentives or encouragement to do something previously discouraged or prohibited (or vice versa) but which has no great impact for the service as a whole. This would include, for example, the minor amendments to the 1968 Act in the Social Work (Scotland) Act 1972. Parameter shift is the term that can be applied to instruments which extend vires, mandates, gives incentives or encourages to do something previously discouraged or prohibited (or vice versa), where the instrument proposes changes which have major implications for the delivery of the whole service. Examples of this would include the previously discussed cases of the 1973 Local Government (Scotland) Act, the 1977 Housing (Homeless Persons) Act and the 1972 National Health Service (Scotland) Act.

This question of the conditions under which the instruments are used asks whether the instruments are issued to seek to shift the parameters within which local governments deliver services. Is it possible, through the issue of an instrument, to change what local governments do by shifting parameters, or can the instruments at

most achieve piecemeal changes in what local governments do by parameter modification, with adjustment and overhaul being the major functions of the instruments?

The question of the effect of the instruments refers to the cumulative effect of the issue of instruments for local government discretion. It is not possible to label all instruments "loose" or "tight" since instruments interact with each other and complement each other to form the parameters within which local governments deliver services. Yet what is their cumulative effect? Does the centre set tight parameters for local government services or only for some, and what is the degree of local government discretion in delivering these services?

## V. The Research Design

### a) Instruments as the Focus

The thesis adopts the novel focus of examining the instruments that the centre uses to constrain the activities of local government. The centre's instruments exist in tangible (and often quantifiable) form. The centre's instruments of legislation are published in various sources and can be read and examined over an extended time period, dating from the 13th century. The centre's instrument of money - the provision of grant - is equally tangible and consistently and comprehensively quantifiable. The centre's advice is offered in a variety of forms, from personal contacts with local authorities to the issue of technical manuals and consultative documents. For the purposes of this thesis, the centre's instrument for offering advice is the circular since these are issued to all local authorities and are a public and considered statement of the centre's preference and norms.

Because instruments are capable of empirical analysis they have advantages over expositions of the central-local relationship at a generalised or vague theoretical level. This is because many theoretical treatments of the subject are difficult to operationalise. For example, legalistic discussions<sup>(43)</sup> of the relationship which stress that local government is an "agent" of central government tend merely to elaborate upon the principle that local authorities are "creatures of statute" but do not derive any operational definitions of how one could evaluate to what extent local governments are "agents" of the centre or what being an "agent" of the centre means for the delivery of local services. The Rhodes framework, which argues that central-local relations are characterised by the exchange of "resources" is difficult to operationalise since there are no unambiguous criteria according to which "resources" can be identified and ascribed to one of his five major categories. For example, the ability of local governments to levy rates could equally be described as a financial, constitutional-legal or hierarchical resource according to his definitions of resources<sup>(44)</sup>.

The focus on instruments is adopted as distinct from a case study approach to local government influence, including, for example, a section covering "central influence" as part of a wider study of local authority decision making, such as in Dearlove's study of Kensington and Chelsea<sup>(45)</sup>, or as Dunleavy's<sup>(46)</sup> study of high-rise housing. The concentration upon one specific policy area or one local government requires concentration upon a specific outcome; how local authorities exercise their discretion within parameters, but does not indicate the importance of these parameters themselves. For example, to point to the role of interest groups in local

authority decision making explains why certain options for the delivery of local services were adopted in preference to others (e.g. why a school was built in one location as opposed to another), yet it does not explain the nature of the parameters - why the local authority should actually be considering options for the location of a new school, and its discretion in school building.

b) The Structure of the Thesis

Chapter two lays out the structure of the organisations which are the subject of the thesis: central and local government in Scotland. What is the nature of the organisation that sets parameters, and what is the nature of the organisation that delivers services within these parameters? Within both central and local government there are centralising features which make it possible to talk of central and local government as a pair of separate organisations; the centre has access to the sole legitimate source of authority, its organisation is subject to uniform civil service norms and control over the financial resources of central government is vested in the Treasury. Similarly with local government the collective organisation of the full council authorises local government activities. Yet there are fragmenting features, departmentalism, professionalism and issue networks which mean that instruments are used by particular functional groups within the centre and addressed to particular groups within local government organisation.

Chapters three to five discuss for each of the instruments - laws, money and advice - four questions discussed in the preceding section as the properties of the centre's instruments and how they are used. First, for what policy areas are the instruments used? Are all local government services equally subject to parameter setting

through the three instruments of influence? Second, are the instruments used to shift the parameters of local government service delivery or are they generally instruments of parameter overhaul, adjustment, consolidation or modification? Third, are the instruments the product of negotiated agreements between central and local government where negotiation is understood to be the granting of concessions by the centre in its use of instruments in response to threats, demands or representations by local actors? This focuses upon the degree to which the centre's instruments are the result of a unilateral statement of parameters consistent with central preferences, and how far they are and can be "diluted" through concessions to the preferences of local actors. Fourth, how far do the instruments constrain - how high is the probability that local governments will act within the parameters set through instruments which define central preferences?

Chapter six looks at the relationship between the instruments of influence. Are the instruments substitutes in the sense that the centre's preferences can be the subject of any one of the instruments of influence, or are certain types of preference more often expressed through each of the three instruments alone? In what sense are the instruments of influence complementary to each other - do circulars and grants "do things" that legislation cannot or does not?

Chapter seven examines the discretion of local governments. Local government discretion is a function of the degree to which the parameters set for each service delivered by local governments are loose or tight at each stage in the policy process. The chapter examines the nature of the parameters and discretion at different

stages in the policy process in the "big five" services of education, roads, social work, housing and police. The chapter also asks how much scope there is for local authority discretion, and how far discretion is exercised by local employees without the local authority as a collective body setting parameters for its own employees.

Chapter eight reviews the principal findings of this thesis, and discusses their relevance to theories of central-local relations in Britain and, more broadly, the "resource-exchange" paradigm of public policy making and implementation which has influenced much recent discussion of the nature of central-local relations. In particular, the chapter concludes that the persistent asymmetry that exists in the relationship between central and local government can more usefully be explained on the basis of the concept of structural power derived in theories of international politics.



## Notes and References

1. Hood, C. The Limits of Administration (London: John Wiley, 1976).
2. Wolman, H. "The Determinants of Program Success and Failure" Journal of Public Policy, 1, 1981, 433-464.
3. Taylor, S. "The Politics of Enterprise Zones " Public Administration, 59, 1981, 421-439.
4. See I. Sharkansky The Routines of Politics (New York: Van Nostrand, 1970). For a discussion of the terms choice, programme and policy in an American context see R. Rose What is Governing? Purpose and Policy in Washington (Englewood Cliffs, NJ: Prentice Hall, 1978); on choice and routine delivery see R. Rose Managing Presidential Objectives (New York: Free Press, 1976), pp. 20-21.
5. Hood Limits of Administration, pp. 6-7.
6. For a discussion of control in organisations see Hood Limits of Administration, pp. 136-147.
7. See R. Rose "Disaggregating Government: Pre-Conditions for Understanding Growth" (Glasgow: University of Strathclyde Studies in Public Policy No.86, 1981).
8. Rose, R. "Changes in Public Employment: A Multi-Dimensional Comparative Analysis" (Glasgow: University of Strathclyde Studies in Public Policy No. 61, 1980), p. 30.
9. See HM Treasury The Government's Expenditure Plans 1981-82 to 1983-84. Cmnd 8175 (London: HMSO, 1981).
10. Sources for the international comparison are Rose "Changes in Public Employment", p. 30 and Statistisches Bundesamt Statistisches Jahrbuch fuer die Bundesrepublik Deutschland (Bonn: Statistisches Bundesamt, 1981).
11. Sharpe, L.J. "Theories and Values of Local Government" Political Studies, 18, 1970, p.159.
12. See E. Page and A.F. Midwinter "Remote Bureaucracy or Administrative Efficiency: Scotland's New Local Government System" (Glasgow: University of Strathclyde Studies in Public Policy No. 38, 1979).
13. See J. Dearlove The Reorganisation of British Local Government (London: Cambridge University Press, 1979).
14. This is discussed in Page and Midwinter "Remote Bureaucracy or Administrative Efficiency".
15. West Midlands Group Local Government and Central Control (London: Routledge and Kegan Paul, 1956), p. 273.

16. Sharpe, L.J. "Reforming the Grass Roots" in D. Butler and A.H. Halsey (eds.) Policy and Politics (London: Macmillan, 1978).
17. Sharpe "Theories and Values of Local Government", p. 155.
18. See J. Dulpitt "Conservatism, Unionism and Territorial Management" in R. Rose and P.J. Madgwick (eds.) The Territorial Dimension in United Kingdom Politics (London: Macmillan, forthcoming 1982).
19. Hood Limits of Administration, p. 147.
20. See the discussion in S. Lukes Power. A Radical View (London: Macmillan, 1974).
21. See, for example, N. Polsby "Empirical Investigations of Mobilisation of Bias in Community Power Research" Political Studies, 27, 1979, 527-541.
22. Lukes Power. A Radical View.
23. For a discussion of the importance of grant characteristics see D.N. Chester Central and Local Government (London: Macmillan, 1951); J.D. Stewart, J. Gibson and C. Game "Grant Characteristics and Central-Local Relations" (Birmingham: Institute of Local Government Studies (mimeo), 1981).
24. Young, K. "Values in the Policy Process" Policy and Politics, 5, 3, 1977, 1-22.
25. Central Policy Review Staff Relations between Central Government and Local Authorities (London: HMSO, 1977).
26. For a discussion of different types of objectives see R. Rose "Housing Objectives and Policy Indicators" in R. Rose (ed.) The Management of Urban Change in Britain and Germany (London and Beverly Hills: Sage, 1974).
27. Hood Limits of Administration, p. 57-73.
28. Hood Limits of Administration, p. 23
29. Davies, B. "Social Service Studies and the Explanation of Policy Outcomes" Policy and Politics, 5, 3, 1977, 41-59.
30. For a discussion of the power-dependence thesis see R.A.W. Rhodes Control and Power in Central-Local Government Relations (Farnborough, Hants: Gower, 1981).
31. Wright, D.S. Understanding Intergovernmental Relations (North Scituate, Mass: Duxbury Press, 1978).
32. For a discussion of the importance of different bases of interdependence in an international perspective see K.O. Keohane and J.S. Nye Power and Interdependence (Boston: Little Brown, 1977).

33. Jowell, J. "The Legal Control of Administrative Discretion" Public Law, 1973, p. 179.
34. Davies, K.C. Discretionary Justice (Baton Rouge, Louisiana: Louisiana State University Press, 1969), p. 4.
35. See A.F. Midwinter "Local Authority Financial Planning in a Turbulent Environment" (Glasgow: University of Strathclyde Studies in Public Policy No. 46, 1979).
36. Rose, R. "What if Anything is Wrong with Big Government?" Journal of Public Policy, 1, 1981, p. 13.
37. Rose, R. "On the Priorities of Government" European Journal of Political Research, 4, 1976, 247-289.
38. See Herman Finer's eloquent discussion of "self-regarding" and "other regarding" services in English Local Government (London: Methuen, 1945), pp. 13-15.
39. See M.J. Hill "The Policy - Implementation Distinction" in S. Barrett and C. Fudge (eds.) Policy and Action (London: Methuen, 1981), p. 208.
40. See R.A.W. Rhodes and A.F. Midwinter "Corporate Management: The New Conventional Wisdom in British Local Government" (Glasgow: University of Strathclyde Studies in Public Policy No. 59, 1980), pp. 36-37.
41. Chartered Institute of Public Finance and Accountancy Rating Review 1981 (Glasgow: CIPFA, 1981).
42. The figures in table 1.1 refer to net expenditure except in the case of housing. While this distorts the figures slightly in favour of housing, the distortion is less than would occur if only net expenditure were included for housing (i.e. the rate fund contribution to the housing accounts) since this forms a relatively small portion (19 per cent) of total housing expenditure. While it would be preferable to include gross figures for all services, these are not available broken down by regions and districts. The distortion, however, is likely to be relatively small in table 1.1; comparing with table 7.2 (referring to a period two years previously), education and housing account for 54 per cent of total capital and current expenditure, compared with the 58 per cent in table 1.1.
43. See W.E. Jackson Local Government in England and Wales (Harmondsworth: Penguin, 1959).
44. Rhodes Control and Power, pp. 100-101.
45. Dearlove, J. The Politics of Policy in Local Government (London: Cambridge University Press, 1973).
46. Dunleavy, P. The Politics of Mass Housing in Britain 1945-1975 (Oxford: Clarendon Press, 1981).

CHAPTER TWO

CENTRAL AND LOCAL GOVERNMENT:

PYRAMIDS OR MOUNTAIN RANGES?

## I. Instruments and the Organisational Setting

The first chapter of this thesis discussed the focus of the study as the instruments of the centre upon services delivered by local governments. The purpose of this chapter is to explore the meaning of the terms "central government" and "local government". Since the instruments of laws, money and advice are instruments used in relationships between governmental actors it is necessary to define the parties within this relationship - who is the user of the instrument and who is the object of the instrument?

All large organisations are internally differentiated, and central and local government organisations are no exception. Central government can be disaggregated into a number of ministries, still further into discrete divisions within the ministries with responsibility for different policy areas, and still further into discrete bureaus within the divisions with responsibility for particular tasks relating to that policy area with, in principle, no barriers to further subdivision except that which is reached when the centre becomes a collection of individuals. Similarly, the potential for differentiating local government organisation is great - the criteria which could be employed, either separately or severally, include organisational units defined by territory, departments, committees and professions.

Since complexity and organisational differentiation are ubiquitous features of large organisations, to point to their existence in central and local government does not ipso facto say anything in particular about central or local government or the

relationship between them. However, the complexity of central and local government has been interpreted as having implications for any attempt to conceptualise any aspect of the relationship between central and local government as one involving hierarchically super-ordinate and subordinate organisations. Rhodes, for example argues that the complexity of central and local government means that relationships are non-hierarchical because "ostensibly hierarchical relationships dissolve under the exigencies of implementing a policy"<sup>(1)</sup>. Consequently, he argues, "the starting point for studies central-local relations must be the complexity of the interactions and the constraints thereby imposed on both levels of government"<sup>(2)</sup>.

Given the complexity of central and local government organisation, in what sense is it possible to talk of a constitutionally superior central government using instruments of influence upon local government? In the same way that mere discussion of the complexity of governmental organisations is indiscriminate because it points to a ubiquitous phenomenon, so too is the interpretation of the implications of this complexity as the absence of hierarchy. It implies that hierarchy is absent in all large organisations. This would be a surprising conclusion for, say, ex-British Steel workers made redundant in Corby who might consider themselves affected by a decision taken within the hierarchy of British Steel to close their works down, just as it would surprise the councillors of Lothian Region if put to them shortly after the Secretary of State had cut their grant in 1981.

This chapter argues that it is possible to talk of a centre with constitutional superiority using instruments of influence to

shape the services delivered by local government for two reasons. Firstly, because there is a hierarchy within the centre that applies to multiple organisations of central government. Secondly, while complexity in the aggregate might imply that one cannot talk of instruments being issued by a centre as an undifferentiated whole, with local government as an undifferentiated whole as the object of these instruments, for the most part interactions take place between smaller numbers of actors focusing upon specific policy areas where the centre, and in particular its instruments and preferences, is relatively clearly defined.

The second section of this chapter examines the centre. There is a distinctive centre of the centre grouped around a set of institutions which make it possible to talk of a central government; the Cabinet, the Treasury, the civil service, Parliament for examples. Yet the centre is organisationally not single or a pyramid; there are a number of different departments within central government and within departments there are distinctive organisational units which interact with local governments. The centre is less a single pyramid and more a mountain range.

The third section examines local government. The characterisation of local government as a single organisation is possibly more problematic than the characterisation of central government as a single organisation. This is not only because there are over 500 units of local government in Britain<sup>(3)</sup>, but also within any one single local government the formal institutions of the "whole" council - the full council and "corporate" departments

and committees<sup>(4)</sup> - are less important as arenas of decision making than the differentiated organisations of committees and departments within the council. There is no "local government service code" analagous to the civil service code, and organisational differentiation at the local level is characterised by departmentalism and professionalism.

The fourth section discusses the implications of complexity in the aggregate for the nature of any one set of interactions between central and local government. Central and local government do not interact "as a whole", but discrete units of central and local government interact on the basis of issues which involve relatively few actors within central and local government. The complexity of the aggregate picture is further reduced by the existence of national institutions of local government officials and members.

The fifth section examines what Scotland adds to the characterisation of the organisational context of central-local relationships. While the organisation of central government in Scotland shows some distinctive features<sup>(5)</sup>, the Scottish Office is part of the British Cabinet; it is headed by a minister of Cabinet rank and is staffed by civil servants employed under the British civil service code and financed by the same Treasury that finances other Whitehall departments. The sixth section reviews the principal conclusions of this chapter and argues that it is possible to talk of a centre using instruments of influence - they are used within different organisational contexts, but they remain clearly central instruments of influence.



## II. Central Government as a Single Organisation and as a Mountain Range

### a) The Centre as a Single Organisation

The rhetoric of actors within central and local government as well as of many commentators and academic observers refers to central government as a single entity. Michael Heseltine has referred to the rights of "central government" with respect to local government<sup>(6)</sup>, Stewart and Jones have argued that "central government" has "moved from setting the framework to direct control over individual authorities' levels of expenditure"<sup>(7)</sup>, and Lothian Regional Councillors have claimed that the cuts that were made in 1981 were not their decisions but were "central government" cuts.<sup>(8)</sup>

The rhetoric is not based solely upon an abstract reification of a diverse and intangible set of concepts and institutions in the same way that might characterise discussions of "the establishment" or "the people". There is, at the core of central government organisation in Britain, a set of institutions which defines central government as a single entity.

There is one central government in Britain since there is one source of legitimate authority. Legitimacy for public decisions in the United Kingdom is conferred by the authority of the Crown-in-Parliament<sup>(9)</sup>. On its own, the existence of a single source of legitimacy does not create a single organisation of government - in the United States the constitution vests the federal level of government with legitimacy through three sets of distinctive organisations; the judiciary, the legislative and the executive branches of federal government. In the United Kingdom formal

authority is vested in one institution - Parliament.

While formal authority is vested in Parliament, party discipline vests custodianship of this authority in another single institution; the Cabinet. While ministers as heads of organisationally differentiated units of central government may have varied and even conflicting goals and preferences, the doctrine of collective responsibility requires that individual ministers accept the policies adopted by the single institution of the Cabinet. As Rose argues, "although ministers individually speak with many voices ... collectively the Cabinet can speak with only one voice at one time"<sup>(10)</sup>. Moreover, there is a single institution within the centre, the Treasury, which authorises the allocation of funds to the different organisations within the centre. There is also one code for the employment of civil servants, their recruitment and promotion, which applies across the whole of the civil service. This not only establishes a set of hierarchies within departments, but also encourages a loyalty to the service rather than to the particular department in which a civil servant is located at any one time.

b) Splitting up the Centre

While the Cabinet and Treasury, for example, can be defined as being at the centre of a single organisation, local governments in Britain rarely interact with the Cabinet or the Treasury. The Cabinet does not directly issue instructions to local authorities that they should sell council houses, neither does the Treasury directly request local governments to reduce their levels of planned expenditure. Direct contacts between central and local government

actors take place within a variety of different organisational settings. What are these different organisational settings and what is their importance for the framework discussed in chapter one?

One of the many problems involved in discussing the organisational setting of central government in Britain is that the organisations are given a variety of names, departments, ministries, sections, divisions, units, for examples, without any clear or consistent defining criteria<sup>(11)</sup>. For the purposes of this discussion of the organisational differentiation within central government three terms are used. A ministry refers to a unit of government organisation for which a minister of Cabinet rank is responsible. Here the units would be, for example, the Scottish Office, the Treasury, the Department of the Environment and the Department of Education and Science. A division is an organisational unit within a ministry which is responsible for a particular service (it is sometimes headed by a junior minister) or set of services which are a subset of all the services for which the ministry as presently constituted is responsible. This, for example, would refer to the organisational units responsible for housing within the Department of the Environment, as well as the Scottish Development Department and the Scottish Education Department within the Scottish Office. A bureau refers to an organisational unit within a division which is responsible for a particular aspect of a service, for example, teachers wages and salaries are the responsibility of a different bureau within a division concerned with education from bureaus concerned with school buildings and school curricula. The three terms are intended as

guides to the levels at which central government organisation can be differentiated. The absence of coherent and uniform principles for the internal organisation of central government makes it impossible to propose these - or any other - categories as comprehensive and unambiguous criteria for disaggregating central government organisation.

The precise ministry that interacts with any one local government depends upon the territorial location of the local government<sup>(12)</sup>. Table 2.1 presents the ministries which interact with local governments for five major services of local government within Britain; education, police, housing, social work and roads. In England, these five major functions are the responsibility of five separate ministries, the Department of Education and Science, the Department of the Environment, the Home Office, the Department of Transport and the Department of Health and Social Security - with "general supervisory responsibilities" for all these services vested in the Department of the Environment. General supervisory responsibilities are defined primarily in financial terms - the Department of the Environment is the ministry which monitors local spending, distributes grants and scrutinises the policy recommendations of the other ministries for their financial implications. The Welsh Office has responsibility for housing, roads, social work and education, while police services in Wales are the responsibility of the Home Office. In Scotland all the five major services are the responsibility of the Scottish Office - indeed, almost all other local government services with the major exception of consumer protection are the responsibility of the Scottish Office.

Table 2.1

Ministries with Responsibility for Five Major Services  
Delivered by Local Governments in Britain

<u>SERVICE</u>	<u>ENGLAND</u>	<u>WALES</u>	<u>SCOTLAND</u>
Education	Department of Education and Science	Welsh Office	Scottish Office
Police	Home Office	Home Office	Scottish Office
Housing	Department of the Environment	Welsh Office	Scottish Office
Roads	Department of Transport	Welsh Office	Scottish Office
Social Work	Department of Health and Social Security	Welsh Office	Scottish Office

Local governments not only interact with different ministries, they also interact with different divisions within different ministries. For example, within the Scottish Office local authorities interact with distinctive divisions of the Scottish Office; the Scottish Education Department for education and social work, the Scottish Home and Health Department for police, the Scottish Development Department for housing and roads. Similarly within the Welsh Office and the English functional departments there are divisions within ministries concerned with each of the five major services since in none of these ministries is the delivery of the local government services the sole concern of the ministry.

There is no uniform set of criteria according to which divisions within central government ministries can be differentiated or defined<sup>(13)</sup>. In name the division of the Scottish Office with responsibility for social work is the Social Work Services Group

while in the Department of Health and Social Security it has no name and in the Welsh Office the relevant organisational unit is termed a "division"<sup>(14)</sup>. Formal hierarchical distinctions are also unlikely to offer any guide to the organisational differentiation within ministries; in Scotland and England the relevant divisions of the ministry responsible for social work are headed by an under secretary, while the relevant division of the Welsh Office is headed by an assistant secretary<sup>(15)</sup>. Similarly, within the Department of Environment there are four under secretaries with responsibility for housing, in the Scottish Office there is only one, and in the Welsh Office the housing division is headed by an assistant secretary.

There is no consistency in the presentation of bureaus within government departments and ministries with responsibilities for particular aspects of services such as building, letting, financing or demolishing houses or hiring or paying teachers. They go under a variety of names, such as divisions branches and units and, in the Civil Service Year Book, some of the descriptions of different bureaus are not given formal titles. Any measure of the differentiation within central government faces the basic problem that the formal organisational structure is not presentable in a clear organisational chart. How can the diversity of points of contact between central and local government be presented? One method of presenting the diversity of points of contact is to examine the number of channels that may be used to contact a department or ministry through the most frequent channel of non-written contact - the telephone. In the absence of any formal distinguishing criterion for different organisational units within

central government with which local government actors interact, an indicator of the number of units can be given by examining telephone extensions listed in the Civil Service Year Book. Each bureau within a ministry is given a brief description in the Year Book concerning the service and the particular aspect of the service (e.g. salaries, school buildings in education), and a telephone number for enquiries. The presentation of telephone extensions for the variety of organisational units responsible for particular services gives an indicator of the number of points of contact within central government for each local government service (with regional bureaux counted as one point of contact irrespective of the number of regions). The results of an examination of the Year Book for the five major services of local governments in Britain is presented in table 2.2.

From table 2.2 it can be seen that there is a wide variety of points of contact between local authorities and different units within central government. The largest number of points of contact is consistently found in England and the fewest in Wales - this is consistent with the proposition tested in the literature on the sociology of organisations that larger organisations tend to have greater internal organisational differentiation<sup>(16)</sup>. The listing of telephone extensions in table 2.2 underestimates the number of units within central government organisation since it excludes some contacts between central and local government not specifically described in terms of specific services; for example it excludes the general monitoring of local expenditure for all local government services in the Welsh Office, the Scottish Office and the Department of the Environment.

Table 2.2

The Number of Points of Contact between Central and Local  
Government in Five Major Services:  
Telephone Extensions within Central and Government Departments

<u>SERVICE</u>	<u>ENGLAND</u>	<u>WALES</u>	<u>SCOTLAND</u>	<u>TOTAL</u>
Education	38	6	23	67
Roads	23	3	7	33
Social Services	20	2	6	28
Police	18	NA	5	23
Housing	13	5	4	22
TOTAL	112	16	45	173

Source: Management and Personnel Office Civil Service Year Book 1982  
(London: HMSO, 1982)

Table 2.2 shows that for each of the major services the contacts between central and local government are not between one undifferentiated central government organisation and local governments. For both England and Scotland the rank ordering is identical: education is more internally diversified using points of contact as an indicator, while the least internally differentiated service is housing with social services less internally differentiated than education in England and Scotland.

What is the significance of the existence of this organisational differentiation within central government? First, it means that in aggregate relations between central and local government are complex. Everyday relationships between central and local governments are not characterised as one single relationship, but a plethora of relationships between local government actors and particular divisions and bureaus within central government. The complexity is compounded by the observation that relationships between central and local government are not invariably two way



interactions. For example, the approval of capital expenses for housing projects may require the interaction of a set of local actors with at least two bureaus within the ministry concerned with building standards and housing finance and, within the centre, the interaction between these two bureaus<sup>(17)</sup>.

Second, different ministries, divisions or bureaus within central government organisation can have different goals or preferences; one unit of central government organisation may seek to encourage or mandate local authorities to engage in one particular set of activities while another seeks to discourage or prohibit it. Perhaps the clearest example of this is the conventionally argued proposition that some central government ministries seek to encourage local governments to spend more by expanding services, while others seek to encourage local governments to reduce spending. The Central Policy Review Staff, for example, argued

Local authorities complain that inadequate co-ordination means that individually conflicting and collectively unrealisable obligations are laid upon them by different parts of central government. It is not easy to find examples of the first point. But recently there have undeniably been contradictions between one department's attempts to expand one of its services and general attempts by the Treasury and the DOE to reduce local authority expenditure overall<sup>(18)</sup>.

The CPRS concludes that "central government is, in fact, a federation of separate units with their own ministries and their own departments"<sup>(19)</sup>. Within ministries, even within divisions or bureaus within ministries, there is evidence to suggest that different, if not conflicting, preferences for local authority service delivery coexist. For example, one senior Scottish building officer complained that the "technical" and the "administrative" officials responsible for housing within JDD gave him contradictory advice on

the acceptability of a proposed housing project.

Third, different ministries or departments or bureaus have different approaches to local governments which implies different dispositions to influence local government among the different units within central government organisation as well as the use of different instruments of influence. Griffith's analysis<sup>(20)</sup> distinguishes between ministries which have a laissez-faire approach to local authorities - seeking to interfere with local governments as little as possible - from those which are promotional - seeking to encourage and exhort local authorities - and those which are regulatory - relying more heavily upon statutory methods of securing that local government activities are consistent with central government preferences. Griffith also argues that within ministries and within the same policy areas different approaches to managing relationships with local governments are employed. This is reinforced by Gill's analysis<sup>(21)</sup>. This is further supported, albeit on the basis of the argument that it is the nature of the policy area rather than any departmental "philosophy" that affects the way in which the centre seeks to exert influence, by the discussion of the extent to which different policy areas are more amenable to tight parameters in chapter one. This would lead one to the expectation that different organisational divisions within central government use instruments of influence differently; for the laissez-faire departments (in Griffith's analysis the Ministry of Health) the use of legal instruments is less common than in regulatory departments (e.g. the Home Office).

Fourth, the parameters which the centre sets for local government activity can be the outcome of a process of negotiation

within central government between actors with different goals and preferences and different approaches to managing relationships with local government. For example, individual ministries negotiate with the Treasury for funds to finance local government services for which they are responsible<sup>(22)</sup> and which are distributed through the Rate Support Grant. The way in which parameters are set for local government may be the outcome of processes of bargaining within the centre; legislation on homelessness involved, for example, discussions between central government departments responsible for housing and social work<sup>(23)</sup> as well as between different territorial ministries of central government<sup>(24)</sup>. This is not to suggest that parameters are invariably set after a process of bargaining between central and local government - the major outlines of the centre's policy on council house sales were defined as an election commitment and were not subject to substantive modification through negotiations within central government. Neither is it to suggest that the negotiations within the centre are negotiations between equals - the Treasury's relationship with spending ministries cannot be characterised as "equal bargaining"; although its position is variable, it is often dominant<sup>(25)</sup>.

The differentiation within central government organisation makes it impossible to conceptualise central government as a single pyramid structure. Instead, to use another spatial metaphor, the centre is a mountain range; a variety of hierarchies with which local actors interact. The hierarchies and organisational divisions within central government are asymmetrical; for some services in some parts of Britain there are many distinctive

organisational units, while for others in other parts there are fewer organisational units.

### III. Local Government Cohesion and Differentiation

The term "local government" itself is a generic term for a large number of individuals and organisations, associated with the 548 local authorities with responsibilities for different ranges of services in defined geographical areas within the United Kingdom<sup>(26)</sup>. While the generic "local government" cannot be regarded as a single unit, the local authority, as the body which employs local service deliverers, can be. The institution of the full council is formally the single source of legitimacy for the exercise of discretion within the statutory parameters set by the centre. As one can argue that there is a centre of the centre in central government organisation, so Gyford also argues that there is a "core" of local government organisation:

The core of the local government political system is the local authority itself, incarnate in the form of the Town (or County, or City) Hall and the officers and councillors who work within it. In strict legal terms the relationship between these two sets of individuals is quite clear. The officers, individually, are the appointed employees of the elected councillors as a corporate body. The councillors, again as a corporate body, rather than individuals are vested with the powers and duties of making decisions in the name of the authority. The officers are employed to assist councillors in arriving at their decisions and to put those decisions into operation<sup>(27)</sup>.

There are three senses in which, on the basis of this principle, a local government as a collectivity of groups and individuals within a local authority can be regarded as a single organisation. First, while in most authorities the full council meets regularly, and when it does meet it generally approves or refers back decisions taken by sub-groups of councillors (in committees and sub-committees - see below), the full council is the single source of legitimacy for the apportionment of political leadership to local government departments

through the allocation of committee posts<sup>(28)</sup>. Second, the corporate decision of the local authority is the sole source of legitimacy and legality for raising revenue<sup>(29)</sup>; departmental expenditure allocations and consequent rate, rent and charges levels are not made by the departments themselves<sup>(30)</sup>, but are the result of a process of interaction between different departments and committees of the local authority and approved by the full council<sup>(31)</sup>. Third, there are "corporate" structures within local governments which were intended, according to the philosophy behind their introduction<sup>(32)</sup>, to "develop and co-ordinate the policy of the authority". Local authorities have, since the early 1970s, introduced management and committee structures designed to "co-ordinate" the activities of service departments and committees within the local authority<sup>(33)</sup>. While the nature and the degree to which "corporate" institutions have been introduced into local government is highly variable<sup>(34)</sup>, the principle of the introduction of structures of corporate management, along with other developments in "corporate" planning, such as regional reports<sup>(35)</sup> and community planning<sup>(36)</sup> underline the formal status of a local government as a single organisation - that the local authority should be able to adopt a single approach to the delivery of a wide range of services within a limited geographic area.

The three factors reflecting cohesion with local government organisation coexist with two powerful fragmenting factors - departmentalism and professionalism. Departmentalism refers to the constellation of diverse goals and interests that result from the organisation of local government actors into discrete organisational units of committees and departments. On average there are, in

Scotland, 12.5 departments and 10.0 committees within regional councils and 5.2 departments and 5.4 committees in district councils<sup>(37)</sup>.

Departmental and committee organisation within local government is variable within the same class of local authority. For example, 36 of the 53 Scottish districts have separate housing departments, while in the remainder the housing function is incorporated within a department with responsibility for other services, such as planning<sup>(38)</sup>. Within the local government, departmental organisation reflects the principles of organisation by process and organisation by purpose<sup>(39)</sup>. Organisation by process means that similar activities (e.g. accounting, hiring manpower) are the criteria for staff organisation. Thus, for example, six of the nine regions and 21 of the 53 districts in Scotland have personnel departments, and eight of the nine regions and 22 of the 53 districts have finance departments. It also reflects the principle of organisation by purpose since the "service" departments and committees are defined by their purpose - to deliver housing, education, leisure and social work services. These departments serve different clients<sup>(40)</sup>, employ different numbers of people, with different skills and qualifications.

The importance of the organisation of local government into discrete units is that departments and committees within local government can and do have differing goals and objectives. They compete for scarce resources. The importance of departmentalism as a fragmenting factor with local government is stressed by Rhodes and Midwinter since it is one of the main reasons for the

failure of the introduction of corporate management structures to make any appreciable difference to the decision making process within local government:

Departmentalism is far from dead. Indeed, the inadequate application of corporate management has given it new life. The variety of activities, the absence of defined objectives and priorities and the problem of bringing all the relevant factors into consideration at once allow separatism to creep in<sup>(41)</sup>.

At the local level, the institution of the full council or the institutions of corporate management do not provide the level of cohesion that is found within central government through the Cabinet.

Professionalism refers to the constellation of diverse goals and interests that result from the amalgam of different professions that go to make up the local government service. Unlike the civil service, there is no common local government employee code or common career structure which applies to all services delivered by local governments. A teacher makes his career in teaching rather than in a local government service. Local government is differentiated on the basis of professions<sup>(42)</sup> since to belong to a profession means to share, to a greater or lesser degree, an identity with other members performing similar tasks; similar career aspirations, a loyalty to the profession to which they belong (either in addition to or instead of a loyalty to the local authority which employs them) and possession of a similar body of technical knowledge and assumptions of the importance of their tasks.

Stewart argues that:

Professionalism does bring in to local government a very committed group of people who believe passionately, not in the local authority, but in the roads, the schools, the professional job. Professionalism also results in the dominance of a particular way of solving problems. The repertoire of solutions found within a department are the accepted professional solutions<sup>(43)</sup>.

Professional groupings may overlap with departmental structures, but they do not necessarily do so. For example, a housing department may contain professional officers concerned with housing management as well as officers concerned with technical aspects of housing finance or house building and repair. As with central government differentiation, it is difficult to quantify the degree to which professionalism differentiates units within local government since there are no unambiguous operational definitions of what constitutes a profession<sup>(44)</sup>. However, differentiation within professional organisations, the difference between belonging to the Educational Institute of Scotland and the Royal Incorporation of British Architects, for example, is one indicator of the degree to which local government is differentiated according to professions<sup>(45)</sup>. Precise numbers on the number of professional organisations is in turn hazardous, not only because of the problems of differentiating between what is, for example, a professional group and a trade union (as with the Association of Chief Architects) but also because there is no adequate source directory which can be used to locate these groups. However, a search of the existing source books and the establishment of contact with groups in 1979 revealed that there were at least 31 professional groups to which senior local government officers belonged; ranging from the large Chartered Institute of Public Finance and Accountancy to the small Society of Directors of Education in Scotland and including groups such as the Scottish Institute of Environmental Health and the Association of Public Lighting Engineers.

The relationship between central and local government is, in aggregate, complex not only because there is organisational differentiation within central government but also because local



government cannot be regarded as a single cohesive organisation. Interactions between central and local actors take place within a bewildering variety of organisational contexts; for example, the interaction between central and local government may be the interaction between a minister and the local authority as a corporate body, as approximated in the case of the Secretary of State for Scotland seeking to compel Lothian Regional Council to reduce its budget by £30 million in 1981/82, or particular departments and/or particular bureaus within a department at either the central or local level, as in the case of the interpretation of a particular item of building control legislation. Or they may involve the interaction of different professional groups at both central and local government level, as in the case of the Housing (Homeless Persons) Act, as well as various combinations of these organisational contexts in multilateral interactions within and between central and local actors, as in the case of interaction over the Rate Support Grant settlement.

There are factors within the organisational setting of central and local government which serve to reduce the complexity of central-local government interactions. First, there are the national representative organisations of local governments, the local authority associations<sup>(46)</sup> composed of councillors and "officer advisers". Second, there are professional associations; while professionalism may fragment the organisation within an authority the professional organisation brings together professionals from different local authorities and may identify a single ministry as a partner in relationships with other groups at the national and local level. Third, there are ad hoc groups composed of local

and central officials and elected members such as the Scottish Housing Advisory Committee and the Local Advisory Committee on Trading Standards which convene to discuss issues in the delivery of housing and consumer protection. Typically, consultations concerning the issue of legislation or a circular or the negotiation surrounding the Rate Support Grant do not involve all the whole range of possible interactions between central and local government. For example, when the centre consults on changes in the definition of capital expenses under section 94 of the 1973 Local Government (Scotland) Act it does not consult with each individual finance department of a local authority or each individual chief executive, but rather with the national organisation of finance officers (the Chartered Institute of Public Finance and Accountancy) and chief executives (Society of Local Authority Chief Executives) as well as the national organisation of local authorities (the Convention of Scottish Local Authorities) and the Joint Working Party on Local Government Finance.

In terms of the number of organisations which interact, then the existence of these three types of national organisation adds to the complexity of central-local government interactions. Central-local relations cannot be seen solely as the relationship between individual units at the centre and at the locality. The introduction of national organisations into the picture involves greater complexity since it introduces another relevant dimension to central-local interaction - the interaction between professional associations, local authority associations and ad hoc groups and actors within individual local governments on the one hand and central government on the other. In terms of the process of central-local interaction

the introduction of national associations reduces the complexity since it means that consultations between central and local actors take place not at the level of multilateral contacts between individual bureaus within central government and committees or departments at the local level involving large numbers of actors, but between relatively few actors in the forum of national organisations.

#### IV. Central and Local Government and Instruments

The focus of this study is the instruments of the centre - the means through which the centre can secure that the activities of local government are consistent with its preferences. In what sense is it possible to talk about central and local government as single and distinct organisations which issue and are subject to instruments? The discussion of the complexity of the central-local government relationship might challenge this conception on two main grounds. First, there is no one set of central government (or local government) preferences, rather there is a variety of preferences among actors in different organisations within central and local government that may conflict with each other. Thus the framework might be criticised because there is no one set of central preferences which serve as the basis for parameter setting. Second, because there is a high degree of organisational differentiation within central and local government, relationships between central and local government are better characterised as relationships between a variety of groups and organisations competing to secure their own particular goals in which hierarchical distinctions tend to play a peripheral role; according to Rhodes, complexity means that hierarchical distinctions "dissolve".

In what sense, then, can one talk of the instruments of the centre upon services delivered by the locality? Councillors officials, academic commentators and journalists often make a distinction between the policies of the centre and the policies of local government because some policies, such as the sale of council houses, the reduction of grant for local authorities and the proposals to cap the rates are clearly central government initiatives in the sense that if local government councillors and officials had their own way they would not be introduced. Is the conceptualisation of the centre as a single organisation and the local government as a single organisation only valid at the level of casual discussions of the system of local government while for more sophisticated analyses the terms must be dropped in favour of terms which describe more or less autonomously interacting groups who happen to be employed by different institutions or elected by different constituencies? In the context of this study it is possible to talk about the preferences and instruments of the centre because despite the complexity of the aggregate, any one set of interactions is likely to be relatively less complex. Even though the interactions might be relatively less complex, there is still the possibility for conflicting preferences within the centre. Yet within central government there is a hierarchical system which can resolve these conflicts which can be applied to multi-organisational settings. Thus it is possible to talk of the preferences of the centre. Despite the undoubted ability of local government actors to shape the preferences of the centre, and how these preferences are formulated in the centre's instruments, the instruments are still clearly central government instruments since access to these instruments rests with central rather than local government.

a) Complexity in the Aggregate and Relative Simplicity in the Individual

The picture of complexity of central-local government relations presented above is based upon the totality of relationships between central and local government. They take place between different departments, bureaus within local and central government. If one wanted to try to map the whole network of actual contacts between central and local government actors the likely result would be a pattern resembling more closely a well used ice skating rink rather than a coherent organogram. The complexity in this map of the relationship results from the fact that the map includes the relationship between, say, social work professionals in local governments, the professional organisation of social workers, the Convention of Scottish Local Authorities, and a number of sections or bureaus within the Scottish Development Department and the Scottish Education Department as well as the similarly varied set of organisations and groups involved in planning, police and sewerage. Yet actors in central government and local government with responsibility for sewerage rarely interact with central and local actors concerned with social work; this is a logical consequence of organisational differentiation. One can conceive of policy issues, such as the provision of sewerage facilities for a social work home which might involve contacts between social work and sewerage officials at the national and local level. However, the picture of complexity at the aggregate level is misleading since for any one particular policy area there are likely to be relatively few actors and organisations involved in the relationship. The previous section has discussed how consultations between central and local government are often conducted through relatively few actors within national

organisations of professionals and local authority associations. At the level of the individual authority, an official with responsibility for one functional area of policy within local government is likely to have most frequent interactions with his counterpart in central government organisation without involving the actors concerned with other services. Few actors within central and local government are likely to have or, in order to manage their relationships with their counterparts in central or local government, need to have more than a casual acquaintance with the issues involved in the central-local government relationship outside their own sphere of professional or departmental interest. For example, at the local level, a chief executive officer addressed the Scottish Association of Chief Building Control Officers on the matter of proposed changes in building control regulations:

I begin with a confession. I know absolutely nothing about building control regulations in Scotland. We in Midlothian have a perfectly competent building control officer<sup>(47)</sup>.

The functional specificity of many of the relationships between central and local government is illustrated by an examination of the circulars issued by central government departments in Scotland. In the period 1977 to 1978 88 per cent of circulars referred to one specific functional service alone (see chapter five). While in principle the services delivered by local governments can all be interrelated - indeed it was one of the assumptions of "corporate management" that they were<sup>(48)</sup> - interactions between social work professionals and housing managers, or police professionals and planning officers are relatively infrequent.

The implications of this for the argument that the complexity

of central-local government relations makes it impossible to talk of the preferences of a centre is that while there may be a diverse array of preferences and goals within different organisational divisions at the central government level, for any one set of interactions concerning a particular service, the number of organisations involved and consequently the array of goals and preferences within the centre is more limited than the aggregate picture suggests. Not every set of interactions between central and local government involves complex negotiation between different units of organisation within the centre. The issue of guidance on the use of admixtures in concrete does not involve a clash of preferences between "spending ministries" and "non-spending" ministries, neither does a piece of legislation allowing local authorities to license dog kennels and breeders appear to involve complex bargaining processes across units of central government organisation. The argument does not only apply to the relatively obscure examples of dog kennels and concrete. In the case of the restructuring of the system of housing finance through the Housing Support Grant contacts between the centre and local government were not contacts between all functional groups within central and local government who might conceivably perform tasks or deliver services related to housing, but between finance professionals within central and local government. From a picture of a potential plethora of interacting organisations, the focus upon any one set of interactions on the basis of a particular functional question presents a picture of relative simplicity involving fewer actors and fewer organisations with different or conflicting goals.

b) A Hierarchy Applicable to Diverse Organisational Settings

The argument that central-local government interactions are relatively less complex than the aggregate picture suggests does not mean that the relationship is one of absolute simplicity, with relationships involving central and local actors with homogeneous central and local government goals and preferences. In many cases, such as the desire by a spending department to encourage a local authority to spend more and expand services and the desire by another to limit spending, there are diverse preferences. Does this mean that one can only conceptualise central government as a single entity as distinct from local government where there is a common set of preferences within the differentiated organisations of the centre? Such an assumption ignores the fact that within the centre there is a hierarchy (albeit imperfect) for establishing priorities among diverse preferences.

While a particular set of civil servants in one department may have preferences for a particular policy, the hierarchy of central government organisation means that if their preferences are different to those of a superior within the organisation, then the preferences of the superior have priority over the preferences of the individual civil servant. For example, while an assistant secretary may be opposed to the cuts in local government expenditure, he is obliged to accept the preferences of his hierarchical superiors; a Cabinet decision takes priority over the decision of the particular civil servant who actually meets local officials on an almost daily basis<sup>(49)</sup>. Similarly, individual ministers are obliged to accept the level of spending that the Treasury has allocated (albeit on the basis of bargaining around marginal increases or decreases) and cannot unilaterally decide to spend more.



While organisationally the central government is internally differentiated, and while there are different goals and preferences within central government, the existence of a hierarchy within the centre - a hierarchy within the civil service code and a hierarchy of institutions which gives priority to the preferences of the institutions of the centre of the centre such as the Cabinet and the Treasury - makes it possible to talk of central government as a single set of coordinated preferences. In this context, the picture of central-local relationships which is based upon the assumption that interactions are interactions between diverse groups of autonomous organisations or groups each seeking to assert their own preferences is a misleading one. To be a central government actor is to be integrated into a hierarchical structure where hierarchical superiority can be applied to diverse organisational settings. This is not, of course, to argue that all interactions between central and local governments are directly attributable to, for example, Cabinet or Treasury decisions. Rather it is to suggest that where there are conflicts or divergences between groups of actors within central government there is a hierarchy within the centre which can authoritatively assert which set of preferences have priority.

c) Instruments as the Property of the Centre

The complexity of central and local government interactions suggests that it is not possible to talk of instruments to secure that the activities of local governments are consistent with the preferences of the centre since the instruments themselves are formulated after a process of interaction, often described as "negotiation" or "bargaining"<sup>(50)</sup> between central and local

government. While the evidence to support the proposition that legislation, grant settlements and circulars are formulated following a process of "negotiation" will be examined in chapters three, four and five, it might be argued that because the centre is not the sole author of the legislation, circular or grant settlement, the centre cannot be the possessor of the instruments since they can be manipulated by local government actors. This argument is raised by Elliott when he argues that

The specific legislation, although it is legislation of the "central" Parliament, and sponsored by a "central" government department, may in fact have been initiated by a local government. There are many examples ... of policy decisions being effected in local government years before they are ever formalised in "central" legislation<sup>(51)</sup>.

Similar arguments are put forward by Rhodes<sup>(52)</sup> and Dunleavy<sup>(53)</sup>.

However, the importance of the centre's instruments of influence, and it is this which makes them central government's instruments, is that they are issued in the name of central government, and central government has control over the content of legislation and circulars and the nature of the grant settlement. Only central government has the ability to issue legislation and departmental circulars and alter the grants paid to local governments, and the instruments of influence can be termed central.

#### V What Does Scotland Add?

The empirical material used to discuss the questions discussed in chapter one is drawn from the experience of Scottish local government. Much has been written about the differences between Scottish and English local government and central-local government relationships<sup>(54)</sup> and it is not intended to rehearse these arguments again here. What specific differences, if any, does the focus upon Scottish experience make to any conclusions drawn from the analysis?

Possibly the first objection to the use of Scottish material is that there is a distinctive central government ministry within Scotland. The Scottish Office is different, so the argument would run, from most other ministries which interact with local government in the remainder of Britain (excluding the Welsh Office) because it is a multi-functional department covering a limited territory of the United Kingdom. While this of itself is nothing peculiar - by definition the other ministries within the United Kingdom are also responsible for limited territorial divisions (where limited is understood as less than the whole), and other ministries such as the Department of the Environment are multi-functional - the position of the Scottish Office has meant that the policy lead taken by the ministry responsible for a service elsewhere in Britain (either in England or England and Wales) is not invariably adopted by the Scottish Office. Some observers have even described this as the "autonomy" of the Scottish Office. It displayed its "autonomy", for example, when distinctive arrangements were made for housing plans and housing finance, and displayed a lack of "autonomy" when the Housing (Homeless Persons) Act was passed despite an unwilling Scottish Office. If "autonomy" means the absence of compulsion or an obligation to pursue the policies initiated in other ministries, then the Scottish Office is certainly no more "autonomous" than other ministries with responsibility for England alone. In this sense the Department of the Environment is "autonomous" from the Home Office, and the term becomes meaningless.

Undoubtedly there are differences between policies for different parts of the United Kingdom. Rose<sup>(55)</sup> distinguishes between uniform policies (such as defence) which are uniform through-

out the whole of the United Kingdom concurrent policies which are "programmes intended to have the same function throughout the United Kingdom, but delivered by different institutions in different nations" which might include the sale of council houses with a common policy intention - the mandatory sale of council houses at a discounted price - administered by different institutions - in the case of Scotland and England the Scottish Development Department and the Department of the Environment respectively. Finally there are exceptional policies which are adopted and administered for one part of the United Kingdom alone without any near equivalent concurrent policy in other parts of the United Kingdom. Rose cites the example ofcrofting reform as an example of completely exceptional legislation. Most of the Scottish Office's responsibilities are concurrent - accounting for 83 per cent of public expenditure and 89 per cent of public employment. The differences between the policies of the centre in different parts of the United Kingdom therefore lies less in the existence of policies for which there is no near equivalent elsewhere, but rather in the existence of differences in how these concurrent policies are administered. While, for example, education is a concurrent function, within the statutorily established principle of free school education and a statutory age for school attendance and other statutorily guaranteed provisions for education throughout the United Kingdom, there is variation in the application of these policies. Indeed the differences are so strong that Scotland is generally described as having a distinctive educational system<sup>(56)</sup>.

The Scottish Office, as other ministries, is a Whitehall Department subject to the same civil service code and the same hierarchy within the centre as other departments. The Secretary

of State for Scotland may bargain within the Cabinet for "Scottish needs"<sup>(57)</sup>, as ministers responsible for specific functional areas of policy may bargain for the particular needs of, say, education or social services or defence. But like other ministers the Secretary of State is also subject to the collective responsibility of the Cabinet and is obliged to accept the decisions of the United Kingdom Cabinet as authoritative and binding. In this sense, the derivation of the empirical material for this thesis from Scottish experience does not limit the validity of the study to an area which is populated by one tenth of the population of the United Kingdom since while there are distinctive features about the organisation of central government in Scotland as well as the characteristics of some of the policies it administers, the differences cannot be interpreted as meaning there is a "separate" central government in Scotland.

A second objection to the use of Scottish material to examine the instruments of central government in Britain might be that Scotland has its own distinctive local government system<sup>(58)</sup>. Since the thesis is concerned with the instruments of influence upon local government activities, how far are the conclusions limited to Scotland because the activities of local governments in Scotland are different from those in England? There are three answers to this objection. First, while local governments in Scotland are responsible for the delivery of a different range of services to local governments in England and Wales - they are responsible for water, for example, and not responsible for the delivery of student grants for higher education - the differences are relatively minor. In Scotland water and sewerage account for

2.4 per cent of total current expenditure and 2.4 per cent of local manpower, while education grants account for 2.5 per cent of total current expenditure in England and Wales (manpower figures for this aspect of the education service are not available)<sup>(59)</sup>. Second, to require that separate analysis of the instruments of influence must be conducted where a local government fulfils separate functions would imply that a generaliseable study would have to deal separately with the 16 different types of local government - each with a distinctive pattern of responsibilities - in the United Kingdom<sup>(60)</sup> since metropolitan counties and non-metropolitan counties, metropolitan districts and non-metropolitan districts, the Greater London Council and the inner and outer London boroughs, for example, all have distinctive sets of functions. Third, if taken to its logical conclusion, then no generalisations about the system of local government, even within England or a limited portion of England would be possible since, in principle, the range of functions fulfilled by each individual local authority is unique. Hart argues that the existence of local Acts of Parliament is:

one of the more important reasons why it is impossible to give a complete picture of the functions of local government in England. Any statement of the powers given by general Acts may give an entirely false or inadequate impression of the powers of any one particular authority, and must always be read subject to the local Acts applying in any given area<sup>(61)</sup>.

While this is not to state that the system of local government in Scotland does not have some distinctive characteristics, these characteristics do not lead us to expect that the use of instruments will substantively differ between Scotland and the remainder of Britain.

There are undoubtedly differences between Scotland and England

has never been explored in a systematic manner. Hood and Dunsire's study finds little evidence in the structure of central administration in Scotland to suggest a distinctive Scottish administrative style<sup>(65)</sup>, yet there are no comparative studies of a "culture" or "style" among local government officials. If, however, it were possible to construct a framework for analysing "style" or "culture" in local government, then it is unlikely that it will yield a Scottish versus English difference in attitudes to central government. The willingness to accept the preferences expressed by central government is likely to vary within England and Scotland as much as it is likely to vary between Scotland and England. One may hypothesise a number of conditions which lead to the preparedness to accept the preferences of central government; the size of the local authority<sup>(66)</sup> may influence preparedness to accept central preferences since a large local authority such as Strathclyde, which contains half of the Scottish population, may perceive that it has a wide popularly based legitimacy which can challenge the legitimacy of the preferences of the centre. The political control of the local authority is another important influence upon the willingness of local actors to accept central government preferences; party politicians, as, for example, in the case of Conservative councillors during the comprehensive-isation of schools under the Labour government in the latter part of the 1960s or Labour councillors under the financial stringency of the Conservative government of 1979, may be less prepared to accept the preferences of the centre when the party in government at the centre proposes activities which their own party opposes. The degree of professionalisation within the authority may affect the willingness to accept central government preferences since a defining

characteristic of professionals is that they profess. In Everett

Hughes' words:

They profess to know better than others the nature of certain matters ... The professionals claim the exclusive right to give the kind of advice derived from their special lines of knowledge<sup>(67)</sup>.

An authority with a director of administration, for example, who specialises in scrutinising planning law within the Society of Directors of Administration in Scotland is less likely to accept the guidance of a central department over the interpretation of an item of planning law uncritically than an authority in which the director of administration has little more than a basic legal training. What is important here is not whether these possible influences on the "willingness" to accept the expressed preferences of the centre actually do explain variations in this disposition. Rather the discussion of these three factors, size, political control and professionalisation suggests that if they do, then this disposition is likely to vary just as much within Scotland and England as between Scotland and England because the factors which might influence this disposition vary. Scotland contains local authorities which are among the largest (Strathclyde with 2.5 million inhabitants) and the smallest (Nairn with under 9,000 inhabitants) in the United Kingdom, the political control of local governments is a variable throughout Britain as is the degree to which the chief officers of any one local authority possess a specialised body of professional technical knowledge.

This study is concerned with the instruments that the centre in Britain can use to influence the activities of local governments. To argue that the conclusions apply to Britain although the empirical



material is derived from Scottish experience does not require making the assumption that Scottish, English, Welsh and Northern Ireland central and local government and central-local relations are identical. They are not. Rather it is based upon the recognition that for the purposes of the framework outlined in chapter one, there are no relevant substantive differences which imply that the instruments of laws, money and advice have unique properties and are employed in a unique manner and have a unique effect in Scotland, with conclusions based on Scotland inapplicable elsewhere in the United Kingdom.

## VI Conclusions

Interactions between central and local government take place at a variety of levels, different levels within the civil service and local government department hierarchy, at the level of the elected member or minister, and between actors within a variety of organisational units - professions, ministries, departments, bureaus, committees, and national organisations of local government councillors and officials. The existence of a hierarchical structure within central and local government and the fact that central government has access to the use of instruments of laws, money and advice, means that it is possible to talk of the instruments of central government rather than the instruments of laws, money and advice as "resources" in an equal bargaining relationship between central and local government actors, where internal differentiation and the resulting complexity mean that the hierarchical distinctions between central and local government disappear.

The question is not how the centre, conceptualised as the

Cabinet or the Treasury, for example, influences local government decisions. While this chapter has argued that the existence of a hierarchy within central government makes it possible to talk of a centre in the United Kingdom, it has not sought to suggest that all preferences of the centre are formulated by the Cabinet or the Treasury. The hierarchy within the centre merely reflects the existence of institutions which may establish priorities of preferences. The preferences may be formulated at any level within the centre and in a variety of organisational settings. Rather the problem addressed in this thesis is how the centre, in whatever organisational context, influences the activities of local government again, in whatever organisational context. In some cases it is more appropriate to define the centre as the Scottish Office, in other cases a particular department or bureau, or to define the local as a particular department or a bureau within that department. Nevertheless, at whatever organisational level one uses the terms, the organisations which do interact can be clearly defined as central or local government organisations.

## Notes and References

1. Rhodes, R.A.W. Control and Power in Central-Local Government Relations (Farnborough, Hants: Gower, 1981) p.30.
2. Rhodes Control and Power, p. 27.
3. Page, E. "Comparing Local Expenditure: Lessons from a Multi-National State" (Glasgow: University of Strathclyde Studies in Public Policy No.60, 1980).
4. Rhodes, R.A.W. and Midwinter, A.F. "Corporate Management: The New Conventional Wisdom in British Local Government" (Glasgow: University of Strathclyde Studies in Public Policy No.59, 1980).
5. See R. Rose Understanding the United Kingdom (London: Longmans, forthcoming 1982).
6. Quoted in Local Government Review, 3 October, 1981, p. 642.
7. Jones, G.W. and Stewart, J.D. "Why the Local Council Hatchet Job Is so Unfair" The Times, 14 August, 1981.
8. The Scotsman, 13 August, 1981.
9. See R. Rose "The United Kingdom as an Intellectual Puzzle" (Glasgow: University of Strathclyde Studies in Public Policy No.7, 1977).
10. Rose Understanding the United Kingdom.
11. For a discussion of the problems of defining organisations within central government see C. Hood and A. Dunsire Bureaumerics (Farnborough, Hants: Gower, 1981).
12. See Rose Understanding the United Kingdom.
13. Hood and Dunsire Bureaumerics; Hood, C. "So You Think You Know what Government Departments Are?" Public Administration Bulletin, 27, 1978, 20-32.
14. Management and Personnel Office Civil Service Year Book 1982 (London: HMSO, 1982), cols. 373, 835 and 891.
15. Management and Personnel Office Civil Service Year Book 1982, cols. 373, 835 and 891.
16. For a discussion of contingency theory see Rhodes and Midwinter "Corporate Management", pp. 60ff.
17. For a discussion of the interactions between groups at the local level in the formulation of housing plans see P. Crompton "Subverting Housing Plans: Some Institutional Realities" in H.M. Drucker and N.L. Drucker Scottish Government Yearbook 1981 (Edinburgh: Paul Harris, 1980).

18. Central Policy Review Staff Relations between Central Government and Local Authorities (London: HMSO, 1977), p. 22.
19. Central Policy Review Staff Relations between Central Government and Local Authorities, p. 21.
20. Griffith, J.A.G. Central Departments and Local Authorities (London: Allen and Unwin, 1966).
21. Gill, A.M. "The Relationship between Central and Local Authorities" Public Administration, 50, 1972, 215-216.
22. For a description and analysis of bargaining with the Treasury see H. Hecllo and A. Wildavsky The Private Government of Public Money (London: Macmillan, 1981).
23. Stewart, G. and Stewart, J. "The Housing (Homeless Persons) Act 1977: A Reassessment of Social Need" in M. Brown and S. Baldwin (eds.) The Year Book of Social Policy in Britain 1977 (London: Routledge and Kegan Paul, 1978).
24. Gibson, P. "How Scotland Got the Housing (Homeless Persons) Act 1977" in H.M. Drucker and N.L. Drucker (eds.) Scottish Government Yearbook 1979 (Edinburgh: Paul Harris, 1978).
25. See M. Wright "Pressures in Whitehall" in R. Rose and E. Page (eds.) Fiscal Stress in Cities (London: Cambridge University Press, forthcoming 1982).
26. Page "Comparing Local Expenditure".
27. Gyford, J. Local Politics in Britain (London: Croom Helm, 1976), p. 25.
28. Although the functional responsibilities of departments and committees are not invariably identical, see Rhodes and Midwinter "Corporate Management", pp. 27-53.
29. See section 108 of the Local Government (Scotland) Act 1973.
30. For a discussion of the constraints upon charging see Committee of Inquiry into Local Government Finance Report. Cmnd. 6453 (London: HMSO, 1976).
31. See, for example, J.L. Danziger Making Budgets (London and Beverly Hills: Sage, 1978), pp. 150ff.
32. Rhodes and Midwinter "Corporate Management", pp. 4-26. See also J. Dearlove The Reorganisation of British Local Government (London: Cambridge University Press, 1979).
33. Rhodes and Midwinter "Corporate Management", pp. 27-53.
34. Rhodes and Midwinter "Corporate Management", pp. 27-53.
35. McDonald, S.T. "The Regional Reports in Scotland" Town Planning Review, 48, 1977, 215-232.

36. Stewart, J.D. "From Corporate Planning to Community Planning" Local Government Finance, May 1972, 155-159.
37. Figures derived from Rhodes and Midwinter "Corporate Management", p. 30 and p. 34.
38. Rhodes and Midwinter "Corporate Management", p. 36.
39. See B.G. Peters The Politics of Bureaucracy (New York and London: Longmans, 1978), pp. 109-124.
40. Peters argues that organisation by purpose is often indistinguishable from organisation by client since the purpose of the organisational unit may be to deliver services to a defined set of clients. See his Politics of Bureaucracy, p. 121.
41. Rhodes and Midwinter "Corporate Management", p. 90.
42. See K. Young "Urban Politics: An Overview" in K. Young (ed.) Essays on the Study of Urban Politics (London: Macmillan, 1975).
43. Stewart, J.D. quoted in Royal Institute of Public Administration RIPA Report, 2, 2, 1981, pp. 9-10.
44. See H.L. Wilensky "The Professionalisation of Everyone?" in O. Grusky and G.A. Miller (eds.) The Sociology of Organisations (New York: Free Press, 1970).
45. For an indication of the problems of equating professionalism with professional organisation see P. Dunleavy "Professions and Policy Change: Notes Towards a Model of Ideological Corporatism" Public Administration Bulletin, 36, 1981, 3-16.
46. See K. Isaac-Henry "The English Local Authority Associations" Public Administration Bulletin, 33, 1980, 21-41; R.A.W. Rhodes, B. Hardy and K. Pudney "Public Interest Groups and Central-Local Relations in England and Wales" Public Administration Bulletin, 36, 1981, 17-36; C. Craig "COSLA: A Silent Voice for Local Government?" in H.M. Drucker and N.L. Drucker (eds.) Scottish Government Yearbook 1981 (Edinburgh: Paul Harris, 1980).
47. Duguid, J. cited in Scottish Association of Chief Building Control Officers "Synopsis of Meeting. March 21st 1979" (Glasgow: Scottish Association of Chief Building Control Officers, 1979).
48. See note 32.
49. Rose Understanding the United Kingdom.
50. Rhodes Control and Power, p. 87.
51. Elliott, M.J. "The Role of Law in Central-Local Relations" (London: Social Science Research Council, 1981), pp. 27-28.
52. Rhodes Control and Power, p. 106.

53. Dunleavy, P. Urban Political Analysis (London: Macmillan, 1980).
54. See E. Page "Why Should Central-Local Relations in Scotland be any Different to those in England?" Public Administration Bulletin, 28, 1978, 51-72.
55. Rose Understanding the United Kingdom.
56. See R. Bell and N. Grant Patterns of Education in the British Isles (London: Allen and Unwin, 1977).
57. See, for example, M. Keating "Administrative Devolution in Practice: The Secretary of State for Scotland and the Scottish Office" Public Administration, 54, 1976, 133-145.
58. For a discussion of the Scottish systems of local government in a United Kingdom perspective see E. Page "Comparing Local Expenditure".
59. See Chartered Institute of Public Finance and Accountancy Financial General and Rating Statistics 1981-82 (London: CIPFA, 1981).
60. Page "Comparing Local Expenditure".
61. Quoted in Elliott "The Role of Law", p. 24.
62. For a discussion of this legislation see J. Raine, R. Greenwood, G.W. Jones and J.D. Stewart (eds.) "In Defence of Local Government" (Birmingham: Institute of Local Government Studies, 1981).
63. Heald, D. "The Scottish Rate Support Grant: How Different from the English?" Public Administration, 58, 1980, 25-46.
64. Committee of Inquiry into Local Government Finance Appendix 10 (London: HMSO, 1976), p.11.
65. Hood and Dunsire Bureaumerics.
66. These are discussed in Page "Why Should Central-Local Relations in Scotland be any Different to those in England?"
67. Young "Overview", p. 197.

CHAPTER THREE

THE ROLE OF LAW

## I. Laws and the Study of Central-Local Relations

Political scientists in Britain have devoted much effort to studying how laws come to be passed. Less attention has been paid to the question of the significance of legislation for the groups or activities to which the legislation is addressed. What happens to laws once they have reached the statute book? Rather, how do they affect the behaviour of those they were intended to affect and why do they have such effects?<sup>(1)</sup> While there are (relatively) few case studies of particular items of legislation<sup>(2)</sup>, political science has not derived a conceptual framework, or indeed any empirical material on legislation as an instrument for the achievement of policy changes. This lack of attention is especially surprising in the field of central-local government relationships since a large number of commentators have alluded to (that is, without discussing its implications) the capacity of the centre to change the 'whole relationship' between central and local government through passing legislation which, for example, limits the ability of local governments to raise local taxes and determine levels of expenditure<sup>(3)</sup>.

The absence of studies of law in the recent literature on central-local government relations<sup>(4)</sup> can possibly be understood as a reaction against the "excessive legalism"<sup>(5)</sup> which was, so Stanyer argues, present in earlier studies of central-local government relations - often given the title of the "conventional wisdom" of central-local relations<sup>(6)</sup>. The description of "excessive legalism" suggests an approach to understanding central-local government relations that assumes that a good account of the content of statute books, of the laws according to which local



governments deliver services, will give an adequate description of how central and local government actually interact in the everyday business of delivering services. The criticism of a "conventional wisdom", like many generalisations of a relatively large and diffuse body of literature, fails to take account of the insights offered by a number of particular authors. For example, Chester<sup>(7)</sup>, Finer<sup>(8)</sup>, Robson<sup>(9)</sup> and even Cross' legal text<sup>(10)</sup> offer more than an acknowledgement of the importance of the complex non-legal dimensions in central-local relations.

However, the criticism of a "conventional wisdom" preoccupied with little more than listing what is statutorily possible or compulsory for a local government to do, and assuming that local governments actually do precisely and exclusively what is set out in statutes, is justified in the case of some of the less analytical earlier studies<sup>(11)</sup> and is particularly justified if one is concerned with the way in which the earlier studies have been interpreted (or misinterpreted) by those outside the field of urban politics or local government studies in Britain. A leading textbook, for example, on British government may be interpreted as accepting the "agent"<sup>(12)</sup> model of describing central-local relations based on "excessive legalism" when it states "In Britain, local government is entirely subordinate to the central government. The local authorities can only engage in activities for which they have statutory authority, and they must perform the tasks that are demanded of them. ... Legislative control is thus the most fundamental form of central control over local government"<sup>(13)</sup>. Or similarly, Yates' study of the factors which have led to "ungovernability" in United States cities argues that these factors

are absent in Britain because local government is an "agent" of the centre, and cites Robson's Local Government in Crisis as verification of his rather terse description of central-local government relations in Britain<sup>(14)</sup>.

In so far as the earlier literature can be characterised as displaying "excessive legalism", the critics of the "conventional wisdom" can perhaps be described as displaying alegalism - they have not developed any coherent approach to understanding the role of laws in the relationship. There is agreement that the relationship is not adequately described by reference to laws alone, yet the role of laws is generally poorly conceptualised. Dearlove, for example, implicitly argues that laws have no effects upon local government when he quotes one senior councillor:

"Some law is cut and dried and there is nothing that you can do about it. But there is a lot you can do, and one can invariably find a law to enable you to do something that you want to do. I can't think of an instance when someone said 'let's do something' and they were told 'no, it's impossible, the law won't let us'." An Officer of the Royal Borough made much the same point "You can always find a law to enable you to do something and the officers are to blame if they can't advise members as to how to do something they are keen to do. It is not so much a question of why something can't be done, but how they can be done"<sup>(15)</sup>.

Laws, according to this argument, place few constraints upon local government decision making (over and above influencing how rather than whether something can be done). Intuitively, this argument appears implausible; the fact that local governments in Scotland are not allowed to levy supplementary rates constrained the actions of Lothian Region in deciding how to respond to a proposed cut of £47 million in grant in summer 1981. Indeed, Dearlove's own analysis of the reorganisation of local government<sup>(16)</sup> shows how local government decision making processes can be fundamentally affected by one law - the Local Government Act of 1972.

For the most part, the recent literature is ambivalent about the question of the role of laws in central-local government relations. For Stanyer, for example, the earlier literature over-emphasised the importance of law, yet laws remain the basic constraint within which local governments operate (17). Rhodes' analysis argues that laws are one of the many "resources" that central (and local) governments can employ in a bargaining relationship, along with other resources - financial, hierarchical, political and informational - and thus "devaluing" the role of laws in central-local government relations from their apparent primacy in the earlier literature (18). However, in apparent contradiction he also argues that:

central government, through its control of constitutional-legal resources, is able to precisely determine its relations with local authorities. Such a move can be described as a strategy of 'authoritative allocation' ... (19)

In the recent literature the treatment of the role of laws is little more specific than a statement that laws are "not quite as influential" as the alleged "conventional wisdom" tended to assume, yet their role as influences on local governments cannot be dismissed, indeed, at times the influence is "very strong".

The framework presented in chapter one does not make the assumption that the nature of central-local government relationships as well as the actual activities of local governments can be understood solely by reading and understanding the volumes of statutes which apply to local governments in the same way that the stylised "conventional wisdom" might make such an assumption. Laws, instead, can be understood as instruments which collectively set parameters within which local governments deliver services. The parameters set through the centre's instruments are not necessarily tight parameters; indeed, chapter one discussed a number of conditions

under which one would expect the centre to set loose parameters. Nevertheless, the framework recognises the fundamental importance of the role of laws in the central-local relationship. Laws set the parameters within which other instruments - financial and advisory - are used. Central government cannot encourage local governments or provide incentives to local governments to engage in activities which are illegal - for example, it cannot encourage local governments to stop local transport for school pupils if local governments have a statutory obligation to provide it<sup>(20)</sup>.

This chapter examines the role of laws as instruments of influence. The first part of the chapter describes "local government legislation". The laws which affect local government are not clearly designated as local government legislation in a way analagous to the manner in which purely Scottish legislation is often indicated by the suffixing of any Act with "(Scotland)". There is no clause in legislation which states that "this act shall apply to local governments" in a similar manner to clauses in legislation which state that "this Act shall apply to Scotland". Instead, there is a variety of laws which affect local governments in different ways. For example, while an item of legislation such as the Scottish Development Agency Act 1975 affects local governments - local governments interact with the Scottish Development Agency - local governments are not the prime focus of the legislation in a way that, for example, they were in the Local Government (Scotland) Act 1973. The first part of this chapter explores the question of what is the relevant body of legislation which affects local governments.

The second section of this chapter examines the policy areas which the centre seeks to influence through its use of legal instruments. Chapter one argued that the centre might seek to set tight parameters for the delivery of some local services in contrast to others either because of the disposition of the centre to set tight parameters or the ability of the centre to set tight parameters. The second section asks the question are laws more likely to be used to influence certain policy areas of local government service delivery rather than others.

The third section examines the role of laws in shifting the parameters within which local governments deliver services. Many items of legislation, such as the Indecent Advertisements Display Act 1976 - which allows local governments (as well as health authorities) to display in public places posters advertising treatment for venereal disease - can be termed parameter modification since they have a relatively minor effect upon the services delivered by local governments and do not involve any substantive shifts in the parameters within which local governments deliver services. On the other hand, legislation such as the Education (Scotland) Act 1945 shifted the parameters within which local governments deliver services by defining new services and new clienteles. The question of the use of laws to shift parameters within which services are delivered is one of the use of legislation to produce substantive changes in what local governments do as opposed to making relatively marginal changes in the framework within which local governments deliver services.

The fourth section looks at the negotiability of legislation. A number of studies have emphasised the role of local authority

actors, particularly through the local authority associations and the professional organisations of local government officials, in the drafting of legislation<sup>(21)</sup>. How far does this mean that legislation cannot be characterised as a "central government" instrument, reflecting the preferences of the centre, but rather reflects, to a greater or lesser extent, local government preferences?

The fifth section examines how far legislation constrains local governments. In chapter one it was argued that influence is the ability to secure that the activities of local governments are consistent with the preferences of the centre. How far do laws constrain? The explicit assumption in the first chapter is that laws are an effective constraint upon local government activities - they provide the framework within which local governments exercise discretion and within which the centre seeks to influence local activities through the use of financial and advisory instruments. What is the evidence to support this assumption?

For a political scientist any study of the role of laws in the relationship between social and institutional groups is likely to be a difficult one. Laws are written in a technical language for which they rarely have any training. They are often long and complex documents which are impressive, at least to the non-professional, solely by virtue of the apparently infinite variety of topics they deal with. Yet the role of laws in the central-local relationship is an aspect of the relationship between central and local government which, to use Dearlove's words coined in his critique of legalism, is based upon "hunches and partial research".

In this chapter the role of laws is examined on the basis of a

census of laws relating to Scottish local government reaching the statute book between 1970 and 1979. Undoubtedly, the time period selected affects the content of the legislation discussed in this chapter. For example, an earlier time period, say the 1960s, would possibly yield fewer examples of legislation concerned with the structure of local government and more legislation concerned with expanding services such as education and social services. However, this chapter is not primarily concerned with a discussion of the content of legislation affecting local government, but with establishing how far the centre can use laws to set the parameters within which local governments deliver services and secure that the activities of local governments are consistent with its preferences whatever they might be.

## II. What is Local Government Legislation?

Laws are a visible and discrete output of legislatures and executives. A law is understood to be a general or local act of Parliament or Statutory Instrument issued by central government under statutory authority<sup>(22)</sup>. On average, in the years 1970-1979, 66 general Acts, 41 local Acts and 2,120 Statutory Instruments (local and general) were added to the statute book (see table 3.1). In the whole ten year period, a total of 22,276 laws were added to the statute book. Some of these items of legislation amend, repeal or consolidate existing legislation<sup>(23)</sup>, however even taking this into account, governments are prolific issuers of legislation. How much of this legislation can be classified as instruments of influence upon services delivered by local governments? How much of this legislation affects local governments?

Table 3.1

Laws added to the Statute Book 1970-1979

<u>Year</u>	<u>General Acts</u>	<u>Local Acts</u>	<u>Statutory Instruments*</u>
1970	58	85	2,045
1971	81	58	2,178
1972	80	53	2,076
1973	69	36	2,236
1974	58	37	2,227
1975	86	36	2,245
1976	53	38	2,245
1977	53	23	2,202
1978	59	21	1,980
1979	60	24	1,770
<u>Total</u>	657	411	21,202
<u>Average 1970-79</u>	66	41	2,120

Sources: Statutory Publications Office Statutory Instruments  
(London: HMSO, annual);  
The Local and Personal Acts Tables and Index  
(London: HMSO, annual);  
Public General Acts (London: HMSO, annual).

\* Includes both local and general Statutory Instruments.

The definition of legislation which affects local government is problematic. There are a number of ways in which legislation may be defined as affecting local government. First, an item of legislation may directly affect local government by referring to the institutions of local government or the services delivered by local governments almost exclusively. For example the Local Government (Scotland) Act 1975 relates almost exclusively to the institutions of local government and the services it delivers. The Act does have repercussions for other public bodies, such as health boards<sup>(24)</sup>, yet the main concern of the legislation is with local government; it can be termed as having a direct effect upon local government.



Second, legislation may affect local government although the main provisions of the legislation are not directly concerned with local governments or the services delivered by them. For example, the Scottish Development Agency Act 1975 was primarily concerned with the institution of the SDA<sup>(25)</sup>, yet it has some implications for local governments since the SDA has powers to lend financial support to local governments for carrying out environmental improvement schemes. In the East End of Glasgow the SDA has been given the task of "co-ordinating" the activities of Strathclyde Region and Glasgow District among other public bodies in the Glasgow Eastern Areas Renewal Scheme<sup>(26)</sup>. This effect of legislation is termed as having an indirect effect upon local government.

Third, legislation may affect local government because local government is a large organisation. This refers to legislation which applies not only to local government but to all or a number of organisations of which local government is but one. For example, the Employment Protection Act 1975 affects local government because staff within local government are subject to the provisions of this Act, as are staff in other firms. Similarly, local government is affected by the Race Relations Act of 1976 as are all employers.

Fourth, laws may affect local governments as enforcement agencies. This means that the main provisions of the legislation are to add to or to amend the body of legislation governing the behaviour of individuals or groups which local governments must enforce - for example legislation which affects the obligation of firms to consumers either in weights and measures legislation or consumer protection legislation or the limitations upon the dumping of wastes in pollution legislation. A separate category under this

heading is legislation affecting criminal law in which police officers as local government employees are given the task of enforcing this legislation.

In the period 1970-1979 182 Acts of Parliament affected local government in one of these ways (see table 3.2) - 28 per cent of all Acts of Parliament passed in this period. On average, local governments witnessed 18 items of new legislation which affected them per annum. Precisely how these 182 items of legislation affected local governments can be seen in table 3.2. The largest single category of laws are those which have an effect upon local governments as enforcement agencies (35 per cent of all laws affecting local governments) of which a large portion (19 per cent of all laws affecting local governments) are police enforcement legislation. Only slightly fewer laws (31 per cent) had an exclusive effect upon local governments - affecting directly and exclusively local government institutions or the services delivered through them. There were fewer laws which had an indirect effect upon local governments (18 per cent) or which affected local governments as large organisations (16 per cent).

Table 3.2

Laws Affecting Local Governments:  
Acts of Parliament 1970-79

<u>Type of effect</u>	<u>Number of Laws</u>	<u>% of Total</u>
Enforcement agency:	63	35
Police	(35)	(19)
Other	(28)	(16)
Exclusive	57	31
Indirect	33	18
Large Organisation	29	16
	182	100

Laws, insofar as they affect local government, cannot be seen purely as a set of instructions exclusively directly issued to local governments. Laws which affect local government and local government almost exclusively make up under one third of the totality of laws passed which can be interpreted as affecting local governments. Instead, a large proportion of laws affect local governments through less direct means through their effect upon other organisations or groups or upon the behaviour of individuals or groups which local governments must enforce.

### III. The Policy Areas of Legislation

Which policy areas are more likely to be covered by laws? The doctrine that all services delivered by local government are delivered on the basis of the vires granted local authorities by central government legislation means that any service delivered by local governments is covered, either directly or indirectly. However, one would not expect all local government services to be covered to an equal degree by central government legislation. One would expect the degree to which central government issues legislation for particular services to vary according to the disposition of the centre to legislate and the ability of the centre to legislate for a particular policy area. The disposition of the centre to set legally defined parameters for a service through statutes may vary, as Griffith has suggested, according to the "philosophy" of the particular government department concerned. A "regulatory" department is more likely to issue legislation than a promotional or laissez-faire department (see chapter 2)<sup>(27)</sup>. Griffith also argues, and this is supported by Gill<sup>(28)</sup>, that within a department different organisational units

are likely to have different philosophies of their role in relation to the development of local services. It is not possible to break down the legislation by the division within the Scottish Office (e.g. SHHD, SDD) sponsoring the legislation since, unlike circulars (see chapter five) legislation is generally sponsored by the ministry. Alternatively, one policy area, for example finance, might have a higher priority within central government than another, for example the delivery of leisure services, and therefore be more likely to be subject of central government influence through each of its instruments including legislation. The ability of the centre to legislate for any one particular policy area may vary with the characteristics of the policy area which make it more amenable to a set of codified rules. For example, it is relatively easier to stipulate amounts of money than the "quality" of a library service in an item of legislation.

Table 3.3 presents a breakdown of legislation issued in the period 1970-1979 broken down by groups of policy areas. Undoubtedly there are problems with any one definition of "policy areas" as there are problems with the definition of a discrete "service". However, the figures in table 3.3 offer an indication of the types of policy areas which are the most frequent topics of central government legislation. Each law passed in 1970-1979 was coded as affecting a maximum of three policy areas, therefore the total in table 3.3 is greater than the total items of legislation affecting local government passed in the period. The most frequent policy area for legislation is the category of fire, police (including criminal law) and civil defence (55 laws or 24 per cent) of which a large portion (35 - see table 3.2) are items of legislation where

enforcement rests with the police. Apart from this category of legislation, the category concerned with finance, rates and rebates is the second largest category (18 per cent of the total), followed by public and animal health and hygiene and consumer protection (10 per cent), planning, land, countryside and environment (8 per cent) and manpower (7 per cent). Somewhat surprisingly, the larger services, in terms of financial resources, of housing (7 per cent), education (5 per cent), social work (5 per cent) and roads and transport (2 per cent) were the subject of fewer laws in this period. The others category (15 per cent) includes a diverse set of items of legislation covering policy areas such as electoral procedures, registration of births, deaths and marriages and licensing.

Table 3.3

The Policy Areas of Legislation Affecting  
Local Government 1970-1979

<u>Policy Areas</u>	<u>Number of Items</u>	<u>% of Total</u>
Fire, Police (including crime) and Civil Defence	55	24
Finance, rates and rebates	41	18
Public & Animal Health, Consumer Protection	22	10
Planning, Land, Countryside and Environment	19	8
Housing	15	7
Manpower	17	7
Social work	11	5
Education	11	5
Roads and Transport	5	2
Others	34	15
<u>Total</u>	230	101*

\* Percentages add up to 101 due to rounding individual percentages.

The fact that only 17 items of legislation were coded as having three policy areas means that only 31 items of legislation (17 per cent of the total of 182) affected more than one group of policy areas. For 87 per cent of items of legislation the legislation was function specific; legislation for education affects education alone, or legislation for public health rarely has implications for other functional services delivered by local governments. Of the 31 items of legislation which affected more than one policy area, 21 affected finance or manpower plus the particular functional service rather than two or more distinct functional policy areas.

Leaving aside the legislation which stipulates codes which the police are obliged to enforce, the largest portion of central government legislation is concerned with local government finance (e.g. the Local Government (Scotland) Act 1975) or financial aspects of specific local government services (e.g. the Police Pensions Act 1976). The importance of financial legislation suggests a greater concern at the centre with the financial aspects of local government activities than with performance in specific functional areas. This can be interpreted on the one hand as the consequence of the greater mutability of the financial environment of central-local government relationships - inflation, for example, requires the adjustment of the arrangements for financing services delivered by local governments<sup>(29)</sup> - and on the other it displays the importance of finance in the public sector as a concern of central governments at least in the 1970s.

#### IV. How Far does Legislation Shift the Parameters within which Local Governments Deliver Services?

Politicians as well as commentators make distinctions between "major" and "minor" legislation. For example, Henderson's listing of legislation in Scotland in the 1970s makes implicit assumptions about what is "major" and what is "minor". For example, she argues that the Roads (Scotland) Act 1970 is a "major" item of legislation, while the Administration of Justice (Scotland) Act 1970 is "minor"<sup>(30)</sup>. Undoubtedly the evaluation of legislation as "major" or "minor" depends upon the perspective adopted. For social worker, the 1975 Children Act may constitute a "major" piece of legislation, but for a chief executive it may be considered "minor". Chapter one suggested that for the purposes of this thesis, the question could be posed in terms of the nature of the change in the parameters introduced through an item of legislation. There are five types of change; consolidation, adjustment, overhaul, modification and parameter shift which are differentiated according to the nature of change implied in the instrument (formal, reactive and active change) and the pervasiveness of the instrument for the services delivered by local governments. How can the instruments be classified according to these two sets of criteria?

##### a) Pervasiveness

One method of deriving an indicator of the degree to which an item of legislation has a pervasive effect upon the delivery of a service is offered through the listing of legislation in the Index to the Statutes<sup>(31)</sup>. The Index presents the statutes relating to the services delivered by local governments not only for the particular service area (e.g. police and education) but also for

discrete sets of activities within these particular services (e.g. rights of criminal suspects, finance, provision of schools, and rights and duties of parents). The index in the Index gives a chronological list of legislation included in the volume as well as separate references to the service areas which the legislation affects as well as the discrete activities within these areas which are affected by the legislation.

The basis of this approximate indicator<sup>(32)</sup> is the number of separate references to different policy areas and discrete activities within these policy areas reported in the index of the Index for each item of legislation for the period 1970-1978 (the latest year covered by the current Index). Table 3.4 presents the number of laws in five frequency groupings as well as some examples of legislation at the upper and lower end within each group. The examples of the legislation in table 3.4 immediately display the problems of the use of the raw number of references cited in the Index as an indicator of the degree to which the legislation shifts the parameters within which local governments deliver services. The list of legislation includes legislation which has only an indirect effect upon local governments (e.g. the Scottish Development Agency Act 1975), which affects local government as a large organisation (the Conveyancing and Feudal Reform (Scotland) Act 1970), or which refers to local governments as enforcement agencies (e.g. the Prevention of Terrorism (Temporary Provisions) Act 1976).



Table 3.4

The Variable Significance of Legislation Passed  
between 1970 and 1978: Number of Separate  
References listed in the Index to the Statutes

Number of References	Number of Laws	Percentage of Laws	<u>Examples of Laws</u>	
			At Lower End of Band	At Upper End of Band
0* - 4	97	57	Reservoirs Act 1975	Building (Scotland) Act 1970
5 - 9	21	12	New Towns (Scotland) Act 1975	Vehicles (Excise) Act 1971
10 - 14	14	8	Prevention of Terrorism (Temp- orary Provisions) Act 1976	Town and Country Amenities Act 1973
15 - 19	7	4	Scottish Development Agency Act 1975	Conveyancing and Feudal Reform (Scotland) Act 1970
20 and over	30	18	Consumer Credit Act 1974	Local Government (Scotland) Act 1973
TOTAL	169	99**	-	-

\* A value of zero is given to legislation which has not yet come into force.

\*\* Percentages do not add up to 100 due to rounding.

Source: Statutory Publications Office Index to the Statutes  
(London: HMSO, 1980).

Table 3.5

Legislation with a Pervasive Effect upon the Parameters  
within which Local Governments Deliver Services 1970-1978

Legislation (number of references in brackets)

Local Government (Scotland) Act 1973	(265)
National Health Service (Scotland) Act 1972	(52)
Children Act 1975	(51)
Local Government (Scotland) Act 1975	(42)
Community Land Act 1975	(31)
District Courts (Scotland) Act 1976	(27)
Roads (Scotland) Act 1970	(27)
Chronically Sick and Disabled Persons Act 1970	(26)
Fire Precautions (Loands) Act 1971	(17)
Town and Country Amenities Act 1974	(14)
Licensing (Scotland) Act 1976	(14)
Housing (Scotland) Act 1974	(14)
Lotteries and Amusements Act 1976	(12)
Police Pensions Act 1976	(11)
Education (Scotland) Act 1976	(10)
Housing (Financial Provisions) (Scotland) Act 1978	(9)
Housing (Homeless Persons) Act 1977	(8)
Housing (Rents and Subsidies) (Scotland) Act 1975	(7)
Housing (Financial Provisions) (Scotland) Act 1972	(7)
Town and Country Planning (Scotland) Act 1972	(7)
Safety of Sports Grounds Act 1975	(6)
Rating (Caravan Sites) Act 1976	(5)

If one excludes these items on the grounds that while they may show up as pervasive in terms of the number of references in the Index their pervasiveness does not refer primarily to their effects upon the parameters within which local governments deliver services, and if one sets a relatively low threshold for ascription of pervasiveness at four references or above in the index, then 22 items - 13.0 per cent of the total of 169 - can be termed as pervasive. These are listed in table 3.5. The measure is a crude ordinal one, but it produces a list of pervasive legislation which includes many items which one might have expected on a a priori grounds -

the 1973 Local Government (Scotland) Act and the subsequent Local Government (Scotland) Act of 1975 the District Courts Act 1975, and the National Health Services (Scotland) Act 1972. All of these acts relate to the reorganisation of local government services in the 1970s. In addition there are some major service related Acts such as the 1975 Children Act and the 1970 Chronically Sick and Disabled Persons Act 1970 (originally only applying to a limited extent in Scotland, but through subsequent legislation extended almost in its entirety). The list also includes three items of consolidating legislation - the Town and Country Planning (Scotland) Act 1972, the Town and Country Amenities Act and the Police Pensions Act 1976. In numerical terms, the bulk of legislation affecting local government (147 or 87.0 per cent), is not pervasive, affecting relatively limited aspects of the parameters within which local governments deliver services.

b) The Nature of the Change

As was discussed in chapter one, it may be assumed that the introduction of legislation as the invoking of any instrument, seeks to make some change in the status quo, whether this is a formal, reactive or active change. What type of changes does legislation seek to make?

The simplest type of change to identify is the legislation which makes purely formal change: consolidating legislation. This legislation is often introduced to Parliament with the explicit statement that the legislation is consolidating, and recognition of consolidating legislation poses few problems of identification. There were 21 items of legislation which reflected only a formal

change in the parameters within which local governments deliver services - 21 or 12.4 per cent of the 169 items of legislation.

The distinction between active and reactive change is somewhat more difficult to make. There are no quantifiable indicators that may be taken, as in the case of the discussion of the pervasiveness of the legislation, and existing distinctions between types of legislation, such as the distinction between "policy" and "administration" legislation, do not gauge this dimension of the nature of the change<sup>(33)</sup>. In order to assess the degree to which legislation seeks to make active change, the legislation for the period 1970-1978 was examined and the question was posed of whether the legislation allows or mandates local governments or other bodies to do things that were not allowed or permitted to do before. This differentiates between on the one hand legislation such as the Children Act 1975 (mandating an adoption service upon local governments and mandating the disclosure of information to adopted children), the Local Government (Scotland) Act 1973 (allocating among other things vires to new local government units) and the Retirement of Teachers (Scotland) Act 1976 (which mandates the retirement of teachers at the age of 65 instead of 70), and, on the other, the Local Government (Scotland) Act 1975 (which largely leaves unaltered the financial arrangements for local government but is in reaction to the 1973 reorganisation through translating existing legislation to the new local government system) and the Rural Water Supplies and Sewerage (Scotland) Act 1970 (which reacts to changes in prices by increasing the amount of money that the Secretary of State may provide to local authorities under the 1944 Rural Water Supplies and Sewerage Act from £45 million to £60 million).

This examination of the legislation revealed that only 17 of the 169 items of legislation (10.0 per cent) could be termed as reactive, while 131 (77.5 per cent) related to an active change in the parameters within which local governments operate. The relatively infrequent use of legislation in the form of Acts of Parliament for reactive change can be explained by the fact that legislation is costly in terms of legislative time (and parliamentary draftsmen) and that Acts frequently contain (86 per cent of the time - see below) provisions for the centre to make reactive changes to the legislation through secondary legislation - Statutory Instruments, Regulations and Orders as well as "Henry VIII"<sup>(34)</sup> clauses leaving the Secretary of State discretion in the application of the legislation.

Reactive changes are also made through the centre's legal instruments, but scrutiny of Statutory Instruments reveals that it is the Statutory Instrument rather than the Act of Parliament which is used as an instrument of reactive change in the parameters within which local governments deliver services.

c) Classifying Central Government Legislation

The two dimensions of pervasiveness and nature of change allow a classification of the circumstances under which Acts of Parliament are used to change the parameters within which local governments deliver services. Table 3.6 classifies legislation according to the categorisation discussed in chapter one. The bulk of legislation can be termed as parameter modification. This is characterised by relatively minor additions to or subtractions from the vires and mandates of local governments (115 or 68 per cent). Yet legislation is also an instrument for shifting the parameters within which local governments deliver services. On average, on

Table 3.6

The Nature of the Change in Local Government  
Parameters through Legislation 1970-1978

	<u>Non-Pervasive</u>		<u>Pervasive</u>		<u>Total</u>	
		<u>N of Laws</u>	<u>%</u>		<u>N of Laws</u>	<u>%</u>
<u>Formal</u>	Consolidation	18	11	Consolidation	3	1
<u>Reactive</u>	Adjustment	13	8	Overhaul	4	2
<u>Active</u>	Modification	115	68	Parameter Shift	16	10
<u>Total</u>		147	87		22	13

the basis of the legislation in the 9 year period 1970-1978, local governments can expect 1.8 items of legislation per year which shift the parameters within which they deliver services. This conclusion is consistent with Rose's that most legislation (not only local government legislation) is "anodyne"<sup>(35)</sup>. Relatively few items of legislation reflect major policy shifts in government and, at the local government level, a relatively small proportion of legislation affecting local government shifts the parameters within which services are delivered.

V. Laws as Negotiated Agreements

How far does the content of the instrument, in the case of legislation, reflect the preferences of central government and not local government? As was discussed in chapter two, custodianship of the ability to legislate means in a formal sense that all legislation is central in origin. However, not all items of legislation can be equally characterised as reflecting the preferences of the

centre. An item of legislation, such as council house sales in the Tenants Rights (Etc.) (Scotland) Act 1980 can be closely identified with the preferences of central government actors - it was an item of legislation which resulted from a manifesto commitment of the Conservative Party in 1979 and was enacted despite vocal opposition from a large number of individual authorities as well as from the Convention of Scottish Local Authorities<sup>(36)</sup>. Other items of legislation are more closely associated with the goals expressed by local actors. Perhaps the best example of this is the Local Act of Parliament which is typically requested by a local authority in order to extend its powers in areas such as building control and land acquisition<sup>(37)</sup>. While local Acts are not included in the sample of legislation discussed in this chapter, the nature of local Acts indicates that not all items of legislation can be clearly identified as expressions of the preferences of the centre.

There are three ways in which the content of general legislation may reflect, to a greater or lesser degree, the preferences of local as well as central government actors. First, the legislation may, as in the case of local Acts, be exclusively local in origin - it result from the expressed desires of local actors. Professional groups such as, for example, the Scottish Institute of Environmental Health and the Society of Directors of Leisure, Recreation and Tourism actually place demands for legislation. One example of legislation which was proposed by local governments was the Local Government (Footpaths and Open Spaces) (Scotland) Act 1970 which was introduced (as a Private Members Bill but sponsored by the Scottish Office) to Parliament by Tom McMillan M.P. as follows:

Local authorities have raised with the Secretary of State for Scotland the need for powers to enable them to take over our footpaths of this kind, and I am sure they will welcome the Bill. ... The purposes of the Bill are obviously useful and local authorities would be glad of the powers in it<sup>(38)</sup>.

Second, legislation may be the result of a mutual bargain - where it reflects local as well as central government preferences. Although the legislation is not attributable to the initiatives of local government actors the provisions of the legislation are negotiated and some concessions are made to the preferences of local governments. In Scotland, for example, Keating's discussion of the Local Government (Scotland) Act shows how local actors in No.1 District of Renfrew County managed to enlist the support of MPs to avoid inclusion within an expanded Glasgow District. Instead a separate Eastwood District was created<sup>(39)</sup>. Similarly, studies in England have shown how local governments successfully managed to amend some of the provisions of the legislation compelling local authorities to sell houses on demand<sup>(40)</sup>.

Third, legislation may reflect some local government preferences because the legislation is proposed and drafted with some account taken of the anticipated reactions of local government actors. This category of local influence is far more difficult to assess since it requires an awareness of the "true" preferences of the centre (undiluted by the anticipated reactions of local actors)<sup>(41)</sup> and must admit the possibility of "non-legislation", analagous to "non-decisions"<sup>(42)</sup> for which only speculative examples can be offered (e.g. the absence of legislation ending religious segregation in schools). While this form of realising local preferences in legislation may be important, there is little more that one can do than merely acknowledge the possibility of its existence<sup>(43)</sup>.



One means of assessing the degree to which legislation reflects the preferences of local government through the legislation actually being proposed by local governments is to examine the second reading debate on the legislation<sup>(44)</sup>. The introduction of the legislation often contains some form of description of the genesis of the legislation, whether it resulted from a commission, a working party report or in response to requests for legislation from particular interest groups. A clear assessment of the origins of the legislation could only be made in the case of 101 items of legislation - for the remaining 81 items of legislation the brevity of the second reading debate made it hazardous to attempt to attribute the origins of the legislation to any one set of actors.

Of the 101 items of legislation for which sufficient information was available, only 7 items of legislation could be attributed to local government requests for legislation. These were the Local Government (Footpaths and Open Spaces) (Scotland) Act 1970, the District Courts (Scotland) Act 1975, the Guard Dogs Act 1975, the Town and Country Planning (Scotland) Act 1977, the Housing (Financial Provisions) (Scotland) Act 1978, the Town and Country Planning (Amendment) Act 1978 and the Local Government (Scotland) Act 1978. A further seven items could be attributed to the requests for legislation from professional organisations of local government officers. These were the Teaching Council (Scotland) Act 1971, the Police Act 1972, the Law Reform (Diligence) (Scotland) Act 1973, the Education (Work Experience) Act 1973, the Reservoirs Act 1975, the Education (Scotland) Act 1976 and the Community Service by Offenders (Scotland) Act 1978. If one subtracts the 6 other items of private members legislation and ten items of legislation which

resulted from reports of commissions and committees of enquiry through which local governments might have secured that the legislation expressed preferences of local actors (although there is no direct evidence of this) then one is left with 71 items of legislation which are non-local in origin. If local government preferences are incorporated in items of legislation, then there is little evidence to suggest that local government legislative proposals, analogous to the manner in which local governments propose local Acts, are an important means through which local preferences find their way into central government legislation. At least 70 per cent of the legislation in the period appears as non-local in origin. This result conforms with Daniels' analysis of the role of the Convention of Scottish Local Authorities in framing legislation<sup>(45)</sup>. Only rarely does COSLA actually initiate discussions with the Scottish Office concerning future legislation, more often it reacts to the legislative proposals passed on to it from the centre.

General Acts of Parliament are not analogous to local Acts in the sense that they are rarely initiated by local governments and cannot, for the most part, be understood as merely reflecting the preferences of local actors. However, local government actors are involved in the drafting of legislation. This is discussed by Stanyer, for example, as a form of "local influence upon the centre"<sup>(46)</sup>. Statements made in the Parliamentary debates of legislation affecting local governments frequently refer to "consultations" with local authority actors through groups such as the local authority associations or professional organisations of local government actors. In some cases, such as the Tenants Rights (Etc.) (Scotland) 1980, the consultations are little more than

symbolic<sup>(47)</sup>, yet in others, such as the case of Renfrew No.1 County District which successfully managed to avoid inclusion in a large Glasgow District in the 1973 reorganisation, they are much more.

There are no precise or even approximate measures which can be used to indicate the degree to which laws are the negotiated outcomes of bargaining between central and local government, where there are concessions granted local governments by the centre. The detailed information concerning the precise "original" intentions of the legislation, prior to the process of "consultation/negotiation" simply is not available. Undoubtedly consultation with local governments does have more than symbolic importance; there are studies of legislation - although relatively few in Scotland - which show the degree to which the centre makes concessions to local governments<sup>(48)</sup>. However, bargaining surrounding legislation is often limited and, more importantly, the degree to which legislation is subject to negotiation and bargaining is limitable by the centre. The centre can decide what is negotiable and what is non-negotiable. It can decide that virtually whole items of legislation are non-negotiable. For example, in the Tenants Rights (Etc.) (Scotland) Act 1980 there were two main provisions; first the mandatory sale of council houses and second, the granting of security of tenure to local authority tenants (giving them the same rights as private tenants). On the question of the sale of council houses, the centre merely ignored the opposition to the policy. There was public opposition to the measure, Conservative and Labour local authorities as well as opposition MPs expressed their opposition to the sale of council houses. A leading member of the Chartered Institute of Public

Finance and Accountancy prepared a set of figures which claimed to show how much local authorities in Scotland would lose through the sale of council houses, and social workers and housing managers pointed to the problems of providing an "adequate" public housing service when the best houses were compulsorily sold off<sup>(49)</sup>.

COSLA's relatively weak campaign against the sale of council houses can be explained by the fact that it had been made quite clear to the Convention that council house sales were a high priority in the Government's legislative programme, it had already been enacted in England and Wales and Scotland was to have virtually identical legislation. The issue of the mandatory sale of council houses was non-negotiable.

The issue of security of tenure for local authority tenants had been raised under the previous Labour government. It was contained in the 1977 Green Paper on Housing<sup>(50)</sup> and introduced as the Housing Bill in March 1979. There was substantial opposition from local authorities, and the Convention planned the hitherto untried action of sending a COSLA delegation to Westminster to lobby MPs and stage a public demonstration outside Parliament. It was made clear, however, that there was no negotiation on this issue<sup>(51)</sup>. As one chief executive interviewed understood it, Hugh Brown, the junior minister at the Scottish Office with responsibility for housing, was not enthusiastic about the legislation applying to Scotland, but there was no question in his mind that it would be applied to Scotland because it was party and Cabinet policy.

Similarly, particular aspects of legislation, as opposed to virtually the whole of the legislation, might be made non-negotiable

by the centre. For example, the Poultry Meat (Hygiene) Regulations of 1977 required that inspectors of poultry meat should hold a veterinary qualification. The proposed legislation was submitted to the COSLA Environmental Health Committee in Summer 1976 (by an individual authority - it was not sent directly to COSLA for comment).

The Committee resolved that:

Representations be made to the Department of Agriculture and Fisheries for Scotland that any proposed directive of the European Economic Community insisting on veterinary surgeons undertaking responsibilities of environmental health officers be resisted<sup>(52)</sup>.

The discussions with the Department which followed the resolution did not touch upon the question of whether veterinary qualifications should be required, but how many there should be, when the legislation was to be phased in and how the extra costs were to be met. The DAFS left little doubt that the Directive was to be implemented in Scotland.

There is undoubtedly an element of negotiation in the preparation and passage of some items of legislation. The British system of government offers fewer routine opportunities for groups such as local authorities or professional associations of local government officers to propose, amend or defeat legislation than a system such as the United States<sup>(53)</sup>. The executive's control of the legislative process<sup>(54)</sup> offers the government the opportunity to choose which legislation and which aspects of legislation are negotiable. While party discipline cannot always be taken for granted, as the inability of the Conservative government to pass its legislation removing the obligation of local governments to provide transport to local schools in the Education Bill 1980 shows, it is sufficiently strong to guarantee central government choice in limiting which items of legislation, and which aspects of those items, are negotiable.

The discussion of the negotiability of legislation has argued that while legislation cannot invariably be regarded as an expression of the preferences of the centre to the exclusion of any incorporation of the preferences of local actors, local preferences are expressed through central legislation due to local governments proposing legislation only relatively rarely. If legislation does reflect local preferences in addition to central preferences, then this is due either to the rather intangible process of the centre anticipating reactions of local governments or through observable bargaining. However, what is bargained, what is negotiable and what is not, can be defined by the centre.

#### VI. How Far do Laws Create Effective Constraints?

To "obey" a law means to act in a manner consistent with its provisions. The provisions of a law may allow a wide variety of actions or a narrow range of actions - for example, the Tenants Rights (Etc.) (Scotland) Act specifies a narrow range of actions which must be undertaken if the local government is to obey the law on council house sales, and the Transport Act 1968 specifies a range of powers which a local government may use in order to provide concessionary fares for certain of its citizens. Obedience to a law does not imply a uniform response to a law, rather it means that however wide the discretion for local governments contained in the law, local governments do not act outside the limits which might be specified in the law. In the case of the 1968 Transport Act, for example, it would mean that while there was discretion for local governments to devise schemes for concessionary fares, such schemes should only give concessions to some or all of the groups of people specified in the Act. The question posed in this section

is in what sense do local governments obey laws? Irrespective of the range of activities which are consistent with the preferences expressed through legislation, do the parameters expressed through the legislation effectively constrain the activities of local governments?

The question of whether legislation actually does constrain local governments poses complex problems of methodology. To assess whether local government activities are actually shaped by legislation requires the construction of a counter-factual argument - that if legislation did not exist, local authorities would not have acted this way. For example, one would need to be able to attribute the fact that a local authority has failed to evict a certain tenant from a council house because of the security of tenure provisions of the Tenants Rights legislation and not because the authority was a "sympathetic" authority which would not have exercised its ability to evict even in the absence of the legislation. In the absence of a counter-factual world, three answers to the question of the degree to which legislation constrains local governments are given. First, this section examines the a priori reasons for arguing that laws do not constrain local government activities and presents the counter-arguments to these. Second, this section examines the different types of effect of legislation and argues that the only ambiguity over whether legislation does constrain arises only in one type of legislation - legislation which mandates. Finally, this section explores the empirical evidence to suggest that central government mandates constrain local government activities.

a) The Case for and against the Constraints of Laws

i) Saturation

Table 3.1 illustrated the sheer volume of legislation that is issued annually by Westminster. While some items of legislation repeal and amend existing items of legislation, the body of legislation in force is enormous by any standards. The Index to the Statutes, which lists around 80,000 sections of legislation covering different areas of public policy (not only local government services) is contained in two volumes in a total of 2,132 pages. The volume of legislation in force leads to the argument that local government is saturated with legislation; there are so many items of legislation in force that nobody knows what their statutory obligations are. Van Gunsteren for example, argues:

Too much information makes orientation difficult. The total mass of statutory rules is so large that no one can have an overview of it. Even if this overview were available it would still often be impossible to select the relevant information within the time that is available before a decision is taken. From this it follows that uncertainty cannot be relieved by simply changing laws or adding new ones<sup>(55)</sup>.

In the context of the framework presented in chapter one, an instrument cannot constrain the activities of local government actors unless they know what is mandated, permitted and prohibited, and the plethora of legislation makes it difficult for any one person to be aware of what the legislative constraints are.

There is certainly evidence of legislation falling into obscurity once it has reached the statute book. The Mental Health (Scotland) Act 1960 required that social services authorities should designate some social workers as Mental Health Officers. A recent survey of social workers revealed that many social workers



did not know that they had been appointed Mental Health Officers (since the legislation did not stipulate notification procedure) and that those who were appointed had little conception of what being a Mental Health Officer in the terms of the Act actually meant<sup>(56)</sup>. The confusion over the precise statutory constraints concerning local government activity is compounded by the fact that there are items of legislation, and particular clauses of legislation which are not in operation despite the inclusion of the legislation in statute books. For example, the Reservoirs Act 1975 as well as the parts of the Children Act 1975 concerning the statutory obligation to provide an adoption service, are still not in force.

There are two general counter-arguments to the proposition that laws do not constrain because there are so many laws that the precise nature of the statutory constraints is unclear. First, while there is a vast volume of legislation, even when confined to legislation affecting local government, the bulk of legislation is function specific. Housing managers are little affected by legislation which affects the ability of the environmental health officer to enter premises, and the planner has little need to know what has been added to the statutory list of toxic substances. From the perspective of the local official or councillor, the volume of relevant legislation for any one policy area is limited with the possible exception of finance (see above).

This can be demonstrated in the case of local authority services by consulting the Index to the Statutes. Table 3.7 breaks down the number of items of legislation for five service areas, chosen because the listings in the index to the statutes

coincide with the service areas of local government. From table 3.7 it can be seen that the number of items of legislation for any one service is far more limited than the aggregate figures for the totality of legislation affecting local governments suggests. The number of laws for any one service can still be large - 56 in the case of housing, 38 in the case of education, and 20 and 18 for social work and fire services respectively<sup>(57)</sup> - and the figures cannot be taken to suggest that the legislation is sparse, but that the claim that there is a vast volume of legislation which no one actor can master is an exaggerated one.

Table 3.7

The Amount of Legislation Governing  
Four Different Policy Areas

<u>Policy Area</u>	<u>Number of Laws</u>
Housing	56
Education	38
Social Work	20
Fire	18

Source: Statutory Publications Office Index to the Statutes (London: HMSO, 1980).

The second counter-argument follows on from this. While there might be a relatively large amount of legislation, a few items of legislation contain a large proportion of the total of the statutory provisions for the delivery of the service, and the local actor therefore requires for the most part to be familiar with relatively few items of legislation for the everyday delivery of services. For example, the bulk of the statutory provisions concerning library services are found in the Public Libraries Consolidation Act 1887 and the Local Government (Scotland) Act 1973. Of the fourteen

clauses of legislation referred to in the Index to the Statutes as relevant to the delivery of library services, 10 are to be found in these two Acts alone. Items of legislation which can be termed focal legislation when they contain a large portion of the statutory provisions for a particular local government service. These are presented for five services in table 3.8.

Table 3.8

Focal Laws in Local Government Services

<u>Service</u>	<u>Focal Law(s)</u>	<u>Number of Sections of Statutes</u>		<u>Percentage of</u>
		<u>All Laws</u>	<u>Focal Laws</u>	<u>All Sections</u>
Education	2: Education (Scotland) Acts 1962 and 1969	328	171	52
Housing	2: Housing (Scotland) Acts 1966 and 1969	576	204	35
Social Work	1: Social Work (Scotland) Act 1968	167	82	49
Fire	1: Fire Services Act 1947	77	36	47
Libraries	2: Public Library Act 1887, Local Government (Scotland) Act 1973	14	10	71

Source: Statutory Publication Office Index to the Statutes (London: HMSO, 1980).

For education, familiarity with the two Education (Scotland) Acts of 1962 and 1969 implies familiarity with over one half (52 per cent) of the statutory provisions relating to education, for housing, familiarity with the two Housing (Scotland) Acts of 1966 and 1969 implies familiarity with over a third (35 per cent) of the 576 statutory provisions relating to housing, and familiarity with a

single Act in the social work and fire services (the 1968 Social Work (Scotland) Act and the 1947 Fire Services Act) imply familiarity with just under one half (49 and 47 per cent respectively) of the statutory provisions.

There is a third counter-argument to the assertion that there is so much legislation that an individual actor does not know precisely what his statutory rights, duties or obligations are. While there is a large amount of legislation which fades into obscurity (such as the Mental Health Act 1960) shortly after it has been passed, some laws are very well known. Some laws pass into the technical language of local government professions. For example, a finance officer will understand that "section 94 consents" refers to the requirement that capital expenditure be approved by the Scottish Office before it is incurred (under section 94 of the Local Government (Scotland) Act 1973), just as a social worker will know that "section 15 children" refers to children taken into care under section 15 of the 1968 Social Work (Scotland) Act.

The prominence of some items of legislation for particular services is reinforced through the activities of a number of agencies which seek to remind local governments of their statutory obligations under particular items of legislation. For example, organisations concerned with the disabled have informed local authorities of their obligations under the Chronically Sick and Disabled Persons Act 1970 and Shelter has sought to remind local authorities of their obligations under the Housing (Homeless Persons) Act 1977. Professional groups organise seminars and issue reports on particular items of legislation; for example, the Society of Directors of Consumer Protection have organised seminars on poisons

legislation with guest speakers from central government, and the Association of Reporters to Childrens Panels issues reports on the implications of changes in legislation for the professional activities of its members. The press, both national and specifically local government press also give prominence to recently enacted legislation either as a regular feature, as in the Local Government Chronicle or as a special article, as with an article in Municipal Review on lotteries<sup>(58)</sup>. Consequently, few local officials concerned with a particular service can fail to notice items of legislation which affect their particular service, especially when they are informed of its existence as a matter of course by central government circulars (see chapter 5). Few local planning officials could have spent 1975 without hearing of the Community Land Act, just as few finance officials could have spent 1981 without hearing of the Local Government (Miscellaneous Provisions) (Scotland) Act.

The argument that the sheer volume of legislation saturates local government with a bewildering variety of legislation which leaves any one set of local government actors uncertain as to what their statutory rights, obligations, vires and duties are is not a very strong one. Because a large portion of legislation is function specific, the plethora of legislation for all local government services appears as a manageable, if still somewhat large in some cases, body of legislation for any one particular service. The local actor is only likely to need some degree of familiarity with a few items of focal legislation in any one functional service area in order to be familiar with a large portion of the totality of statutory provisions within it. In addition to this, there are a

variety of agencies which serve to familiarise and remind local actors of the nature of the statutory rules which govern the delivery of any one service.

ii) Laws can be Interpreted

Van Gunsteren also argues that because statutory rules are often phrased in vague terms, there is large scope for interpretation of legislation:

Many statutory rules are intolerably vague, their words cover cases which are but little related to the original reasons why the law was enacted. Laws often leave important discretionary powers to the administration (59).

This argument has been raised in much of the literature on organisations; no set of rules can be derived which cover "every eventuality", and therefore rules generate areas of uncertainty which are left unregulated in formal terms (60). The rules leave discretion to those involved in applying them.

In so far as it suggests that the centre's legal instruments often leave substantial areas of discretion for local actors in delivering services, then this argument is entirely consistent with the framework developed in chapter one and the conclusions reached so far in this chapter. However, if this is taken further to suggest that legislation is almost always intolerably vague, and despite central government preferences to the contrary, legislation concerning local government services almost invariably leaves a large area of discretion to local governments, then the contention may be challenged.

There are certainly examples from legislation affecting Scottish local government which support the argument that legislation can be

vague and subject to interpretation by local actors. For example, the Social Work (Scotland) Act 1968 imposes a general obligation on local governments to:

Promote social welfare by making available advice, guidance and assistance on such a scale as may be appropriate for the area, and, in that behalf to make arrangements and to provide or secure the provision of such facilities as they may consider suitable and adequate

The Housing (Homeless Persons) Act 1977 makes local authorities "subject to a duty ... to secure accommodation is made available" to homeless people "for such a period as they consider will give reasonable opportunity" of securing alternative accommodation. The whole Act leaves open definitions of large issues, such as precisely which people can be categorised as being "homeless". The local authority merely has to be "satisfied" after making the "appropriate enquiries" that the person is involuntarily "homeless" and has a "local connection with their area" leaving large scope for local authorities to refuse to house under the Act.

Examples are not, however, evidence of the point that laws are "intolerably vague" since one can produce counter-examples of specific items of legislation. When one seeks to ascertain precisely how many laws are "vague" one faces a number of problems. First, vagueness is a relative term. Although there is vagueness and room for manoeuvre in most legislation, one would not regard the relatively small room for interpretation for local authorities to determine precisely what constitutes an item of "capital expense" under the 1975 Local Government (Scotland) Act as equivalent to the relatively large scope for interpretation in the Housing (Homeless Persons) Act. Second, the vagueness of a piece of legislation cannot be interpreted accurately in advance of local experience of

the legislation. For example, it would not be easy to foresee that the problems of interpretation of the Mental Health (Scotland) Act 1960 would result, in part, from the vagueness in the specification of how Mental Health Officers should be informed that they have been designated as such.

However, some form of crude distinction between legislation which contains a high element of interpretation for local authorities can be presented. In some cases categorisation poses few problems. For example, the Valuation and Rating (Exempted Classes) (Scotland) Act 1976 which enables the Secretary of State to issue orders to exclude certain types of lands from the valuation roll does not leave much to the interpretation of local governments, and this contrasts strongly with legislation that does, such as the Housing (Homeless Persons) Act. The laws over the 10 year period were examined and coded according to a binary coding based on a judgement of whether the text of the legislation implied that much is left for the local authorities to interpret. In coding the legislation vague phrases such as "as the local authority regards to be appropriate" and "if it appears to the local authority" were taken to be indicators of vagueness. Such an exercise can only be indicative since precise specification of the importance of interpretation of legislation is likely to emerge only once the legislation has been put into effect. However, on the basis of this crude dichotomy, 26 laws (19 per cent of the total) were found to leave a significant element of interpretation for local authorities, while in the remaining 121 (81 per cent of the total) there was no significant element of interpretation or it left the interpretation to the Secretary of State.



The classification should not be taken to mean that legislation is generally highly specific and leaves little room for the interpretation of statutes. In numerical terms the bulk of the cases are relatively specific. However, the legislation which leaves room for interpretation may be, using the criteria discussed above, important legislation which seeks to shift the parameters within which local governments deliver services such as the Chronically Sick and Disabled Persons Act 1970 and the Housing (Homeless Persons) Act 1977. Legislation is not always or even most often "vague". There are important examples of "vagueness" in legislation, with room left for interpretation through local government actors, yet this does not mean that legislation is invariably vague and therefore has little influence upon local government activities. Much legislation is highly specific, and the absence of specificity does not mean the absence of influence.

### iii ) The Unobtrusiveness of Enforcement

The "conventional wisdom" of central-local government relations points to a number of mechanisms which have tended to reinforce the influence of central government legislation upon the services delivered by local governments. Conventionally, one would include the powers of auditing the accounts of local governments, inspection, mandamus (the appeal to courts that local governments fulfil their statutory obligations), default (the procedure whereby a Minister can assume the statutory powers of a local authority) or the threat of actually applying these powers<sup>(61)</sup>. However, despite the impressive array of enforcement mechanisms, the relative absence of the use of these mechanisms (with the possible exception of the audit) may be taken to suggest that the arsenal of enforcement

mechanisms are relics rather than modern integrated weapons systems. Even the threatened use of these mechanisms loses its impact when actual use of them is extremely rare<sup>(62)</sup>.

There is some evidence to support this argument. The Commission for Local Authority Accounts which audits local authority accounts has the power to report to the Secretary of State any item of expenditure which is "contrary to law"<sup>(63)</sup>. In turn the Secretary of State may require remedial action including a surcharge on individual councillors for the payment of illegally raised or spent sums. The Commission has issued such a report only four times since its inception. In one publicised case it involved the relatively trivial amount of £1,400 which West Lothian donated to the Blue Peter Kampuchea appeal. Despite warnings from the Director of Finance that section 85 of the 1973 Local Government (Scotland) Act forbade donations to charities operating outside the United Kingdom, the District donated some of the proceeds of a lottery to the appeal<sup>(64)</sup>.

Similarly with the inspectorate. School inspection in Scotland is less occupied with making sure that government legislation is being obeyed than with improving teaching methods in schools. The link between inspectors and the education service is primarily through the direct relationship with field employees - teachers and headmasters - and relies upon "persuasive leadership", "prescription" and "consultation" rather than "authoritative control"<sup>(65)</sup>. Bone argues that inspection in Scotland qua enforcement of standards has given way to an advisory activity where the inspector is a means of disseminating "good teaching practice" rather than advising local authorities of their statutory obligations:

The basic reason for the continuation of school inspection in Scotland, and in all countries, has remained the same; if the state spends money on education, or on anything else, it has a right to see that the money is spent in a manner of which it approves. But the state does not always exercise this right, ... the need for pure inspection, i.e. control of standards, diminished when a standard becomes fully developed. ... One could say that formal inspection, as previously understood, is dying out in Scotland and being replaced by something much more stimulating and constructive<sup>(66)</sup>.

While inspectors do not, in the conventional sense of the word, "inspect" local government actors, and while other enforcement mechanisms, such as the audit, are rarely called upon by the centre to enforce legislation, it would be mistaken to suggest that they have no influence. Above all, local authority actors are aware that illegality, if it involves any kind of financial transaction, will be unearthed through the audit. Awareness that these measures exist constitute constraints upon major breaches of statutory powers. Not every detected breach of statutory powers results in the imposition of penalties: the Gaming Board's 1980 Report<sup>(67)</sup> documented the widespread breach of lottery legislation among local governments few local authorities, one of which was Central Region which simply was refused re-registration of its lottery scheme, were penalised<sup>(68)</sup>. However one can point to cases where considerations of illegality and the possible sanctions impose real constraints upon local governments. For example, Lothian Region's difficulties in summer 1981 in deciding how to respond to the request for cuts in local spending of \$47 million, backed up by threat of grant reductions were partially due to the fact that one option, borrowing the money needed to finance existing spending plans, was not open to it since there was little doubt among councillors and officials that

if the money was borrowed illegally, the auditors would be called in, possibly leading to a surcharge on the members of the Labour Group.

However, the influence of laws does not rest upon either the existence of enforcement mechanisms or their actual use alone. The local government professions in Scotland, as in England and Wales, inhabit a legal subculture. There has been little detailed information upon the role of the legal profession in local government since Hobson and Stewart's 1969 study<sup>(69)</sup>, and none which refers to Scotland. However, if the experience of a legal training is a guide, then the background of many chief officials suggests that the subculture of local government professionals is one which is oriented towards the acceptance of legal norms. The chief executive officer or equivalent is predominantly a person with a law background; 40 of the 53 chief executive officers in the districts and six of the chief executive officers in the nine regions hold a legal qualification<sup>(70)</sup>. Directors of finance, who by law have to hold accountancy qualifications, predominantly hold Institute of Public Finance and Accountancy diplomas. The training for such a diploma also involves a strong emphasis upon the legal provisions affecting local government finance. For example, Page's textbook Local Finance in Scotland<sup>(71)</sup> gives an exhaustive discussion of the financial and accountancy implications of different items of legislation.

On the side of the elected members, the examples of local governments which have actually been prepared to act illegally suggests that councillors are less likely to accept the validity of legal norms. The refusal of Clay Cross to implement the 1972

Housing Finance Act and in Scotland the refusal of Dundee to sell council houses suggests that the initiative to disregard statutory provisions - at least publicly state their intention to be in clear breach of legislation - is more likely to result from the collective decisions of councillors than the individual decisions of officers. This cannot solely be assumed to be a characteristic of Labour councillors - a Conservative Edinburgh District, for example, failed to provide a scheme for community councils as it was obliged to under the 1973 Local Government (Scotland) Act.

Nevertheless, there is a legal subculture within local government which predisposes actors toward the acceptance of legal norms, and while the threat of the application of enforcement mechanisms may be present, the existence of this subculture makes even the threat of sanctions all the less necessary for statutes to constrain the activities of local government actors. The unobtrusiveness of mechanisms of enforcement of statutory provisions in Scotland cannot be taken to suggest that statutes are routinely ignored by local councillors and officials.

b) Empirical Analysis of the Effect of Laws

Perhaps the best means of demonstrating the ability of legislation to constrain local government activities is to examine the application of laws which are passed despite the widespread opposition of local governments. The reasoning behind this is as follows. In order to assess the degree to which legislation constrains local governments it is desirable to construct a counterfactual argument. Without legislation x local authorities would not have done y. While it is impossible to argue with complete confidence that y would not have been done without legislation x,

where there is evidence of substantial opposition to legislation x, it is more plausible to hypothesise that y would not have been done than if legislation x were, for example, an item of legislation welcomed by local authorities which facilitated them in the delivery of services which they were already delivering (e.g. the Footpaths and Open Spaces legislation). For example, in the case of Lothian Regional Council it is more reasonable to predict that without the Miscellaneous Provisions Act of 1981 the council would not have revised their 1981-82 budgets than to argue the opposite.

Two items of legislation selected here are the sale of council houses under the Tenants Rights (Etc.) (Scotland) Act 1980 and the Housing (Homeless Persons) Act 1977. The opposition of a number of councils to these items of legislation has been documented elsewhere<sup>(72)</sup>; the homelessness legislation was widely regarded by housing managers as a "dodger's charter"<sup>(73)</sup> and the sale of council houses was opposed both because of the effect it would have on the quality of the total local government housing stock as well as the financial losses the sale of council houses would bring.

The first point to be noted in examining the implementation of both of these items of legislation is that when one takes the statistics for the system of local government as a whole, the legislation does appear to have had an impact upon the activities of local governments. The evidence is most striking in the case of the sale of council houses. Table 3.9 shows the number of houses sold by local authorities (district and island councils under the new system of local government) since 1973. In the last full year of the 1970 Conservative government, when council house

Table 3.9

Council House Sales in Scotland

<u>Year</u>	<u>Number of Houses Sold</u>	<u>Number expressed as % of 1973 House Sales</u>
1973	743	100
1974	172	23
1975	28	4
1976	24	3
1977	92	12
1978	105	14
1979	642	86
1980	2,938	395
1981	6,582	886

Source: Scottish Housing Statistics 15, 1982 (Edinburgh: HMSO, 1982); HC Debs, 1233, 24 February 1982, col. 421.

sales were encouraged<sup>(74)</sup>, although the initiative for selling rested with local authorities, 743 houses were sold. Under the full years covered by the Labour government, 1975 to 1978, council house sales averaged 62 per annum. With the Conservative policy of encouraging sales through circulars<sup>(75)</sup> council house sales rose to 642 in 1979. When the sale of council house sales was made mandatory upon demand in 1980, the annual sale of council houses rose to 2,938. In 1980, under the new legislation, nearly four times as many houses were sold as were sold under the encouragement of sales in 1975 without legislation. In the first full year of the legislation, sales stood at 6,582 - nearly nine times the 1973 level - and at the end of January 1982 a further 6,709 sales were nearing completion<sup>(76)</sup>.

The question of the impact of the homelessness legislation is more difficult since there are no comparable statistics which cover homelessness prior to the introduction of the 1977 legislation.

Shelter, for example, complained that:

A major problem in discussing homelessness in Scotland is the lack of adequate statistics. Those collected prior to 1 April (1978) only measured the take up of a very unevenly distributed and inadequate provision by social work authorities(77).

While the statistics are not as conclusive as the evidence offered in the case of council house sales, the evidence suggests a fairly strong impact for the legislation over the local government system as a whole. Of the total of 22,567<sup>(78)</sup> applicants for accommodation under the Act, temporary (3,746) or permanent (9,750) accommodation was found for 13,316 or 59 per cent of applicants. The aggregate evidence for local authorities suggests that local governments are fulfilling more than their statutory duties under the legislation because while there are only 12,694 applicants assessed as being in a "priority group" and therefore deserving permanent or temporary accommodation, 13,316 - five per cent above this figure - have been found permanent or temporary accommodation. The problem with this measure is, however, that the assessment of priority group status lies with the local authority. While the response of individual authorities is discussed in more detail below, there is evidence to suggest that local authorities in general have not adopted over-stringent qualifications for those seeking to be in the priority category. Clackmannan District Council, identified by Shelter as one of the most eager to apply the legislation, classified only 9.8 per cent of its homeless as "intentionally homeless" and therefore not subject to the benefits of the legislation; the percentage for Scotland as a whole was only four per cent higher at 13.8 per cent.



To use a statistical metaphor, the legislation both in the case of homelessness and the sale of council houses affected the mean of services delivered by local governments. Council house sales and the facilities for the homeless were affected by both items of legislation, even though they were both generally opposed by a large number of local governments. However, the standard deviation of the implementation of the legislation indicates that the impact of the legislation is not uniform across all authorities.

This is possibly most clearly indicated in the homelessness legislation, where local authorities opposed to the legislation have continued their opposition by devising more stringent guidelines for the definition of "homeless" categories. One of the majority Labour group in Midlothian District Council, for example, stated "we have tried to sabotage this Act since April when it came into being"<sup>(79)</sup>. The statistics for Midlothian bear out this opposition; 30 per cent of applicants under the Act were defined as "voluntary homeless" (Scottish average 9.8 per cent), while of those in the priority category, only 15 per cent (Scottish average 75.4 per cent) were secured permanent accommodation. Within the Act there is substantial scope for local discretion to virtually ignore the legislation which has been exercised by local authorities such as Midlothian. The legal redress against councils which appear to be, prima facie, in breach of the Act is, as the cases cited by Shelter indicate<sup>(80)</sup>, slow and ineffective. Midlothian, for example, when ordered by the Court of Session to provide accommodation for a woman who had left an SSHA house which had become unfit for her to live in, contacted the SSHA and arranged to sublet the house in question, and informed the woman that her old house was to be her

temporary accommodation. Simultaneously with giving her a rent card, the council issued her with a notice of eviction.

The extent of the standard deviation of the impact of the legislation can be derived, in crude terms, by presentation of the differential treatment within Scotland of the homeless. While Scottish local authorities assess on average 70 per cent of the homeless as being in the priority category, this varies from 100 per cent in small authorities such as Roxburgh and Wigtown to 36 per cent in Aberdeen. The standard deviation is 18 per cent. This means that in two thirds of the 53 local authorities, between 88 and 52 per cent of homeless are defined as priority homeless. The percentage of homeless applicants given permanent or temporary accommodation varies from 28 per cent in Midlothian to 100 per cent in Sutherland with a mean of 70 per cent and a standard deviation of 18 per cent. This suggests that two thirds of the 53 councils similarly allocate accommodation to between 88 and 52 per cent of applicants under the Act.

Shelter has been active in seeking to secure the improvement in treatment of the homeless under the Act, however, the main reason for the problems in securing housing for the homeless is not that local governments are prepared to act illegally, but rather because of the construction of the statute itself. The Clerk of the Faculty of Advocates argued, in response to the proposition that litigation under the Act rarely found in favour of the homeless and where it did, failed to form the basis of any substantial remedial action:

I do not think that your paper (the paper from Shelter pointing out the apparent failure of litigation under the Act) sufficiently stresses the difference between an Appeal procedure and the form of the Act as now drafted.

If the Act maintains the test that the council has to do certain things if it is "satisfied" about a certain state of affairs, then no reform of the appeal procedures will give the kind of change which you seek<sup>(81)</sup>.

As long as the legislation is expressed in terms of the local authority deciding key aspects of the treatment of homelessness, such as voluntary homelessness or the existence of "a local connection" elsewhere and there is reluctance to provide housing for the homeless, then the statutory obligation to provide housing for the homeless will remain a weak one.

The sale of council houses is similar in the sense that while local authorities are under statutory obligation to sell houses, and this obligation is less subject to interpretation than the homelessness legislation, there is some standard deviation around the mean. While local authorities as a whole are selling more council houses because of the Act, so far some local authorities have managed to delay the sale of houses despite the relatively well defined legal obligation. However, the centre has displayed that it is prepared to use the formal enforcement mechanisms - a public inquiry and eventually the Court of Session<sup>(82)</sup> - to guarantee council house sales on demand. The scope for local authorities to avoid the consequences of this obligation is largely limited to delaying the processing of applications, providing as little information as possible to potential buyers as well as some mild forms of intimidation such as refusing to carry out repairs in houses where the tenant has expressed an interest in buying a council house.

The empirical evidence suggests that laws constitute potent constraints. Where an item of legislation defines precisely the

activities which are consistent with the preferences of the centre, as in the case of the sale of council houses, then there is a probability approaching 100 per cent that local authorities will engage in that activity. The fact that an item of legislation, such as the Housing (Homeless Persons) Act 1977 does not fulfil the expectations of many of the advocates of the legislation is not a reflection upon the ability of legislation to constrain local governments but upon the construction of the statute itself.

c) Different Types of Legislation

Laws constrain local governments in the sense that if a particular activity is defined as consistent with local government preferences and this preference is expressed through the centre's legislative instruments, then there is a high probability that local governments will undertake this activity. How does legislation constrain local governments? Conventionally a distinction is made between legislation which mandates and legislation which confers or withdraws vires (83). The homelessness legislation and the sale of council houses mandates activities on local governments while the Indecent Displays Act 1970 gives local governments vires to display posters relating to the prevention and treatment of venereal disease in public places; it allows them to display such notices, it does not require that they display them.

Mandates are highly visible parameters set through legislation. It is possible to identify the intentions of the centre (e.g. to sell council houses or house the homeless) and compare this with the activities of local governments. Often, the ability of legislation to constrain is confused with the content of the

legislation and the looseness of the parameters - in the case of home-less legislation it was the looseness of the legislation rather than the inability of legislation itself to constrain which led to the differential implementation of the Act. Vires are less visible parameters since when an activity is permitted the constraint can only be discussed in retrospect (e.g. local governments were constrained before they were permitted to hold lotteries) or restricted to issues where there is some evidence that local governments would like extra vires they do not possess at present (e.g. raising supplementary rates). Either way the study of mandates is easier since the mandating of an activity requires a positive and identifiable decision by local governments to undertake that activity, whereas parameters which define the vires define the limits within which positive and identifiable decisions are taken and are not themselves amenable to as clear an intention/activity comparison as mandates.

Nevertheless, as the framework in chapter one discussed, the vires of local government legislation as well as the mandates of the legislation set the parameters within which local governments deliver services. Vires seldom raise the same questions about implementation as mandates. For example, the removal of vires from the pre-1975 local authorities in the 1973 Local Government (Scotland) did not raise any question of whether the old local authorities would decide to cease acting as local authorities when the new took over.

Legislation can mandate and change vires. But these are not the only form of legislation. The term used to describe legislation which neither mandates nor changes vires is "contextual

legislation". This is legislation which mandates or defines the vires of non-local government actors whose actions affect the delivery of services by local governments. Since it does not refer to what local authorities can and cannot, must and must not do, it raises no questions of the degree to which the legislation is "obeyed" by local governments. Often this legislation refers to the vires of the Secretary of State. For example, while the Valuation for Rating (Scotland) Act 1970 affects local governments in the sense that if the Secretary of State extends derating to certain agricultural properties, then this means a reduction in local government income per penny rate. However, this legislation extends the vires of the Secretary of State who may make an order to derate these properties and leaves those of local government unaltered. Similarly, while the powers given to the sheriff in the Control of Food Premises (Scotland) Act 1977 affect local government environmental health services since they affect offenders (insanitary shops) identified by environmental health officers, they do not extend the vires of the officers or mandate activities on them. This dimension says nothing about the scale of the implications of the legislation for local government services. For example, the provisions of Local Government (Miscellaneous Provisions) Act 1981 which has increased the ability of the Secretary of State to make direct reductions in local budgets would also be included as contextual legislation (although it is outside the time period of this census of legislation) since they change the vires of the Secretary of State to reduce grant without making statutory alterations to the vires of local governments in setting a budget.

If one excludes the 21 items of consolidating legislation and

the 63 items of legislation affecting local governments as enforcement agencies (where the status of laws such as changed definitions of what substances are poisonous may be interpreted equally well as a mandate as a vires), 10 items of legislation mandate an activity on local governments, 31 change the vires of local governments while the remaining 57 items have been classified as contextual, conferring neither mandates or changed vires for local governments.

Relatively little local government legislation actually mandates local government activity. These include items such as the Chronically Sick and Disabled Persons Act 1970, which mandates services for the disabled, and the Education (Mentally Handicapped Children) (Scotland) Act 1974 obliging local education authorities to provide all mentally handicapped children with an education. The bulk of legislation either affect the vires of local governments or is contextual - concerning the legal powers and obligations of persons and bodies whose activities affect local governments, frequently those of the Secretary of State.

How do these forms of statute influence local governments? By issuing mandates, defining vires and the context of local government, laws can constrain local governments in five broad ways:

- a) by defining the vires of the Secretary of State, as well as the vires of local government actors, legislation can reduce the costs of issuing further legislation (101 of the 119 items of non-law enforcement legislation made reference to the ability of the Secretary of State to issue further regulations through Statutory Instruments). This makes for "cheaper" central government regulation since Statutory Instruments require little, if any,

parliamentary time and are drafted in government departments instead of by overworked parliamentary draftsmen.

b) By the ability to define the vires of local authority actors the legislation actually encourages activity by legally permitting it, as in the case of the lotteries legislation. Similarly, the non-granting of vires prohibits activities. For example, before the Fire Precautions (Loans) Act 1975 local authorities were not empowered to make loans to individuals to enable their property to meet fire safety standards, and before the Riding Establishments Act 1970 local authorities could not grant temporary and conditional licenses to riding schools, and the absence of the power to raise supplementary rates has made the response to grant reductions substantively different to the response in England where such a power does exist.

c) The granting of vires can reduce or increase the complexity of the relationship between central and local government. By conferring the vires of the pre-reform local governments on a smaller number of local government units, the centre is able to influence the nature of the conflicts within local government and between local governments and the centre.

d) By mandating services and prohibiting services the activities of local actors may be constrained since councillors and officials do not want to act illegally since they accept the norms of the legal subculture of local government.

e) By defining vires and mandating the centre may influence the balance of political forces at the local level. For example, after the passage of the Education (Work Experience) Act 1975 it would no



longer be possible for a local political actor to argue against work experience as part of the school curriculum on the grounds that it is ultra vires. Similarly, the (relatively loose) mandate of the Children Act 1975 was seen as reinforcement among those within the local authority who sought improvement in the field of child care. Similarly, from an opposing perspective, a local housing officer interviewed argued that one of the main effects of the Housing (Homeless Persons) Act in his authority would be to give the "do gooders" (as he termed them) some legitimate claims to involvement in the allocation of local authority housing.

There are a variety of means through which local government activities can be influenced through central government legislation. The concentration upon mandates does allow a more direct assessment of the way in which legislation can be used to change the priorities of local political actors, yet the concentration upon mandates does not allow an assessment of the broader range of routes through which legislation sets parameters to local government activities. Legislation is a potent constraint upon local governments, and to argue that mandates do not specify tightly activities which are then uniformly undertaken is to miss the point. Legislation does set parameters within which local governments exercise discretion; the degree of discretion is a question to be taken up in a later chapter, but the evidence suggests that legislation offers a high probability that the activities of local governments will be consistent with the preferences of the centre as expressed through legislation.

## VII. Conclusions

To study the role of law in central-local government relations is made a more hazardous operation by the fact that the universe of legislation affecting local governments is not clearly and unambiguously defined; laws do not have any form of labelling which suggests that they are "local government laws". However, to ignore the role of laws is to ignore an instrument of influence which not only constrains local governments, but also constrains the manner in which other instruments of influence are used. Non-statutory instruments of influence can only seek to ensure that local government activities are consistent with the preferences of the centre if such activities are legally permissible. Since they define the services that local governments deliver, they also help define the content of any other form of interaction between central and local government, whether this be interaction through advice issued formally through circulars, or through face to face meetings between central and local actors. No conception of the relationship between central and local government can be a convincing one without an explicit statement of the role of laws in the central-local relationship.

Laws can be used to set parameters for any service delivered by local governments. Indeed, no local government service can exist without being in some way derived from a statutory permission or mandate to deliver the service. Laws can be used to substantively shift the parameters within which local governments deliver services - they cannot be seen as an instrument which merely maintain or legitimise the activities already undertaken by local governments. While the bulk of legislation cannot be

classified as "shifting" the parameters within which services are delivered, the items of legislation which have shifted parameters in the sample of 1970s legislation as well as the earlier historical examples have demonstrated the capacity of legislation to shift the parameters within which local governments deliver services.

Laws, furthermore, allow the centre to change (in order to maintain or in order to shift) parameters within which local governments deliver services without any concessions to local government actors. The centre can determine which legislation and which aspects of legislation - i.e. which of its preferences - are negotiable. The ability of legislation to constrain is relatively difficult to measure with any precision. However, the a priori evidence based upon examination of the arguments which suggest that laws have no constraining effect upon local governments as well as the empirical evidence suggest that laws have a very high probability of exerting influence upon local governments. The implementation, for example, of the Housing (Homeless Persons) Act demonstrates that any differential implementation of the Act can be attributed to the construction of the statute rather than the low constraining effect of laws.

None of this is to suggest that the role of the local authority actor in the delivery of local services is one of the "agent" of the centre. To set parameters is not to issue direct commands. As the importance of legislation which defines the vires of local governments demonstrates the centre may set parameters without a direct and positive statement of the activities that must be undertaken by local governments. As the homelessness legislation also indicates, a mandate can be a loose one; a variety of activities are consistent with the provisions of the legislation.

## Notes and References

1. Professor J.A.G. Griffith argued in his address to the April 1981 Annual Conference of the Political Studies Association in Hull that he doubted whether many political scientists had every picked up a statute and actually read through it.
2. For a discussion see C. Grace and P. Wilkinson Sociological Inquiry and Legal Phenomena (London: Collier Macmillan, 1978). See also S. Barrett and C. Fudge (eds.) Policy and Action (London: Methuen, 1981).
3. See J. Raine, R. Greenwood, G.W. Jones and J.D. Stewart (eds.) "In Defence of Local Government" (Birmingham: Institute of Local Government Studies, 1981).
4. With the exception of M.J. Elliott's "The Role of Law in Central-Local Relations" (London: Social Science Research Council, 1981), although Elliott's work appears a refinement rather than a substantive movement away from the traditional concerns of legal scholars with defining legal concepts than examining the effects of laws upon the behaviour of local governments.
5. Stanyer, J. Understanding Local Government (Glasgow: Fontana, 1976), p. 211.
6. See, for example R.A.W. Rhodes Control and Power in Central-Local Government Relations (Farnborough, Hants: Gower, 1981), pp. 14-17.
7. Chester, D.N. Central and Local Government (London: Macmillan, 1951).
8. Finer, H. English Local Government (London: Methuen, 1945).
9. Robson, W.A. Local Government in Crisis (London: Allen and Unwin, 1966).
10. Cross, C.A. The Principles of Local Government Law (London: Sweet and Maxwell, 1974).
11. See, for example, W.E. Jackson Local Government in England and Wales (Harmondsworth: Penguin, 1959).
12. The difference between the "agent" and "partnership" models of central-local relationships is made in O.A. Hartley "The Relationship Between Central and Local Authorities" Public Administration, 49, 1971, 439-456.
13. Punnett, R.M. British Government and Politics (London: Heinemann, 1976), pp. 372-373.
14. Yates, D. The Ungovernable City (Boston, Mass: MIT Press, 1977).
15. Dearlove, J. The Politics of Policy in Local Government (London: Cambridge University Press, 1973), p. 15.

16. Dearlove, J. The Reorganisation of British Local Government (London: Cambridge University Press, 1979).
17. Stanyer Understanding Local Government, p. 221.
18. Rhodes Control and Power, pp. 99-102.
19. Rhodes Control and Power, p. 106.
20. See I. Burton and G. Drewry "Public Legislation: A Survey of the Session 1979/80" Parliamentary Affairs, 35, 1982, p. 17.
21. Scarrow, H.A. "Policy Pressures by British Local Government. The Case of Regulation in the Public Interest" Comparative Politics, 4, 1971, 1-28.
22. Wade, E.C.S. and Phillips, G.G. Constitutional Law (London: Longmans Green and Co., 1946).
23. Committee Appointed by the Lord President of the Council The Preparation of Legislation. Cmd. 6053 (London: HMSO, 1975).
24. See Hunter, D. Coping with Uncertainty. Policy and Politics in the National Health Service (Letchworth Herts: Research Studies Press, 1980).
25. See F.X. Kirwan "The Scottish Development Agency: Structures and Functions" (Glasgow: University of Strathclyde Studies in Public Policy No. 81, 1981).
26. See S. Nelson "Participating in GEAR" (Glasgow: University of Strathclyde Area Survey Unit, 1980).
27. Griffith, J.A.G. Central Departments and Local Authorities (London: George Allen and Unwin, 1966), p. 515.
28. Gill, A.M. "The Relationship between Central and Local Authorities" Public Administration, 50, 1972, 215-216.
29. See R. Rose and E. Page "Chronic Instability in Fiscal Systems" in R. Rose and E. Page (eds.) Fiscal Stress in Cities (London: Cambridge University Press, forthcoming 1982).
30. Henderson, H. McN. "Scottish Legislation in the Seventies" in H.M. Drucker and N.L. Drucker (eds.) Scottish Government Year-book 1981 (Edinburgh: Paul Harris, 1980).
31. Statutory Publications Office Index to the Statutes (London: HMSO, 1980).
32. It is approximate above all since the definition of policy area and discrete activities within the policy area in the Index is somewhat erratic.
33. Burton and Drewry "Public Legislation".

34. Committee on Ministers Powers Report. Cmnd 4060 (London: HMSO, 1932), p. 36.
35. Rose, R. Do Parties Make a Difference? (Chatham, New Jersey: Chatham House, 1980), p. 91.
36. Craig, C. "COSLA. A Silent Voice for Local Government?" in H.A. Drucker and N.L. Drucker (eds.) Scottish Government Yearbook 1981 (Edinburgh: Paul Harris, 1980).
37. Scarrow "Policy Pressures by British Local Government".
38. HC Debs 792, 5 December, 1969, col. 1940.
39. Keating, M. "The Scottish Local Government Bill" Local Government Studies, 1, 1975, 49-61.
40. McCulloch, D. "How the AMA Fought and Improved the Housing Bill" Municipal Review, 607, 1980, 133-134.
41. This is implied in the concept of the "operating ideology" discussed by Sharpe in the context of member-officer relationships in local government. See L.J. Sharpe "Instrumental Participation and Urban Government" in J.A.G. Griffith (ed.) From Policy to Administration (London: Allen and Unwin, 1976).
42. Bachrach, P. and Baratz, M.S. "Two Faces of Power" American Political Science Review, 56, 1962, 947-952.
43. Polsby, N. "Empirical Investigations of Mobilisation of Bias in Community Power Research" Political Studies, 37, 1979, 527-541.
44. Or, in the case of many items of Scottish legislation, in the Scottish Grand Committee.
45. Daniels, P. "The Convention of Scottish Local Authorities" (Glasgow: University of Strathclyde Department of Administration unpublished paper, 1979).
46. Stanyer Understanding Local Government, p. 226.
47. Craig "COSLA".
48. Midwinter, A.F. and Keating, M.J. "Policy Leadership in Scottish Government" (Glasgow: University of Strathclyde Department of Administration unpublished paper, 1981).
49. See B. Kilroy "The Financial and Economic Implications of Sales"; R. Forrest "The Social Implications of Council House Sales" in J. English (ed.) The Future of Council Housing (London: Croom Helm, 1982).
50. Scottish Development Department Scottish Housing. Cmnd. 6830 (Edinburgh: HMSO, 1977).
51. Daniels "COSLA".

52. COSLA Minutes, July 1976, p. 265.
53. See D.H. Haider When Governments Come to Washington. Governors, Mayors and Intergovernmental Lobbying (New York: Free Press, 1974).
54. See, for example, S.A. Walkland The Legislative Process in Great Britain (London: Allen and Unwin, 1968). Norton's analysis documents some change since the late 1960s since when "MPs have started out on the path towards fulfilment of a less tame and minor role". See P.N. Norton The Commons in Perspective (Oxford: Martin Robertson, 1981).
55. van Gunsteren, H.R. The Quest for Control (London: John Wiley and Sons, 1976), p. 86.
56. Tibbett, J.E. Social Workers as Mental Health Officers (Edinburgh: HMSO, 1978).
57. Table 3.5 is not comparable with table 3.4. since the criteria for identifying an item of legislation as affecting a particular policy area in the Index to the Statutes is different to the criteria employed in this coding frame.
58. Municipal Review, 578, 1978.
59. van Gunsteren The Quest for Control, p. 87.
60. See, for example, M. Crozier The Bureaucratic Phenomenon (London: Tavistock, 1964), pp. 157-159.
61. See J.J. Clarke The Local Government of the United Kingdom (London: Pitman, 1939); Chester Central and Local Government.
62. Stanyer Understanding Local Government, pp. 224-225.
63. Commission for Local Authority Accounts in Scotland Accounts Commission (Edinburgh: HMSO, 1976). See also section 103(3) of the Local Government (Scotland) Act 1973.
64. The Scotsman, 28 October, 1981.
65. Bone, T.R. School Inspection in Scotland 1840-1966 (London: University of London Press, 1968), p. 248.
66. Bone School Inspection in Scotland, pp. 248-249.
67. Reported in The Times, 16 April, 1981.
68. The Scotsman, 16 July, 1981.
69. Hobson, M. and Stewart, J.D. "The Legal Profession in Local Government" Public Law, 1969, 199-218.
70. Source: Municipal Year Book 1981 (London: Municipal Publications Ltd., 1981).

71. Page, C.S. Local Finance in Scotland (Glasgow: Wm. Hodge, 1967).
72. Gibson, P. "How Scotland Got the Housing (Homeless Persons) Act" in H.M. Drucker and N.L. Drucker Scottish Government Yearbook 1979 (Edinburgh: Paul Harris, 1979).
73. Scottish Homeless Group "Housing (Homeless Persons) Act 1977. A Review of the First Six Months" (Edinburgh: Shelter, 1978), p. 3.
74. See J. English (ed.) The Future of Council Housing (London: Croom Helm, 1982).
75. Midwinter, A.F. "Selling Scotland's Council Houses. Local Responses to National Policy" Municipal Journal, 14 September, 1979.
76. HC Debs., 1233, 24 February, 1982, col. 421.
77. Scottish Homeless Group "Housing (Homeless Persons) Act 1977", p. 3.
78. Scottish Development Department Scottish Housing Statistics 1981.
79. Scottish Homeless Group "Housing (Homeless Persons) Act 1977", p. 11.
80. Scottish Homeless Group "No Recourse for the Homeless" (Edinburgh: Shelter, 1979).
81. Scottish Homeless Group "No Recourse for the Homeless", p. 4.
82. The Scotsman, 31 March, 1981.
83. See Cross Principles of Local Government Law, p. 4.



CHAPTER FOUR

DOES MONEY TALK?

AND, IF SO, WHAT DOES IT SAY?

## I. Grant as a Financial Instrument

In this thesis a financial instrument is an instrument which seeks to exert influence through the provision of finance through the grant system. Central government uses a number of forms of influence over local governments which are related to finance. For example, the centre has the ability to approve (and veto) all items of capital expenditure of local authorities<sup>(1)</sup>, and it provides a large portion of total local borrowing through the Public Works Loan Board<sup>(2)</sup>. More widely, the ability of the centre to affect interest rates undoubtedly has crucial implications for local government expenditure since 25 per cent of total current expenditure consists of interest and repayment of loans. In addition to this, many of the legal instruments of the centre contain a strong emphasis upon finance; for example, central government sets maximum limits for rateable values of properties eligible for improvement grants, attendance allowances for councillors and charges for the processing of planning applications. However, for the purposes of this thesis the financial instrument is more narrowly understood to refer to grants paid by central government to local governments.

To view grants as an instrument of the centre is not to suggest that central government provides grants to local governments solely in order for the centre to "buy influence" with local governments<sup>(3)</sup>. The early grants in aid of local government services were primarily introduced as a means of equalising the tax burden for locally delivered services - especially the taxes paid on agricultural properties<sup>(4)</sup>. To view grants as an instrument of the centre recognises that what-

ever the reasons for the development of the grant system<sup>(5)</sup>, and whatever the consequences for issues such as the equalisation of tax burdens<sup>(6)</sup>, the grant system offers the centre the possibility of securing that the activities of local governments are consistent with its preferences. The thesis recognises that while grants are an instrument of influence, this is not their sole function.

Does money, in the form of central government grants, talk and, if so, what does it say? Grants have been regarded throughout the history of academic study of local government as one of the most important sources of central influence on local governments. The general principle of "he who pays the piper calls the tune", or at least has a say in what tune is to be played, is one that has been expressed, to varying degrees of sophistication, throughout western nations. Much of the academic research on the influence of government grants in Britain has tended to suggest that there is little clear evidence of the effects of grants upon local government decisions<sup>(7)</sup>. Yet, to judge by the press coverage of grant settlements since 1976 and the changes in the grant system introduced under the 1979 Conservative government, it is clear that both central and local actors regard this as a crucial element in relationships between the centre and the locality.

The purpose of this chapter is to examine the properties of grants as an instrument of influence. Following the framework established in chapter one, the second section discusses the types of services over which the instrument of finance seeks to exert influence. Recent empirical studies of the importance of grants in the central-local relationship have tended to assume that one would expect levels of grant to be related to central influence

upon particular local services. However, grants are for the most part untied to the level of spending on an individual service, and there are no adequate reasons to assume that more or less grant will affect decisions about levels of spending on any one service in particular. The third section looks at the degree to which grant changes can be regarded as shifting the parameters within which local governments deliver services, and argues that unlike the United States, where grants have been possibly the major instrument in the exercise of federal influence upon state and local governments, in Britain they have always been auxiliary to changes in statutory permissions and obligations. There is, however, no evidence to suggest that the scale of grant reductions has brought about any shift in the parameters within which local governments deliver services by changing the pattern of services delivered by local governments since the onset of stringency in the mid-1970s.

The fourth section examines the negotiability of grants. As was found in the case of legislation, there exists a framework for consultation over grant settlements. There are a variety of institutions and processes involving both central and local actors which discuss prospective grant settlements. How far are grant settlements actually negotiated, with the preferences of the centre being diluted by the preferences of local government actors through concessions being made to local actors? The fourth section suggests that the centre limits the degree to which the grant settlement is negotiable.

The fifth section examines how far grants actually constrain local governments in the sense that the probability that local governments' actions are consistent with the centre's preference

is high. A number of recent studies have suggested that grants appear to have no appreciable influence upon local government decisions. In this section it is argued that many of these analyses have been based upon casual rather than systematic discussions of precisely what one would expect the effect of grants to be, as well as crude empirical measures which bear little relationship to the casual hypotheses postulated by these authors. A more systematic examination of the empirical evidence suggests that grants do provide incentives and disincentives to spending within local governments: the more you expect to receive through grants, the more you tend to spend, and the less you expect the less you spend.

## II. The Policy Areas of Financial Influence

Over which services do grants offer the centre the ability to influence the activities of local governments? If grants have an effect upon local governments then one might expect to detect this influence in the activities of sets of particular local government services.

For example, Boaden's pathbreaking study<sup>(8)</sup> argued that diversity of local outputs<sup>(9)</sup> in terms of variations in per capita spending on local government services reflected the importance of the "local political system", as distinct from the standards set centrally or nationally, in resource allocation decisions at the local level. Local spending reflects to a significant degree the needs of the locality, the disposition of the key decision makers and the resources available to provide services at the level required to meet perceived needs. If central government, through its provision of grants, could exert influence upon local governments,

then one would expect there to be high diversity in authorities which are less dependent upon grants and low diversity in authorities which are more dependent, with diversity expressed as spending per head on individual services. The implicit argument here is that the provision of grant allows the centre to influence the levels and/or proportions of financial resources allocated to individual services.

Boaden demonstrates that the dependence upon grant bears no relationship to diversity in individual local services. This conclusion is also reinforced by analysis of the Scottish data<sup>(10)</sup> - see table 4.1 - giving figures for spending per head in 1980. Data on local expenditure often specify the financial year by referring to the two calendar years within which the financial year falls. In this chapter, the financial year is described by reference to the later calendar year within which the financial year falls. Thus, 1980 refers to the financial year 1979-80 beginning April 1st 1979 and ending March 31st 1980. From table 4.1 it can be seen that local governments which receive relatively higher percentages of their income from grants (equal to, or above, the median 45.1 per cent) are no less likely to display higher variation in spending per head than those which receive relatively small portions (less than 45.1 per cent). Indeed, in the case of all services presented in table 4.1 there is greater diversity among high grant authorities than low grant authorities (average coefficient of variation for high grant authorities = 0.36, for low grant authorities = 0.26). If grants are hypothesised to influence local governments by securing some form of standardisation for individual services, then they appear to have no influence on local government services.

Table 4.1

Grant Dependence and Spending Variation in Individual Services:  
Scottish District Councils 1980

<u>Service</u>	<u>Coefficients of Variation*</u>		<u>Difference High Grant - Low Grant Districts</u>
	<u>High Grant** Districts (N=27)</u>	<u>Low Grant*** Districts (N=26)</u>	
Housing	0.25	0.17	+ 0.08
Leisure	0.50	0.30	+ 0.20
Cleansing	0.25	0.20	+ 0.05
Environmental Health	0.54	0.38	+ 0.16
Total Expenditure	0.24	0.23	+ 0.01
AVERAGE:	0.36	0.26	+ 0.10

\* Standard deviation divided by the mean.

\*\* High grant authorities are those which receive more than 45.1 per cent (the median figure) of income from grants.

\*\*\* Low grant authorities are those which receive less than 45.1 per cent (the median figure) of income from grants.

Source: Chartered Institute of Public Finance and Accountancy  
Rating Review 1979 (Glasgow: CIPFA, 1979).

Similarly, Ashford's analysis<sup>(11)</sup> postulates that shifts in the priorities of local governments are reflected in changes in the diversity of an individual local authority budget. The extent to which changes in the coefficient of variability are related to changes in the level of dependence upon grant reflects the degree to which the centre can exert influence upon spending on individual items through the provision of grant. This analysis again suggests that grants might be expected to offer central governments the opportunity to exert influence upon individual services delivered by local governments - if grants have an effect upon local government then they are hypothesised to encourage national standards in any one

individual service delivered by local governments. Ashford's conclusion, that grant changes are not related statistically to changes in the diversity of local budgets, is reinforced by analysis of the Scottish data. The correlation between changes in the coefficient of variability and grant dependence in the period 1976 to 1980 in the 53 Scottish districts is 0.24. Authorities which have become more dependent upon central government grants for income were marginally more likely to show greater budgetary changes than those which have not. However, the relationship is a weak one, and poses no substantive challenge to Ashford's conclusion that changes in grant dependence are not related to changes in the coefficient of variability of the local budget.

The attempt, however, to identify central government influence through grants on the basis of decisions made in individual policy areas is based upon a failure to consider the implications of the present structure of the provision of grants to local governments for the hypothesised effects of grants upon local governments. The theoretical literature on grants has suggested five ways in which grants can influence local government decisions<sup>(12)</sup>. First through a "conditioned" effect where central government "buys compliance" with its preferences through making payment of the grant conditional upon certain conditions being met. Second, grants reduce the "tax price" or "rate price" of local spending. If a service is the subject of a central government grant, then it is relatively "cheaper", in terms of the money that has to be paid from local taxes, to increase spending on that service by a given amount than spending on a service which does not attract grant. Third, grants place items on the political agenda of local governments - if a



grant is offered for a particular service, then it is likely that the question of whether the service is to be delivered will be discussed by a local government. Fourth, grants create allegiances between professional groups at the central and local level - bringing them together to discuss how to spend grants provided. Fifth, local government grants create "psychological" dependence upon central government. Because government finances a large proportion of total local government activity, central and local actors alike accept the legitimacy of central government seeking to influence the decisions of local governments.

Each of these hypothesised effects of grants, with the possible exception of the "psychological" dimension of grant dependence, depends upon the specificity of central government grants to local governments. The conditioned effect depends upon the discriminating manipulation of grant programmes and conditions in specified service areas. For example the "payment by results" scheme of the 19th century in education paid grants on the basis of a variety of criteria of achievement of the education authority. If grants affect individual local services through the tax price, then the grant must be able to discriminate between the tax prices of different services - a block grant does not do this. If local governments receive grants through a formula allocation method, and if receipt of grant is not conditional upon delivery of a service or certain standard of service, then the individual service item is not likely to be brought onto the political agenda of the local government through the grant mechanism. The allegiance between central and local actors forged from joint decisions over how to spend centrally provided money is removed if the major interaction

between central and local actors over grant takes place between finance professionals rather than service professionals.

The existing system of grant provision is a consolidated grant system - with the bulk of grants being paid through the general Rate Support Grant (RSG) as opposed to specific grants for particular services. The development of the grant system from one based upon specific grants to one based upon general grants with the first major consolidation of specific grants in 1929 and the inclusion of the education grants in the block grant in 1953 has been discussed elsewhere<sup>(13)</sup>. The reintroduction of specific grants for education has been mooted in early 1982, yet at present education services are financed through the consolidated RSG.

The bulk of the grants provided by central government to local government (79.4 per cent) are nominally consolidated grants - that is to say, not paid in aid of any one particular service (see table 4.2). Of the remainder (20.6 per cent of grants) which are nominally specific - paid in support of a particular service - one may question the de facto specificity of the grant. Much of the American literature stresses the point made by Webb<sup>(14)</sup> in the British context when the bulk of grants to local governments were nominally specific; grants are fungible. With the exception of grants such as rent and rate rebate grants, many nominally specific grants become part of the "pot" of revenue for a current account, and consequently there is no method of determining whether the money provided through the grant actually goes in support of the service it was nominally intended to support. One cannot tell precisely what amount of revenue spent on a specific service is

money from the resources, needs, domestic or specific grant or from locally raised revenue. All money, as the American adage has it, is green.

Table 4.2

Consolidated and Specific Grants to  
Local Governments in Scotland 1979.

	<u>£ millions</u>	<u>% all Grant Income</u>
Rate Support Grant:		
Needs Element	822.4	62.8
Resources Element	204.9	15.6
Domestic Element	13.4	1.0
Specific Grants:		
Housing Grants	188.2	14.4
Other Grants	81.5	6.2
	<u>1,310.4</u>	<u>100.0</u>

Source: Scottish Office Scottish Abstract of Statistics 10 (Edinburgh: HMSO, 1981).

The Housing Support Grant, for example, is intended to finance local government housing. Because there is a substantial transfer between the Housing Revenue Account (the account for housing) and the Rate Fund Account (from which the bulk of the other local government services are financed) it is equally possible to regard an increase in the Housing Support Grant as a means of providing more or less money to local governments to allow them to reduce the level of the rate fund contribution to the Housing Revenue Account or increase it, and thus have more or less money to spend upon other services apart from housing. Similarly with a number of the other grants which are nominally specific. The grant paid in respect of consumer protection is listed as a specific grant. However, as the director of consumer protection of a large region

stated in an interview, the allocation of expenditure to his department did not reflect the size of the grant given in respect of his service. The nominal specificity of the grant is often little more than a useful means of deriving a total figure for the level of grant. Once the total level of grant has been determined there is no effective obligation upon local governments to spend the money on the service for which the grant has been hypothecated<sup>(15)</sup>.

Contrary to the suggestions of Jones, among others<sup>(16)</sup>, the hypothecation of grants to particular services both within the block grant of the RSG and for a large number of grants outside the general grant of the RSG can be regarded solely as a means of deriving totals of grants. A number of other observations upon the structure of the grant system reinforce this. First, while the grant settlement - the total of grant - is built up on the basis of variable growth levels for individual services, there is no systematic attempt in the distribution of the grant to secure that relatively greater amounts of money are provided to authorities which deliver the high growth services and relatively less to those which have low growth services. For example, while education and social services, two of the major regional services, may be allowed to expand more rapidly than the "other environmental services" delivered by the districts, there is no systematic alteration in the formula for distributing the grant to secure that the extra money allowed for these services goes to the type of authority that delivers them.

Second, while additional items of legislation are "taken into account" in a Rate Support Grant settlement, for example the costs of the Housing Homeless Persons Act 1977 were

taken into account for the 1978/9 Rate Support Grant Settlement<sup>(17)</sup>, there is no clear statement of how much expenditure is set aside for the new legislation and no explicit machinery for securing that the money goes to the authorities more likely to incur higher levels of expenditure under the legislation. While there is a nominal link between a particular service and the level of grant, it is only expressed in the vague terms of "account being taken of" the new legislation and there is no attempt to secure that the money is actually spent upon that service.

Third, the dominant principle for the distribution of grants among local authorities, among those of the same type which deliver the same services, is one which is unrelated to the variable mix of services delivered by local governments - equalisation of the tax base. There is a high correlation between income from Rate Support Grant per head and rateable value per head, in the regions in 1980 this was -0.64 despite the effects of the "needs" element of the Rate Support Grant and the specific grants within the rate support grant which purport to finance the differential spending "needs" of individual local governments.

If central government grants are an instrument of influence which constrain local governments, then the degree to which central government grants constrain local activities cannot be analysed on the basis of particular service areas because the grant is paid in respect of the totality of local government services and offers the centre no scope for influencing any one particular service or set of services. Rather, if grants affect local government spending decisions, then they affect the total spending decisions of local governments rather than the priorities of spending determined at the

local government level in a direct manner. Government grants are not used to influence the activity of any one particular service.

### III. Grants and Parameter Shifting

#### a) Grants as Auxiliaries to Parameter Shifts

In Britain, unlike the United States, central government defines the mandates for local governments independently of the money that it gives local governments through grants<sup>(13)</sup>. In principle, it is possible for the centre in Britain to mandate any activity upon local governments in the form of legislation without providing money for it in the form of grant. In the United States, on the other hand, there is no comparable capacity for the federal government to mandate directly services upon local governments, and grants have been used to provide incentives to deliver particular services to certain standards. In the United States grants, with the exception of General Revenue Sharing, generally come with programme conditions attached which seek to make grant receipt contingent upon delivery of specified services to specified standards and under specified circumstances (such as with "citizen participation"). While in Britain it is possible to talk of legislative mandates for local government activity, in the United States most of the instruments termed "federal mandates" are, with the exception of federal court mandates, conditions attached to the receipt of grant.

Where parameter shifting is understood to mean that a local government is influenced to deliver a service which it had not previously delivered (or alternatively terminate one that it had previously delivered), or to change substantively the nature of the service delivered (by expanding or contracting the client groups to which the service is delivered or changing what is delivered), then

in Britain grants have been historically used as auxiliary to shifts in the parameters of local government services made through legal instruments. Major new local government services or expansions of old services were often accompanied by an explicit recognition that if local governments were to deliver services in a way in which the centre intended, then there should be either a new grant or an expansion in the old specific grant for that service<sup>(19)</sup>. With the consolidation of the grant system, in which at present at least 80 per cent of grants can be argued to have the characteristics of a block or general grant, there is no longer any possibility of specific using grants as auxiliaries in changing the parameters within which most individual services are delivered.

Can a block grant shift the parameters within which local governments deliver services? While specific grants were auxiliary to the delivery of specific services, it is possible to argue that a general grant can also act as an auxiliary to other instruments of influence, particularly laws, in shifting the parameters within which local governments deliver particular services in a less direct method than that offered by specific grants. While a block grant does not permit the centre through the grant mechanism alone to shift the parameters within which an individual service is delivered, it may facilitate the delivery of services within parameters which are changed through other instruments by making more money available for total expenditure. New vires and new mandates require extra revenue if they are to be translated into new or expanded services, and extra revenue can be provided by the centre in the form of general grants which are used to finance new or expanded services. For example, between 1970 and 1975 spending on social work in

Scotland increased by 73 per cent in real terms compared with the level of total spending increase of 27 per cent<sup>(20)</sup>. It is also possible to argue, although within the confines of this thesis not practicable to test, that the large rise in social work expenditure in the 1970s constituted a shift in parameters (a new and expanded service) which was influenced through a change in the legal parameters for local welfare services through permissive legislation such as the 1968 Social Work (Scotland) Act, with the relatively fast growth in grant in that period (48 per cent in real terms) facilitating the shift in parameters since it encouraged rapid total spending growth which was channelled - although not through the influence of the grant system itself - into social services.

While grant increases may facilitate the shift in the parameters within which local governments deliver services, the grant system of the present and recent past is not one of growth but of cutback in real terms. Grants have decreased in real terms by 2.5 per cent in the period 1976 to 1981 (see below). Does this mean that as the expansion in grants in the 1960s and early 1970s facilitated the shifting of parameters by allowing local government to finance changed mandates and new vires, the contraction in real terms since the latter part of the 1970s has also shifted the parameters within which services are delivered by making it no longer possible for local governments to finance existing mandates and vires? Are the changes in grant of such a magnitude that it is possible to talk of grants shifting parameters by making it impossible for local governments to continue to finance the level of services that they delivered, either because they were mandated or empowered to, prior to the mid 1970s?



The intention behind increasing and decreasing grants as a means of influencing local government expenditure is relatively simply explained. The more grant that the centre gives, the more the local government system spends, and the less it gives, the less it spends. While the accuracy of the assumptions behind this intention is tested below, the question of whether grants are used as instruments of parameter shifting is a question of whether the level of expenditure that the centre seeks to achieve entails the possibility of the preventing local governments from delivering mandatory services and/or changing the way in which local governments use their vires to deliver services.

Ideally, one would need to be able to cost items of legislation in order to assess whether the scale of cuts in grant implies abandoning mandated or permitted services. The Treasury study offers practical evidence of the impossibility of putting an expenditure figure upon as wide an array of legislation as that which affects local governments<sup>(21)</sup>. The Treasury study recognised that the most one could hope for was for some agreement between the hunches of civil servants about the costs of delivering nationally desired services. Instead, one can look at the changing levels of expenditure desired by the centre and examine the evidence to suggest that they can only be achieved through local governments failing to fulfil mandates and terminating, or at least severely cutting back, permitted local services.

b) Fulfilling Mandates

If local governments are being encouraged to stop delivering mandated services to previously established levels and standards through grant reductions, then one must also argue that local

government was encouraged to break mandated services in 1977 - the last year of over a decade of expansion in local government non-capital expenditure and central government grants - since the intended effect of the grant changes so far has been to bring local spending back to that level<sup>(22)</sup>. However, even if one takes the year 1977 as the basis for comparison, one could argue that local government would be failing at present to meet its level of expenditure for mandated services, firstly, if there were an increase in the number of services and activities mandated (e.g. if a new client group or new service were added to the mandatory obligations of local governments) or secondly, if there were an increase in the client groups to whom mandated services are delivered.

There is no evidence to suggest that there has been a substantive increase in costly mandates to local governments since 1976. The only mandate that springs to mind is the Housing (Homeless Persons) Act 1977. The 10,000 people housed annually under that Act can be roughly calculated to constitute 1.1 per cent of the totality of local authority tenants and, multiplying this by the level of local spending on housing and dividing by total spending, spending should have been 0.2 per cent above the level of expenditure in 1977 in order to meet the (loose) mandate of the Act<sup>(23)</sup>. Central government has, since the middle of the 1970s, been conscious of the costs of legislation to local government, as is shown by the failure to operate fully (through commencement orders) the 1975 Reservoirs Act and the 1975 Children Act.

On the other hand, there is evidence to suggest some changes in the client groups implying that if the same number of service

deliverers per client as in 1977 were maintained, then some change in spending on mandated services could be expected. The largest of the services in which levels of expenditure are relatively tightly mandated is the education service. However, this implies a relatively large decrease in the levels of expenditure to maintain the same number of clients per teacher since the number of pupils has dropped by 6.5 since 1976 - this implies a decrease of 2.2 per cent in total expenditure to maintain services at 1976 levels<sup>(24)</sup>.

c) Discontinuing or Cutting Permitted Services

There is no evidence that central government has intended or achieved cutbacks in the services defined through permissive legislation. The major service in which parameters are defined through permissive legislation is the social work service (see chapter 7). Central government's notional target for social work is an expansion in real terms of 11.7 per cent over the period 1977 to 1982. Indeed, the only major change in services envisaged by central government in its expenditure plans is a decrease in the education service (of 6.4 per cent between 1977 and 1982) in which levels of expenditure are relatively tightly mandated (see chapter 7)<sup>(25)</sup>.

Similarly, there is no evidence that the services which have actually suffered in an era of fiscal restraint are the services in which levels of expenditure are more subject to permissive rather than mandatory parameters. Over the period 1977 to 1982 local governments have budgeted, in current terms, for an increase in services governed by permissive parameters such as social work (122 per cent), leisure and recreation (110 per cent) and housing

maintenance (148 per cent) no lower than for those governed by mandatory parameters over levels of provision such as police (123 per cent), education (99 per cent) and fire services (117 per cent)<sup>(26)</sup>.

Grants are not in themselves an instrument of parameter shifting. Historically they have been used to expand services which have been mandated or permitted through legislation. In a period of contraction they may be used to change the degree to which local governments use the vires granted them by the centre or, conceivably, to encourage local governments to fail to meet costly mandated commitments, but not in a way in which the centre can discriminate between service items as it can with a specific grant. However, there is little evidence that the scale of cuts in grants has so far shifted the parameters within which local governments deliver services.

Chapter one defined the concept of parameter shifting as the use of instruments to produce a pervasive active change in the parameters within which a service is delivered. Grants are pervasive instruments in the sense that one cannot deliver any services without money and, on the assumption that grants do affect the level of expenditure, the level of grant has implications for the whole service. They are not, however, in present conditions, being used to shift actively the parameters within which local governments deliver services. The scale of grant decreases has not yet been sufficient to imply any substantive change in the levels of service provision over, say, the levels of service provision in the mid 1970s - characterised as the tail end of a period of expansion. While potentially an instrument for facilitating shifts in parameters, grants are currently used as instruments

for overhauling the parameters within which local government services are delivered through adjusting the government's contribution to local revenue. While fiscal stringency has removed the "assumption of growth"<sup>(27)</sup> that pervaded local government since the 1950s, there is no evidence to suggest that stringency has shifted the parameters within which services are delivered. As Newton argues:

The term "crisis" is much used and abused to describe the state of local finances in Britain. In a technical sense there is no crisis - local authorities are well able to meet their monthly salary and wages bills; they continue to provide basic public services, and almost all the less basic ones as well; and there has been no hint that so much as one of the 522 local authorities in Great Britain has been in danger of requiring special central government funds in order to keep it afloat<sup>(28)</sup>.

#### IV. The Negotiability of Grants

How far can grant settlements be regarded as being "imposed" by the centre upon local governments, and how far can local governments be said to have an important role in shaping the grant settlement? It is not difficult to point to the existence of some form of consultation over the grant settlement. Each year the fruits of the consultation process between the Convention of Scottish Local Authorities and the Secretary of State are announced<sup>(29)</sup>; and these are the result of a series of meetings at which issues such as the future distribution of the grant, the provisions for cost increases in cash limits as well as projections concerning the level of grant in future years are discussed. On the other hand, bargaining over grant is constrained by the broad policy intentions of central governments. In the years since 1976 the negotiations concerning grant levels have not been concerned with reaching agreement from a range of options concerning questions of how fast grants should grow, but rather how severe the reductions should be in constant money terms.

Precisely how far the discussions between the representatives of central and local government concerning the RSG can be regarded as "negotiations", with concessions being made to the preferences of local governments, is difficult to assess. The perceptions of the actors involved point to different conclusions. The Scottish Office, for example, has stressed the point that the meetings through the local government finance consultative machinery involves some form of negotiation, with the "Secretary of State reaching his conclusion" on the basis of the views expressed by local political actors<sup>(30)</sup>. Local government officials have complained that the grant settlement is not negotiated, but "negotiated for us and presented as a fait accompli by the time we arrive in Edinburgh to discuss it"<sup>(31)</sup>. The evidence also points in two different directions. Shortly after coming into power, the Conservative government summoned the Local Government Finance Working Party to discuss the government's proposal to reduce local spending and grant by 10 per cent in real terms in 1980/81. The fact that this idea was abandoned in favour of a more moderate reduction (2.2 per cent) implies that concessions were granted local governments through a process of bargaining. Similarly, the Scottish Office's offer to the Convention in November 1980 of a choice between higher cuts on capital or current expenditure implies that the negotiations were more than ritual or courteous discussions. Yet the fact that large cuts in grant were made, and that the choice was limited to less capital or current expenditure suggests that the bargaining takes place within very narrow limitations set by the centre, above all, by the Treasury.

How can one assess the degree to which concessions are made by

the centre in the process of consultation with local government actors over the grant settlement? One possible means of exploring this is to examine outcomes of the process of the grant settlement in a comparative British perspective. If the consultative process resulted in concessions granted to the preferences of local government actors, then this would suggest that the final agreement in Scotland differs substantially from the agreements elsewhere in Britain. The evidence offered here offers an indication of the extent to which the consultative process results in concessions to the preferences of local actors.

The granting of concessions to local actors in Scotland is not, of course, the only possible source of deviation between the grant settlements in England and Wales and Scotland. The Secretary of State for Scotland participates in the process of bargaining for money for the services for which he is responsible in Whitehall in the PESC (Public Expenditure Survey Committee) negotiations<sup>(32)</sup>. There are thus two possible sources of diversity in the allocation of grants to local governments. First there is the diversity that results from concessions granted the Scottish Office in London through the PESC system, and second, concessions granted to the local authorities in Scotland by the Scottish Office. Together these bargaining processes have important implications for the level of grant to be received by Scottish local authorities. Taking the changing ratio of income through the Rate Support Grant in England and Wales to income through the RSG in Scotland as an indicator of the overall effects of both of these sources of diversity, there has been a consistent tendency throughout the late 1970s and early 1980s to give relatively larger increases in grants (in current money) to Scottish local governments than to local governments in England and Wales (see

table 4.3). The ratio of England and Wales RSG income to Scottish drops from 7.75 in 1977 to 6.78 in 1982. If the 1977 ratio had prevailed in 1982, Scottish local governments could have expected 12 per cent less grant than that offered in the RSG Order for that year. Not only is the level of local expenditure per head in Scotland higher than in England and Wales<sup>(53)</sup>, but also the grant settlements of recent years have resulted in relatively higher levels of grant being received by local governments.

Table 4.3

Scottish and English Grant Settlements: The Ratio of English Grant Income to Scottish Grant Income

<u>Year</u>	<u>Ratio of English RSG Income to Scottish RSG Income</u>
1977	7.75
1978	7.60
1979	7.35
1980	7.27
1981	7.04
1982	6.78

Source: HM Treasury The Government's Expenditure Plans 1981/82 to 1983/84. Cmd 8175 (London: HMSO, 1981)

How far can this significant variation from the pattern in England and Wales be explained through the ability of the Scottish Office to bargain successfully within Whitehall and how far can it be explained by the process of bargaining between the Scottish Office and Scottish local actors? The ratio of expenditure in England and Wales to Scotland for equivalent services, i.e. those services described in Scotland as being "within the responsibility of the Secretary of State", shows that over time the Scottish Office has managed to secure greater increases in expenditure allowance for all services, central and local, than English departments



(see table 4.4). The ratio has declined from 7.16 in 1977 to 6.78 in 1982. This relative advantage need not necessarily reflect the skilful negotiation of the Secretary of State, but rather the consequences of the application, in a time of relative expenditure decline, of a formula for the territorial distribution of expenditure increases and decreases described by Heald as the "Barnett formula"<sup>(34)</sup>. However, the comparison does suggest that an important source of the variation in the aggregate level of grant received by local governments in Scotland is to be found in the process of negotiation among central actors in London rather than in any bargaining between central and local actors in Edinburgh.

Table 4.4

Scottish and English Public Spending:  
The Ratio of English to Scottish Spending  
for Scottish Office Services\*

<u>Year</u>	<u>Ratio of English to Scottish Spending</u>	<u>Change</u>
1977	7.16	(+0.06)
1978	7.00	(-0.16)
1979	6.90	(-0.10)
1980	6.84	(-0.06)
1981	6.81	(-0.03)
1982	6.78	(-0.03)

Figures derived from D. Heald "Scotland's Public Expenditure 'Needs'" in H.M. and N.L. Drucker (eds.) Scottish Government Yearbook 1981 (Edinburgh: Paul Harris, 1980), p. 66.

Furthermore, if concessions granted to Scottish local actors through the Scottish Office were an important source of variation for the difference between Scottish and English grant settlements, then this would lead to the expectation that local government spending, and grants to local governments, form an increasing portion of the expenditure within the Secretary of State's

responsibility. It has conventionally been argued that the Secretary of State for Scotland has the ability to make adjustments between programmes within the overall allocation of expenditure to the Scottish Office through the PESC system. This capability has been discussed by Keating<sup>(35)</sup> and was restated by the Secretary of State in his oral evidence to the 1980 Select Committee on Scottish Affairs;

I have, in fact, been slightly easier than the norm on housing expenditure and slightly harder on roads and transport and other environmental services, which includes leisure and recreation. This is just a general flavour of how it is done. It is a very useful facility to have<sup>(36)</sup>.

Thus, if the relatively higher level of grant in Scotland were attributable to the success of the local government actors gaining concessions from the centre, then one would expect that this would be achieved through the Scottish Office allocating a growing proportion of its total allocation to local government services rather than to the other items of expenditure within its responsibility. This has not, in fact, occurred. Table 4.5 presents the percentage of expenditure within the responsibility of the Secretary of State devoted to

Table 4.5

The Percentage of Expenditure Within the  
Responsibility of the Secretary of State for Scotland  
Made up of Local Government Expenditure

<u>Year</u>	<u>% Local Government Expenditure</u>	<u>Change</u>
1977	54.7	-
1978	54.2	-0.5
1979	54.0	-0.2
1980	53.3	-0.7
1981	51.2	-2.1
1982	51.9	+0.7
Total	NA	-2.8

Source: Convention of Scottish Local Authorities  
"The COSLA Critique" (Edinburgh: COSLA, 1981),  
p. 35.

local government. Table 4.5 shows that the percentage of Scottish Office resources devoted to local government services has decreased since 1977, from 54.7 per cent to 51.9 per cent in 1982.

The evidence suggests that Scotland has been receiving relatively larger and increasing shares of total public expenditure in Britain, and it is this which leads to the relatively higher levels of grants to local governments in Scotland than the concessions granted by the Scottish Office to Scottish local actors. It is the processes at the centre in London rather than processes at the Scottish Office in Edinburgh which produce the largest part of variation in the levels of RSG for Scotland and England and Wales.

This can be further supported by a comparison of the terms of the RSG settlement for Scotland and England respectively. The Reports on the Rate Support Grant Orders for England and Scotland are published separately, and the main provisions of the Order, how the global sum of expenditure was arrived at, are discussed. While it is not possible to compare the precise money figures for the growth allowances in particular services - the figures are often presented on the basis of different price bases and for different categories of services - it is possible to compare the broad terms of the settlements in two years, 1977 and 1978, after which changes in the presentation of the Reports on the Orders in England make comparisons impossible.

The basic assumptions of the 1977 and 1978 settlements are presented in table 4.6 for education, social services and the group of services in England and Wales which fall into the category of

"Home Office Services" (fire, police and civil defence). Table 4.6 shows that in these service areas the main features of the grant settlement are identical. In 1977 education spending was set at a level to "maintain existing standards" in both England and Wales and Scotland, with an additional allowance for in-service training and the provision of education in deprived areas. For social services the emphasis was upon growth to meet growing demands and maintaining standards. For the Home Office functions in 1977 there was room for expansion to meet problems of undermanning in police and maintenance of fire service at existing levels. In 1978 the picture is similar; school roll decreases, school meal charges and further education are mentioned as the main factors governing the settlement for education in Scotland as well as the remainder of Britain, and the social and Home Office services settlements are based on identical assumptions in Scotland as in England and Wales.

There are, of course, some differences in the Scottish and English Orders. For example, the 1977 Scottish Order makes reference to "provision being made" for the Housing (Homeless Persons) Act 1977 under the social services heading, although this is absent in the England and Wales Order. Table 4.6 shows, however, that the assumptions underlying the RSG Orders throughout Britain are virtually identical in the most important provisions. While this cannot be taken as conclusive proof that concessions are not made by the Scottish Office to local actors in the process of the RSG settlement, it does, along with the other evidence, suggest that negotiation is highly limited. If concessions were granted to Scottish local government actors, then one would expect there to be a number of features of the RSG settlement which differ

Table 4.6

The Similarity of RSG Orders in Britain:  
A Comparison of the Texts of the RSG Orders  
1977 and 1978

RSG Order 1977

England and Wales

Scotland

EDUCATION

"Maintain current standards"

"enable local authorities to meet staffing standards agreed for 1976/7"

"Priority to be given to increases in in-service training"

"some expansion of in-service training"

"Allowance has been made to enable local authorities to cope with the operational difficulties of adjusting staffing complements as pupil numbers fall"

"make available a margin of teaching staff for the reduction of strains resulting from declining school rolls"

"Reduce the level of subsidy on the school meals service"

"Provision for net expenditure on school meals reflects the increase in school meal charges"

"Some scope for improvement in schools for children in deprived areas"

"Continuation of the scheme employing 500 teachers in areas of deprivation"

SOCIAL SERVICES

"A growth of 2.4 per cent over the estimated level of expenditure in 1977/8 which the government recognises is little more than the growth necessary to maintain existing standards"

"Continuation of growth rate of social work expenditure in 1978/9 over 1977/8 as implied by local authorities' budget estimates. ... This should enable the authorities to maintain existing standards without any reduction in standards"

HOME OFFICE

"Increase in police officer manpower and cadets"

"Easing undermanning (in some areas) .. room for improvement in support services including police cadets and equipment"

"(The Settlement) enables the other Home Office Services to continue to operate at their estimated levels of service"

"Additional provision has been allowed for fire services to prevent any deterioration in levels of fire service cover"

Table 4.6 - cont'n..

RSG Order 1978

England and Wales

Scotland

EDUCATION

"Calculations provide for operational difficulties of adjusting staff complements as school rolls fall"

"Further improvements in school staffing standards partly to make available a margin of teaching staff for the reduction of operational strains as school rolls fall"

"Forecasts of income take account of the Government's decision to plan on the basis of an increase in the school meals charges of 5p (to 30p) in September 1979"

"Allowance for expenditure on school meals reflects the Government's decision to increase the meal charge by 5 p (from 25p to 30p) in August 1979"

"Allowance has been made for an increase in the teacher force in further education colleges"

"In further education, the forecast provides for an expansion of student numbers without worsening of the staff/student ratio"

SOCIAL WORK

"The forecast ... represents an increase of 3 per cent over the estimated level of expenditure in 1978/79"

"Provision for 1979/80 represents an increase of 2.8 per cent in real terms over local authorities' likely planned expenditure in 1978/9"

(included in Home Office services as "planned growth in probation and after care service")

"Development of probation and after-care service facilities"

HOME OFFICE

"The Settlement provides for an increase in police offer and civilian and cadet complements"

"Recruitment is expected to improve"

"Other Home Office services ... operate at their estimated levels of service"

"In the fire service, provision is made for the same standards of cover"

Sources: The Rate Support Grant Order 1977. Report by the Secretary of State HC-57 (London; HMSO, 1977).  
The Rate Support Grant (Scotland) Order 1977. Report by the Secretary of State HC-91 (Edinburgh; HMSO, 1977).  
The Rate Support Grant Order 1978. Report by the Secretary of State HC-63 (London; HMSO, 1978).  
The Rate Support Grant (Scotland) Order 1978. Report by the Secretary of State HC-40 (Edinburgh; HMSO, 1978).

substantively from the England and Wales settlement. While there are some significant features, not least the relatively higher levels of grant received by Scottish local governments in recent years, the evidence suggests that these are a reflection of the process of bargaining for funds within the centre among central government actors rather than a process of bargaining between central and local actors in Edinburgh.

## V. The Constraints of Grants

### a) Fiscal and Non-Fiscal Effects

How far do grants constrain the decisions of local governments? A number of empirical studies have suggested that grants have at most only a very weak effect upon local governments. Ashford's study concludes that grant dependence, the percentage of local government income provided through government grants, does not lead to "central control" of local governments on the principle of "he who pays the piper calls the tune" because individual items of expenditure in local budgets do not appear to change in response to changes in levels of grants received<sup>(37)</sup>. Foster et al. argue that "the case for central government control (through grants) cannot be proven" on the basis of their examination on the correlates of spending per head in local government<sup>(38)</sup>. The particular methodologies of these authors have been the subject of criticism elsewhere<sup>(39)</sup>. However, these and many of the other recent empirical tests of the constraints upon local governments through grants which have tended to find no appreciable effects of grants can be criticised on the grounds that they are based upon inadequate conceptualisation of the effects of central government grants upon local governments.

At a very broad level, one can argue that grants may either exert influence upon the fiscal activities of local governments or upon the non-fiscal activities of local governments or both. Exploration of constraints upon the fiscal activities focus attention upon the effects of grants upon spending or taxing by local governments. Exploration of the effects upon the non-fiscal activities would concentrate attention upon the nature of the items on which local governments spent their money - for example, whether any form of inducement to go comprehensive in education was exerted through the provision of grants.

Because there is no longer any link between an individual service and the amount of grant received by a local government the constraints upon non-fiscal activities of local governments have largely disappeared. It cannot be made a condition of receipt of a grant that a particular service be delivered in a specified way as was possible in the case of a specific conditional grant<sup>(40)</sup>. If central grants constrain the non-fiscal activities of local governments, then this constraint can only be exercised through the "psychological" effects of the grant discussed by the Layfield Committee:

"All experience shows that the man who pays the bill in the end collects all the power, and the more you give central government to pay, in the end the power will move in". We do not doubt that this belief is widely held in both central and local government ... That is in itself important, as the beliefs which people have play a part in shaping their behaviour and so in determining how the arrangements work<sup>(41)</sup>.

This refers to a shared perception that central government has, because it gives local governments money through grants, a legitimate right to influence how local governments deliver services,



which is accepted by central and local actors alike. It is not possible, however, to test this argument on the basis of existing data - the INLOGOV group has identified this question as one of the priorities for future research although they have not reached any firm conclusions to date. However, it is possible to suggest that this effect of grants is unlikely ever to be satisfactorily detected. As Finer points out, the fact that central government provides local governments with grants is only one of the many aspects of the political subculture of central-local government relations which reinforces the legitimacy of the centre in exerting influence over the non-financial aspects of local government activities<sup>(42)</sup>. It is unlikely that the particular contribution of grants to the creation of this subculture can be isolated.

Apart from the question of the "psychological impact" of grants, the existence of a general or block grant implies that the constraints that the grant imposes are upon the fiscal activities of local government. Furthermore, as the discussion in section two illustrated, the fiscal activities which one would expect grants to influence are the total expenditure decisions of local governments. In what way have grants been used to seek to influence the total spending decisions of local governments, and how far have the spending decisions been consistent with these preferences?

b) The Preferences of the Centre

The preferences of the centre for total local expenditure have been, since the latter portion of the 1970s, to secure that local expenditure does not exceed the either low or negative growth in real spending targets which it has set annually for local governments. Local government spending in Scotland, as in England and Wales, grew

steadily over the period between 1950 and 1975 - at an annual average rate of 4.7 per cent in real terms<sup>(45)</sup>. The change in the government's preferences for local government expenditure can be seen from table 4.7 which presents the desired annual level of local government expenditure growth (termed "growth allowance") as expressed in the Rate Support Grant Orders. From table 4.7 it can be seen that the period since the mid 1970s is characterised by central government preferences for near zero growth (annual average 0.6 per cent 1976-82) despite some relatively high growth allowances in a couple of years (3.8 in 1976 and 3.2 in 1980) which contrasts sharply with the period immediately preceding (1968-1975 annual average of 5.0 per cent).

Table 4.7

The Centre's Preferences for Local Expenditure Growth:  
Growth Allowance in RSG Orders

<u>Year</u>	<u>% Growth Allowance</u>
1968	4.5
1969	6.0
1970	3.4
1971	5.1
1972	5.1
1973	5.0
1974	4.7
1975	6.3
1976	3.8
1977	0.4
1978	0.5
1979	0.9
1980	3.2
1981	-2.2
1982	-2.7
Average 1968-1975	5.0
Average 1976-1982	0.6
Average 1968-1982	2.9

Source: Scottish Office Annual Reports on the Rate Support Grant (Scotland) Orders.

c) Altering Grant

How does the centre use the grant mechanism to seek to secure that the fiscal decisions of local governments are consistent with its preferences? The present Rate Support Grant system consists of three elements of the grant; the needs element, the domestic element and the resources element<sup>(44)</sup>. The needs element constitutes 83 per cent of the grant (in 1982) and is distributed according to "weighted population factors" such as population density and the age structure of the population to compensate for the "differential spending needs"<sup>(45)</sup> of local governments. The resources element (comprising nine per cent of the RSG) equalises for the differential tax base of local governments in Scotland as measured by the rateable value per head of population which in effect means that central government acts as a ratepayer to bring the penny rate yield to a standard amount (in 1982 this was 262p. per head of population). The domestic element is a direct compensation to the local authority for the reduction to domestic ratepayers of a uniform three pence in the pound (comprising eight per cent of the RSG).

Central government has altered the grant in four main ways in order to reduce the grants to local governments<sup>(46)</sup>. First, it has, as was discussed above, reduced the level of relevant expenditure growth which it is prepared to finance. Since grant is paid as a proportion of relevant expenditure, so a reduction in the level of relevant expenditure will bring, ceteris paribus, a decrease in grant. Second, central government has reduced the percentage of relevant expenditure which will be financed through grants. This has declined from 75.0 to 72.5 per cent in 1977, and

from 72.5 per cent to 63.5 per cent in 1976. In 1982 (i.e. referring to financial year 1981-82) this was further reduced to 67.5 per cent. Third, central government has reduced the level of grant by setting a cash limit for cost increases below the actual level of cost inflation. For example, in 1979 the cash limit allowed for only a 9.3 per cent increase in costs while the actual increase in costs was 12.5 per cent. The overall impact of these three forms of manipulating the grant in terms of the declining amount of grant receipts is presented in table 4.8, where grant receipts in constant 1979 prices have declined from £1,155.5 in 1976 to £1,046.0 million in 1981 - a decrease of 9.5 per cent.

Table 4.8

Local Government RSG Income 1976-1981  
(in real terms at 1979 prices)

<u>Year</u>	<u>Income from RSG (£m)</u>	<u>% Change Over Previous Year</u>
1976	1,155.5	-
1977	1,160.7	+0.5
1978	1,131.4	-2.5
1979	1,153.4	+0.2
1980	1,112.2	-1.9
1981	1,046.0	-6.0
Total change 1976-81	- 109.5	-9.5

Source: Calculated from Convention of Scottish Local Authorities Annual Reports on the RSG Orders.

The fourth means of altering the grant affects the structure of the grant. The Conservative government has consistently argued that the resources element of the RSG "encourages extravagance"<sup>(47)</sup> by giving more grant to authorities which increase rates the fastest. In England this criticism has led to the introduction of a "tapering device"<sup>(48)</sup> within the new block grant which limits the amount of grant paid in respect of authorities which set high rates. In Scotland, a similar effect has been achieved by shifting

more of the RSG from the resources to the needs element. The proportion of the grant formed by the resources element has declined from 13 per cent in 1977 to 9 per cent in 1982. Central government is still prepared to act as a ratepayer in Scotland, although unlike other ratepayers it has the ability to set a limit to the amount of rates it is prepared to pay and has reduced this amount relative to the remainder of the RSG.

d) The Aggregate Effect of Grant Changes

Since 1977, grants have been used by central government in Scotland as part of a strategy intended to achieve small or negative increases in local spending. As such, they have been used in conjunction with requests for cutbacks in expenditure through the issue of circulars and the issue of guidelines according to which individual local authorities are given a figure for the level of expenditure that they should incur in order to remain consistent with the Government's expenditure plans. While it would not be possible to argue that any response by local governments by reducing or slowing down the rate of growth in expenditure were wholly the result of grant reductions and grant manipulations, the evidence presents strong a priori evidence for the argument that grant reductions have kept local government spending to within the levels set by the centre. Table 4.9 presents the comparison between spending levels and RSG spending allowances from 1976 to 1981. From table 4.9 it can be seen that local governments in aggregate tend to keep within the spending allowance set in the RSG process by the centre. On average the outturn is 1.2 per cent above the RSG allowance, with the highest overspending in 1976 (5.3 per cent overspend) and the highest underspending in 1978 (3.0 per cent underspend).

Table 4.2

The Aggregate Response to Grant Reductions:  
Spending (outturn) by Local Governments Compared  
with RSG Spending Allowances

<u>Year</u>	<u>RSG Spending Allowance</u> <u>£m 1979 Price</u>	<u>Local Government Spending (outturn)</u> <u>£m 1979 Price</u>	<u>Outturn Percentage Above(+) or Below(-) RSG Spending Allowance</u>
1976	1,545.4	1,627.4	+ 5.3
1977	1,544.0	1,645.1	+ 2.1
1978	1,653.9	1,604.3	- 3.0
1979	1,668.1	1,676.6	+ 0.5
1980	1,721.6	1,726.4	+ 0.3
1981	1,684.3	1,750.0	+ 3.9
Average:	1,652.9	1,671.7	+ 1.2

Source: Calculated from Convention of Scottish Local Authorities Annual Reports on the RSG Orders.

However, the impact of grants upon local government decisions to reduce expenditure, or expenditure growth, cannot be precisely determined from the aggregate picture alone. Local political actors are subject to a variety of pressures to keep spending growth down. These pressures range from the anticipated reactions (not necessarily actual experience of these reactions) of rate-payers - voting against a party which raises the rates in future elections - to the following of ministerial advice through public statements and circulars<sup>(49)</sup>. In order to establish that grant reductions caused, or at least made a significant contribution to the spending behaviour of local government, one must establish a direct link between grant changes and the behaviour of individual local governments.

e) The Impact of Grants on Individual Authorities

One way of relating changes in the level of grant received by an individual authority to the spending decision of that authority is to postulate that there exists a "gearing effect" of grants. This is based upon the recognition that local governments differ in the extent to which their expenditure is financed by grants and rates. An authority which has a lower proportion of expenditure financed through rates, according to this argument, is more severely affected by a loss of grant. For example, an authority which receives £60 million in grants and £40 million in rates will have to raise rates by 15 per cent (from £40 to £46 million) to keep expenditure constant with a 10 per cent loss in grants. An authority with £40 million income from grants and £60 million from rates will only have to raise rates by 7 per cent (from £60 to £64 million) with a 10 per cent loss in grants. This would suggest that because local governments in Scotland are highly dependent upon central grants, they are especially likely to adhere to the level of expenditure allowed for by the centre in the RSG Order.

However, there is no statistically significant relationship on an individual local authority level between percentage dependence upon grants and the percentage growth in expenditure in the period 1976 to 1980. This is certainly not because of any homogeneity in the level of income financed by central grant which ranges from 47 per cent in Central Region to 75 per cent in Highland Region. Rather, the lack of a statistical relationship between grant dependence and expenditure growth is based upon a misunderstanding of the present grant system. Any individual authority faced with a grant loss and seeking to maintain expenditure will have to

increase rates, but an authority receiving a high contribution through the resources element of the grant will also increase the grant it receives when it raises rates. It has been demonstrated that once one takes the effect of the resources element into account<sup>(50)</sup> the "gearing effect" argument loses its validity since the assumption that the total deficit caused by a grant loss will have to be met through rates is erroneous; contributions to such deficits are shared by rates and the resources element. Once this is taken into account, grant reductions affect those authorities which are highly dependent upon grants only marginally more than those which are relatively far less dependent. Without taking the effects of the resources element into account, a 10 per cent decrease in grant means a 38 per cent rate increase in rates in Highland Region and a 23 per cent increase in Lothian - a difference of 15 per centage points. When the effect of the resources element is taken into account, the difference shrinks to one of seven per centage points (a rate increase in Lothian of 21 per cent and in Highland of 28 per cent), with five of the other authorities being equally affected (implied rate increase of 24 per cent) and the remaining two regions within two per centage points of this figure (Strathclyde 26 per cent, Grampian 23 per cent).

A more satisfactory hypothesis concerning the effect of grant upon individual local governments concerns the impact of the grant upon the "tax price" or "rate price" of expenditure growth. In the United States much of the empirical statistical literature on grants has concentrated upon an examination of hypotheses about the effects of different forms of grant, such as matching grants and General Revenue Sharing, upon the spending decisions of state



and local governments from the perspective of their impact upon the degree to which grants make certain spending decisions more "rational" since they maximise expenditure and minimise local financing of that expenditure<sup>(51)</sup>. For example, one of the central questions about general revenue sharing is whether it stimulates expenditure (encourages local governments to expand expenditure because expansion is "cheaper" because of the grant) or whether it substitutes for taxes (encourages local governments to keep taxes at levels below what they would have been without the grant).

These models place a greater emphasis upon a rigorous examination of the structure of the grant than the simple global indicator of "grant dependence" used in many of the earlier studies of the effects of grants in Britain and the United States<sup>(52)</sup>. These approaches are being adopted in Britain, but so far little of this research has been published<sup>(53)</sup>. In the Scottish case, one can apply the logic of these fiscal federalism arguments by posing the question "how do grants affect the rate price of expenditure growth?"

Not all expenditure increases incurred by local governments are raised through local revenues. An individual authority can expect changes in grant to finance a portion of these increases (the same argument could be framed in terms of grant and expenditure decreases but here it is presented in terms of increases). The effect of grants, according to this argument, is that they lead local authorities to different expectations of likely income that does not have to be raised locally, and that these expectations affect decisions on expenditure growth. The expectation

of grant increase lowers the tax or rate price of expanding services and this in turn affects local expenditure decisions.

This can be formulated in one hypothesis: the greater the amount of money that the local government can expect from grants without having to raise local taxes, the greater the level of expenditure growth. How can this hypothesis be tested? In the case of the needs and the specific elements of the RSG it has been assumed that the level of grant increases anticipated by the local government is unrelated to the budgetary decisions of the local government in a particular financial year. The same amount of additional needs and specific grants will be received whether the actual spending budget shows a high or low expenditure increase. The same cannot be said of the resources element of the Rate Support Grant which varies with expenditure and rate levels. In order to overcome this problem, a variable was calculated which reflected the amount of extra resources element that might be expected in one year over the year before if the rate level remained constant.

This provides three independent variables concerning the level of grant increase per head of population that might be expected independently of the budgetary decisions of the local authority in any one particular year for the three elements of the grant; needs, specific and resources element. No data is available for the domestic element. A fourth variable was added; the total increase in grant which is the summation of the three other variables. These were then correlated with the actual levels of increase in per capita expenditure.

In the case of the districts, the results are presented in

table 4.10. Overall the expectation of total grant increases is correlated between 0.30 and 0.45 with expenditure increases. This implies, through simple correlation, that between 9 and 20 per cent of variance in expenditure is explained by grant variables alone. The different elements of the grant contribute to varying degrees across the years. The only case where the resources element acts contrary to expectations is in 1978 - the year of the major rating revaluation which brought about large shifts in the allocation of the resources element. Otherwise its effect ranges from a weak positive effect (0.17 in 1977) to a relatively strong positive effect (0.38 in 1979). The needs element of the grant appears to have its strongest effect in 1978 (0.53) - the year of the greatest cuts in local expenditure and grant, and its smallest in 1977 (0.10). The specific grant generally has a weak effect (between 0.11 and 0.20) with the exception of 1977 (0.35).

Table 4.10

The Relationship between Expenditure Growth  
and Grant Increases in Scottish Districts:  
Pearson Correlation Coefficients

	<u>Year</u>			
	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>
Needs element increase	0.10	0.53	0.20	0.22
Resources element increase	0.17	-0.01	0.38	0.20
Specific grant increase	0.53	0.20	0.20	0.11
Total grant increase	0.45	0.43	0.44	0.30

(N = 53)

Source: Chartered Institute of Public Finance and Accountancy  
Rating Review (Glasgow: CIPFA, Annual).

In the case of the regions, statistical analysis is hazardous because of the small number of cases and because the statistics can only be given in the case of three of the four years examined for

the districts (due to changes in the presentation of accounts). Examining the simple correlations (table 4.11) a slightly different picture emerges; the total impact of grants is less consistent than in the case of the districts. While the effect is positive in 1978 and 1980 the effect in 1979 is negative (-0.03). Can this be taken to imply that grant levels do not affect expenditure growth decisions in the case of the regions? A careful examination of table 4.11 reveals that the reason for the relatively low effect of grant results from the negative effect of the resources element of the grant. The exclusion of the resources element increases from the total grant increase yields a much higher correlation between expenditure and grant increases; 0.57, 0.44 and 0.76 for 1978, 1979 and 1980 respectively.

Table 4.11

The Relationship between Expenditure Growth  
and Grant Increases in Scottish Regions:  
Pearson Correlation Coefficients

	<u>Year</u>		
	<u>1978</u>	<u>1979</u>	<u>1980</u>
Needs element increase	0.56	0.39	0.76
Resources element increase	-0.30	-0.30	-0.50
Specific grant increases	0.32	0.14	-0.07
Total grant increases	0.49	-0.03	0.40

(N = 9)

Source: as table 4.10

These findings are consistent with the hypothesis that grant levels affect spending growth levels. The resources element appears to be treated differently from the other elements of the grant<sup>(54)</sup> in the case of the regions; resources element increases are offset by decreases in the tax base of the locality and thus,

they appear to be treated in the same way as rate income (the negative relationship therefore indicates a positive relationship between spending growth and growth in the tax base). When the resources element is excluded, the simple correlations reveal a relatively powerful relationship between anticipated grant income and expenditure income; in the three years from 1978 to 1980 between 58 per cent ( $r = 0.76$ ) in 1980 and 19 per cent ( $r = 0.44$ ) in 1979 of total variance in spending growth is explained by grant increases.

There is another possible impact of grants upon the total spending growth decisions which does not require the existence of a one to one correlation between spending growth and grant increases. The grant level sets the parameters of growth within the local government system as a whole and constrains the spending growth decisions of individual authorities. The level of grant is a means of adding "weight" to what the centre defines as a desirable level of growth in the system as a whole and defines which authorities are spending "excessively". For example, Lothian Region's intended growth level in 1981, often cited as the reason for the introduction of the Local Government (Miscellaneous Provisions) (Scotland) Act, was, at 5 per cent in real terms, only "out of line" since the centre had requested a cutback in expenditure in real terms of 2 per cent and made a cut of 6 per cent in grant in real terms. An increase of this magnitude would not, however, have been unusual in the first two years following reorganisation in 1975, and certainly not in the period from the late 1960s to the early 1970s. It is precisely because of the parameters set through the grant that a growth level of 5 per cent - so ordinary at other times in the recent history of local

government finance - in Lothian was an extreme case or an outlier in 1981. The effect of central government grants on the system of local finance cannot be seen or tested on the basis of the "fiscal federalism" arguments alone<sup>(5)</sup>. The influence through the effect upon the tax price is strong; the level of government grants help to set the parameters of expenditure increases and within these parameters there is some diversity in expenditure increases which is associated with expectations of relatively more or less money through grants.

## VI. Conclusions

Money, in the form of central grants, does talk. What it says is that if you want to increase your spending by more than the amount allowed for in the grant allocation, then you have to raise the money locally. Its voice does not display any particular concern for decreasing or increasing spending in one service disproportionately when compared with another since the bulk of grants are in the form of general grants with only notional disaggregation into levels of spending for particular services, and even more money in the form of nominally specific grants can be regarded as general grants on the basis of the fungibility principle. The evidence examined here suggests that its voice is heard clearly by local governments since there is a relationship between what local governments expect to receive by way of grants and what local governments intend to spend.

The reason that evidence of money talking has been sparse in earlier examinations of the subject is that relatively few recent analyses have defined what one would expect its voice to sound like. Instead of any serious discussion of precisely how one would expect

grants to influence local governments, a number of statistical analyses have used ad hoc hypotheses and ad hoc measures devoid of any theoretical content, and concluded that grants have little or no effect on local spending decisions.

## Notes and References

1. Midwinter, A.F. "The Scottish Office and Local Authority Financial Planning: A Study of Change in Central-Local Relations" Public Administration Bulletin, 34, 1980, 21-43.
2. See A. Sbragia "The Politics of Local Borrowing: A Comparative Analysis" (Glasgow: University of Strathclyde Studies in Public Policy No.37, 1980).
3. For a discussion of the reasons for the development of the grant system see C.D. Foster, R. Jackman and M. Perlman Local Government Finance in a Unitary State (London: George Allen and Unwin, 1980).
4. See M. Shulz "The Development of the Grant System" in C.H. Wilson (ed.) Essays on Local Government (Oxford: Basil Blackwell, 1948).
5. For a discussion of the relationship between changes in central-local relations and changes in the structure of grants see E. Page "Grant Consolidation and the Development of Intergovernmental Relations in the United States and the United Kingdom" Politics, 1, 1, 1981, 19-24.
6. Foster, Jackman and Perlman Local Government Finance.
7. See E. Page "The New Gift Relationship: Are Central Government Grants Only Good for the Soul?" Public Administration Bulletin, 36, 1981, 37-52.
8. Boaden, N. Urban Policy-Making (London: Cambridge University Press, 1971).
9. For a critical discussion of the term "outputs" see K. Newton and L.J. Sharpe "Local Outputs Research" Policy and Politics, 5, 3, 1977, 61-82.
10. For an analysis of local spending diversity in a comparative perspective see E. Page "Grant Dependence and Intergovernmental Finance" (Glasgow: University of Strathclyde Studies in Public Policy No.80, 1981).
11. Ashford, D.E. "The Effects of Central Finance on the British Local Government System" British Journal of Political Science, 4, 1974, 305-322.
12. Discussed also in Page "The New Gift Relationship".
13. Page "Grant Consolidation".
14. Webb, S. Grants in Aid. A Criticism and a Proposal (London: Longman Green and Co., 1911).
15. This view is also shared by central actors. See, for example, J. Barnett Inside the Treasury (London: Andre Deutsch, 1982), p.75.
16. See G.W. Jones "The Future Looks Bleak for Local Government" Municipal Review, 600, 1980, 232-234.



17. Scottish Office The Rate Support Grant (Scotland) Order 1977. Report by the Secretary of State. HC91 (Edinburgh: HMSO, 1977).
18. See Page "The New Gift Relationship"; "Grant Dependence"; "Grant Consolidation".
19. Shulz "The Development of the Grant System".
20. Figures derived from Foster, Jackman and Perlman Local Government Finance, pp. 102-106.
21. HM Treasury Needs Assessment Study - Report (London: HM Treasury, 1979).
22. See Convention of Scottish Local Authorities "The COSLA Critique" (Edinburgh: COSLA, 1981), p.37.
23. Figures derived from Scottish Development Department Scottish Housing Statistics 10, 1981 (Edinburgh: HMSO, 1981) and Chartered Institute of Public Finance and Accountancy Rating Review 1980 (Glasgow: CIPFA, 1980).
24. There are, of course, problems with the simple equation the fewer the pupils the less the expenditure. See S.J. Bailey "Fewer Pupils - Greater Stress?" in R. Rose and E. Page (eds.) Fiscal Stress in Cities (London: Cambridge University Press, forthcoming 1982).
25. See COSLA "The COSLA Critique", p.37.
26. Source CIPFA Rating Review.
27. Stewart, J.D. "From Growth to Standstill" in M. Wright (ed.) Public Spending Decisions. Growth and Restraint in the 1970s (London: George Allen and Unwin, 1980).
28. Newton, K. "The Local Fiscal Crisis in Britain: A Non-Crisis which Is neither Local nor Financial" in L.J. Sharpe (ed.) The Local Fiscal Crisis in Western Europe (London and Beverly Hills: Sage, 1981), pp. 22-223.
29. For an overview of the machinery of consultation see K. Paterson "Local Finance in Scotland" (Glasgow: Strathclyde Regional Council (mimeo), 1980).
30. Select Committee on Scottish Affairs Minutes of Evidence Monday 7th July 1980 (London: HMSO, 1980), p.76.
31. Committee of Inquiry into Local Government Finance Appendix 10 (Oral Evidence from the Association of County Councils in Scotland) (London: HMSO, 1976), p.17.
32. Heald, D. "Territorial Equity and Public Finances: Concepts and Confusion" (Glasgow: University of Strathclyde Studies in Public Policy No.75, 1980).
33. See E. Page "Comparing Local Expenditure: Lessons from a Multi-National State" (Glasgow: University of Strathclyde Studies in Public Policy No.60, 1980).

34. Heald "Territorial Equity", p.12.
35. Keating, M. "Administrative Devolution in Practice: The Secretary of State for Scotland and the Scottish Office" Public Administration 54, 1976, 133-145.
36. Quoted in Heald "Territorial Equity", p.15.
37. Ashford "The Effects of Central Finance", p.320.
38. Foster, Jackman and Perlman Local Government Finance, p.362.
39. Page "The New Gift Relationship".
40. Page "The New Gift Relationship".
41. Committee of Inquiry into Local Government Finance Report. Cmd. 6453 (London: HMSO, 1976).
42. Finer English Local Government (London: Methuen, 1945), pp. 5-22.
43. Source: Foster, Jackman and Perlman Local Government Finance, pp. 102-126.
44. See D. Heald "The Scottish Rate Support Grant. How Different from the English?" Public Administration 58, 1980, 25-46.
45. Heald, D. "Scotland's Public Expenditure 'Needs'" in H.M. Drucker and N.L. Drucker (eds.) Scottish Government Yearbook 1981 (Edinburgh: Paul Harris, 1980).
46. Discussed in detail in A.F. Midwinter and E. Page "Cutting Local Spending. The Scottish Experience" in C. Hood and M. Wright (eds.) Big Government in Hard Times (Oxford: Martin Robertson, 1981).
47. Heald "Territorial Equity", p.27.
48. The new block grant system in England is explained concisely in R. Jackman "The Block Grant in England" in J.F. Malcolm (ed.) "Public Expenditure Policy and the Rate Support Grant" (Glasgow: Centre for Urban and Regional Studies Discussion Paper No.2, 1981).
49. See Midwinter and Page "Cutting Local Spending". For a listing of even more recent developments see COSLA "A Time to Listen - A Time to Speak Out" (Edinburgh: COSLA, 1982).
50. Page "The New Gift Relationship".
51. For a review of the "fiscal federalism" literature see R.C. Whitman and R.J. Cline "Fiscal Impact of General Revenue Sharing, Block Grant and Categorical Grants" (Washington DC: The Urban Institute, 1979).
52. Page "Grant Dependence".

53. Stewart, J.D., Gibson, J. and Game, C. "Grant Characteristics and Central-Local Relations" (Birmingham: Institute of Local Government Studies (mimeo), 1961).
54. Stewart, Gibson and Game "Grant Characteristics", p.33.
55. This argument is further developed in Midwinter and Page "Cutting Local Spending".

CHAPTER FIVE

THE ROLE OF CIRCULARS

## I. Circulars as Routine Communication

Weber's dictum "Herrschaft ist im Alltag Primaer: Verwaltung"<sup>(1)</sup> (Everyday rule is primarily administration) stresses that most interactions within governmental institutions are routine<sup>(2)</sup>. Many of the processes of central-local government interaction involve routines. There are routine consultations on legislation, and the topics discussed at meetings of the Local Government Finance Working Party vary relatively little from year to year. While these contain elements of routine, they cannot be termed "everyday". If it were possible to quantify the total number of interactions between central and local government officials in Scotland, contacts directly concerned with the passage of legislation or the Rate Support Grant settlement would probably form a small portion of the total. While one must be careful, as chapter one discussed, not to assume that everyday contacts between central and local government can be understood without reference to the constraints imposed by laws and money, one must be equally cautious in deriving statements about the impact of laws and money without an appreciation of how these factors are involved in the everyday relationship between the centre and the locality.

Circulars are an important indicator of the parameters which the centre seeks to set through advice. First, because they are, in principle<sup>(3)</sup>, publicly available documents, they provide clear documentation of the nature of the advice offered to local governments. Second, these written items of advice, as well as informal or face-to-face advice, are argued by academics as well as local government actors<sup>(4)</sup> to impose a constraint upon local government decision making. If there is an expectation that the

centre sets parameters to local government activity through the offer of advice, then circulars not only offer written evidence of the type of influence that the centre exerts, but also they allow one to examine the issue of advice in possibly its most constraining form.

How does the centre use circulars to set parameters to the activities of local governments? Despite the ad hoc discussions of other authors, relatively little is known about the importance of circulars in the central-local relationship. Cross suggests that they are powerful instruments for the influence of local government activities:

There is no doubt, however, that control is in fact exercised informally in the process of consultation between local authorities and the officers of the various ministries and in the constant issue by the departments of circulars and memoranda. By these means the policy of a department works its way, perhaps imperceptibly, into the practice of local authorities. It is referred to sometimes as "government by circular"(5).

On the other hand they might appear at first sight to an observer delving into the collected circulars received by local authorities to be pieces of paper whose only function is to fill the filing cabinets of local authorities.

The first section of this chapter offers a descriptive account of the circular. While there is plenty of information on the passage of legislation and the formal arrangements for central-local finance, circulars have received little coverage in the literature from any perspective. The second section describes what a circular is, who sends it and what is done with it. The third section looks at the policy area of circulars. Are circulars used

to set parameters over a narrow range of policy areas, or do they cover the bulk of services delivered by local governments? The fourth section examines the role of circulars in shifting the parameters within which services are delivered. The fifth section looks at the degree to which circulars can be regarded as an outcome of a negotiated settlement, involving the granting of concessions to local governments. The sixth section explores the question of how far circulars actually constrain the decisions of local governments.

## II. The Circular

### a) What is a Circular?

The terms associated with the everyday government of the United Kingdom are notoriously difficult to define<sup>(6)</sup>. There are also definitional problems in the specification of precisely what a circular is. The New English Dictionary defines the term as:

Short for circular letter or note; now esp. a business notice or advertisement printed or otherwise reproduced in large numbers for distribution...

Affecting or relating to a number of persons; esp. in circular letter "a letter directed to persons who have the same interest in a common affair".

This might be taken to suggest that a large number of items can be termed "circulars", including a letter sent to multiple actors within a single local authority.

Government departments, however, make a distinction between three types of communication: the circular, the administrative memorandum and the letter. The circular being characterised by being allocated a unique series number - for some departments (e.g. the SDD) the series starts at 1 at the beginning of each calendar year while in others (e.g. the SED) the series may span

several years. A circular letter is identified as circular by being issued to all local authorities within a particular class, and as a circular letter by the absence of a series number - sometimes it contains a conventional letter reference number, but more usually it is merely dated. The administrative memorandum is, like the circular, given a unique series number. Yet sometimes the series number for the administrative memorandum is in sequence with the circular series. For example, administrative memorandum SDD 65/77 was enclosed with SDD circular 64/77.

In an examination of the communications received by local governments in the period covered by the financial year 1977/78<sup>(7)</sup> only 3 per cent of the communications received by local governments in the financial year to 1978 were administrative memoranda as compared with 17 per cent letters and 80 per cent circulars. For the purposes of this chapter the term circular is understood to include all three types of communication since there is no recognisable criterion - apart from nomenclature - which can be used to differentiate them.

Circulars are not a recent form of communication between central and local government. The Records of the Convention of Royal Burghs document the existence of royal missives as early as the 13th century, and the New English Dictionary cites an 1818 example of the usage of the term "modern affectation has changed the expression to the substantive; and we now hear of nothing but circulars from public offices". While circulars are not new in the central-local relationship or confined to British experience<sup>(8)</sup>, it has been argued that they have increased in the post-war years.



The West Midland Group Study argues that after 1945 there has been a "flood of paper from Whitehall" in comparison with the pre-war picture when the issue of a circular was "something of an event"<sup>(9)</sup>. This argument is difficult to verify. The records of circulars issued by governments departments in earlier sources refer only to those which were published, not all circulars.

In 1979 the circular was considered by the Conservative government as one of the symptoms of the increasing "bureaucratic waste" in government and as an unnecessary "control" over local governments. In September 1979 the Government announced that it had "already acted to reduce the volume of circulars sent to local authorities. It is now exercising stringent control over the issue of any such papers"<sup>(10)</sup>. The circulars examined in this chapter are taken from the financial year to 1978, before the Conservative directive on circulars. The directive has made a substantial difference to the volume of circulars issued. Table 5.1 presents the number of circulars issued in the main circular series of the Scottish Education Department, the Scottish Office Finance Division and the Scottish Development Department for each calendar year since 1975. While there were a large number (216) circulars issued in 1975, this can be explained in part by the large number of circulars offering guidance during the process of the reorganisation of local government. Between 1976 and 1978 the number of circulars dropped from 153 to 134. However, the most substantial drop comes after the Conservatives gained office in 1979 - a drop to 81 circulars. In 1980 there were 41 per cent less circulars than the annual average for the whole period 1975-1980.

Table 5.1

The Decline in the Issue of Circulars 1975-1980:  
Circulars Issued by Three Major  
Scottish Office Departments\*

<u>Year</u>	<u>Number of Circulars</u>	<u>% of Annual Average</u> <u>1975/80</u>
1975	216	163
1976	153	115
1977	132	100
1978	134	101
1979	81	61
1980	79	59
Average 1975/80	133	100

\* Circulars in main numbered series issued by the Scottish Office Finance Division, the Scottish Development Department and the Scottish Education Department.

b) Who Issues Circulars and Who Receives Them?

As one would expect, most of the Scottish local government circulars are issued by the Scottish Office Departments. Only 3 per cent (see table 5.2) are issued by non-Scottish Office Departments. These come from, among others, the Office of Fair Trading (four), the Health and Safety Executive (five) and the Ministry of Agriculture, Fisheries and Food (four). The most frequent issuer of circulars within the Scottish Office is the Scottish Home and Health Department, with its responsibilities for police, fire and environmental health as well as civil defence and medical health. It is slightly surprising that the SHHD issues more circulars (115) than the Scottish Development Department (107), despite the SDD's general responsibility for local government services and the specific responsibilities that it has for roads,

housing and planning. Each of these issues over twice as many circulars as each of the other five major departments, the Scottish Education Department (50), the Scottish Economic Planning Department (two), and the Department of Agriculture and Fisheries (21).

Central Services of the Scottish Office, including the Finance and Superannuation Divisions, issued 78 circulars.

Table 5.2

Who Issues Circulars?  
Origins of Circulars Issued in  
Financial Year 1977/78

<u>Issuing Body</u>	<u>Number of Circulars</u>	<u>% of Total</u>
Scottish Home and Health Department	115	29
Scottish Development Department	107	27
Central Services	78	18
Scottish Education Department	50	13
Department of Agriculture and Fisheries for Scotland	21	5
Scottish Economic Planning Department	2	1
Non Scottish Office Departments	27	7
Total:	390	100

As one would expect, since they deliver a wider range of services, the regional and islands councils receive more circulars than the districts. Table 5.3 shows the addressees of the circulars in the sample. Circulars are generally, but not invariably, addressed to a particular officer or set of officers in a particular type of local authority or other public bodies, often with other types of local authority, different officers or different public bodies receiving a "copy for information". Only 32, or 8 per cent, of circulars issued by the Scottish Office are not sent to regional councils. In contrast 204 or 52 per cent are not sent to districts. Islands receive all but 12 circulars in the sample (3 per cent).

Table 5.3

<u>Authority</u>	<u>Circular is addressed to</u>	<u>Circular is not addressed to</u>	<u>Copies of the Circular are sent to</u>	<u>Total</u>
Region	347	32	11	390
District	183	204	3	390
Islands	377	12	1	390

Circulars are invariably addressed to local government officers rather than councillors. They vary, however, according to the precise set of officers to which they are addressed. It is the convention to include the chief executive on the list of addressees of the circular - the chief executive is the addressee on 215 (or 81 per cent) of circulars. In addition to the chief executive the circular generally specifies a range of other officers to which a circular is sent; the bulk of circulars (367 or 94 per cent) specify a range of other officers to which they are being sent in addition to the chief executive.

c) Circulars as Routine Forms of Communication

Circulars are processed by a variety of methods once they arrive in the council offices. For example, one small district stored all its circulars in the chief executive's personal office, with no other stock of circulars being kept centrally. On the other hand, a large region such as Strathclyde stores circulars in its central library, which is also responsible for ensuring that further copies of the circular reach other relevant offices - the office of the director of a functional service or an area office within the region.

In general there is little hostility to the issue of circulars by the Scottish Office. Local officials and councillors interviewed expressed no general complaints about the issue of circulars with the exception of complaints about their length and style. This is not to suggest that there was no opposition to the content of specific circulars; for example, one local authority official complained of the lack of clarity in a circular relating to the Secretary of State's call-in powers in planning, and another complained of the implications of the Secretary of State's issue of relevant expenditure guidelines on the basis that this represented the "thin end of the wedge" portending a greater central government "interference" in local government expenditure decisions<sup>(11)</sup>. However, if anything, respondents supported more guidance through circulars. This is reinforced by the Planning Exchange's survey of information to planning officers:

A number of planning authorities particularly regional ones called for a clearer expression of national policy on a range of subjects. This was not necessarily a call for more research, but rather for central government to give more emphasis to its role in laying down national policy guidelines. Specific subjects mentioned were population, national industrial strategy, policy on petro-chemical sites, the policies of the nationalised enterprises. Several authorities mentioned SDD circular 19/1977 and the national (planning) guidelines as being useful, but there was a clear call for greater resources to be put into this work<sup>(12)</sup>.

Circulars are a routine form of communication between central and local government in the sense that they are frequent, overwhelmingly non-controversial and of immediate interest only to those who receive them, with publicity in the form of press and media reporting a rarity. There are, of course, circulars which may be classified as "non-routine" as characterised by circulars such as those concerning the sale of council houses or requests for financial

cutbacks which are not only raised in council committees but are also given press coverage. However, most circulars remain reference works for local government officers. For some officers the circular is the only form of contact with the central department. For an office holder in an important professional association, such as the Society of Local Authority Chief Executives, the Chartered Institute of Public Finance and Accountancy or the Society of Directors of Administration in Scotland, circulars are less likely to be "news" since their contacts with the Scottish Office would at least give them advance warning of the issue of a circular or possibly even involve them in its drafting.

### III. The Policy Area of Circulars

Circulars cover a wide variety of policy areas, from the introduction of housing plans, the treatment of enzootic bovine leucosis and the arrangement for sheep dips to the euphemistic "Treatment of Human Waste in the Event of Nuclear War". The policy areas covered by circulars were categorised according to the same grouping of policy areas used in table 3.4 with circulars being ascribed to more than one policy area where appropriate (e.g. a Housing (Homeless Persons) Act 1977 circular is both housing and social work). Frequently, circulars refer to the financial and manpower resources which are put into the service (160 or 28.2 per cent of circulars are concerned with finance and 44 or 7.7 per cent are concerned with manpower) rather than to the service alone. Of the major services covered in circulars, the regulatory services of public health (80 or 14.1 per cent), fire, police and civil defence (74 or 13.0 per cent) and planning (41 or 7.2 per cent) account for the largest portion, with the major

spending services of housing (39 or 6.9 per cent), education (33 or 5.8 per cent), roads and transport (23 or 4.9 per cent) and social work (22 or 3.9 per cent) accounting for under one third of the policy areas covered in local government circulars.

Table 5.4

The Policy Areas of Circulars 1977/78

<u>Policy Area</u>	<u>No. of Times Covered</u>	<u>% of Total</u>
Finance, Rates and Rebates	160	28.2
Public and Animal Health and Hygiene	80	14.1
Fire, Police and Civil Defence	74	13.0
Manpower	44	7.7
Planning, Land, Countryside and Environment	41	7.2
Housing	39	6.9
Education	33	5.8
Roads and Transport	28	4.9
Social Work	22	3.9
Other	47	8.3
	<u>568</u>	<u>100</u>

As one would expect, examination of the policy area of circulars and the department which issues a circular offers a clear picture of the local government responsibilities of the Scottish Office Departments. Of the 107 SDD circulars 33 per cent concern housing, 21 per cent planning and 23 per cent roads and transport. The SED issues the bulk of its circulars in social work (28 per cent through the Social Work Services Group circulars) and in education (42 per cent), although many of its circulars are concerned with other policy areas such as fire precautions in educational establishments and electoral registration in schools. The DAFS issued all of its circulars in the broad field of animal and environmental health,

whereas the SHHD's 115 circulars were divided between fire, police and civil defence (47 per cent), public health (18 per cent), questions of manpower in these services (20 per cent) with the largest portion of the remaining 15 per cent being concerned with electoral registration. Central services, through the finance and superannuation divisions of the Scottish Office, were almost exclusively concerned (93 per cent) with questions of finance and manpower.

As in the case of laws, the ascription of a circular to a policy area is a matter of interpretation on the part of the researcher. While a circular covering enzootic bovine leukosis is unambiguously a circular concerning animal health and hygiene, a circular concerning the Housing (Homeless Persons) Act is concerned with social work as well as housing. Circulars were coded as being ascribable to a maximum of three policy areas. Over one half of the circulars (212 or 54 per cent) could be coded without using more than one policy area categorisation. Of the 141 circulars which involved categorisation in more than one policy area, 93 or 66 per cent had either manpower or finance as the second or second and third policy area. When these are excluded, and one counts only the circulars which concern different functional services, then only 48 circulars or 12 per cent of the total cover at least two separate functional services. Circulars can be regarded as forms of communication which refer to relatively narrow functional areas of local government activity.



The analysis of the policy areas of the circulars highlights three aspects about their use of instruments of influence. First, they are, like laws, instruments for one particular group within central government, whether service professionals or finance and manpower professionals, to seek to exert influence over a specific group within local governments. While circulars which cover the financial and manpower aspects of functional policies are common, it is less common for circulars to make reference to more than one functional service area. Second, the centre seeks to use this instrument of influence relatively more in respect of certain services such as fire, police, civil defence, public and animal health and hygiene and consumer protection, rather than in services such as education and social work. Finally, money is an important topic for the centre's advisory instruments of influence. As in the case of laws, police legislation excepted, circulars cover questions of finance more than any other single topic.

#### IV. Circulars and Parameter Shift

The argument that there is "government by circular" suggests, or rather overstates, the proposition that major aspects of local government activities are constrained by central government circulars. While the constraining effect of circulars is examined in detail below, are circulars used to seek to constrain local government actions in a manner that can be described as parameter shift - that is to say making pervasive and active changes in the parameters within which local governments deliver services?

There is no convenient measure to examine the pervasiveness of the circular as exists in the case of legislation. One may make,

however, some judgements about the implications of a circular on the basis of an evaluation of the type of change that the circular seeks to make and distinguish between circulars which are pervasive and those which are not - it is relatively easy to distinguish between those circulars which cover a limited aspect of a particular service, such as a circular which gives the latest research findings in one aspect of refuse disposal, and those which are more pervasive, such as the request to local governments to restrain their expenditure growth.

Very few circulars of themselves actually seek a pervasive change in the parameters within which local government deliver services. There are circulars which announce legislation which seeks a pervasive change (e.g. SWSG 14/1977 announcing the Housing (Homeless Persons) Act) or announces a discretionary decision by the centre (established through statute) which has a pervasive effect (e.g. the Public Works Loan Board circulars which announce changed rates of interest to the PWLB). On even a liberal interpretation, only eight out of 390 circulars could be categorised as seeking to affect pervasively the parameters within which local governments deliver services; the Scottish Development Department's National Planning Guidelines (SDD 20/77) which sought to change the criteria according to which planning proposals are referred to the Secretary of State, the SDD's Housing Plans Circular (SDD 66/1977) which changes the form in which capital bids in housing are submitted to the SDD, the SDD Roads circular (400) concerning the erection of traffic signs, and its undated letter of August 1977 on "The Attack on Inflation and Roads Works Contracts", the SDD's "indicative guidelines" for housing costs (37/1977 and 101/1977), the Finance Division's

circular on local expenditure (37/1977) and the SHHD's (222/1977) circular enclosing the drill book for fire services.

The remaining circulars cannot be classified as pervasive since they announce decisions taken through the exercise of discretion by the Secretary of State or another central body (e.g. the PMLB) (79 or 20 per cent of the remaining 382 circulars - the percentages add up to over 100 since multiple codings are possible. See Appendix B). Another 165 (or 42 per cent) refer to central government legislation and do not in themselves affect the parameters of local government, with 276 circulars (71 per cent) offering items of advice which involve at most negligible extra expenditure such as SDD Roads circular 405 which stated:

From a recent survey of highway authorities carried out by the Department it is apparent that there is a considerable disparity of policies on the use of edge lining and it is appreciated that this is a matter for local judgement. However, authorities are asked to consider very carefully the benefits to be derived from this inexpensive measure...

There are, of course, examples of major policy initiatives which have sought to shift the parameters within which local governments deliver services through the use of circulars from outside the period examined here. For example the comprehensivisation circular (SED 600) was Scotland's version of the Department of Education's circular 10/65<sup>(13)</sup>. Shortly after coming to office the Conservative Government sought to change the parameters within which local governments delivered housing by exhorting local authorities to sell houses to tenants<sup>(14)</sup>. These examples show that circulars are not invariably concerned with non-pervasive matters of local sources, such as the SHHD circular 12/77 which adjusts the plain clothes allowance to policemen. Yet these are outside the time period circulars taken in this survey.

The circulars in the survey, for the most part, make one aware that one is intruding upon a continuing and relatively closed dialogue; a flow of communications which takes place between professionals within central and local government who have received similar circulars in the past and will continue to receive similar circulars in the future. Waste management papers volumes 11 to 14 were issued under cover of SDD circular 23/77, waste management papers 1 to 10 were issued under cover of similar circulars in recent years, doubtless numbers 15 onwards are to be distributed under cover of similar circulars in subsequent years. One is firmly in the field of parameter adjustment when one looks through the collected volumes of circulars for local governments.

V. The Negotiability of Circulars

The negotiability of circulars as instruments of influence reflects the degree to which they are employed as a means of conveying or enforcing unilateral decisions taken by central government actors, or whether in fact the content of the circulars can to some extent be termed as the expression of "local government" preferences either through local government actors being the authors of the circular or because the preferences of local actors are reflected in the content of the circular. On face value, circulars are highly negotiable. COSLA receives drafts of many major circulars issued by the Scottish Office for comment. For example, respondents interviewed who were active in a committee of the Convention (either as members or officer advisers) often stated that circulars reinforced what was common knowledge since circulars are passed through the consultative machinery of the Convention and professional associations and, more importantly, are amended through this process.

It is not possible to give any precise figures for the number of circulars in the period 1977-78 that were the result of actual negotiations between local government actors and the centre. There are four main reasons for this. First, the minutes of the Convention are frequently not sufficiently explicit about the circulars sent to them for "their views" that the draft circular sent to the Convention can be identified as an earlier version of a circular issued in the period 1977-78. Second, because copies of draft circulars are not available, it is not possible to see whether the circular issued offers prima facie evidence of negotiation by virtue of the differences between circular and draft circular. Third, to send a draft to the Convention does not mean that the circular is negotiable; the centre may request comments from the Convention as a matter of courtesy rather than any serious intention to alter the provisions of the circular. Finally, the Convention is not the only body or group to which one might look to find evidence of negotiation (understood as the modification of a circular from a draft in response to the expressed desires of local actors) since central government sends draft circulars to other groups, such as professional associations as well as individual local officials.

It is possible, of course, to point to examples of circulars where the Scottish Office has modified texts of circulars to a greater or lesser extent because of proposals made during the process of consultation. The housing planning and financial planning systems of capital approvals<sup>(15)</sup>, for example, were largely devised by working groups of local and central government officials. When the housing planning system, for example, was being devised, the

Scottish Office, as one official put it, "got cold feet" about giving local authorities two large block consents (Housing Revenue Account block allocations and Non-Housing Revenue Account block allocations). Instead, it argued that there should be more blocks consistent with the six blocks system of housing capital allocations in England and Wales<sup>(16)</sup>. This suggestion was opposed by the local authority members of the Working Party and the two block system was retained.

The proposed circular on the definition of capital expenses, which can only be incurred with Scottish Office approval, offers another example of negotiability. In 1978, after a long period of inconclusive discussions between directors of finance in local governments and the Scottish Office, the Finance Division drafted a circular offering a definition of capital expenses. The relevant section (section 94) of the Local Government (Scotland) Act 1973 offers no clear and unambiguous definition of the term "capital expenses". As one director of finance put it "you know what is capital when you see it" - there is a broad consensus among finance officers as to what type of expenses are "capital" in nature. Yet there were also some areas, such as the question of the status of loans to local authority employees for buying cars and the use of special funds to finance what otherwise might be interpreted as capital projects, where there was no consensus. The Scottish Office drafted a circular which made attempts to define what is capital by reference to such factors as whether the expenditure was to be met over a period spanning more than one financial year. The draft circular was sent to the Policy Committee of the Convention which raised relatively weak objections to the circular. More effective opposition to the circular came from a member of the Society of Local

Authority Chief Executives who was absent from the COSLA meeting. The following day, upon reading the proposed circular, the Secretary of SOLACE telephoned the Scottish Office and managed to get the issue of the circular stopped.

There are examples of circulars that have been negotiated with the Scottish Office making concessions to the preferences of local governments. Circulars may themselves contain the suggestions of particular local authority actors. For example, circulars which offered advice on the consequences of the 1976 Licensing (Scotland) Act made wide use of the advice which the Scottish Office sought from members of the Society of Directors of Administration in Scotland. The importance of SODAS as a source of legal expertise upon which the Scottish Office can draw is further reinforced by the fact that the Scottish Office has passed on requests for explaining particular aspects of legislation made by individual councils to members of SODAS. Similarly, one large local authority had set up internal working parties to examine the implications of the Children Act 1975. When parts of the Act were implemented in 1978, the covering circular contained almost verbatim transcripts of portions of the working party reports. Even over the issue of the indicative guidelines issued concerning local authority relevant expenditure<sup>(17)</sup>, there was some disagreement among local officials about whether the suggestion for the guidelines came from local government or central government actors. Some local councillors and officials interviewed claimed that the guidelines resulted from a request by local actors for the government to set out clearly what it was asking individual local authorities to do - central government was continually requesting cuts in local budgets, they argued, and it should actually say who should cut budgets.

Yet the use of examples does not say anything about the magnitude of the extent to which circulars are negotiated. One can equally point to circulars which are clearly non-negotiable. Provost Tom Clarke, the Convenor of the Convention of Scottish Local Authorities in the early months of the 1979 Conservative Government, expressed his surprise "at the speed at which the government has taken decisions on issues like the sale of council houses and on matters of finance without fully consulting the Convention"<sup>(18)</sup>. The circular which exhorted local governments to sell their council houses was clearly a non-negotiable aspect of the incoming government's policy. It was government policy in England to exhort local governments to sell houses pending the introduction of mandatory legislation and there was no possibility of changing the circular for Scottish authorities.

The negotiability of circulars is especially difficult to establish since the bulk of circulars raise no issues that are likely to evoke opposition or even comment from local government actors. These may be termed non-controversial circulars. Circulars may be non-controversial because they are circulars which are routinely issued (e.g. the Public Works Loan Board Rates of Interest circulars), because they provide relatively trivial information (e.g. concerning the appointment of a new Director of Studies at the Police Training School) or because they refer to other documents (e.g. working party reports) which have themselves resulted from a lengthy period of consultation between central and local government.

This suggests that there are four types of circular. Circulars which are non-controversial and negotiable, where there is no



apparent conflict of interests between central and local actors although the centre would grant concessions if they were requested; circulars which are controversial and negotiable, where there is an apparent conflict of interest and where the centre is prepared to grant concessions to local government actors; non-controversial and non-negotiable, where the circular is one where there is no conflict of interest as well as no possibility for negotiations even if there were, and circulars which are controversial and non-negotiable referring to areas where there is a conflict of interest and where the centre is not prepared to grant concessions to local actors through negotiated agreement.

This results in four types of process of consultation:

i) Where circulars are non-negotiable and non-controversial

The circular is issued either without consultation (for example the Public Works Loan Board Rates of Interest circulars) or referred to the Convention of Scottish Local Authorities and not contested as, for example in the case of the draft circular concerning the eligibility of firemen on strike for the Good Conduct Medal<sup>(19)</sup>.

ii) Where circulars are non-negotiable and controversial

The circulars may be discussed with objections raised by local actors ignored. For example, the Roads and Transport Committee of the Convention attempted to secure the inclusion of District Councils in the Minibus Act scheme of 1978. The reply by the Department of Transport was that:

except in the unique case of the Inner London Education Authority area the (Minibus Act) Order which had now been made designated throughout Britain only one tier of local government ... the position could of course be reviewed when they had considered candidates for a second Order ... Meanwhile there had been received the letter from the

Scottish Development Department enclosing the draft circular for information. It was understood that the circular had in fact now been issued<sup>(20)</sup>.

Or it is issued without consultation. This appears to be rare although the only means of recognising this type of circular is when complaints are expressed by local government actors that they were not consulted. The only clear examples of such circulars come from outside the time period studied here; Finance circular 12/79 and SDD circular 27/79 announcing the Conservative government's policies on local government finance and the sale of council housing which brought public protests from the Convention that the Convention was not being consulted<sup>(21)</sup>.

iii) Where circulars are non-controversial and negotiable

The circular may be issued with only informal consultation. For example SED circular 980 on "Geography in SI and SII" was issued without consulting the Convention although the circular introduced a document (of the same name) produced by the Scottish Central Committee on Social Subjects. Or the circular is issued following consultation. For example, the Convention's Miscellaneous Services Committee's advisers were in "full agreement with the terms of the draft circular"<sup>(22)</sup> submitted by the SHHD on the question of transition from the old licensing system to the new.

iv) Where circulars are controversial and negotiable

There are three alternative modes of consultation here. First, there may be no comments offered by COSLA due to disagreement among local authorities concerning what precisely the comments on the draft should be. For example, the Department of Prices and Consumer Protection's draft circular and working party report on fireworks did not receive any comment from the Convention's

Protective Services Committee since:

Unfortunately, there had been a divergence of opinions to certain of the recommendations, and (the Secretary) had informed the Department that it would not be possible to meet their deadline (for comments)<sup>(23)</sup>.

Second, comments are offered which result in the amendment of the circular. For example, the draft circular on the Housing Expenditure Subsidy:

There was submitted a letter dated 4th May 1976 from the Scottish Development Department requesting comments on a proposal that the deemed increase in expenditure and repairs and management expenditure for housing expenditure subsidy should be fixed at £13.15 per house ... The Department had accepted the argument put forward by the Convention and the deemed increase had been amended to £13.27 per house<sup>(24)</sup>.

Third, objections are raised to the circular and the circular is not issued. For example, the Finance Division's proposed circular on the definition of capital expenses according to section 94 of the Local Government (Scotland) Act 1973 (see above).

Of the 390 circulars issued in the year studied, only 23 could be clearly traced as appearing in discussions in the COSLA committees. This is undoubtedly an underestimate since a number of committees do not minute the whole of their proceedings; for example, the Protective Services Committee gives no details on what it terms as "items dealt with administratively". Nevertheless the number of circulars referred to COSLA committees is small compared with the number of circulars issued. While no quantification is possible, it appears, from the content of circulars that this results not from the non-negotiability of the remainder, but arises because the bulk of circulars offer little potential for central-local controversy. Critics of the "pluralist" conception of power suggest the absence of visible conflict does not mean the absence

of power relations<sup>(25)</sup>, suggesting that the centre can make circulars non-negotiable (or rather non-negotiated) because it has created a "bias" in the central-local system towards the acceptance of certain types of circular (e.g. local governments do not challenge the ability of the Public Works Loan Board to change rates of interest). However, concentration upon the circulars which are not referred to the Convention, which are characterised by circulars such as advice on the standards of bulk storage tanks for grain, or the types of stairlift that should be introduced into old peoples homes is unlikely, even if a coherent methodology for their examination as analagous to "non-decisions" is derived, to yield important conclusions surrounding the nature of consultations between central and local government or bias in central-local relations.

Circulars, where they raise issues of controversy between central and local government are generally passed through the consultative machinery of central and local government in Scotland. However, as with legislation, the centre can define precisely what circulars and what parts of circulars are negotiable. This was the case in the circular on the Minibus Order 1977. It was also, for example, the case in the implementation of the Children Act where the Social Work Committee objected to the circular which introduced the implementation of parts of the Act in 1978 on the grounds that the Government had made no provision for the increased expenses that would be incurred under it - the representations were ignored. The fact that some circulars have been amended or even withdrawn on the basis of the representations does not substantively alter the validity of the proposition that the centre determines what is negotiable. The most spectacular "success" of local

government consultations to gain concessions in this time period was probably the ability of local actors to secure the withdrawal of the circular on section 94 of the Local Government (Scotland) Act (on the definition of capital expenses). However, as a prime actor in securing the withdrawal of the circular commented, this was hardly a victory since he gained the strong impression that the centre had decided that it could use its legal powers of approving capital expenditure to achieve the same result - all it needed to do was to fail to recognise items of expenditure of which it disapproved when making a capital allocation.

## VI. How Far Do Circulars Constrain?

### a) Four Views of Circulars

The frequency of the issue of circulars may lead to two contradictory sets of arguments about the role of circulars as a constraint upon the activities of local governments. The first set of arguments is that since circulars are issued in such volumes, central government is able to extend its influence over local government in a way in which it is not possible to influence local government through the relatively costly (in terms of legislative time as well as legal drafting) device of laws. The second set of arguments is that through the everyday practice of issuing circulars, the advice or instructions issued in any one circular is devalued in a way similar to the "saturation" arguments surrounding legislation discussed in chapter three. The circular is just another drop in the "flood of paper" that clutters up the filing cabinets of local governments around the country. More specifically, the literature on circulars and central-local relations, although sparse, suggests that the circular can set parameters in three ways; through the

exercise of quasi-statutory influence, through the exercise of hierarchical influence and through the provision of information. These have not been systematically defined in works which make casual reference to circulars.

i) Quasi-Statutory Influence

The quasi-statutory view of circulars implies that circulars have effectively the same ability to constrain as laws because they are legally enforceable - circulars have statutory status.

Streatfeild, for example, argued that:

Whereas ordinary legislation, being passed through both Houses of Parliament, or, at least being on the table of both Houses, is twice blessed, this type of so-called legislation is at least four times cursed. First, it has seen neither House of Parliament; secondly, it is unpublished and is inaccessible even to those whose valuable right of property may be affected; thirdly, it is a jumble of provisions, legislative, administrative or directive in character, and it is somewhat difficult to disentangle the one from the other; and fourthly, it is expressed not in the precise language of an Act of Parliament or an Order in Council, but in the more colloquial language of correspondence, which is not always susceptible of the ordinary canons of construction<sup>(26)</sup>.

This view of the way in which circulars constrain was expressed in the immediate post-war period when a number of court cases accepted circulars as legally binding<sup>(27)</sup>. There are no known recent cases of this in Scotland. However, circulars can have a quasi-statutory status since they are the means of making public the Secretary of State's discretion in the "Henry VIII" clauses of legislation<sup>(28)</sup>. For example, in the case of Regional Reports in Scotland section 173 of the 1973 Local Government (Scotland) Act states:

A general or regional planning authority may in advance of the submission of a structure plan to the Secretary of State, or at any time thereafter, prepare and submit to the Secretary of State a report on their district ... If so directed by the Secretary of State a general or regional

planning authority shall submit such a report to him within a period specified within that direction.

Such a direction, with a formal statutory status, was issued in the form of SDD circular 4/75.

Another dimension to the quasi-statutory view of circulars derives from the fact that when they offer interpretations of legislation, they limit the degree to which the local authority can itself interpret legislation. Most circulars which go beyond merely informing local actors of the existence of a piece of legislation contain the disclaimer to the effect that "interpretation of statutes is a matter for the courts". Yet an interpretation of a statute itself may have statutory implications. There are two main reasons for this. First, it is very costly for a local government to take an issue to court. For example, Argyll and Bute took the Secretary of State to court over the interpretation (not through a circular) of the provisions in the 1972 Town and Country Planning Act (Scotland) concerning responsibility for planning "below the water line"<sup>(29)</sup>. Argyll actually lost the case, and had to meet the costs. This prompted it to seek financial assistance (unsuccessfully) from the Convention of Scottish Local Authorities<sup>(30)</sup>.

Second, interpretations offered can become governing codes. This helps to explain why local officials were so strongly opposed to a circular which sought to define "capital expenses" under section 94 of the Local Government (Scotland) Act 1973. At the margin, there is some ambiguity about what precisely constitutes "capital expenses". The Scottish Office circular was drafted to clear this up. If a definition of capital expenses had been issued in the form of a circular, according to the argument of a number of the

actors involved, the Commission for Local Authority Accounts in Scotland would almost certainly have used the definition of "capital expenses" contained in the circular (since they helped to draw up the definition) and applied it when auditing local accounts. The advisory circular would become a code of practice for the Commission, and any disagreements between the Commission and an authority would have to be resolved through uncertain and costly litigation.

Similarly with the case of the expenditure guidelines issued to local governments. Levels of expenditure for individual authorities have taken on a quasi-statutory role through their relationship to the Local Government (Miscellaneous Provisions) (Scotland) Act 1981. The Secretary of State, according to the powers granted him under the Act, can reduce the amount of grant received by local governments if he regards their expenditure levels to be excessive. The Secretary of State has increasingly relied upon the guidelines as the basis of judging which local governments are spending "excessively". While circulars are not statutes, their relationship to Acts of Parliament and Statutory Instruments can and has given them quasi-statutory status.

ii) Hierarchical Influence

The second view of circulars is that they may give central governments a means of influencing local governments because central government is perceived by central and local actors as having a legitimate claim to make requests of local governments, analagous to the ability of a superior to issue commands to a subordinate within a single hierarchy, even though there is no statutory basis for this command. In this sense circulars constrain not because



they take on characteristics of legislation by being enforceable judicially, but rather because of the perceived legitimacy or validity of central government exhortations per se. The Association of County Councils took particular exception to this use of circulars:

The most common reason for local authority objections to the communications which they receive from central government departments ... (is) that departments are seeking to influence local authority policy decisions in areas where they have no formal powers or where they have not previously sought to exercise their powers<sup>(31)</sup>.

That is to say, central government can ask local authorities to take certain actions when there is no statutory basis for such requests. For example, the system of housing planning and the system of financial planning are non-statutory, but they required local authorities to submit housing plans and financial plans nevertheless. Even if they do not take on quasi-statutory status, circulars can become authoritative constraints set by the centre. This argument was put in the case of the expenditure guidelines before the 1981 legislation gave them quasi-statutory status:

A number of members (of COSLA) then expressed dissatisfaction with the guidelines established by the departments, the nature of which had been transformed from advisory to mandatory since they were first published<sup>(32)</sup>.

### iii) The Provision of Information Sources

Circulars may offer examples of "government by advice" since, while not all circulars directly instruct local governments to undertake certain types of activities (as one would expect where circulars have a hierarchical influence upon local governments), circulars, through the constant offer of information and advice, suggest items of "good practice" which set parameters within which local governments make decisions. Finer notes that central

government aid in the form of advice is particularly valuable since central government has

qualities much sought by local officials ... It has a large body of officials with rare skill in various branches of administration. Few local authorities can afford to provide themselves with such experts. Their advice is free to the localities ... No local authority can match the central government in the range of its information<sup>(33)</sup>.

The West Midlands Group saw the issue of circulars as "government by advice" since the constant provision of items of advice limited the policy options that local governments are prepared to consider<sup>(34)</sup>, and Cross argues that circulars "sometimes go far beyond the informative and advisory and develop into a kind of governing code"<sup>(35)</sup>. By the supply of information, and for many small authorities the circular will be the main source of information, and advice on such matters as the safety of lifts for disabled people and the standards recommended for bulk milk storage tanks, advice will be, in the absence of other sources of information, adopted as the practice of the local authority.

It should not be assumed that these three forms of constraint are in themselves ubiquitously regarded as pernicious among local actors. If the ACC claims that advice is "grandmotherly", Finer argues that it "improves local administration". If the statutory role of circulars is perceived as "cursed" by Streatfeild, many local authorities have praised the circular for its "flexibility" vis a vis legislation. If one can object to the intrusion of local government into areas over which it has no statutory basis to intervene, then one can also argue that circulars "encourage and even compel the laggard and the negligent and restrain the follies of the impetuous"<sup>(36)</sup>. These three forms of influence do not necessarily

depend upon the normative stance of the observer over the "proper" role of the centre in central-local government relations.

iv) Wasted Paper

The final argument about the nature of the constraints which circulars impose upon local governments is that they do not constrain at all. Circulars may be ignored, as Lothian Region ignored the specific request for reduced expenditure in 1980/81<sup>(37)</sup> or a number of local governments ignored the request through a circular to sell council houses<sup>(38)</sup>. These two examples involve sensitive areas of priority central government policies where the act of ignoring the circular was highly visible. This would suggest that there are greater possibilities for ignoring circulars in the bulk of cases where there is no machinery or method within central government for monitoring the extent to which local government activities are consistent with the preferences expressed through circulars.

b) Testing the Four Views

The nature of the constraints which circulars impose upon local governments requires, at least for these circulars examined here, 390 case studies which examine the degree to which local governments "adhered to" the terms of the circular or were otherwise (e.g. in the case of government circulars which offer advice) influenced by it. The two case studies that do exist, one concerning the financial guidelines<sup>(39)</sup> and the other concerning the sale of council housing<sup>(40)</sup> show variable results. In the case of the guidelines issued by the Scottish Office, there is evidence to suggest that they were ignored in some financial years, yet influenced local government expenditure decisions in others. The council houses circular appears to have been largely ignored, even by local councils which were sympathetic to the principle of council house sales.

One can, however, derive a broad test of these four views by considering the type of message contained in the circular (see Appendix B). The quasi-statutory role of circulars is limited to a maximum of 46 per cent of circulars (see Appendix B) - those which set out the Secretary of State's use of discretionary powers defined by statute, the adjustment of financial arrangements (usually on the basis of powers granted through legislation), the introduction and interpretation of legislation or the advance warning of impending legislation. The fact that almost one half of circulars are concerned with specific statutes underlines the importance of legislation in the central-local relationship. However, for the most part, the relationship between circulars and legislation is an auxiliary one; it is not the circular which sets parameters to local government activities, but the statute, and circulars merely inform of the exercise of statutory authority. Only 54 circulars, 10 per cent of the total, can be interpreted as having a quasi-statutory role because they interpret legislation. While appreciation of the degree to which the centre's interpretations of statutes offered through circulars actually foreclose alternative local government interpretations is difficult to gain since it requires not only an olympian legal training but also detailed knowledge of the particular intricacies of every item of legislation, the circulars which have been classified as interpreting legislation contain few obvious examples of detailed interpretation which foreclose alternatives. As is suggested in Appendix B most items falling within this category merely explain the provisions of the legislation in broad terms. This view is reinforced by the fact that none of the local government officers or councillors interviewed could mention, when asked, a circular which had offered an

interpretation which went beyond mere explication of the text of legislation. The only comment offered in this context came from a respondent in Argyll and Bute who claimed that the centre's circulars did not go far enough in interpreting a statute - causing them to be brought to court (and losing) by the Secretary of State. The quasi-statutory constraints imposed by legislation are, according to the evidence of circulars issued in this time period, primarily derived from their role of being vehicles for informing local governments of the exercise of statutory authority and not through "government by circular" itself. This is not to suggest that circulars never have quasi-statutory status through their ability to constrain local government activity through interpreting legislation, but rather that this is seldom found in contemporary circulars.

The hierarchical constraints imposed through circulars, which requires local governments to undertake certain activities without the existence of any statutory obligation to do so is covered by the categories of circular in Appendix B which request information (although this also includes a small number of circulars - such as the request for expenditure returns - which are backed up by statutory obligations), set standards, ask local governments to take action and which ask local governments to distribute publications. These form only 21 per cent of circulars. Whether these types of circular actually constrain local government activities is doubtful; the reaction of a number of respondents to such circulars was characterised by one official's comment: "when I see a circular I disagree with, I ignore it". For example, the circular concerning the guidelines for local government expenditure was discussed in one authority after the budget and the rate had been settled. Because

of a change in the way in which the guidelines were derived, the authority was less of an overspender in this financial year than in the last. The response of the local authority was that they were "pleased to note" that they were not overspending by as much this year as they were in the last year.

On the other hand, where the recipients are disposed to accept the request in the circular, the circular is likely to influence the activity of the recipient. One roads manager, for example, argued that the erection of road signs near railway property was an important question which his department had overlooked in the past and therefore acted on SDD Roads circular 411 which raised the matter. The importance of the disposition of the recipients of circulars seeking to have a hierarchical constraint is demonstrated by Midwinter's analysis of responses to SDD circular 179 on the sale of council houses; Conservative authorities were more likely to implement a voluntary (although not necessarily the scheme proposed by the government) scheme of council house sales<sup>(41)</sup>. Similarly, a study of the effects of the spending guidelines circular shows that where the circular made "unreasonable" demands in terms of high cutbacks in spending, they were less likely to be influential in the local government budgetary process<sup>(42)</sup>.

Provision of information unrelated to statutes refers to a maximum of 28 per cent of circulars - those in the categories of giving information, technical advice and stating government views in Appendix B. Again, for many of the circulars in the "giving information" category it is difficult to determine how far the information offered, such as the advice that policemen can get grants for university study or that the colour codes for the

orange badge parking scheme have been changed, or who should be contacted in the event of discovery of an unexploded bomb, constrains local governments in the sense that it limits the options which local governments may adopt in the process of decision making within the local government. The more specific advice on technical matters, such as in waste management, is limited to four per cent of circulars.

The remaining four per cent can be regarded, at least in terms of circulars as instruments of influence, wasted paper. Four per cent of the circulars are issued because of an error in a previous circular.

Most circulars inform, and it is difficult to visualise any constraining effect that could emerge from receiving them alone. 22 per cent give information such as the addresses of people to be contacted in the event of nuclear war, while 18 per cent inform local governments that an item of legislation has been passed and 15 per cent inform local governments of discretionary decisions taken by the Secretary of State including those which adjust financial arrangements (such as the rates of interest of the PWLB), a further five per cent inform local governments of the centre's views or inform local governments of impending legislation. 61 per cent of circulars can be unambiguously characterised as informing and doing little else. A further six per cent request either information or comments on government proposals. Excluding the further four per cent of circulars which are issued to remedy errors in other circulars, this

leaves a maximum of 29 per cent which can be characterised as going beyond this informational role through interpreting legislation (10 per cent), asking local governments to take action (six per cent), asking local governments to distribute material (six per cent), setting standards (four per cent) and giving technical advice (four per cent).

The degree to which those relatively few circulars which seek to constrain as opposed to those which merely function as a vehicle for announcing the existence of, or changing, statutory constraints or offering information is primarily contingent upon the resonance of the circular - the degree to which the message of the circular coincides with the disposition of the recipients. As the Planning Exchange's study<sup>(43)</sup> of planning advice to officials shows, officials will read, use and be influenced by circulars only if the circular is regarded as "useful" by the recipient. Exhortations which are consistent with the preferences of the recipients will also be incorporated into local authority practice. However, the evidence suggests that the scope for the centre setting constraining parameters to the activities of local governments through circulars is limited. Local councillors and officials know that where there is no statutory obligation to pay any attention to the circular, it can generally safely be ignored.

The degree to which circulars constrain is not only likely to vary from one circular to another, but also from one authority to another, and between one department within the local government and another. Different actors within local government have contacts



with a wider network of central and local government officials. The degree to which, for example, the centre constrains by manipulating information is dependent upon the degree to which the local actor has other sources of information such as professional contacts and professional publications. For one chief executive in a small district, the circulars issued by the Scottish Office were the main source of information about Scottish Office thinking, while another who had wider sets of contacts through COSLA and his professional association, SOLACE, stated that circulars made public what was already well known among his contacts. Similarly, a councillor who had been involved in the debate within COSLA over whether the Scottish Office should issue guidelines knew (prior to their elevation to quasi-statutory status) that they could be ignored, while another, less sure of their precise status was eager to keep to the financial guidelines for fear of the perceived possible (but non-existent) financial penalties.

## VII. Conclusions

Central government circulars are a frequent means of contact between central and local government. The examination of circulars highlights some general features about the everyday interaction between central and local government in Scotland. The most frequent contacts take place between the SHHD and the SDD on the one hand and the local authorities on the other. While a large number of circulars are concerned with manpower and financial issues relating to particular functional services, most circulars are functionally specific and illustrate the importance of the interaction between specific functional groups at the central and local level in the everyday relationship between central and local

government.

As an instrument of influence, the role of the circular is, on its own, limited. Where it offers advice or asks local governments to take action without any statutory reinforcement of such requests or where the advice is not an interpretation or notice of the existence of a statute - a pure form of "government by circular" - local governments generally feel free to ignore the circular should they choose to. Circulars appear to be negotiable, subject of course to the centre's ability to define what is negotiable and what is not. It is more likely that the preferences of local governments will be incorporated into circulars than into legislation.

However, the role of the circular as an instrument depends upon its relationship to other instruments of money and legislation. Circulars may be quasi-statutory because they interpret or announce the existence of legislation or are the vehicles for informing local governments of the exercise of discretionary powers granted the centre through statute. Or circulars might be, as in the case of the financial guidelines circulars and that requesting the insulation of local authority housing, reinforced through the provision of money in the form of grants. The negotiability of the circular also rests on the relationship of the circular to other instruments. A circular which announces the existence of a non-negotiable item of legislation is non-negotiable. In addition, concessions granted local governments in the consultations surrounding the issue of a

circular may be removed through the introduction of a statute. The case of the circular suggests more strongly than in the case of the other instruments, that instruments derive their ability to secure that local government activities are consistent with the preferences of the centre from the relationship between the instruments. The instruments do not work in isolation. The purpose of the next chapter is to explore the relationship between the instruments of influence.

## Notes and References

1. Weber, M. Wirtschaft und Gesellschaft (Tuebingen: J.C.B. Mohr, 1972), p. 126.
2. Sharkansky, I. The Routines of Politics (New York: Van Nostrand, 1970).
3. Although they are not always available - some police and civil defence circulars are not publicly available.
4. Rhodes, R.A.W. Control and Power in Central-Local Government Relations (Farnborough, Hants: Gower, 1981); Association of County Councils "Review of Government Controls over Local Authorities" (London: ACC, 1979).
5. Cross, C.A. Principles of Local Government Law (London: Sweet and Maxwell, 1974), p. 178.
6. See C. Hood and A. Dunsire Bureaumerics (Farnborough, Hants: Gower, 1981), pp. 37-52.
7. For a discussion of the research methods see Appendix A.
8. Bertram, J. Staatspolitik und Kommunalpolitik (Berlin: Kohlhammer, 1967), p. 14.
9. West Midlands Group Local Government and Central Control (London: Routledge and Kegan Paul, 1956), p. 254.
10. Department of the Environment Central Controls over Local Authorities. Cmnd 7634. (London: HMSO, 1979), p. 2.
11. See E. Page "The Measurement of Central Control" Political Studies, 28, 1980, 117-120.
12. Planning Exchange "Research for Planning. A Review of Research Carried Out by Central Government for Scottish Planning Authorities" (Glasgow: The Planning Exchange, 1978), p. 24.
13. See J. Kellas The Scottish Political System (London: Cambridge University Press, 1975), pp. 196-199.
14. See A.F. Midwinter "Selling Scotland's Council Houses - Local Responses to National Policy" Municipal Journal, 14 September 1979, 962-964.
15. See A.F. Midwinter "Local Authority Financial Planning in a Turbulent Environment" (Glasgow: University of Strathclyde Studies in Public Policy No. 46, 1979).
16. For a description of the system in England see Department of the Environment Circular 38/1978.
17. Page "The Measurement of Central Control"; Convention of Scottish Local Authorities "A Time to Listen - A Time to Speak Out" (Edinburgh: COSLA, 1982), p. 9.

18. The Scotsman, 1 September, 1979.
19. Convention of Scottish Local Authorities Minutes (hereafter cited as COSLA Minutes) June 1978, p. 181.
20. COSLA Minutes, February 1978, pp. 20-21.
21. See The Scotsman, 1 September, 1979; COSLA "A Time to Listen", p. 38.
22. COSLA Minutes, October 1977, p. 603.
23. COSLA Minutes, October 1975, p. 58.
24. COSLA Minutes, July 1976, p. 254.
25. See Lukes, S. Power. A Radical View (London: Macmillan, 1974).
26. Quoted in C.K. Allen Law and Orders (London: Steven and Sons, 1965), p. 220.
27. See, for example, Blackpool Corporation v. Locker discussed in Allen Law and Orders, pp. 216-218.
28. Committee on Ministers Powers Report. Cmnd. 4060 (London: 1932), p. 36.
29. Young, E. Developments in Planning Law in Scotland (Glasgow: The Planning Exchange, 1977).
30. COSLA Minutes, October 1976, p. 312.
31. Association of County Councils "Review of Government Controls", p. 184.
32. COSLA Minutes, October 1976, p.272.
33. Finer, H. English Local Government (London: Methuen, 1945), p. 292.
34. West Midlands Group Local Government and Central Control, p. 89.
35. Cross Principles of Local Government Law, p. 217.
36. Dykes, D.D. Scottish Local Government (Edinburgh and London: Oliphant, Anderson and Ferrier, 1907), p.160.
37. Midwinter, A.F. "Conflict and Confusion: The Politics of the Rates" (Glasgow: University of Strathclyde Department of Administration, 1981).
38. Midwinter "Selling Scotland's Council Houses".
39. Page "The Measurement of Central Control"; Page and Midwinter "Cutting Local Spending".
40. Midwinter "Selling Scotland's Council Houses".

41. Midwinter "Selling Scotland's Council Houses".
42. Page "The Measurement of Central Control".
43. The Planning Exchange "Research for Planning".

CHAPTER SIX

COMPLEMENTARITY AND SUBSTITUTION IN LAWS,  
MONEY AND CIRCULARS

## I. Laws as a Unique Resource of the Centre

Laws are a key resource of central government. Since the ability of local governments, as well as of other governmental organisations, to undertake particular activities is defined with reference to legislation, the instruments of influence are related since laws are a prerequisite for actions undertaken by local governments<sup>(1)</sup>. Laws define what local governments may and must do - the services for which they receive money and advice from the centre. Furthermore, laws (in the form, for example, of the Rate Support Grant (Scotland) Order) are required for the centre to distribute grants to local governments. In addition to this, laws are a key resource of the centre since only through laws can the centre permit or mandate the delivery of services not previously delivered, or prohibit those which were previously delivered.

Laws are not only a key resource of central government, they are also one which is unique to central government. Whatever the origins of legislative proposals, legislation can only reach the statute book once it has passed through the parliamentary process at the centre. Local governments are totally dependent upon the centre for the statutes which enable them (or mandate them) to deliver services. While local governments may pass byelaws<sup>(2)</sup> they cannot be considered as the same resource as central government's legislative function since there is no capacity (despite the doctrine of a common law right to issue byelaws<sup>(3)</sup>) for local governments to pass byelaws unless statutorily authorised to do so.



The provision of money to local governments is not a unique central government resource since at present central grants make up only 45 per cent of local income<sup>(4)</sup>, with the remaining 55 per cent coming from rates, loans, rents and charges<sup>(5)</sup>. While local governments cannot create statutes to suit their own preferences, they can raise extra income. They can and do substitute locally raised income to make up for grants which grow less rapidly than they wish them to, just as in the early 1970s grants grew faster than locally raised income and allowed lower increases in locally raised income relative to spending growth<sup>(6)</sup>. While the centre has set upper limits to the substitution of locally raised income for grant income through the 1981 Miscellaneous Provisions Act, substitution still persists. With the qualification that the centre is able to set upper limits to the degree of substitution, grant is still substitutable by local revenue<sup>(7)</sup>.

Local government is still less dependent upon central government advice. There are a variety of professional associations which offer their members similar advice as may be found in circulars - technical advice, information about and interpretations of recent and future legislation. Information gathered by central government through circulars is also gathered through professional local government bodies. For example, the Joint Manpower Watch is a joint local authority and central government body<sup>(8)</sup>, and the Chartered Institute of Public Finance and Accountancy as well as the Scottish Office collects local spending and rating information. In addition, other bodies, such as interest groups of non-local government actors, provide advice, as do research and professional staffs within an individual local authority.

Central government's legal instruments are a unique resource of the centre, and they are instruments which constrain (see chapter three). If this is the case, why does the centre use money and advice as instruments of influence? There are two broad sets of answers to this question. The first is that circulars and money are substitutes for legislation. Circulars and money, according to this argument, can be used to do "the same thing" as legislation in the sense that they discourage or encourage, or provide incentives and disincentives to, actions just as legislation mandates or prohibits - the centre uses circulars and money to seek to influence local government in the same way as legislation, albeit through a less constraining instrument of influence. The second is that laws, money and circulars are complementary. The term "complementary" means that one instrument makes the other "whole" (complementare from the Latin means precisely this). It suggests that there are some things that a circular or money does that legislation does not.

The purpose of this chapter is to examine the relationship between the instruments of influence. Section two asks the question of how far circulars can be regarded as substitutes for legislation and under what conditions they are likely to be substituted for legislation. Section three looks at the degree to which circulars can be regarded as complementary to legislation - what does advice do that laws do not? Section four asks whether money can be regarded as a substitute for or complement to legislation. Section five discusses the relationship from the opposite perspective - while circulars and money may substitute for and complement laws, laws themselves have three unique properties: they grant vires, constrain and can reinforce circulars and money so that these have a constraining effect.

## II. Why Use Laws When Circulars Will Do?

### a) The Meaning of Substitution

Will circulars do? They will not do for giving vires since vires are by definition statutorily based. So what exactly does substitution mean in this sense? It means that where the centre seeks to influence local governments within the parameters of what is permitted or mandated through legislation, it can use either laws, money or advice as instruments of influence.

The centre might have preferences concerning precisely how local governments fulfil their mandatory obligations or which vires are actually used by local governments. Substitutability refers to the proposition that the centre may use any one of its three instruments to secure that local government actions are consistent with its preferences. Given existing parameters for local government services, the centre may change the parameters within which a service is delivered through changing the law so that local governments have an obligation under law to act in a manner consistent with central preferences. For example, a set of vires (such as those permitting local governments to sell houses) may become a mandate (to sell houses). Or, a loose mandate (such as that which mandates local governments to "pay particular attention" to those in need of housing) may become a relatively tighter one ("house the homeless").

Alternatively, the centre may seek to achieve the same effect - a tightening of a mandate or the encouragement to use existing vires in a particular way - through circulars. Instead of mandating or prohibiting local governments to act in a particular way it can

encourage or discourage through circulars. For example, instead of mandating the installation of certain types of equipment in residential homes for the elderly, it may request or advise that local governments do this through a circular. A third alternative is that it may use grants to influence local government activity. However, the substitutability between grants and laws is, as chapter four discussed, limited to influence upon the total level of spending for local services. Grants are substitutable only where the question is one of whether there should be statutory parameters governing the level of total spending by local governments or whether the centre should seek to set the parameters through the grant system. Because of the limitations on the substitutability of grants for legislation, this section deals with the substitution between legislation and circulars, and the implications for the substitution between money and laws are examined in a subsequent section.

b) The Incidence of Circulars as Substitutes for Laws

How many circulars can be regarded as substitutes for laws? Since a circular cannot define additional vires a circular may only substitute for mandatory or prohibitory laws. Thus a circular is a substitute for legislation where the statutory injunction that an activity "must be undertaken" or "must not be undertaken" is substituted by a request that an activity be undertaken or avoided. This excludes circulars which merely inform, as well as those informing of the existence of legislation, since the circulars themselves do not express clear preferences capable of direct translation into statutory provisions. For example, informing police authorities of a vacancy for an instructor in the Police College or of the issue of a Statutory Instrument, could not be directly translated into the

provisions of an item of legislation which mandates. The categories of circulars which may be characterised as substitutes for legislation are those which seek to exert hierarchical influence (see chapter five) - those which seek to encourage or discourage specified actions by local governments.

According to this definition, only 21 per cent of the messages of circulars are substitutes for legal provisions since they directly encourage or discourage actions (by asking local governments to take action, to distribute leaflets, to provide information or to observe certain standards in service delivery - see Appendix B). In the remaining 79 per cent of messages in circulars, the message is not directly translatable into the provisions of a mandatory or prohibitive item of legislation.

c) Why Substitute?

The basic parameters within which local governments deliver services are defined through statute. Some further parameters are defined through less constraining circulars. Why should the centre substitute circulars for legislation?

One possible argument is that the language of legislation requires "precision", while the language of the circular does not. Streatfeild suggests that a circular is not "always susceptible to the ordinary canons of construction" since "it is expressed not in the precise language of an Act of Parliament or an Order in Council, but in the more colloquial language of correspondence"<sup>(9)</sup>. This implies that in those cases where the preferences of the centre involve "categorisation problems" - problems in defining precisely the preferences of the centre - the centre is likely to express

preferences through the "imprecise" medium of the circular, reserving those preferences which can be expressed in "precise" language for legislation. However, this argument for the use of circulars as substitutes is a weak one since, as chapter three demonstrated, "imprecision", if understood to mean that the legislation permits a wide variety of actions as consistent with the preferences expressed in the legislation, is also found in legislation. The Housing (Homeless Persons) Act 1977, for example, left key issues of the Act, such as the exact meaning of the "priority homeless" category, undefined. Neither are circulars exclusively or overwhelmingly "imprecise"; requests for information or statements of individual spending levels for individual local governments are equally as precise as some items of legislation. Quantification of the number of circulars that are written in "precise" legal terminology (or terminology as "precise" as most legislation) would require great familiarity with legal terminology across a wide variety of areas of law, as well as close scrutiny of legislation. It is, however, possible to argue that the evidence suggests that there is no reason why in principle circulars are used as substitutes for laws which mandate and prohibit only where there are categorisation problems concerning what is to be mandated and prohibited. Circulars can be as "precise" or "imprecise" as laws. As long as the centre has a preference that it can express, there is no reason why it should not be able to express it in either a law or a circular.

Second, one might argue that laws concern the wider set of parameters within which local governments deliver services - broad mandates or broad grants of vires - while circulars seek to

encourage or discourage discrete sets of activities within these broader statutory parameters. Stanyer, for example, argues:

The aspects of central-local relations discussed so far - legislation, actions in the courts, district audit, and the making of regulations - are all relatively infrequent in occurrence, though they exercise a general influence on the atmosphere of local authority decision making. The next set of central activities operate in a much more routine manner. ... Much of British government is a dialogue ... from the side of central government this dialogue is conducted through circulars, white papers, ministerial speeches, special research reports, design bulletins and the like (my emphasis)<sup>(10)</sup>.

In so far as "general" here can be understood to mean that legislation permits and mandates and that circulars seek to influence the parameters of what is mandated or permitted, then this is by definition true. Yet it does not explain why circulars are used to influence local governments in this respect. Legislation can also be used to change the parameters in a similar way, as was discussed above. Neither can "general", when understood as having a pervasive effect upon the parameters within which services are delivered, account for the use of circulars as a substitute for legislation. While relatively few circulars (at most two per cent - see chapter five) have a pervasive effect upon the services delivered by local governments, few Acts of Parliament (13 per cent - see chapter three) and probably far fewer Statutory Instruments have a pervasive effect.

Third, one might expect that different policy areas are subject to the use of circulars and laws since, using Griffith's<sup>(11)</sup> discussion of the nature of central-local relations, some departments have a promotional relationship with local authorities, others adopt a regulatory and others a laissez-faire approach. If circulars were used by promotional departments and legislation by regulatory departments, one might expect to find a negative relationship between

the percentage of messages in laws concerning a particular local policy area and the percentage of messages contained in circulars concerning the same local policy area. Table 6.1 compares the frequency of different policy areas covered in circulars and legislation. Table 6.1 shows no consistent pattern of difference which suggests that some policy areas are more likely to be covered by legislation rather than circulars or vice versa. A higher percentage of circulars (10 per centage points more) refer to finance, yet these form a large portion of both legislation and circulars and it would be misleading to suggest that influence in the field of finance is the province of circulars and not laws. Similarly, the differences in the Home Office Services of fire, police and civil defence, and public and animal health (11 and 4 per cent respectively) cannot be interpreted as suggesting that the centre does not influence through the use of circulars in this policy area since 27 per cent of the topics covered in circulars refer to these two categories. This point about the use of circulars and laws to cover the same policy areas can be summarised by the correlation coefficient between the percentages in table 6.1. There is a positive relationship, 0.66, between the percentage of total references to separate policy areas covered in legislation and in circulars showing that those policy areas which are covered more extensively in circulars (e.g. finance, Home Office services and public health) are also covered more extensively in legislation than other services (such as the major spending services of education, social work, housing and roads and transport).



Table 6.1

The Policy Area of Legislation and Circulars

<u>Policy Area</u>	<u>Legislation</u> <u>(% of total)</u>	<u>Circulars</u> <u>(% of total)</u>	<u>Percentage Point</u> <u>Difference</u>
Fire, police, civil defence	24	13	11
Finance, rates, rebates	18	28	10
Public and animal health and consumer protection	10	14	4
Roads and Transport	2	5	3
Manpower	7	8	1
Planning, land, country- side and environment	8	7	1
Social work	5	4	1
Education	5	6	1
Housing	7	7	0
Others	15	8	7
	<hr/> 101	<hr/> 100	<hr/> 39

Sources: Tables 3.4 and 5.5

c) The Costs of Legislation

A more satisfactory explanation for the substitution of circulars for laws can be approached through use, once more, of the hypothesised state of "perfect influence" discussed in chapter one. The conditions of perfect influence associated with money and advice were that local government receives all of its income through central grants and that local government actors share a common assumptive world with central government actors - they accept central preferences as their own. Chapter one argued that the absence of these conditions means that central influence is imperfect. Where central government is not the unique supplier of money and values in local government, where there are contrary assumptions held by local

actors and a willingness to raise income locally to finance the activities suggested by these values, central influence can only be achieved through legislation. Only legislation can constrain - it can make the values of local actors largely immaterial to the delivery of the service or the realisation of central preferences expressed through them.

From this, one may derive three general propositions about the use of circulars as substitutes for laws. First, where there are shared values between central and local government actors, and central preferences can be achieved through circulars (i.e. they require no additional vires), legislation is less likely than where there are no shared values between central and local actors. This proposition could explain why housing plans and financial plans<sup>(12)</sup>, for example, were instituted through circulars and not legislation. There was a widely shared agreement between central and local actors that annual allocations of expenditure were more desirable than individual project based allocations. Therefore it was not necessary to mandate local governments to submit housing and financial plans.

Second, where the centre regards its preferences as a priority it is likely to use legislation rather than circulars since there is no strong commitment within the centre to secure actions consistent with its preferences. At one extreme the argument could lead to the use of circulars as symbolic instruments - giving the appearance that government is "doing something". For example, a circular drawing attention to the plight of Scotland's travelling people asks local governments to provide for the "needs" of travelling people without incurring extra expenditure in a time of financial constraint. This may be interpreted as a means of using an

instrument in a symbolic manner. This is not to suggest that legislation is never symbolic - but rather that since "symbolic acts have real consequences" (Fritz Scharpf), and since the circular does not constrain in the way that legislation does, the consequences of symbolic acts are likely to be less far reaching. Mandatory provisions cost money, advisory provisions need not. Or, the issue of a circular might not be symbolic - central government actors may, for example, have preferred local governments to standardise practice over road edge markings, but the absence of legislation mandating such standardisation might be explained as the result of the relatively low priority of this aspect of the roads service within the Scottish Office.

Third, legislation involves costs for the centre. Legislation takes parliamentary time, parliamentary counsel<sup>(13)</sup> as well as the mobilisation of support within Parliament (where legislation is controversial). The costs are highly variable. In some cases, the demands for time, parliamentary counsel and party support are virtually nil - as in the case of Statutory Instruments. In most other cases of local government legislation the costs are alike small. Some laws are passed without extensive second reading debate and few laws in the 1970s (23 per cent)<sup>(14)</sup> were controversial since they involved party divisions on second or third reading. In other cases, however, the costs are high. The 1979 Conservative Government has found that the costs of passage of legislation aimed at reducing the budgeting discretion of local governments in England are high - in late 1981 and early 1982 the centre experienced considerable difficulty (in both Scotland and England) in securing parliamentary support for measures to set tighter statutory parameters upon rating and expenditure decisions by local authorities<sup>(15)</sup>.

It is not possible to quantify the number of circulars that were issued because a) the preferences were of low priority; b) the preferences of the centre were shared by local government actors; c) the costs of legislation would be higher than a government was prepared to make. Even to attempt such quantification would involve intensive case studies of a wide variety of circulars, Acts of Parliament and Statutory Instruments. Rather, these three factors are variables in an equation in which high agreement on values, low priority of the preferences and consequently relatively high costs of legislation would mean a higher probability that circulars will substitute for legislation, and high disagreement between central and local actors on values, high priority and low costs of legislation would mean a lower probability that circulars will substitute for legislation. While it is not possible within the confines of this thesis to test this equation, it is possible to point out how it may be examined.

First, an indicator of priority might be derived from the election commitments of a party in office at the national level (for example, this would show as a high priority the issue of the sale of council houses) or priorities which emerge, as indicated in discussion within Cabinet or possibly through parliamentary questions (such as the control of local expenditure within the 1974-79 Labour government). An analysis along these lines is likely to indicate that most circulars as well as items of legislation, on a simple head count, are non-priority preferences. With the bulk of legislation and circulars referring to narrow aspects of the delivery of a service (see chapters three and five) unlikely to feature prominently in Cabinet meetings and manifestos. Where the priority

asserted to the preference is high, however, as in the case of the Housing (Homeless Persons) Act and the Chronically Sick and Disabled Persons Act, the preferences are likely to be the subject of legislation unless the costs of legislation are excessive.

Second, an indicator of the degree to which the values of local actors are consistent with those of the centre first faces the question of which local actors? Many preferences of the centre find at least some support among actors at the local level. However, it is the influence that these actors themselves have upon the local decision making process that is crucial here. Legislation and circulars concern relatively discrete functional groups within local government - not all local actors are affected by a particular circular or item of legislation (see chapters three and five). Yet in order to produce action by local governments consistent with the preferences of the centre the values of others, outside the functional group to which the legislation primarily applies, may be crucial. A particular service department may be highly supportive of exhortations or vires to spend more money, but other departments and councillors may not. In order to derive an adequate indicator of the degree to which the preferences of the centre are shared by local actors it is necessary to ask a) whether the functional group concerned shares the preferences of the centre; b) whether other groups share the preferences of the centre; c) whether agreement of other groups are required to produce actions consistent with the preferences of the centre.

In general terms, what are the chances that local governments will act consistently with the centre's preferences? While this

is, of course, a difficult exercise, beyond the scope of this thesis, it focuses attention upon the balance of support for central preferences at the local level. Where there is sufficient support in sufficient local governments for the preferences of the centre (either because of the support by the functional group concerned and/or wider groups within local governments) then, assuming that the preference does not require an extension of vires, the centre is likely to use circulars rather than legislation. The sale of council houses issue was, for example, not only a priority of the 1979 Conservative government, it was also one which encountered widespread opposition by local governments - a circular was not sufficient to secure the preferences of the centre, rather a statutory mandate to sell council houses was created.

Third, the measure of the costs of legislation must take a variety of factors into account. Legislation is more costly when the preference raises party political opposition since it requires more legislative time and greater efforts on the part of the party in government to secure a legislative majority for its preferences. The costs are substantially raised when the preference raises opposition within the party in government - as the current controversy over local government finance in England and Scotland demonstrates<sup>(16)</sup>. However, to derive a measure of costs for instruments one would be forced to ask a counterfactual question - what would the costs of passing a particular circular (say, the spending guidelines issued under the Labour government of 1974) as legislation? Such an analysis would also require an assessment of the degree to which it is within the vires of the centre to frame

its preferences in the form of a statutory instrument which reduces the costs of legislation (see chapter three).

In relatively few, but nevertheless important, cases the centre uses circulars to substitute for legislation, by requesting or advising local governments in a manner that could, in principle, be achieved through the use of legislation. There is nothing inherent in the nature of the preference from the point of view of its "precision" or "categorisation" or the policy areas covered which helps understand why a circular is used as opposed to legislation. Rather the differential use of instruments where they are substitutable must be understood in terms of the priority given to the centre's preferences, the degree to which its preferences are shared by relevant local actors and the costs of legislation. While this cannot, in the confines of this thesis, be satisfactorily tested, it offers a framework for understanding why circulars are used when laws will do.

### III. What Do Circulars Do that Laws Do Not?

However, relatively few circulars can be regarded as substitutes for legislation. As was discussed in chapter five, most circulars inform. Circulars offer information covering topics such as the publication of reports upon the teaching of geography in schools, telephone numbers of contacts for reporting missile sightings, why EEC regulations governing chocolate and cocoa products have been delayed, and what legislation has just reached the statute book. Such an informing role of circulars is a complement to legislation since it is difficult to "translate" such an informing circular to an item of legislation. Where the centre

wishes local governments to know that such a report has been published, or such legislation has been passed or such legislation has been delayed, and issues a circular informing local governments, the nearest (hypothetical) statutory equivalent would be to mandate that "local governments are obliged to keep themselves informed of" recent reports, recent legislation and delays in legislation. There is no near equivalent to such an item of legislation in recent experience. The provision of information is not, then, substitutable by laws. What is the relationship between the provision of information and the parameters set through legislation?

In the bulk of cases the relationship between circulars which inform and the parameters which central government sets through legislation is relatively straightforward. The centre uses circulars to inform local governments of the statutory parameters within which it delivers services. A large proportion of local government circulars introduce legislation (18 per cent - see Appendix B), adjust financial arrangements (13 per cent), interpret legislation (10 per cent), tell of impending legislation (2 per cent) and use discretionary powers (2 per cent). A total of 46 per cent (aggregated before rounding to a whole number) of circulars are complementary to legislation because they inform local governments of the existence of legislation or the use of statutory powers by the centre. Since legislation does not automatically publicise itself, almost half of the messages of circulars are intended to inform local governments of the nature of the statutory parameters within which they deliver services.

However, a significant portion of circulars inform without any direct reference to items of legislation - a total of 26 per cent (those which give information and technical advice - see Appendix B). How are these complementary to legislation?



One possible answer is that they are complementary since they help shape the operational assumptions of those delivering services in a manner consistent with the preferences of the centre<sup>(17)</sup>. This is a similar argument to the "control of information effect" of circulars discussed in chapter five. Laws and circulars which can be substituted for laws offer some form of direct instruction or exhortation to local governments to act in a particular way. However, a similar, and arguably just as constraining, influence is exerted by circulars cumulatively because they shape the preferences of local government actors by continually exposing them to items of "good practice" which the centre distributes. They are complementary to legislation since they help shape the operational assumptions and techniques that are employed in delivering the services mandated or permitted by legislation.

However, as chapter five also argued, relatively few circulars can be seen to have such an effect. Only four per cent of circulars offer technical advice on matters of "good practice", such as how waste should be treated or the use of admixtures in concrete. The remainder of the informing circulars can be characterised as "directionless" - informing of what has been happening rather than informing of "good practice". Circulars which inform without reference to any defined statutory parameters (22 per cent of circulars) most often pass on information of events (e.g. the occurrence of vacancies for instructors in the police training college) or of publications (e.g. teaching geography in schools).

While this information can be characterised as "directionless" since it does not seek to encourage or discourage any particular action by the recipients of the circular this is not to suggest

that there is no bias in the information that is passed on through circulars - the centre does not pass on information such as Shelter's critical examination of the operation of the Housing (Homeless Persons) Act or the COSLA critique of central government financial policies. Rather it is to suggest that it does not seek to constrain the activities of local government actors through encouraging values and assumptions which lead to a delivery of the service according to an identifiable set of central preferences distinct from those expressed through existing statutes. The relationship of such informing circulars to statutory provisions is that they discuss possibilities for actions by local governments rather than preferences. Preferences are expressed through legislation and the circulars (and money) which may substitute for them, informational circulars indicate what is possible within these parameters without necessarily specifying a particular item of legislation ("how geography is taught in some schools"). Or they indicate what has been done within these parameters ("it has been decided that firemen who went on strike will still be eligible for good service medals").

This leaves a further seven per cent of circulars, the relationship of which to legislation cannot be adequately assessed on the basis of existing data - circulars which remedy errors, state government views and solicit comments. These are a diverse group of circulars, some of which are complementary to legislation since they inform of legislation (by remedying errors in previous circulars which introduced legislation, stating the government's intention not to legislate on the basis of the Layfield Report, solicit comments on proposed legislation), some of which may be seen as "directionless information".

Circulars are complementary in three ways to legislation. First, and most importantly, they inform local governments of statutory parameters within which services are delivered (46 per cent of the messages of circulars). Second, they give information (22 per cent) concerning the possibilities for action within the preferences of the centre without any clear indication of the centre's preferences. Third, and least importantly (4 per cent) they can be argued to seek to shape the operational assumptions upon which local government actors fulfil their mandated or permitted services.

#### IV. Where Does Money Fit?

Grants are only complementary to legislation in the sense that they provide local governments with the financial resources which allow them to buy goods and hire manpower to deliver services without the full costs for delivering mandated and permitted services being borne locally. If grant income suddenly ceased, local governments would need to raise local income by 82 per cent in order to deliver mandated and permitted services at existing levels<sup>(18)</sup>. However, as chapter four discussed, grants are not complementary to individual items of legislation through providing money for a particular set of laws since grants are predominantly general - untied to a particular service. Where explicit allowance is made in the RSG settlement for increases in expenditure through the provisions of new legislation, this is done on a one-off basis (explicit reference is made for one year only). There is no change in the distribution mechanism which ensures that the "extra grant" is actually given to those authorities which deliver the new service or whose expenditure is relatively more affected by the new legislation.

Grants as an instrument of influence can be regarded more accurately as a substitute for legislation since they express a clear preference for local government activity, similar in intent to laws which mandate and prohibit or circulars which encourage or discourage, since grants are used to provide incentives and disincentives to local government total spending growth. The use of grants as a substitute for legislation mandating minimum or maximum levels of spending growth, at least until the 1980s, can be explained in the same terms as were used to explain the use of circulars as substitutes for legislation; through examination of the priority of the preferences, the degree to which the preferences were shared by local actors and the costs of using legislation to express these preferences.

While it may be argued that it was a priority of the centre to expand the services delivered and the expenditure incurred by local governments throughout the period from the 1950s to the mid 1970s (with the exception of the first two years of the 1970 Heath government), this was not a priority which encountered any substantial opposition by officers and councillors in local government. Central government in Scotland, as elsewhere in the United Kingdom, was prepared to pay for an expansion in local services through increasing grants. In 1950 27 per cent of total receipts of local governments (including capital receipts and loans) were provided by grants<sup>(19)</sup>, in 1960 this had risen to 33 per cent. In the 1960s grants grew fast (an annual average of 9.8 per cent per annum in current money terms) yet locally raised income from loans, rates and charges (rising at an annual average rate of 10.5 per cent) grew slightly faster. By 1970 32 per cent of local income was

received from central government grants - virtually the same proportion as in the beginning of the 1960s. However, in the early portion of the 1970s the rapid growth of grant (annual average rate of 23 per cent per annum in current money terms in the period 1970/75) outstripped the growth in locally raised income (14 per cent annual average) and by 1975 42 per cent of local income was grant income.

The assumption of growth<sup>(20)</sup> permeated the structures and processes of local government decision making, and this growth assumption is one which encountered little significant opposition at the local level. With a new service, such as the social work service, local governments did not need to be mandated to spend upon social services; it was sufficient to give local governments vires to spend, and sufficient money through the grant system to ensure that the service could be built up while at the same time permitting the continuance of growth in other local services. Encouraging local governments to spend is relatively simple, since local government officers and councillors share the desire to spend more. Consequently there is no need for the centre to use legislation to secure that actions are consistent with its preferences when money will do the job.

With the onset of fiscal stringency within central government and the "passing out from the centre"<sup>(21)</sup> of cuts in real levels of grant receipt after 1975 (see chapter three) grants sought to achieve that which was not widely agreed by local government actors - a reversal of the "assumption of growth" which had permeated local government since the 1950s. The Labour government of 1974 used the grant mechanism to influence local governments to reduce

spending. Joel Barnett, the Chief Secretary to the Treasury in the 1974 Labour government, states that "we were always discussing how best to exercise control" over local government<sup>(22)</sup>, yet there is no evidence to suggest that plans to set statutory parameters to local government expenditure were even mooted within the Labour government, although Jackman<sup>(23)</sup> has argued that the rapidity with which the centre set about reforming local government grants in England reflects the fact that the new block grant was designed, in principle, under the Labour government. Why money was used instead of legislation therefore remains a question for counterfactual hypothesis. On the basis of the discussion of substitution through circulars legislation for a minority Labour government aimed at reducing public expenditure can be regarded as involving a cost which the Labour government could not pay: support within Parliament for statutory limitations on local spending.

The recent experience of the Conservative government illustrates the costs of using legislation instead of grants to limit local spending. In the Winter of 1981 the Secretary of State for Scotland as well as the Secretary of State for the Environment had to withdraw their legislative proposals. While it is still uncertain what new statutory limitations, if any, the centre is to put upon spending, the experience of the Conservative government of 1979 illustrates two points; first that legislation can be substituted for grants and, second, that it is costly to use legislation. The strategy that the Secretary of State for Scotland has pursued<sup>(24)</sup> is to use laws to reinforce the preferences expressed through circulars and grants rather than to substitute statutory parameters for those set by money and circulars. This is examined in more detail below.

V. What Do Laws Do that Money and Circulars Do Not?

Two of the unique properties of legislation have already been discussed. First, laws are a unique and necessary prerequisite to define the vires of local governments. If the centre has preferences which imply activity outwith existing statutory vires, it can only use its legislative instruments to influence local governments. Second, laws constrain in the sense that there is a high probability that local governments will act within the parameters set by statute: as Ted Knight<sup>(25)</sup> argued "while the laws are there, councillors have to abide by them".

The third unique property of laws derives from the second. Laws interact with the instruments of money and circulars to make money and circulars constrain. This results from two uses of statute in conjunction with money and/or advice. First, a statute may give a circular or grant settlement statutory status in its effect. The statutory parameters within which local governments deliver services allow local governments no alternative to acting in a manner consistent with the preferences of the centre as expressed through circulars or the grant settlement. For example, the 1981 Miscellaneous Provisions Act allows the Secretary of State for Scotland to reduce grants to local governments in the middle of the financial year, (previously he could do so only after the end of the financial year)<sup>(26)</sup>. This means, in effect, that where local governments have their grants reduced, they are mandated to cut spending by at least an equal amount since local governments do not have the vires to levy supplementary rates or borrow to meet the shortfall without the consent of the Secretary of State. Furthermore, the Miscellaneous Provisions Act gives the expenditure guide-

lines issued to each individual local authority a statutory status since it is on the basis of these guidelines that "excessive and unreasonable" expenditure is defined and grants to local governments reduced.

Second, the threatened use of legislation to reinforce or replace encouragement or discouragement, incentives or disincentives may also reinforce the constraining effect of circulars or money. In England and Wales, for example, the perception that circular 10/65 on comprehensive school reorganisation was reinforced through the threatened use of legal sanctions has been cited as one reason for the acceptance of comprehensivisation by those who originally opposed it<sup>(27)</sup>. The threatened use of the grant reduction powers in the Miscellaneous Provisions Act may also explain the main intention behind the legislation - its constraining effect on local spending decisions is not primarily in those cases where the legislation is applied (where grant is actually reduced) but in the constraining effect of the anticipated reactions of the centre to local governments spending above the circular guidelines of central government perceived by local actors. A similar use of statutory measures to reinforce non-statutorily defined preferences can also be found in the centre's reduction of capital allocations to districts as a penalty for low rent increases<sup>(28)</sup>.

The existing data does not permit an answer to the question of how often circulars and money are reinforced in this manner by legislation. To answer this question requires an examination of the legal consequences of acting against the preferences of the centre as expressed through circulars or grants. In the case of the Miscellaneous Provisions legislation, the answer is relatively easy. Legislation reinforces circulars since local governments



can be legally penalised by having grant reduced. If they do not reduce spending as a consequence, councillors are liable to surcharge and disbarment from office.

## VI. Conclusions

At a minimum, the three instruments of influence are related since vires are a prerequisite for local government actions. Beyond this minimum it is possible to identify two types of relationship between laws and the other two instruments - a relationship of substitution and a relationship of complementarity. Circulars may be characterised as substitutes for legislation approximately one fifth of the time. They seek to encourage or discourage without any statutory authorisation to do so, although such encouragement and discouragement could, in principle, be "translated" into statutory mandates or prohibitions. The use of the grant instrument can be characterised as a substitute for legislation limiting local government rating and spending since it is, again in principle, possible to set statutory limitations to levels of spending - as experience in some American states has shown (29).

Money and circulars appear to substitute for legislation when the costs of legislation are high, the preferences of the centre have a low priority and the agreement between central and local preferences means that actions of local governments are likely to be consistent with the preferences of the centre without legislation. The costs of legislation in the area of limiting local spending and taxing have been shown to be high for the 1979 Conservative government which has had to withdraw its legislative proposals for a rates referendum in the face of Conservative backbench opposition.

Circulars complement legislation in two main ways. Most importantly they inform local governments of the statutory parameters within which services are delivered. Second, they provide local governments with a working knowledge of the possibilities open in the fulfilment of mandated or permitted services. Most of this information can be characterised as "directionless" since under four per cent of the messages of circulars seek to provide local governments with a clear indication of desired practices. Money is only complementary to legislation at a high level of abstraction - money is given to finance the whole range of mandated and prohibited services. Since the consolidation of the grant system, grants (with few exceptions such as rent and rate rebate grants) have not been used as complements - that is to say methods of financing - any one particular law or discrete set of laws relating to a specific service.

Legislation has three unique functions. It can define vires, constrain and can make other instruments constrain. This offers the centre a range of possibilities when it seeks to secure actions by local governments consistent with its preferences. What it cannot get through circulars it can, assuming that it gives this preference priority and can meet the costs of legislation, get through legislation or the introduction of legislation which either itself constrains or makes circulars or money constrain.

## Notes and References

1. For a discussion of laws as a resource see R. Rose "Disaggregating Government: Pre-Conditions for Understanding Growth" (Glasgow: University of Strathclyde Studies in Public Policy No. 86, 1981).
2. See C.A. Cross Principles of Local Government Law (London: Sweet and Maxwell, 1974).
3. Schofield, A.N. Byelaws of Local Authorities (London: Butterworth, 1939).
4. Where local government income is defined as total income for all accounts (capital and current) and grants are defined as all grants for all accounts (capital and current). For a discussion of the problems of defining the dependence of local government on central grants see A. Crispin "Local Government Finance: Assessing the Central Government's Contribution", Public Administration, 54, 1976, 45-61.
5. For a discussion of the variability of income terms in the 1970s see R. Rose and E. Page "Chronic Instability in Fiscal Systems. Tracing the Path of a Random Walk" in R. Rose and E. Page (eds.) Fiscal Stress in Cities (London: Cambridge University Press, forthcoming 1982).
6. Figures derived from C.D. Foster, R. Jackman and M. Perlman Local Government Finance in a Unitary State (London: Allen and Unwin, 1980), pp. 143-151. See also E. Page and A.F. Midwinter "Remote Bureaucracy or Administrative Efficiency: Scotland's New Local Government System" (Glasgow: University of Strathclyde Studies in Public Policy No. 38, 1979).
7. For a discussion of substitution see R. Greenwood "Fiscal Pressure and Local Government in England and Wales" in C. Hood and M. Wright (eds.) Big Government in Hard Times (Oxford: Martin Robertson, 1981).
8. See R.A.W. Rhodes, R. Hardy and K. Pudney "Public Interest Groups in Central-Local Relations in England and Wales", Public Administration Bulletin, 36, 1981, 17-36.
9. Quoted in E.K. Allen Law and Orders (London: Steven and Sons, 1965), p. 192.
10. Stanyer, J. Understanding Local Government (Glasgow: Fontana, 1976), p. 221.
11. Griffith, J.A.G. Central Departments and Local Authorities (London: Allen and Unwin, 1966).
12. See A. Midwinter "Local Authority Financial Planning in a Turbulent Environment" (Glasgow: University of Strathclyde Studies in Public Policy No. 46, 1979).
13. See Committee Appointed by the Lord President of the Council The Preparation of Legislation. Cmnd. 6053 (London: HMSO, 1975).

14. Rose, R. Do Parties Make a Difference? (Chatham, New Jersey: Chatham House, 1980), p.70.
15. See G.W. Jones, J.D. Stewart and R. Greenwood "Making Government More Local", New Society, 25 February 1982, 304-306.
16. See Convention of Scottish Local Authorities "A Time to Listen - A Time to Speak Out" (Edinburgh: COSLA, 1982).
17. See Stanyer Understanding Local Government, p. 222.
18. On the assumption of 45 per cent of local income being derived from grants - see note 4.
19. Figures derived from Foster et. al. Local Government Finance in a Unitary State, pp. 143-151.
20. Stewart, J.D. "From Growth to Standstill" in M. Wright (ed.) Public Spending Decisions (London: George Allen and Unwin, 1980).
21. Wright, M. "Pressures in Whitehall" in R. Rose and E. Page (eds.) Fiscal Stress in Cities (London: Cambridge University Press, forthcoming 1982).
22. Barnett, J. Inside the Treasury (London: Andre Deutsch, 1982), p. 76.
23. Jackman, R. "The Block Grant in England" in J.F. Malcolm (ed.) "Public Expenditure and the Rate Support Grant" (Glasgow: Centre for Urban and Regional Research Discussion Paper No. 2, 1981).
24. See Convention of Scottish Local Authorities "A Time to Listen".
25. Quoted in Labour Weekly, 19 February, 1982.
26. See D.A. Heald "Public Expenditure Cuts and RSG: What Are the Issues?" in J.F. Malcolm (ed.) "Public Expenditure and the Rate Support Grant" (Glasgow: Centre for Urban and Regional Research Discussion Paper No. 2, 1981).
27. The legal sanctions included the refusal to approve capital borrowing for building schools in authorities without comprehensive education schemes as well as, ultimately, the threat of legislation see R. Buxton Local Government (Harmondsworth: Penguin, 1973) pp. 202-225; P.W. Jackson Local Government (London: Butterworths, 1976), p. 196.
28. The Scotsman, 7 April, 1982.
29. Advisory Commission on Intergovernmental Relations State Limitations on Local Taxes and Expenditures. A-64 (Washington DC: ACIR, 1977).

CHAPTER SEVEN

THE MEANING OF LOCAL DISCRETION

## I. Discretion and Parameters

### a) Parameters upon What?

The centre's instruments of influence are related since collectively they constitute the parameters set by the centre upon services delivered by local governments. On its own, an instrument may prohibit, permit, mandate, encourage, discourage or provide incentives or disincentives to certain kinds of activity. Yet the implications of the instrument for the nature of the services delivered by local governments is dependent upon the conjoint effect of a plurality of instruments. A particularly clear illustration of the conjoint effect of a plurality of instruments is found in the parameters within which local governments make total spending decisions. The 1981 Local Government (Miscellaneous Provisions) (Scotland) Act allows the Secretary of State to reduce the grant for local governments in the middle of the financial year where he feels that spending is "excessive and unreasonable" - with "excessive and unreasonable" being defined primarily through circular<sup>(1)</sup>. The ability to reduce grants becomes a de facto reduction of the budget since the 1947 Local Government (Scotland) Act permits local governments to fix rates only once in the financial year. Laws, grants and circulars are used conjointly to secure the centre's preferences for relatively low increases in expenditure. It may also be argued that the perceived consequences of actions inconsistent with these preferences influence local government decisions - in this case the anticipated loss of grant that would result from high spending growth - and thus have a conjoint effect even where the legal or financial sanctions are not applied.

How much discretion do local governments have, within the parameters set by the centre's instruments? Discretion refers to the ability to make decisions within parameters. As Dworkin argues, it is "like the hole in a doughnut"<sup>(2)</sup> referring to the conceptualisation of discretion as an "area left open by a belt of restriction". Discretion is a variable - all activities within local government involve the exercise of discretion to some degree. Discretion cannot be simply described as something which is present or absent. For example, while local governments are mandated to sell council houses on demand at discounted prices, there exists some discretion over the timing of the sale or the measures that may be taken to discourage potential buyers<sup>(3)</sup>. Discretion refers to the ability to undertake a wide range of activities within parameters, and the wider the range of the activities that can be undertaken within these parameters, the greater the degree of discretion. Where parameters are loose, allowing a wide range of activities to be undertaken within them, discretion is relatively small, and where parameters are tight, discretion is relatively large.

Discretion may be relatively small or large, but in what types of activity is discretion exercised? In the context of local government one can discuss the discretion of local actors in a plethora of contexts. There is the discretion to levy rates, to house a particular person in a particular house, to exclude a child from a class in a school, and the discretion of an environmental health officer to inspect a manhole cover. The discussion of discretion potentially leads to a reductio ad absurdum discussion of the discretion, for example, of a bus conductor in a municipal

transport undertaking to allow a folding push-chair to be stored in a baggage rack. To accept that one may talk of discretion in many contexts is not, however, to accept that any extensive discussion of discretion in local government service delivery can only be conducted on the level of case studies which select "interesting cases" of discretion from a potential multitude of "interesting cases" on an ad hoc basis by virtue of their interest to the researcher concerned.

This chapter is concerned with establishing the role played by the centre's instruments of influence in shaping the services delivered by local governments and the discretion that local actors have in service delivery. The nature of the services delivered at the "sharp end" by those delivering goods or services direct to the consumer, is the result of a variety of antecedent events which may be characterised as stages in the policy process. Hill uses the term "policy implementation chain" to convey the argument that discretion is exercised at different stages in the policy process:

... what the public get is greatly determined by discretionary powers exercised at various points in the policy-implementation chain ...<sup>(4)</sup>

The case of concessionary fares offers an illustration of the impact of discretion exercised at different stages in the policy process upon the actual service delivered. The decision to introduce a concessionary fares scheme is optional, and whether a particular person receives concessionary fares depends on whether the local authority decides to make use of its vires in this area. Once the decision has been made to introduce concessionary fares, the local authority has discretion (bounded by statutory definitions of eligible recipients) to decide which groups of people are recipients.



Similarly, the level of concessions is the subject of discretion exercised by the local authority, with no statutory limits governing whether the concession is closer to 0 per cent or to 100 per cent of fares. These three exercises of discretion significantly shape the nature of the service - who, if anyone, gets how much of it.

For any one service the centre sets a whole variety of different parameters at different stages in the policy process. In the case of concessionary fares the centre allows the exercise of discretion by local actors over whether, to whom, and how much concessionary fares are granted. In order to examine and compare the nature of discretion in different services delivered by local governments it is necessary to have a conceptual framework of the stages in the policy process which can be applied to different services. What are the stages in the policy process that shape the nature of services delivered by local governments?

Conceptual treatments of the stages in the policy process offer varying numbers (where they do not offer a "seamless web" continuum<sup>(5)</sup>) of stages in the policy process from Wolman's two - "the formulating process" and the "carrying out process"<sup>(6)</sup> - to Dror's 18 phase model of the policy process<sup>(7)</sup>. The categorisations of "models" of or "stages" in the policy process on offer have two interrelated shortcomings. First, they are usually designed to aid the development of the particular argument by the particular author concerned - Wolman's distinctions are the basis of a perceptive analysis of the general conditions of programme success or failure while Dror's stages are part of a prescriptive model. While these may be valuable in developing a particular set of arguments, when one tries to apply such characterisations of the policy process to local government

activities there emerge problems of categorisation. For example, using Dror's set of phases it is unclear whether, say, the school leaving age constitutes parameters set by the centre upon the "policy making" or "executing policy" phase.

In order to overcome the problems of selecting and operationalising an abstract model of the stages in the policy process, in this chapter a set of stages which can be applied to local government services is constructed. Local government services involve the delivery of material goods (including money) and/or the services of individuals to a client or set of clients. Within local governments as well as between local governments there is diversity in terms of the services delivered to clients<sup>(8)</sup>. It is suggested that there are five stages in the policy process of local government service delivery which have a substantial effect upon the nature of the services delivered. First, choice of whether a service is delivered; second, definition of the clientele; third, determination of the level of money resources to be devoted to the service; fourth, specification of the nature of the goods to be delivered; and fifth, the specification of the behaviour of the service deliverers.

The choice of whether a service should be delivered, by definition, affects the nature of the service delivered - a negative choice means simply that the service does not exist. The centre may set parameters upon this stage of the policy process by a) mandating a service, or b) permitting a service<sup>(9)</sup>.

The definition of the clientele shapes the nature of the services delivered since services are defined as the delivery of material

302

goods and/or the services of individuals to clients. The centre may set parameters by itself defining the clientele for services (e.g. the school age or those eligible for concessionary fares in the 1968 Transport Act).

The determination of the level of money resources devoted to a particular service affects the quantity of goods or service deliverers that can be paid for. There are few laws which specify actual money amounts that must be spent on a service, rather specification of resources is made indirectly. Parameters governing factors such as staffing levels, wage rates and eligible clients conjointly set parameters to the level of money resources to be devoted to a service. For example, in education, discretion upon the level of financial resources devoted to teachers' salaries (the largest single item in the education budget) is bounded by the conjoint effect of the mandatory provision of education for five to sixteen year olds, the statutory and non-statutory (see below) norms for pupil-teacher ratios and national wage rates. Where parameters are set which affect how many people are employed and how much they are paid, parameters are also set which affect the level of resources devoted to a service.

The definition of levels of resources does not necessarily constrain the discretion that may be exercised in the specification of the precise goods that have to be delivered to the public. A level of capital expenditure may be constrained by central government approval, for example, but this does not necessarily define the type of good which this money is spent upon. For example, Strathclyde Region's capital expenditure allocation for education may be constrained, but Strathclyde may use the money to build large

comprehensive schools in cities or small schools serving rural communities. Similarly, while capital allocations for housing may limit the types of design for housing schemes, within the financial constraints a wide variety of house designs are possible.

The behaviour of service deliverers also crucially shapes the nature of the service received. How a police officer, teacher, or social worker behaves towards clients affects the nature of the service delivered since the exercise of discretion at this stage (whom to arrest or interview, how to teach, how to counsel) affects what benefits are derived from the service by whom. Hill, for example, emphasises this point in his discussion of the meals on wheels service when he argues that:

the really significant determinants of what we may still call "policy" are in many areas the personal preferences of staff or volunteers who deliver meals<sup>(10)</sup>

b) Tight and Loose Parameters

The role of the centre in limiting the discretion of local government actors depends upon the degree to which it can and does set tight or loose parameters. Where parameters are very tight, local governments have no discretion. What are very tight parameters and how can this term be operationalised? Very tight parameters exist where a narrowly defined activity is mandated upon local governments - where local actors have no choice but to act in the manner narrowly defined through the parameters set by the centre. With very tight parameters the activity is specified, the specifications leave little room for alternative actions and are mandatory. Conversely, very loose parameters exist where the activity is vaguely indicated, where specifications leave much room for alternative actions and are non-mandatory.

This definition produces three variables which may be used to define operationally how tight the centre's parameters are; whether the parameters are specific or vague; whether they mandate or permit, and whether they refer to a broad or narrow range of actions. These three variables give a possible eight sets of parameters (see table 7.1). Two of the possible types of parameters (cells 2 and 4) are impossible combinations. It is not possible to have a set of parameters which are vague yet define a narrow range of activities - vague parameters are, by definition, wide although the converse (specific parameters are narrow) is not necessarily the case.

Table 7.1

Loose and Tight Parameters: A Typology

		<u>Wide Range of Actions</u>	<u>Narrow Range of Actions</u>
<u>Vague</u>	<u>Permissive</u>	1. Very Loose	2. N.A.
	<u>Mandatory</u>	3. Loose	4. N.A.
<u>Specific</u>	<u>Permissive</u>	5. Loose	6. Tight
	<u>Mandatory</u>	7. Tight	8. Very Tight

This leaves us with six types of parameters. At the one extreme, where the three "tightness" conditions are met (cell 8) we may say that the parameters within which local governments deliver services are very tight. An example of this would be the parameters set by the centre governing the mandatory sale of council houses at a discounted price. At the other extreme, where none of the "tightness" conditions are met (cell 1), the parameters are very loose. One example of this would be found in the Social Work

(Scotland) Act 1968 with its broad grant of vires to local governments to "promote social welfare in its area".

The remaining types of parameter have either 1 tightness criterion (cells 3 and 5) or 2 tightness criteria (6 and 7). Those parameters with only one tightness criterion can be termed as loose parameters. The parameters may be mandatory but non-specific and allow local governments to undertake a wide variety of activities and remain within the centre's parameters (cell 3). This would, for example, include the vague mandate upon local governments to deliver "adequate library services". Or (cell 5) the parameters may define specifically what activities are permitted within parameters, but allow local government actors to choose among a wide range of activities as, for example, in the case of the range of vires available to an environmental health officer.

Those parameters which have two of the tightness criteria may be termed tight. Where the activity is permitted, but if undertaken must be undertaken within a narrow range of activities (cell 6) the parameters are tight as, for example, in the case of lotteries. If local governments wish to run lotteries, then they are subject to specific definitions of the narrow range of activities that can be undertaken in running lotteries (maximum prize levels, maximum income and use of the funds raised through lotteries). Similarly, a use of parameters may be termed tight where local government is mandated some specific obligations, yet these obligations permit a variety of activities (cell 7). This would be the case, for example, in minimum standards for school design. Local governments must design schools according to minimum

levels of classroom space for numbers of pupils, yet they may design schools at above these minimum levels.

This, then, offers four degrees of tightness/looseness of parameters. Parameters may be very loose, loose, tight or very tight. It also offers some recognition rules which can be used in an empirical examination of the parameters within which local governments deliver services. Very loose parameters are vague and permissive grants of broad sets of vires. Very tight parameters define one particular activity which local governments must undertake. Loose parameters are those which give a vague mandate or give local governments a wide range of specific vires. Tight parameters are those which mandate a broad set of activities, with these activities being the subject of specification through instruments of influence which nevertheless allow local governments to undertake a variety of activities within these parameters (typically maximum or minimum standards) or which give local governments a narrow range of specific vires.

c) The Big Five Services

Local governments deliver a plurality of services, and an examination of the parameters within which they deliver them must be selective if it is not to provide an exceptionally lengthy list of statutory, advisory and financial limitations upon the activities of local governments. In this chapter the analysis focuses upon the "big five" services delivered by Scottish local governments: housing, education, social services, police and roads.

The five "big services" are termed "big" because of the demand which they place upon the local government resources of finance and

manpower. Table 7.2 breaks down the current and capital expenditure of local authorities as well as the number of employees by these five services and compares this with the resources devoted to other services. From table 7.2 it can be seen that these five services account for 72 per cent of total current expenditure, 71 per cent of total capital expenditure and 64 per cent of local manpower. In examining the parameters set by the centre in the delivery of these services one is examining the role of the centre in setting parameters for the services which occupy relatively large portions of total local government resources. Two of the five services are significantly less manpower intensive than the others as indicated by the manpower/expenditure ratio (table 7.2). In housing and roads there are relatively few employees per £ million expenditure (4.2 and 54.4 respectively), while the ratios for education (120.2), social work (169.7) and police (105.7) show that there are between double and forty times the number of employees per £ million expenditure.

Table 7.2

Financial and Manpower\* Resources in  
the Big Five Services (1978/79)

<u>Service</u>	<u>Current Spending</u>		<u>Capital Spending</u>		<u>Manpower*</u>		<u>Manpower/Expenditure Ratio (employees per £m expenditure)</u>
	<u>£m</u>	<u>%</u>	<u>£m</u>	<u>%</u>	<u>1000's</u>	<u>%</u>	
Education	830	34	60	11	107	42	120.2
Housing	467	19	242	46	3	1	4.2
Roads	183	7	56	11	13	5	54.4
Social Work	156	6	9	2	28	11	169.7
Police	117	5	6	1	13	5	105.7
Other Services	691	28	154	29	93	36	110.1
Total all Services	2444	99**	527	99**	257	100	NA
Total Big 5 Services	1753	72	373	71	164	64	NA

\* Manpower (full time equivalent) June 1979.

\*\* Figures do not add up to 100 due to rounding.

Source: Scottish Abstract of Statistics 10 (Edinburgh: HMSO, 1981).



## II. Local Government Discretion at Stages in the Policy Process

### a) Parameters over Whether a Service is Delivered

There is only one dimension to the parameters set at this stage in the policy process. A service is either mandated or permitted. Of the five major services of police, education, social work, roads and housing four are mandated (see table 7.3). Section 146 of the 1973 Local Government (Scotland) Act contains one of the many mandates upon local governments to deliver police services - "a police force shall be established for every region and islands area". The same Act (schedule 14) mandates the delivery of a roads service: "In the region or islands areas the maintenance and management of the high-ways and bridges shall be vested in and incumbent upon the local high-way authority". The 1945 Education (Scotland) Act mandates the provision of schools upon local governments. The social work service is mandated through the 1968 Social Work (Scotland) Act - section one states that "It shall be the duty of a local authority to enforce and execute within their area the provisions of this act with respect to which the duty is not expressly or by necessary implication imposed upon some other authority".

Table 7.3

<u>Central Government Parameters upon Whether a Service Should Be Delivered</u>		
<u>Service</u>	<u>Nature of Parameter</u>	<u>Examples</u>
Education	Very Tight	Service mandated in, for example, Education (Scotland) Act 1945.
Social Work	Very Tight	Service mandated in, for example, Social Work (Scotland) Act 1968.
Roads	Very Tight	Service mandated in, for example, Local Government (Scotland) Act 1973.
Police	Very Tight	Service mandated in, for example, Local Government (Scotland) Act 1973.
Housing	Loose	Although the 1977 Housing (Homeless Persons) Act and the 1966 Housing (Scotland) Act, for example, mandate some housing responsibilities, the legislation for housing is largely permissive - see, for example, the 1966 Housing (Scotland) Act.

Whether the delivery of housing can be characterised as purely permissive is possibly questionable. Local governments, according to section 137 of the 1966 Housing (Scotland) Act, have a duty "to consider the housing conditions in their district and the needs of the district with respect to the provision of further living accommodation". In addition, they are mandated to deliver certain housing services - for example the Housing (Homeless Persons) Act mandates them to house certain kinds of people (although the group is not well defined this does not matter here) and the 1978 Housing (Financial Provisions) (Scotland) Act (section 9) mandates improvement grants. However, housing has been here classified as permitted rather than mandated since the major activity - acquiring and renting houses - is one that is defined in terms of powers rather than duties. While section 137 of the 1966 Housing (Scotland) Act defines a duty for local authorities to assess the need for housing in their area, subsequent sections are predicated upon the introductory phrase that local authorities "may provide housing accommodation" and they list how houses may be acquired. The parameters for housing at this stage in the process have been termed loose.

For four of the five services, local governments have no discretion over whether they provide the service - the services are mandated. However, to mandate a service is not to define what the service actually consists of. What is the nature of the parameters at subsequent stages in the process of service delivery?

b) The Definition of Clientele

In some services, such as fire services, a citizen can expect to receive a service irrespective of where he or she lives within

Scotland or, more generally, Britain, and irrespective of which particular employee delivers that service. One may expect that an emergency telephone call to the fire brigade will in all probability be met by the dispatch of a fire engine plus crew. In other services the benefits are not delivered on demand. Chapter three discussed how the Housing (Homeless Persons) Act 1977 is variably interpreted by Scottish local authorities. In Clackmannan an applicant for accommodation under the Act stands a 71 per cent chance of being given permanent accommodation while permanent accommodation is given to only 9 per cent in Midlothian. The clientele served by a local government does not only vary between authorities but also within authorities. In social work, for example, the individual social worker has the ability to determine his or her case load, and committal to care by the local authority depends upon the exercise by the social worker of discretion over when to use the variety of vires given the social worker by legislation such as the 1968 Social Work (Scotland) Act and the 1975 Children Act.

How far is the clientele of services delivered by local governments defined through parameters set by the centre? There are three main ways in which the centre sets parameters to the clientele of local government services. First, it can state that there is open access to a service, with the clientele universally defined as those within the boundaries of the local authority area. For example, the Fire Services Act 1947 specifies that fire authorities must have "arrangements for dealing with calls for the assistance of fire brigades" and the 1887 Libraries (Scotland) Consolidation Act mandates open access to library services. These parameters may be

termed tight since they are mandatory and specific but refer to a wide range of potential clients.

Second, the centre can define categories of eligible clients through tight or loose parameters. The tightest of definitions of clientele are those which give statutory entitlements to defined groups of recipients, as in the 1972 Housing (Financial Provisions) (Scotland) Act setting out those eligible to receive rent rebates or the mandatory provision of education to those of school age. Much looser definitions are found in the case of concessionary fares where the 1968 Transport Act sets out groups of people who may receive concessions.

Finally, the centre can allow local governments to define categories of eligible clients. As will be argued below, local governments exercise some discretion in defining their clientele even where the centre defines the clientele through mandating open access or through defining categories of eligible clients. However, in some services local government is given the discretion to derive its own criteria for defining the clientele. In selecting tenants for council houses, for example, local governments are permitted to derive their own criteria for defining who is to become a local authority tenant. The 1966 Housing (Scotland) Act merely states that "the local authority shall secure that in the selection of their tenants a reasonable preference is given to persons who are occupying insanitary houses or overcrowded houses, have large families or are living under unsatisfactory housing conditions".

For any one particular service there are a variety of types of parameters set by the centre which define clientele since there

are different types of clientele for any one service. There are clients for social work counselling and clients for facilities for the disabled run by social work departments, yet local government actors are largely permitted to derive their own definitions of eligible clients.

How are the parameters for the specification of clientele set by the centre in the case of the five major services? In only one service, education, can the parameters be termed very tight. In education services there is a narrow specification of eligible recipients through the specification of the school leaving age with permissive parameters for post school age pupils. While there is greater discretion for local governments to choose eligible clients for further and adult education, this forms only a small portion of the total budget for education (7 per cent). The school service for school age children, which forms the bulk total spending, leaves no discretion for local governments to define clientele.

In two of the five major services the clientele is defined universally. The Police (Scotland) Act 1967 (section 17) defines the role of the police officer in terms of collective goods enjoyed by all citizens of a police authority such as "preventing the commission of offences" and "preserving order". In roads services local governments are, in the 1973 Local Government (Scotland) Act mandated to provide "adequate roads for their area".

The definition of clientele for local authority housing is bounded by only loose parameters - local governments have a vague mandate to give "reasonable preference" to certain kinds of citizen, and as was discussed in chapter three, the Housing (Homeless Persons)

Act fails to specify precisely the type of people who must be housed under it<sup>(11)</sup>.

The easy service to evaluate from the perspective of the definition of clientele is the social work service. For the counselling service of local social work departments there is no specification of eligible clients. The 1968 Social Work (Scotland) Act indeed allows (section 94(1)) the Secretary of State to specify by Order those who must receive social work counselling services, but as of April 1982 no such order has yet been issued. From this perspective the parameters are very loose. Similarly, the parameters which define the clients for local authority child care facilities are loose. The 1968 Act specifies (section 32) a variety of conditions under which children may be taken into care among which is the provision that social work departments may take children into care if failure to do so "will cause unnecessary suffering". Martin, Fox and Murray<sup>(12)</sup> discuss the looseness of the parameters governing the definition of the clientele for the childrens panels - with substantial discretion given to the reporter to the panel. In some parts of the social work service the parameters may be termed tight. The 1968 Social Work (Scotland) Act defines "persons in need" who are entitled to receive home help services, including the mentally handicapped and mothers lying in. The Chronically Sick and Disabled Persons Act 1970 specifies that local authorities deliver special housing to the chronically sick. However, these are more accurately termed loose since they constitute a vague mandate qualified by clauses which allow local governments to define the clientele for their services. For example, mandates in the Chronically Sick and Disabled Persons Act are often qualified by "in so

far as it is in the circumstances both practicable and reasonable for the needs of disabled persons".

In social work and housing, the parameters within which local governments define clients for their services are loose - these are summarised in table 7.4. Local governments have three major sources of discretion in these services. In services where clientele is defined universally they can exercise discretion over the location of a service or a service deliverer. Just as, for example, in library services a resident of Skye and Localsh is unlikely to use an Inverness library, so too does the location of a police station or a road define, to some degree, the clientele for these services. In housing and social work, where the parameters are loose, local government actors are given discretion to interpret the provisions of central parameters, such as "homelessness" or "need", and to define eligible recipients - they are permitted to derive their own definition of relevant clientele within loose parameters set by the centre.

Table 7.4

<u>Central Government Parameters on the Definition of Clientele</u>		
<u>Service</u>	<u>Nature of Parameters</u>	<u>Examples</u>
Education	Very Tight	Education (Scotland) Act 1962 defines school age. Permissive parameters for post school age education.
Social Work	Loose	Local government given a variety of <u>vires</u> in 1968 Social Work (Scotland) Act.
Housing	Loose	Housing (Scotland) Act 1966 gives vague mandate that "reasonable preference" given to certain groups.
Roads	Tight (Universally)	Open access to roads services in Local Government (Scotland) Act 1973.
Police	Tight (Universally)	Open access to police services through Police (Scotland) Act 1967 for example.

c) Discretion over Money Resources Devoted to a Service

The centre may set parameters upon the level of resources devoted to any one particular service through two broad means. First it may directly set parameters concerning the level of financial resources - specifying that spending on any one particular service should, for example, not exceed a defined cash amount. Second, it may specify levels of service in non-financial terms - e.g. how many service deliverers per client must be employed - and since these have financial consequences the centre indirectly sets parameters concerning the level of resources devoted to a service.

For capital spending the parameters set by the centre are tight. Section 94 of the Local Government (Scotland) Act 1973 permits the centre to define maximum amounts of expenditure which may be devoted to capital projects within any one year. Despite the (relatively minor) ambiguity concerning the definition of capital expenses discussed in chapter five, and despite the ability of local governments to transfer, within specified margins, capital expenditure approved for one set of services to another and capital expenditure approved for one year to the next, the existence of an upper limit suggests that the parameters for capital spending for the five major services are tight.

Table 7.5

<u>Service</u>	<u>Capital Related Expenditure as a Proportion of</u>			<u>Capital Plus Debt</u>
	<u>Total Expenditure 1981-82</u>			
	<u>Total Expenditure</u>	<u>Capital</u>	<u>Debt</u>	<u>Capital Plus Debt</u>
	<u>(Capital + Current</u>	<u>Expenditure</u>	<u>Charges</u>	<u>Charges as % of Total</u>
	<u>inc. Debt Charges)</u>	<u>£m</u>	<u>£m</u>	<u>%</u>
Roads	233	101	76	76
Housing	864	230	407	60
Education	1,100	55	125	16
Social Work	235	13	13	11
Police	194	5	8	7

Source: Chartered Institute of Public Finance and Accountancy  
Rating Review 1981 (Glasgow: CIPFA, 1981).



This means that in roads and housing, where capital expenditure plus debt charges make up 60 per cent and 76 per cent of total (capital plus current expenditure) expenditure respectively, more of the resources devoted to the service are subject to the centre's tight parameters, whereas in the services of education, social work and police a far lower proportion, 16 per cent, 11 per cent and 7 per cent respectively, the tight parameters of capital expenditure approval have less important implications for the total level of resources devoted to these services (see table 7.5).

As chapter four discussed, the centre does not use its instrument of grant finance to set parameters to spending in individual services, with the possible exception of the police service, yet the centre can set parameters to the level of non-capital expenditure through less direct means. The centre may set parameters over the levels of resources to be devoted to a service by setting parameters to the number of employees required to deliver the service. In education the centre sets tight parameters through setting "norms" for pupil-teacher ratios in schools through "red book standards" as well as, in primary schools, Statutory Instruments<sup>(13)</sup>, with the number of pupils largely defined through statutory entitlements for defined age ranges. Where wages are nationally negotiated, defining the number of service deliverers sets parameters to the level of money resources devoted to a service where the service is manpower intensive.

In police services too the parameters upon levels of resources devoted to the service are tight since the Police (Scotland) Act 1967 (section 3) requires that complements of police forces be approved by the Secretary of State and, in addition, the police service is funded by a specific percentage grant which Rhind contends is "one of the main levers used to exert influence on chief constables ...

Few police authorities are willing to pursue an independent line if it means covering the full cost from local funds"<sup>(14)</sup>.

The parameters set for social services are loose since there is a vague mandate covering the clientele to be served by social work departments (see above) and no definition of the relevant number of service deliverers<sup>(15)</sup>. In 1965 the Scottish Home and Health Department, then responsible for social work services, issued a circular with recommended levels of staffing for social work services, yet this circular is no longer in force<sup>(16)</sup>. The nature of the parameters at this stage in the policy process are summarised in table 7.6.

Table 7.6

Central Government Parameters upon the Level of Money Resources  
Devoted to Local Government Services.

<u>Service</u>	<u>Nature of Parameters</u>	<u>Examples</u>
Education	Tight	<u>Minima</u> set through definition of clientele in, for example, 1962 Education (Scotland) Act plus specification of maximum teacher-pupil ratios in "red book standards".
Social Work	Loose	Vague mandate for "adequate" levels of provision in, for example, 1968 Social Work (Scotland) Act and 1970 Chronically Sick and Disabled Persons Act.
Roads	Tight	<u>Maxima</u> set through central government approval of capital expenses in 1973 Local Government (Scotland) Act.
Police	Tight	<u>Targets</u> set through approval by Secretary of State of staffing complements in 1967 Police (Scotland) Act.
Housing	Tight	<u>Maxima</u> set through central government approval of capital expenses in 1973 Local Government (Scotland) Act.

d) The Specification of the Nature of the Material Good Received

While the centre may set parameters concerning the level of resources devoted to a service, this does not necessarily mean that the centre influences the precise forms of goods and services into which the financial resources are poured. A client may, for example, be housed in a high-rise block of flats which are extensively affected by damp and vermin infestation, or the tenant might be housed in a listed building without these problems. How far does the centre set parameters concerning the precise nature of the goods and services received by local clients? Insofar as the service is delivered through non-material forms of provision (e.g. teaching, counselling) the service delivered is highly dependent upon the behaviour of the service deliverer. This question will be discussed in the next section. This section will concentrate upon the question of the parameters set by the centre concerning the nature of the material goods that are delivered by local governments. Does the centre set parameters concerning the nature of the material goods involved in the delivery of the five major services and, if so, how tight are they?

If the setting of tight parameters depended, as was discussed in chapter one, upon the ability (as opposed to the disposition) of the centre to set tight parameters, then one would expect the centre to set relatively tight parameters concerning the nature of the material goods which serve to make up a service because material goods are more subject to precise specification. Sizes of school buildings, standards of roads and house building can be quantified, and can be embodied in relatively tight parameters.

All buildings, whether public or private, are subject to the parameters set in the building regulations governing aspects such as the lighting, insulation, permitted dimensions of rooms, for examples. This section does not examine the totality of parameters set for the material goods delivered, but rather looks at the particular parameters for goods delivered by local governments.

For education the parameters for school buildings are tight. There are specification of minimum areas for classrooms, corridor space and types of lighting; for example, through statutory instrument - the School Premises (General Requirements and Standards) (Scotland) Regulations of 1967, amended in 1973 and 1979. The parameters for other material goods involved in the delivery of education are loose. Local governments are mandated to deliver school books to all pupils and school clothes to those in "need", yet in both cases the nature of the books and clothes are not specified. They only have to be "sufficient ... to enable pupils to take full advantage of the education provided".

For housing, the parameters concerning house construction may be termed loose since the housing planning system has brought about the dropping of the Parker-Morris requirements for approval of house building projects by the Scottish Development Department. Formally, within the housing planning system there are no longer separate requirements for public housing projects. For existing houses, the requirement that local authority (as well as private houses) which are, in the terms of the 1974 Housing (Scotland) Act "below tolerable standard", be closed, demolished or improved, might appear to mandate a minimum requirement upon the standard of local authority housing and therefore constitute tight parameters. However, this requirement

may be termed loose because the requirement is one which can be interpreted by the local authority. The conditions of below tolerable standard themselves are expressed in terms such as "substantially free from damp", and local governments do not have to observe these conditions, as section 13 of the 1974 Housing (Scotland) Act states:

It shall be the duty of every local authority to secure that all houses ... are closed, demolished or brought up to standard within such a period as is reasonable in the circumstances ... In determining what period is reasonable ... regard shall be had to alternative housing accommodation likely to be available to any persons who may be displaced from houses as a result of any action proposed by the local authority (my emphasis).

The mandate to deliver houses above tolerable standard is similar to the mandate to deliver housing to the homeless in the sense that it permits local governments wide discretion over the interpretation of the conditions under which they are bound by the mandate.

The parameters for the construction of social work premises by local governments are loose. While there are some recommendations concerning particular appliances installed in social work homes, for example SWSG circular 8/77 makes recommendations concerning chair lifts in social work homes, there are no general regulations, over and above the more general building control and fire regulations covering design standards. The Social Work (Scotland) Act 1968 makes provision for the Secretary of State (section 60) to specify statutory standards for social work building standards, however, no orders under this section of the Act have been issued.

Somewhat more surprisingly, the parameters for road building and the provision of police buildings and equipment are also loose. It is unexpected in the case of roads because road building is an

activity where there is a hard "means-end" technology involving shared bodies of knowledge about what combinations of materials constitute adequate road standards. The centre issues guidance in issues such as SDD Roads Circular R322 (1974) on the "design and method of erection of steel box girder bridges - implementation of Merrison Committee recommendations", yet the statutory definitions of roads standards are defined loosely. Local governments must provide "adequate" quality roads, with no statutory definitions of adequacy.

Table 7.7

Central Government Parameters upon Material Goods  
Delivered by Local Governments

<u>Service</u>	<u>Nature of Parameters</u>	<u>Examples</u>
Education	Tight	Relatively narrow minimum standards for school buildings, e.g. SI 1532/1967 although parameters for school clothing and books, as in the 1962 Education (Scotland) Act are loose.
Housing	Loose	Parker-Morris standards dropped in 1980, definitions of tolerable standards in 1974 Housing (Scotland) Act are loose.
Social Work	Loose	No specific parameters (apart from building control regulations for social work premises although 1968 Social Work (Scotland) Act (sec. 60) allows the Secretary of State to issue regulations for social work premises no such orders have been issued.
Police	Loose	No specific parameters set for equipment, although Orders may be issued under 1967 Police (Scotland) Act they have not been issued.
Roads	Loose	"Adequate" roads as in 1973 Local Government (Scotland) Act.

The absence of statutory standards for police buildings and equipment is surprising for a different reason. Unlike most of the other services delivered by local governments (with the exception of fire services), the material goods delivered by local governments in

the police service are apparently uniform - police stations look alike, police forces have similar equipment, use similar radios, vehicles etc. The uniformity, insofar as it exists, however, does not emanate from a statutory definition of the material goods for police services. The 1967 Police (Scotland) Act does allow the Secretary of State to specify by order police equipment, yet no such order has been issued under this Act. The parameters at this stage in the policy process are summarised in table 7.7.

e) The Specification of the Behaviour of the Service Deliverers

In many local government services the nature and quality of the service delivered by local governments depends heavily upon the behaviour of the service deliverer since the service consists of what a service deliverer does in addition to, if not instead of, the material goods handed over. Of the big five services, one may argue that the behaviour of the service deliverers shapes the service received to a greater extent in social work, education and police services since these are the most manpower intensive (see table 7.1), and to a lesser extent in roads and housing since these are more capital intensive. In social work, for example, cases of child abuse illustrate the point that it is not only the availability of material goods - a home in which a child can be put - but also the exercise of discretion by the social worker - whether to take a child into care - which shape the nature of the service delivered<sup>(17)</sup>.

There are three main ways in which the centre may set parameters concerning the behaviour of service deliverers. First, it may specify the qualifications of service deliverers. While the insistence upon certain standards of training does not directly constrain the day to day behaviour of any one individual service

deliverer, the centre does specify who may deliver services - for example in the case of education the centre stipulates that only those with teaching qualifications can teach. This gives the centre indirect ability to set parameters for the behaviour of individuals delivering services since training for service delivery may be expected to encourage the acceptance of certain kinds of shared values concerning standards, such as what constitutes "good teaching practice" or "good social work counselling". It must be emphasised that this form of parameter setting is indirect - if professional behaviour of service deliverers is affected by professional training, then the specification of levels of training may in turn affect professional behaviour. Second, it may specify permitted and prohibited activity. For example, while social workers have a statutory obligation in the 1968 Act to "offer assistance in such a way as may be appropriate for their area" (sec.12) they are only permitted to take certain kinds of activity. For example, they may offer but not compel old people to take up residence in homes for the elderly. Third, the centre may mandate certain forms of behaviour. It can establish legally based expectations by clients concerning how service deliverers must behave when requested to deliver a service. For example, a housing officer must initiate procedures for the sale of a council house upon submission of a correctly completed request by the client, and administrators of rent and rate rebate schemes must deliver specified sums of money upon receipt of applications from eligible recipients.

For the major services under consideration in this chapter there are relatively few statutory parameters which mandate certain kinds of behaviour upon service deliverers. Where behaviour is mandated



the mandate is a very vague one. For example, in education Statutory Instrument 1135/1975 gives teachers the very vague mandate to "ensure reasonable and responsible social attitudes and relationships" among their pupils. Parameters which seek to define how service deliverers should behave tend, again, to be the subject of advisory codes rather than statutory provisions. Procedures to be observed by housing officers in processing housing improvement grants were set out in SDD circular 27/1977, and SED circular 980 (1977) contained a report offering examples of "good practice" on the teaching of geography in schools.

In the police service the statutory training period can only be regarded as a weak form of influencing the behaviour of service deliverers. As Greenhill argues, formal training is not a source of diffusing a set of professional values since police professionalism can be characterised as "practical professionalism".

The basis of practical professionalism as understood by the great majority of police officers is ... long experience of coping with actual situations where working solutions must be found by trial and error. The appropriate intellectual ability is one acutely aware of the possibilities of manipulating a situation to advantage ... To those endowed with the highest degree of practical professionalism, theoretical knowledge, 'school learning', is viewed with a variety of negative feelings: suspicion, contempt, humour, or a strict opportunism as a means to advancement ... (18)

Despite the existence of training, Greenhill adds, and the variety of other behavioural codes, such as judge's rules (in England and Wales) and police discipline regulations "there are wide areas of discretion ... which resist formal regulation", these include "encounters with citizens and suspects, detaining and arresting, questioning and interrogation, stopping and searching, surveillance, recording intelligence, associating with criminals, prosecuting" (19).

The most common statutory parameters set upon the behaviour of service deliverers is through the definition of permitted and prohibited activities. Housing officers, for example, are limited in their ability to evict tenants through the Tenants Rights (etc.) (Scotland) Act 1980; the Social Work (Scotland) Act 1968 gives local social work officers vires to take certain types of children into care, forbids them from withholding details concerning adopted children, policemen are given limited rights of entry into property.

The discussion of the parameters upon the behaviour of service deliverers suggests that the parameters are loose for all services. While there are varieties of permitted behaviour, certain kinds of behaviour are rarely mandated and only indirectly affected through the specification of training levels. Instead the behaviour is broadly specified through permissive legislation, and within this set of broad parameters local service deliverers may receive some advice through circulars. Yet advice through circulars is generally rather patchy and does not cover large areas of client-service deliverer interaction - in the sample of circulars examined in this thesis there were no circulars concerned with general teaching techniques or with social work counselling for example.

f) Parameters and Stages in the Policy Process

The case of the Greater London Council<sup>(20)</sup> being declared ultra vires for making a high contribution to support passenger transport from locally raised revenue serves to illustrate that there may be uncertainty surrounding some of the parameters within which local governments deliver services, at least until they are challenged in the courts. This chapter has not intended to resolve the

uncertainties, nor has it intended to provide a comprehensive list of the parameters which the centre sets for the delivery of local government services. Instead, it has shown how the centre sets parameters of varying degrees of looseness and tightness upon different local services at different stages in the policy process. Discretion in local government services varies not only by policy area, but also by stages in the policy process.

The variable looseness and tightness at different stages in the policy process can be summarised in table 7.8. From table 7.8 it can be seen that the service in which parameters are tight or very tight at most stages in the process is education, the largest of the local services in terms of finance and manpower. There is no discretion in local government concerning whether an education service is delivered and the clientele for school services is largely statutorily defined. While local governments have discretion concerning the level of resources which may be devoted to the education service and the nature of school buildings and equipment, the parameters within which decisions are taken concerning these aspects of the education service are relatively tight, with the direct interaction with the clients being the only major area of large discretion for local government actors.

Table 7.8

+ 277-

Summary of the Centre's Parameters upon  
Five Major Local Services

<u>Service</u>	<i>Choice</i> <u>Existence</u>	<u>Stages in Process</u>			<u>Behaviour of Deliverers</u>
		<u>Clientele</u>	<u>Resources</u>	<u>Material Goods</u>	
Education	V. Tight	V. Tight	Tight	Tight	Loose
Social Work	V. Tight	Loose	Loose	Loose	Loose
<i>wk</i> Housing	Loose	Loose	Tight	Loose	Loose
Police	V. Tight	Tight	Tight	Loose	Loose
Roads	V. Tight	Tight	Tight	Loose	Loose

On the other hand, the social work service operates within loose parameters at all stages in the policy process with the exception of the fact that social work is a mandated service. The service is defined largely through a variety of vires - local governments are mandated to deliver the service, although precisely what the social work service actually looks like depends upon the particular manner in which a local authority social work department adopts the variety of vires that are granted it.

For the remaining services the centre's parameters can only be termed tight concerning the existence of the service (with the exception of housing which is permitted rather than mandated) and the resources devoted to the service. Through control of capital expenditure the centre sets tight upper limits to local spending on housing and roads - although in the case of housing the centre does not at present set tight parameters upon how current expenditure (primarily loan charges) is to be financed (i.e. through rates or rents).

How far does this pattern of looseness and tightness in the parameters set by the centre at different stages in the policy process reflect a differential ability to set tight parameters? The centre can, to a certain degree, choose how tight the parameters within which services are delivered should be. Yet it can only do so within limits - within the limits of the type of activities that are amenable to tight parameters.

The question of the limits of the application of rule based constraints in the implementation of public policy has been discussed elsewhere<sup>(21)</sup>. One of the main problems of any attempt to define

activities which are not amenable to tight parameters is that while it is possible to set tight parameters for any activity (e.g. how many clients must be counselled by a social worker), an evaluation of the ability to set tight parameters must also examine whether the nature of the service can be altered in a desired manner through tight parameters. Although in principle tight parameters may be set for any activity, there exist three types of limits to the ability to set such parameters. First, those found where the tight parameters are demanding the impossible. To mandate, for example, a massive increase in police strength would be impossible if recruitment were too low. Second, those found where the tight parameters contradict powerful operational norms of service delivery and there is little infrastructure for enforcement, rule evasion is perceived as likely to occur. One can mandate police to abstain from violence, but if there is a strong disposition on the part of the service deliverer to do that which is prohibited and little or no chance that evasion will involve any penalties, the parameters are perceived to have no effect. Third, those found where there are no agreed ways of specifying parameters which affect service delivery, where there is no known "means-end"<sup>(22)</sup> technology to produce desired services, the ability to set tight parameters is limited. For example, a set of parameters which mandates how many clients must be counselled by a social worker requires a definition of what counselling consists of. If there is no agreement or definition of what a counselling session should be - how long in time, how it should be conducted, what the range of outcomes should be - it is not possible to set tight parameters to this activity.

Certainly, perceptions of what is possible, what the powerful operating norms of service delivery are, and whether there is a "means-end" technology for delivering a service vary. Above all, as Rose has discussed<sup>(23)</sup>, the way in which the objectives of an activity are conceptualised, whether in terms of a material benefit (e.g. build x houses) or a set of social values (e.g. build a happy community), affect the perception of the degree to which the objectives can be fulfilled through a series of tight parameters - a series of programmed steps which produce a desired output.

Nevertheless, it is possible to point to some of the problems involved in setting parameters at different stages in the policy process for each of the services in terms of these three types of problems.

There are no limits to the ability to mandate the existence of any service. To mandate a service is not to say what the service is; a local government may be mandated to deliver a police service, to provide and maintain roads, or any other activity whether it is possible to define this activity or not. Inability to define terms such as "police service" or "social work service" do not affect the ability to state that a service should exist, rather it poses problems for the specification of tight parameters at subsequent stages in the policy process.

There are limits to the ability to define clientele for a service where there are no shared assumptions within a "means-end" technology of categories of the population which "need" a service. In roads and police services, as collective goods, this is unproblematic since the "need"<sup>(24)</sup> is conceived as a universal.

In addition, in education "need" for education (at least school education) can be defined through demographic characteristics (age). Similarly, in housing it is possible, as the existence of points systems for housing allocation within local authorities shows, to use demographic characteristics to define who receives a house. In social work, however, while there are some demographic groups perceived to "need" social services more than others - the elderly and the disabled for examples - "need" cannot be defined purely in demographic terms, rather they are identified through powerful norms of service delivery and are less amenable to tight parameters than education or even housing.

There are no problems in specifying tight parameters for resources devoted to a service since money amounts are easily specifiable through parameters. This is not to suggest that it is possible to give an answer to the question of "how much should an adequate social work (or any other) service cost?". Rather it is to suggest that such a question becomes irrelevant when money resources are varied not to provide "better services" but as part of national economic policy. While there are no problems in specifying tight parameters for money resources devoted to a particular service, there are limitations to setting such parameters where they demand the impossible. A large increase or decrease in expenditure on any service might be impossible to achieve because of the problems of actually recruiting or dismissing employees, because of committed expenditure in the form of debt charges, or the long lead time required for capital projects.

There are limitations to the specification of the material goods delivered where there is no means-end technology for the delivery of

a service. Material goods are intrinsically specifiable: one can specify the length of a road, its quality, the dimensions of a house, and so on. However, where there are no known consequences of the shape of the material goods for the nature of the service delivered, then tight parameters cannot be easily specified. While it is possible to conceptualise adequate roads standards, housing standards, adequate police equipment as well as adequate school buildings (but not facilities such as books), the adequacy of social work buildings - day centres, residential homes - cannot be so easily specified. The number and nature of these buildings depends upon a variable perception of whether certain aspects of the social work service should be provided by provision of care facilities or through face to face contact with a social worker and what the nature of care facilities should be. This variability in the design of material goods involved in the delivery of the service extends still further to questions of the design of rooms in which children's hearings should take place. Fox, Jones and Murray discuss the highly variable nature of the children's hearings locations, varying in accessibility, privacy and layout (for example, they note the "segregating function" of the positioning of tables)<sup>(25)</sup>. In education, on the other hand, there are agreed perceptions of "proper" class sizes and the physical dimensions and conditions in which they should be conducted.

There are limits to the ability to specify tight parameters concerning the behaviour of employees where there are strong professional operating norms and little chance of rule evasion being identified. Most obviously, this can be found in the case of police and social services where delivery usually involves one individual service deliverer and one individual client<sup>(26)</sup>, with few chances



to verify the service deliverer's account of the encounter with the client (case conferences or police reports). Education is rather different, and the parameters somewhat less difficult to specify since the delivery is to a multiple set of clients in a classroom, with some form of independent scrutiny of the encounter with clients through examinations.

This discussion is not intended to give a simple list of where it is possible and impossible for the centre to set tight parameters. Rather it has elaborated upon a crucial dimension to the discussion of the centre's parameters - parameter setting is limited by the nature of the service concerned. Without any conception of why some policy areas at some stages are not amenable to tight parameters, one assumes a potential omnipotence of government to remove discretion within its own organisation through tight parameters, with the absence of tight parameters as a sign of the disposition of the centre not to set tight parameters. There are limitations to the parameters which the centre may set which derive not only from the inherent nature of the actions involved in delivering a service, but also from the way in which the goals of the service are conceptualised and the existence of a known technology to achieve those goals.

### III. Local Authority Discretion and Parameters

This chapter has been concerned with establishing the nature of the centre's parameters upon services delivered by local governments. The analysis has shown that for four of the five major services the parameters set by the centre over most of the stages of service delivery are loose - there is relatively large discretion in defining the clientele, making decisions about the nature of the material goods delivered

and over the behaviour of service deliverers in social work, housing, police and roads services. Not all of the centre's parameters are parameters set upon the collectivity of the local authority. For example, the definition of clientele in social work services, is effected through a broad grant of vires (very loose parameters) to service deliverers. In addition, the discretion of local governments cannot be adequately discussed in the context of the collective decision making body of the local authority as represented in everyday form through the council committee. Local service deliverers exercise discretion in service delivery.

Relatively few studies of local government have focused attention upon the role of local employees in shaping the services delivered by local governments and have tended to understand local discretion to mean the discretionary decisions taken by the collective decision making apparatus of the local authority. This is not to suggest that the observation that the "front line"<sup>(27)</sup> deliverers of services affect what services are delivered is a new perspective. Rather, it is to suggest that this dimension has often been ignored in studies of "local discretion". Local discretion, as narrowly formulated, has largely been studied on the basis of whether a local authority is unconstrained in decisions concerning such things as the ability to set rates or fail to introduce comprehensive education - that is to say, with the discretion under observation that discretion normally exercised through the collective decision making procedures of the local authority.

The discretion of the local authority as a collective decision-making body is not only contingent upon the looseness or tightness of the parameters set by the centre, rather it is contingent upon the

degree to which the authority itself can set parameters upon those who deliver services. For example, in the case of the police service, while the centre does not set tight parameters governing the behaviour of police officers, neither do local authorities. Local councillors have consistently argued that they have no ability to influence the shape of policing practice within their localities<sup>(28)</sup>. Similarly, local authorities as collective bodies have no formal vires to set parameters upon the behaviour of Mental Health Officers since the Mental Health (Scotland) Act 1961 "is unusual in that it places legal responsibility directly upon the officer so appointed as an individual rather than as a representative of his authority"<sup>(29)</sup>. The limits upon the ability of local authorities to exercise discretion in shaping the services is not limited to those cases where their formal vires to exercise this discretion are limited as in the case of the police and mental health officers. Rather, the limits of the ability of local authorities as collective bodies to set parameters are analagous to the limits of central government influence over local government.

How far the discretion over the stages in the policy process for the services (and discretion is exercised even where the parameters are tight) is exercised by the collective decision making body of the local authority rather than by individual service deliverers or officials within the local government organisation is likely to vary from authority to authority. In some authorities, as Collins et al. argue, the relationship between the officials and the council can be termed "technocratic" where "expert officers are in a dominant position", they propose action and the "elected representatives legitimise the actions of officers"<sup>(30)</sup> while the

"representative" model sees "power ... as clearly resting with the member. The expectation is that members will be continuously involved, consulted, and called upon to decide the patterns of action at all stages of policy-making". The degree to which decisions concerning the four of the five stages of the service delivery process are delegated within local government organisation is a variable, although Collins et al. offer only very general explanations for the variation, such as local authority "size", the "complexity" of its tasks and different management "styles".

The question of who exercises discretion over the delivery of local government services is as amorphous and as difficult to answer as the question of who "wields power" in local government. However, on a more limited level one can ask whether the exercise of discretion in local government services is amenable to the influence of collective decision making by the local authority by examining whether the exercise of discretion at the different stages in the policy process is subject to ratification by the collective decision making body of the local authority. For example, on this basis, irrespective of the precise role of local government officers in drafting budgets, the discretion that does exist to vary the resources devoted to a service is subject to the legitimation through the collective budgetary process of the local authority and thus can be termed as within the sphere of local authority discretion.

Local authorities' discretion upon the definition of clientele is, however, more limited even though the parameters set by the centre are with the exception of education, loose. Since for road services the location of a new road does define the clientele for this road to some extent, and since this is in principle amenable

to formal approval by the collective body of the local authority, in roads it is possible to argue that definition of the clientele is a matter for local authority discretion. In housing also, a points systems as a means of progress upwards or downwards on a waiting list is, in principle, subject to approval by the collective local authority and therefore belongs to local authority discretion. However, in police and social work definition of clientele is not subject to local authority ratification. Discretion over which clients to treat in social work, which areas to patrol in which strengths and which laws are applied to make arrests, for example, being the subject for discretion by social workers and police officers.

With the exception of police services, where the chief officer has discretion to purchase goods without reference to the authority, discretion over the nature of material goods is subject to the approval of the collective legitimation of the local authority. It has the ability to approve housing designs, road schemes, and school and social work home plans, for example.

It is, however, in the field of the behaviour of the service deliverer that the local authority as a collective decision-making body has the weakest role. In the cases of police officers and mental health officers, discussed above, the fact that the specification of the behaviour of service deliverers is not amenable to the collective decision-making body of the local authority is formalised in the sense that there are statutory limitations on the ability of the local authority to generate rules for its employees. More generally, at the client-service deliverer interface the volume of diverse interactions between client and deliverer and the existence

of strong operational norms not only mean that central parameters can only be loose parameters, but also that the role of the local authority in setting parameters for the behaviour of its own employees is limited.

#### IV. Conclusions

Central government sets parameters upon different stages in the policy process. The study of power and influence has recognised the variability of the exercise in respect of different people and even different policy areas. Yet in the shaping of local services it is crucial to ask the question of upon which stage in the policy process influence is exerted. Where the centre sets tight parameters upon each stage in the policy process, local governments deliver a mandated good to defined clientele, devoting a centrally defined level of resources to the service which purchases a defined mix of goods delivered by officials behaving according to a set of norms which are defined through central government instruments. Such a set of parameters would result in total central control of local government services since there would be no discretion concerning the shape of local services to be delivered by local actors. This would approximate the model of "pluralised" service delivery discussed by Kochen and Deutsch<sup>(31)</sup> - identical goods and services delivered by identical institutions in multiple locations.

None of the five major services conform to this model. In education, which is possibly the closest to it, there is discretion concerning the resources devoted to the service and the nature of the material goods such as school buildings and books, albeit within tight parameters. These tight parameters allow greater discretion

than the very tight parameters set for defining the clientele to whom education is delivered. The looseness of the centre's parameters in service delivery in, for example, roads and housing, at the stages of the definition of material goods is not surprising since it conforms with the observation of Sharpe<sup>(32)</sup> among others, that the centre does not wish to become involved in complex questions of detailed decision making for local services - indeed one of the reasons, he argues, for the persistence of local government in western Europe is that it allows necessary services to be delivered without overloading the central government administrative or decision making machinery. This he terms the principle of "sewage without tears", indicating that many local services are regarded as necessary but uninteresting and which can be performed by local governments within a framework of discretion.

Neither is the looseness of the centre's parameters in, for example, the behaviour of service deliverers for all services or the definition of clientele in police services surprising. As Hood argues<sup>(33)</sup> while it may be in principle possible to seek to "regulate" the behaviour of service deliverers "to the last detail", in practice this requires not only a vast body of formalised rules, commensurate with the multiplicity of interactions between clients and service deliverers, but also a strong and large inspection or enforcement organisation. As was discussed in chapter three, central government has no such organisation and strong operational norms make such parameters especially difficult to specify in social work and police service.

The looseness of central government parameters does not mean that local actors are unconstrained by parameters originating elsewhere.

For example, while the behaviour of teachers and social workers is subject only to loose parameters set by the centre, professional norms (as well as formalised professional codes) serve to limit the discretion of local service deliverers. In addition, in a service such as education, parameters concerning the syllabus of teaching are set through school examination boards. However, consideration of the wider limitations of discretion of local actors takes one into a much wider field of study no narrower than asking the question of "what influences affect the delivery of local government services".

The looseness of the centre's parameters does not necessarily imply that the centre's instruments are unable to influence local government service delivery. At a basic level all stages in the policy process are constrained by central parameters since laws are a prerequisite for the ability of local governments to deliver any service. Rather they mean that the centre is either unable to influence local government service delivery through tight parameters (such as in the definition of clientele for social work services or the behaviour of service deliverers in all five services) or unwilling to do so (as with the case of the definition of clientele in housing). A satisfactory explanation of why the centre has not sought to set tight parameters despite the ability to do so, is outside the concerns of this thesis. Such analysis would require a detailed examination of a non-decision.

The discussion of the limitations to the ability of the centre to set tight parameters highlights two important points. First, that while the centre may choose which instruments it may use to influence local governments (see chapter six), it cannot limit



discretion in stages of the policy process where the policy is not amenable to specification through tight parameters. Second, while the centre cannot limit discretion through tight parameters at some stages in the policy process for different services, neither can the local authority as a collective decision making body. While central government might not be able to tell a social worker what to say to his or her clients, neither can a social work committee nor a social work director. One Scottish Office official stated in interview "the centre does not want to run Strathclyde Region". This is not to suggest that it disengages itself from influencing the activities of local governments. Central governments cannot disengage themselves since they must, at a minimum, provide the vires for local governments to deliver services. Rather the centre can, subject to the limitations upon the ability to set tight parameters, choose the terms under which it will influence the delivery of services.

## Notes and References

1. Convention of Scottish Local Authorities "A Time to Listen - A Time to Speak Out" (Edinburgh: COSLA, 1982).
2. Dworkin, F. Taking Rights Seriously (London: Duckworth, 1978), p. 31.
3. Murie, A. "A New Era for Council Housing?" in J. English (ed.) The Future of Council Housing (London: Croom Helm, 1982).
4. Hill, M. "The Policy-Implementation Distinction: A Quest for Rational Control" in S. Barrett and C. Fudge (eds.) Policy and Action (London: Methuen, 1981), p. 213.
5. See A. Dunsire Implementation in a Bureaucracy (Oxford: Martin Robertson, 1978); Hill "The Policy-Implementation Distinction", p. 209.
6. Wolman, H. "The Determinants of Program Success and Failure" Journal of Public Policy, 1, 1981, 433-464.
7. Dror, Y. Public Policy Making Re-Examined (Scranton, Penn: Chandler, 1968).
8. See, for example, B. Webster and J.D. Stewart "The Area Analysis of Resources" Policy and Politics, 3, 1, 1974, 5-16.
9. With prohibiting understood as a variant (i.e. negative) of permitting.
10. Hill "The Policy-Implementation Distinction", p. 213.
11. See also P.W. Robson and P. Watchman "The Homeless Persons Obstacle Race" Journal of Social Welfare Law, 1981, 1-15; 65-82.
12. Martin, F.M., Fox, S.J., and Murray, K. Children Out of Court (Edinburgh: Scottish Academic Press, 1981), pp. 64-92.
13. See SED circular 819 (March 1972); Scottish Education Department Secondary School Staffing (Edinburgh: HMSO, 1972); Scottish Education Department Education in Scotland in 1975. Cmnd.6421 (Edinburgh: HMSO, 1976), p. 17; Statutory Instrument 776/1972.
14. Rhind, J.A. "The Need for Accountability" in D.W. Pope and N.L. Weiner (eds.) Modern Policing (London: Croom Helm, 1981), p. 48. See also D.E. Regan "The Police Service: An Extreme Example of Central Control over Local Authority Staff" Public Law, 1966, 13-24. Although this argument is an assertion rather than one substantiated by concrete evidence. The evidence does not suggest strong a priori support, however, for this argument. If this were the case, then one would expect police grant income to constitute a relatively uniform proportion of total police expenditure. This is not, in fact, the case. Using an indicator of total specific grants in the RSG (the bulk of which - per cent - is formed by a police grant) as a proportion of police expenditure in 1981 there is a coefficient of variability for nine regions of 0.08. While this represents low variability, it is actually higher than the coefficient of variation for the needs element of the RSG as a proportion of total relevant expenditure of 0.07.

15. For a discussion of the variations in staffing in social work authorities in England see A. Bebbington, B. Davies and O. Coles "Social Workers and Client Numbers" British Journal of Social Work, 9, 1981, 93-100.
16. SHHD circular 4/65 reported in Scottish Home and Health Department Health and Welfare Services in Scotland. Report for 1966. Cmnd. 3337 (Edinburgh: HMSO, 1967), p. 61.
17. Hill, M. Understanding Social Policy (Oxford: Martin Robertson, 1980), p. 101; p. 150.
18. Greenhill, N.J. "Professionalism in the Police Service" in D.W. Pope and N.L. Weiner (eds.) Modern Policing (London: Croom Helm, 1981), p. 54.
19. Greenhill "Professionalism in the Police Service", p. 63.
20. See The Times, 11 November, 1981.
21. See, for example, C. Hood The Limits of Administration (London: John Wiley, 1976); Dunsire Implementation in a Bureaucracy.
22. This term is discussed in R. Rose "What if Anything Is Wrong with Big Government?" Journal of Public Policy, 1, 1981, p. 12.
23. See R. Rose "Housing Objectives and Policy Indicators" in R. Rose (ed.) The Management of Urban Change in Britain and Germany (London and Beverley Hills: Sage, 1974).
24. For a discussion of the term "need" see B. Davies Social Needs and Resources in Local Services (London: Michael Joseph, 1968).
25. Fox et al. Children Out of Court, p. 95.
26. This is developed in the American context by D. Yates The Ungovernable City (Boston Mass: MIT Press, 1977).
27. Mechanic, D. "Sources of Power of Lower Participants in Complex Organisations" Administrative Science Quarterly, 7, 1962, 349-364.
28. See Rhind "The Need for Accountability". See also S. Morris "British Chief Constables: The Americanization of a Role" Political Studies, 29, 1981, 352-364.
29. Tibbett, J.E. Social Workers as Mental Health Officers (Edinburgh: HMSO, 1978).
30. Collins, C.A., Hinings, C.R. and Walsh, K. "The Officer and the Councillor in Local Government" Public Administration Bulletin, 28, 1978, 34-50.
31. Kochen, M. and Deutsch, K.W. Decentralization: Sketches Toward a Rational Theory (Cambridge, Mass: Oelgeschlager, 1980).
32. Sharpe, L.J. "Theories and Values of Local Government" Political Studies, 18, 1970, pp. 154-155.
33. Hood The Limits of Administration, p. 23.

CHAPTER EIGHT

INSTRUMENTS OF ASYMMETRIC INTERDEPENDENCE

## I. The Instruments in Review

This thesis set out to examine the nature of the instruments of influence which the centre uses in its relationship with local governments, the properties of these instruments, how they are used, and to what effect. The instruments of laws and circulars are used to influence similar policy areas - both refer more often to questions of finance and manpower, and relatively infrequently to non-financial questions of service delivery, especially in the services which account for the largest portion of local government manpower and expenditure. The instrument of grant provision is limited to influencing the total spending decisions of local governments since the grant given to local governments is predominantly in the form of a general grant which cannot be used to discriminate between individual local services. This is done by mandating service provision or by permissive laws that are reinforced through political expectations.

The analysis of the instruments has shown the limits of negotiability in centre-local relations. There exist formal as well as informal mechanisms for consultation prior to the passage of legislation, the issue of a circular or the allocation of grant, primarily focused upon the Convention of Scottish Local Authorities. Yet the centre can and does limit the degree to which instruments are negotiated since the centre decides what is negotiable. Where an item of legislation or a grant settlement is controversial and reflects a high priority at the centre, the centre can set limits to what items of the legislation or grant settlement are negotiable. Circulars appear to be more negotiable than legislation or grant settlements, this is possibly because of their predominantly non-

controversial nature and because they rarely reflect issues of priority for the centre.

The main instrument of parameter shift is legislation. Legislation can mandate and give new vires as well as remove old mandates and vires. Most legislation deals with aspects of individual services. Circulars cannot shift the parameters within which services are delivered because they are limited to providing guidance and encouragement within existing statutory parameters. The use of money may influence total spending decisions, as well as cause local governments to shift the allocation of its own resources within budget heads. Yet the centre's block grant means that there is no longer any direct link between items of legislation, or even spending on particular services, and grant receipts. Changes in the macro parameters of total local spending undoubtedly facilitate changes in the allocation of spending to budget categories at the local level; the increase in social service spending in the 1960s and early 1970s can be argued to have been facilitated by the rapid growth in the block grant. Yet the role of finance as an instrument for shifting the parameters within which particular services are delivered is limited since the block grant cannot discriminate between services or even, on its own, constrain effectively the local response to grant loss. Cutting back the total of grant received (in constant money rather than current cash terms) leaves local authorities to decide which services they wish to cut or whether they wish (within limits) to seek to raise revenue elsewhere by, for example, raising rates.

Laws constrain: they mandate, permit and prohibit. The other instruments of influence do not. There is a probability approaching

1.0 that local governments will act within the legal parameters set by the centre. This is not to suggest that what local governments do can be described simply with reference to a statute book since the statutory parameters are often broad and permit a variety of actions as consistent with statutory parameters. Money also constrains in the sense that increases in grant (at both the aggregate and individual level) are associated with increases in expenditure, and grant decreases with decreases in expenditure. But the relationship is not a simple on-to-one relationship. There is considerable variance between authorities and across time over the degree to which grant income affects spending, reflecting the willingness of local actors to incur the rate costs of expenditure. Circulars appear to be the least constraining of the instruments since the influence of circulars is largely contingent upon the "resonance" of the circular with the values of the recipient.

Legislation is a key resource of central government since it is one over which central government has a monopoly and since it uses laws to set the statutory parameters within which grants and advice seek to influence local government actions further. Circulars may substitute for legislation in the sense that they may encourage or discourage - a less constraining form of influence than mandating or prohibiting through legislation. More often, however, circulars complement legislation through the provision of information - most frequently through informing local governments of the statutory parameters set by the centre. It is possible to talk of money as a complement to legislation since it provides the financial resources required to buy goods and to employ manpower required to deliver mandated and permitted services without the

full costs being met through locally raised revenue. Yet the nature of the block grant to local governments means that money is not complementary to any specific item or set of items of legislation. Money is a substitute for legislation insofar as it seeks to set parameters to total spending decisions which can, in principle, be set through statute.

The overall effect of the instruments, cumulatively and conjointly, is to limit discretion at different stages in the process of service delivery. The parameters are rarely simple injunctions that, for example, local governments must spend a specified amount of money per client or per head of population. Discretion at different stages in the policy process is limited by a variety of instruments. For some policy areas this means smaller discretion for local government actors (e.g. education) and relatively larger discretion in others (e.g. social work). The fact that it is more difficult for the centre to set tight parameters for some services than others because of the absence of a "means-end" technology also points to the limits to local authority influence upon services delivered by its individual employees.

The purpose of this chapter is first, to analyse the novelty and value of the framework used in this thesis for the study of central-local relations by reviewing the findings of the thesis in the light of existing approaches to central-local relations (section two). Second, the chapter goes on to examine the implications of the analysis for the study of relationships between organisations in the policy process, and in particular highlights the problem of hierarchy in studies of influence in relationships of interdependence (section



three). Finally, the chapter goes on to characterise the use of instruments as a characteristic of a central government with structural power in a unitary state (section four).

## II. Existing Approaches to Central-Local Relations

As discussed in chapter three, the "agent model" of central-local relations, which assumes that what local governments do is defined tightly by statutory provisions, reinforced by circulars and grants, is a stylisation of a wide body of literature which is often more sophisticated than those who stylise it concede<sup>(1)</sup>. However, as chapter three also argued, the stylisation of the "agent" model appears to have been a dominant view of the working of local government in the less analytical studies of local government and British government in general. If the "agent" model describes a relationship in which central government, because it has the instruments of laws, money and advice, has transformed local government to an agent of the centre, how does this differ from the framework derived in this thesis, and how does the empirical evidence in this thesis contradict it?

The problem lies with the term "agent". If "agent" means merely "with actions significantly influenced by", then local governments may be correctly termed as "agents" of the centre. However, this is unsatisfactory since such a wide definition becomes indiscriminate - one could argue with equal justification that a civil service department is the "agent" of the minister, the minister is an "agent" of the Prime Minister, or that a social worker in Giffnock is an "agent" of the Scottish Office. Applying such a definition does not say anything specific about the relationship between actors

within different governmental organisations. If "agent" is understood to mean that the centre is the prime author of what is done in the name of local government<sup>(2)</sup>, then local government is not necessarily the agent of the centre.

To assume that local government is an "agent" in the sense of the centre being the author of that which is done in the name of the local authority is to assume that the centre invariably uses its instruments to set tight parameters upon the services delivered by local governments at each stage in the policy process. Local governments, according to this definition of the term "agent", can be regarded as one subunit within government organisation which is tightly constrained in what it does and acts as part of the centre (reflecting the semantic origins of the term "agent").

Central government does not, however, influence local government services by invariably setting tight parameters within which local governments deliver services. The centre sometimes uses its instruments of influence to set loose parameters which set limits to the actions of local governments, but do not predetermine them. Much legislation, for example, gives local governments vires which they are not compelled to use (see chapter three). Circulars relatively rarely (about one in five circulars) convey a recommendation to pursue a specific course of action, very often qualified by phrases such as "it is recognised that this is a matter for local discretion" or "local authorities are invited to examine these recommendations in the light of the need to restrain local government expenditure", and it is only recently that the allocation of grants to local governments has been linked to a relatively tight specification of central preferences through guidelines which seek to define levels of spending in individual local authorities.

Central government displays a differential ability and disposition to set tight parameters for local government service delivery. Where there is no accepted means-end technology for the delivery of services, as, for example in the delivery of social work services, then the centre can only set loose parameters (here in the form of a broad grant of vires) upon service delivery. Also, chapter seven argued that in certain stages in the policy process the centre has not set parameters despite its ability to do so. It would, for example, be possible for the centre to standardise the definition of the clientele for council housing through national instruments - local authorities derive points systems for allocating houses and, in principle, this could be the subject of national legislation as the Labour Party has recently argued<sup>(3)</sup>.

b) The Bargaining Model

It was precisely this argument, that discretion is not incompatible with the existence of instruments, to which Boaden's analysis - the starting point for any discussion of the "bargaining model" in Britain - addressed itself. Boaden's analysis gave evidence of the variation in the delivery of local services, as measured by spending per head of population, and interpreted these variations as a reflection of the degree to which local governments enjoyed discretion in the delivery of services:

Central control is less apparent in policy outcomes than might have been supposed ... The centre has a part to play in setting boundaries within which local authorities operate, but the divergence within those boundaries must be explained elsewhere<sup>(4)</sup>.

In terms of the framework used in this thesis, Boaden's study documents the existence of discretion - often ignored in the "agent" model - and seeks to explain the factors influencing the exercise of this discretion in local resource allocation decisions.

In the literature on central-local government relations in Britain, Boaden's analysis has been widely interpreted as indicating that the centre cannot use instruments such as legislation, to influence local government decisions. Dearlove, for example, argues that laws influence local governments only to a negligible extent since local governments can always find a law to allow them to do what they want<sup>(5)</sup>. Much of the literature that followed Boaden's analysis was a statement of what central-local government relations were not; they were not "agent" relationships. Much of this literature, termed by Rhodes as the "conventional critique"<sup>(6)</sup>, merely elaborated Boaden's simple, but at the time novel and important, point that local discretion does exist and does matter.

Only recently has the discussion moved from that of a negative statement of what the relationship is not to any attempt to explain how the centre influences local government. Rhodes<sup>(7)</sup> seeks to construct a framework for analysing central-local relationships which recognises the existence of discretion and the relative absence (compared with the assumptions of the "agent" model) of tightly constraining laws, grants and circulars. However, if the "agent" model makes the mistake of assuming that possession of instruments of influence by the centre means little or no discretion on the part of local governments, the assumption in the "bargaining" model is that discretion means little or no role for central government's unilateral instruments of influence.

The Rhodes framework argues that central and local government are dependent upon each other for a variety of desired resources. Central government does indeed supply "constitutional-legal" vires

and mandates to local governments - the centre has "constitutional-legal resources" - yet the centre is dependent upon local governments to deliver services, and local governments can "manipulate" the sources of central dependence upon local governments to influence central government. He categorises the resources which he states are available to both central and local government as "hierarchical", "political", "financial", "informational" as well as "constitutional-legal" resources<sup>(8)</sup>.

While there is recognition of the existence and importance of the centre's legal instruments in the Rhodes framework, the problems of the framework arise from the characterisation of the relationship as one of "bargaining". The process of central-local relations is argued to be one of exchange of the resources that each possesses to achieve desired results. If a local government does not have the constitutional-legal resources to get what it wants, it can use its political resources, for example, to "embarrass the government" into giving it what it wants<sup>(9)</sup>.

The problem with such an approach is that it fails to incorporate the recognition that fundamental inequalities can exist in a relationship of interdependence - a problem common to many studies of interorganisational relations and one identified in other fields such as international relations (see below). While central government depends upon local government for service delivery, and local government upon central government for policy choice, and while the relationship can be characterised as interdependence, interdependence does not mean equality or even near equality. All relationships which involve direct or indirect contact can be termed "interdependent" without this observation throwing any light upon the precise nature

of the relationship. A master is dependent upon a slave, and vice versa, but few would argue that it makes sense to talk of this relationship as an equal relationship.

This problem is occasionally raised in the Rhodes framework, but its implications are discussed in highly ambiguous terms. Rhodes states that "bargaining" may not characterise the totality of central-local interactions, and sometimes central-local government relations may conform more closely to the "agent" model<sup>(10)</sup>. In addition, he argues that the centre is able, through legislation, to "determine precisely its relations with local government"<sup>(11)</sup>. In short, as this thesis has found, the centre has the ability to define what is bargainable and what is not. It can, for example, with laws, circulars and grant settlements (see chapters three, four and five) limit negotiations and bargaining. In this case, it is not possible to argue that central-local relations can be described as a "game" in which central and local actors exchange resources according to a set of "rules of the game" since, if one wishes to pursue the game analogy used by Rhodes, the centre plays a game in which it can deal itself unlimited aces or change the rules retrospectively - it can strengthen its own resources by introducing instruments (such as the new block grant in England or the Local Government (Miscellaneous Provisions) (Scotland) Act in Scotland) which also limit the resources of local governments.

At best, the literature on central-local relations leaves one with the conclusion that central-local relations is "sometimes" agent and "sometimes" bargaining. Undoubtedly, there are examples of both types of process. The sale of council houses may exemplify the agency relationship, and Gregory's account of the M4 can be

taken as an example of the bargaining relationship<sup>(12)</sup>. Given examples of both agency and bargaining relationships it is, however, unsatisfactory to leave with a conclusion that central-local relationships "may be either". Instead, this thesis has shown that bargaining and agency are both the results of the same relationship of constitutional superiority, with the ability of the centre to shape what its relationship with local government is as a fundamental feature of this constitutional inequality because the centre uses its instruments in a plurality of permutations to influence the delivery of services by local governments.

c) Selecting an Effective Permutation

The assertion that there is more than one relationship between central and local government, implicit in the Rhodes framework, is made explicit in Griffith's classic work on central-local relationships<sup>(13)</sup>. Griffith argues that there are three relationships between central and local governments - laissez-faire, promotional and regulatory - which reflect the distinct philosophies of different central government departments concerning their relationship with local governments. Insofar as this suggests that the laissez-faire and promotional relationship is characterised by the absence of regulations, here understood to mean legislation, the distinction is somewhat misleading. All relations between central and local government are "regulated" in this sense. Local governments cannot deliver services which they have no vires to deliver. Rather, Griffith's threefold distinction must be interpreted to mean that a laissez-faire philosophy is based upon setting loose parameters through legislation with no attempt to set further parameters within these statutory parameters through grants and circulars.

In the relationship based upon the promotional philosophy loose statutory parameters are complemented by circulars, and if the centre has any preferences which imply tight parameters, then it substitutes encouragement through circular for the setting of tight parameters through law more characteristic of the regulatory philosophy.

The relationship between central and local government cannot be seen as two or three separate relationships, one of which will suddenly appear in one context and another of which will emerge in another. The centre has instruments of influence which it can use to set parameters within which local services are delivered. There are, of course, constraints which emerge from the nature of the service and stage in the process which the centre seeks to influence. However, within these constraints, the centre may use its instruments to set parameters in a multiplicity of permutations. Although the permutations which may be used to secure the centre's preferences is limited by the ability to set parameters, the disposition to set parameters (see chapter seven) and the costs of using one instrument as opposed to another (see chapter six) and these limitations cannot be adequately quantified, it is possible to point to the fact that a multiplicity of permutations of instruments can be and is used to influence local government activities. If one assumes three instruments (laws, money and advice), the degrees of tightness (tight and loose), and five stages in the process of service delivery (see chapter seven), this means that the possible permutations for the application of the centre's instruments of influence in any one policy area is 30. When the various distinctions between the types of instruments (e.g. whether



laws give vires or set mandates) is added, as well as the possibility of using laws to reinforce the other instruments, the potential permutations increase still further. The centre uses its instruments in a plurality of permutations, subject to the limitations of the type of activity and services for which tight parameters can be set, to secure that the activities of local governments are consistent with the centre's preferences.

The relationship between central and local government is not so much a variety of "different" types of relationship, but rather one relationship between a constitutional superior and subordinate in which the centre has a differential disposition and ability across different services and activities to set parameters varying in their tightness and consequently varying in the discretion they permit local government actors. The parameters that it sets need not be loose or tight to secure that the activities of local governments are consistent with the centre's preferences. The centre sets parameters according to a variety of permutations which need not of necessity be loose or tight in order to secure that its preferences constrain what local governments do. The permutations are not those of the passive punter waiting for the football results on a Saturday afternoon, but rather the permutations themselves actively shape the results - what local governments do - with the possibility of changing the permutations still further if the results are not those desired. It is not invariably able to set tight parameters at each stage in the policy process, neither can it be assumed that it will seek to do so, since this would bring the centre into closer involvement in the everyday routines of service delivery and would detract from one of the major reasons for the persistence of the

local government system - responsibility for the delivery of services which allows the centre to avoid being overloaded with the often technical and also political details of service delivery<sup>(14)</sup>.

### III. The Resource-Exchange Paradigm

The conclusions of this thesis have implications not only for the study of central-local relations in Britain, but also for the body of theory that underpins much of the recent discussion of central-local relations - especially the "bargaining model". This may be termed the "resource-exchange" paradigm. The paradigm is based upon three assumptions: complexity, interdependence and the impossibility of effective unilateral action.

The first assumption is that the policy process is complex. This is, of course, a universal - few would claim that the policy process or any other social or political process is otherwise. However, instead of complexity being one rather trite description of a policy process, complexity is at the core of the resource-exchange paradigm since it seeks to focus attention away from a narrow concentration upon a few institutions as single entities interacting in the policy process, and towards complexity as a fundamental constraint on the behaviour of actors in the policy process. Scharpf argues that formally single and separate institutions are but "coalitions of actors pursuing separate goals", and one can speak of unified actors "only at the level of integrated primary groups"<sup>(15)</sup>.

It is unlikely, if not impossible, that public policy of any significance could result from the choice process of any single unified actor. Policy formulation and policy implementation are inevitably the result of a plurality of separate actors with separate interests, goals and strategies<sup>(16)</sup>.

The focus upon complexity is shared, not only by the Rhodes analysis, but also by studies of policy processes within organisations, such as Bramley and Stewart's analysis of the complexity in the process of cutting public expenditure<sup>(17)</sup>.

Since the assumption of complexity is a universal, this thesis has produced evidence of the complexity in central and local government as well as in the relationship between central and local government. Chapter two discussed the complexity that results from the internal differentiation within central and local government organisation through organisational and professional distinctions. One major qualification, of course, must be made to the portrayal of central-local interactions as massively complex - any one set of interactions is likely to involve relatively fewer groups than the aggregate picture of complexity suggests. Diverse groups are organised within larger groups in the process of interaction between central and local government (e.g. contact between central and local government over social work need not be through contact with groups in each of the individual local authorities but through their professional organisations at the national level), and any one set of interactions is unlikely to involve large numbers of distinct groups since such interactions usually take place in the context of specific policy questions for which the relevant issue network<sup>(18)</sup> is but a small subset of the whole range of groups involved in policy choice and service delivery. With the reservation that complexity is a universal, and that the aggregate picture of complexity may be misleading as a characterisation of any one set of interactions, this thesis supports the first assumption of the resource-exchange paradigm of interorganisational relations.

The second assumption is that organisations and groups involved in the policy process are interdependent since one group or organisation depends upon the other (and vice versa). Scharpf argues that "interactions between organisations are motivated by the need to obtain scarce resources from an environment which largely consists of other organisations"<sup>(19)</sup>. The degree of dependence, and whether the dependence is asymmetrical (whether one organisation is more dependent upon another than the other is on it) depends upon the value of the resource upon which organisations are dependent and the substitutability of the resource - whether the valued resource can be gained from another organisation. Where there is low substitutability and high value placed on the resource there is high dependence, with high substitutability and a high value placed on the resource there is low dependence, similarly there is low dependence where there is low substitutability but a low value placed on the resource. Finally, where the resource is not valued highly and there is high substitutability there is independence<sup>(20)</sup>.

Again, this is an observation shared by the framework derived in this thesis. Central government has choice which it can express through programmes, consisting of legislation and budgetary allocations. Local governments have service delivery. The resources possessed by local government are indispensable to the centre - the organisation and manpower for service delivery - and the resources possessed by the centre, above all through legislation, are indispensable for local governments. Furthermore, local government cannot substitute the resource of law and, unless one assumes that the centre is prepared to set up its own organisation for the delivery of services currently delivered by local governments,

delivery is non-substitutable. Since the "relative symmetry or asymmetry" of a relationship of interdependence is defined in terms of the value of the resources exchanged and the substitutability of the provider of this resource, where the exchange consists of resources highly valued by central and local government and not available from other organisations, we must assume, according to the Scharpf model, that the relationship is symmetrical or near-symmetrical.

The framework of this thesis, as well as the evidence presented in it, is more at variance with the third assumption of the "resource-exchange" paradigm than the other two. The third assumption of the paradigm is that because the process of public policy is characterised by "complex interorganisational networks" with a multiplicity of relations of mutual dependence, the scope for unilateral influence upon the policy process is limited, if it exists at all. Asymmetries exist where one group or organisation is highly dependent upon another and the other is less dependent upon the first. These are deviant cases in the analysis of public policy where there exists a high degree of mutual dependence between groups and organisations<sup>(21)</sup>. Where there is mutual dependence, there is symmetry and limited scope for unilateral action by one organisation or group. Even if in one policy area or issue one group or organisation enjoys a temporary advantage over another it is unlikely to use it:

While it is true that one party, if it were willing to go to the limit of disrupting the relationship, could force the other one to accept highly unattractive choices, the credibility of threats to do so is severely reduced by its own dependence upon the continuation of that same relationship. And even if threats were successful, the mutuality of dependence would provide the other party with opportunities for reprisal that could be equally or more unattractive to the first party<sup>(22)</sup>.

Where there is symmetry in dependence relationships, the "ongoing relationship of mutual dependence" means that any temporary tactical advantages of one organisation or group are unlikely to be exploited because of the "disruptive" effect in the long term. Furthermore, over the long term there is likely to be a reduction in any temporary asymmetries because "the weaker party will be strongly motivated to modify its relationship ... if successful, such a strategy will transform unilateral dependency into a relationship of mutual dependence"<sup>(23)</sup>. As a result of the relationship of mutual dependence "both parties should have a high interest in maintaining the ongoing relationship and both should be willing to accept considerable disadvantages in order to avoid disruptions"<sup>(24)</sup>.

This thesis has, however, pointed to a persistent asymmetry in a relationship of mutual dependence. Central government can use its instruments, above all laws, to secure actions by local government consistent with its preferences irrespective of the preferences of local actors. How is this possible in a relationship of mutual dependence? One possible answer is that the centre, through using its instruments of influence, is running the risks of "disrupting the relationship" with local government. While this argument may be attractive in the context of the currently acrimonious relationship between the major local government representative associations, for example, and the centre<sup>(25)</sup>, it is not sufficient to explain why for well over a century the asymmetrical relationship, characterised by mandating, permitting and prohibiting activities by local governments, has persisted. The debates about the deleterious effects of "central control", perceived to be permanently expanding, are not unique to the 1980s, but can also be found in the 1880s<sup>(26)</sup>

and for most of the period in between. If the centre were "destroying" or rather "threatening the future" of its relationship with local government through unilateral action, the relationship would have been "destroyed", or the "threat" would have materialised, by now.

#### IV. Structural Power in Complex Interdependence

An alternative to the formulation of complex interdependence as offering near equal influence to partners in a relationship where the bases of mutual dependence are highly valued and insubstitutable may be found in the literature of international relations where similar debates about the role of complexity and interdependence in policy making have taken place. Keohane and Nye criticise the "realist" conceptions of international political systems on the grounds that they, despite the name attached to such conceptions, do not reflect the world of "political reality"<sup>(27)</sup>. "Realist" conceptions have three main assumptions; first, that the state as a coherent unit is the dominant actor in world politics; second, that the use or threatened use of force is the most effective means of conducting foreign policy; and third, that considerations of military security dominate the policy goals of states. An alternative to this perspective is a system of "complex interdependence" where there are multiple channels through which international relations take place, where there are diverse goals (and no hierarchy among them) on the agenda of international relations, and where military force is unusable as an everyday means of conducting foreign policy<sup>(28)</sup>. The formulation of complex interdependence by Keohane and Nye shows a strong similarity to the formulation of complex interdependence in domestic policy making discussed by

Scharpf<sup>(29)</sup> as well as in central-local relations as discussed by Rhodes<sup>(30)</sup>.

However, there is one important different between the Keohane and Nye formulation of complex interdependence in international relations and the Scharpf and Rhodes formulation of complexity and interdependence in domestic political relationships between public organisations and groups. Keohane and Nye argue that relationships of interdependence are almost always asymmetrical:

We must be careful not to define interdependence entirely in terms of evenly balanced mutual dependence. It is asymmetries in dependence that are most likely to provide sources of influence for actors in their dealings with one another. Less dependent actors can often use their interdependent relationship as a source of power in bargaining over an issue and to perhaps affect other issues. At the other extreme from pure symmetry is pure dependence ... but it too is rare. Most cases lie between these two extremes<sup>(31)</sup>.

Instead of assuming that there is some equilibrium of influence with asymmetries as transient phenomena, and that over the long term unilateral action is "dysfunctional" for relationships of mutual dependence, Keohane and Nye argue that such symmetries of mutual dependence are rare.

Once one has explicitly recognised the existence of persisting asymmetries in relationships of complex interdependence rather than raising such asymmetries as a possible transient deviant case in a relationship where unilateral action by one group is generally rare and unlikely to be successful, it is possible to talk of unilateral leadership. This unilateral leadership need not necessarily imply hierarchical leadership in the sense of the ability to command on the basis of formal institutional rank. In a relationship of complex interdependence there are three strategies for the



exercise of leadership by one state or, in the application of the framework to domestic policy making, organisation or group. Keohane and Nye argue that one strategy is for the state to lead by example; a state may lead since "because of its size and importance, its actions may determine the regimes that govern situations of interdependence, both because of its direct effects and through imitation"<sup>(32)</sup>. The interest rates pursued by the United States Federal Reserve Board, for example, are cited by Keohane and Nye as examples of such international leadership.

There are, of course, limitations to this form of leadership when translated to policy issues involving central government and other organisations. The centre cannot lead through example in most of the fields which involve local government - it cannot set an example through selling its own public housing stock since it has none. While it is possible to argue that the centre may set an example through, say, the adoption of "corporate management" structures<sup>(33)</sup>, being the first to grant low pay increases to its own employees<sup>(34)</sup> or cutting its own spending most<sup>(35)</sup> it has not exercised leadership in this way consistently in the past.

The second possibility for unilateral leadership is through persuasion and inducements; convincing other states to forego short term objectives for the sake of longer term objectives. This strategy of leadership requires cooperation and the belief that what is being induced is "in their interests"<sup>(36)</sup>. This strategy is pursued by the centre in its relationships with local government, and conforms to the role of non-constraining persuasion through the issue of non-mandatory circulars (see chapter five). However the limitations to this are that where there is controversy or conflicting

goals, leadership within complex interdependence using inducements alone are unlikely to succeed.

The third possibility raised by Keohane and Nye is the most interesting since it paradoxically points to a form of leadership which is rare in the international political system, but is crucial to understanding political leadership within domestic politics. Keohane and Nye use the term "hegemonic leadership" to convey the concept that one state may structure the rules according to which it interacts with other states upon which it is dependent. In the international system structural power, or the ability to structure the rules of the relationship of interdependence, exists

when one state is powerful enough to maintain the essential rules governing interstate relations, and willing to do so. In addition to its role in maintaining a regime, such a state can abrogate existing rules, prevent the adoption of new rules that it opposes or play the dominant role in constructing new rules. ... The preponderant state therefore has both positive and negative power<sup>(37)</sup>.

The characteristic of groups with structural power in relationships of complex interdependence is not that they must adapt their goals to other organisations in the network, as Scharpf suggests that groups and organisations in relationships of mutual dependence must do or, indeed, as the small number of unequal organisations in Rose's oligopoly model must do<sup>(38)</sup>. Rather, an organisation with structural power can change the rules according to which the groups within the system interact, it "can change the rules rather than adapt its own policies to existing rules"<sup>(39)</sup>.

In the United Kingdom central government has structural power. This not only refers to the ability to reorganise local government, but to mandate and prohibit that which it fails, or is likely to fail,

to encourage or discourage. In the United States such structural power is absent because the basic structure of the system, at least from the federal perspective, is relatively fixed.

The analysis of the centre's instruments does not seek to deny the existence of multiple relationships of mutual dependence in central-local relations. However, it has shown that instead of conceiving the relationship of interdependence between central and local government as a form of near equilibrium of capacity to influence, with the goals of the centre only achievable after some concession is made to local governments, the relationship is one of asymmetry where the centre has structural power - the centre can use its instruments, especially its instrument of legislation, which derive from its constitutional superiority, to make its choices affect service delivery by local governments. To ignore structural power in central-local relations is not only to ignore the whole pattern of development of public services in Britain, but to deny the existence of political leadership since it is "extraordinarily difficult for unitary leadership to be effective in the absence of structural power"<sup>(40)</sup>.

The resource-exchange paradigm might be more appropriate for analysing the relationships between private organisations, between public organisations of the same status, or within public organisations (although even here it is difficult to conceptualise the absence of structural power - hierarchies within organisations do offer formalised structural power to groups within organisations) than for analysing relationships between groups of unequal status such as central and local government in Britain. There are, of course, limits to the structural power of the centre in the central-local

relationship since there are some policy areas and stages in the policy process where parameters are difficult to set through the centre's instruments. However, the limits to the structural power of the centre in Britain are not defined through formal justiciable rights possessed by local governments which prohibit restructuring the rules of the interaction with subnational units as may be found in the United States where constitutional limitations prevent the federal government from mandating and prohibiting activities by state and local government<sup>(41)</sup>. In the United States the "defect of constitutional authority"<sup>(42)</sup> means that the only real possibility for the exercise of leadership by the federal level is through providing incentives, primarily through the grant system in the form of categorical grants conditional upon the delivery of certain levels of service in specified manner<sup>(43)</sup>.

The observation that central government choice constrains local government service delivery through the use of instruments of influence in an asymmetric system of complex interdependence should not simply be assumed to be a reaction to the prevailing conflictual relationship between central and local government of the early 1980s, just as the "critique of the conventional wisdom" and the "bargaining" models of central-local relations can be regarded as the reaction to the apparent consensus that emerged from the "assumption of growth" in local spending<sup>(44)</sup> of the period from the 1960s to the mid 1970s, especially strong in the high spending growth period of the early 1970s. The relationship between central and local government is not changed; the centre has always possessed and used its instruments of influence, and has always had structural power. What is different about the 1980s is that the level of controversy over how these

instruments of influence are used to restructure central-local interaction has increased. Structural power is a characteristic feature of central-local relations in Britain; structural power has not increased, rather conflict has.

## Notes and References

1. See R.A.W. Rhodes Control and Power in Central-Local Government Relations (Farnborough, Hants: Gower, 1981), pp. 13-19.
2. This interpretation of the term "agent" is offered by J. Stanyer Understanding Local Government (Glasgow: Fontana, 1976), p. 211.
3. See The Times, 21 July, 1981.
4. Boaden, N.T. Urban Policy Making (London: Cambridge University Press, 1971), pp. 19-20.
5. Dearlove, J. The Politics of Policy in Local Government (London: Cambridge University Press, 1973), pp.
6. Rhodes Control and Power, p. 17.
7. Rhodes Control and Power, pp. 97-111.
8. Rhodes Control and Power, pp. 100-101.
9. Rhodes Control and Power, p. 102.
10. Hartley, O.A. "The Relationship Between Central and Local Authorities" Public Administration, 49, 1971, 439-456.
11. Rhodes Control and Power, p. 106.
12. Gregory, R. "The Minister's Line Or, the M4 Comes to Berkshire" Public Administration, 45, 113-128; 269-286.
13. Griffith, J.A.G. Central Departments and Local Authorities (London: Allen and Unwin, 1966).
14. Bulpitt, J. "Conservatism, Unionism and Territorial Management" in P.J. Madgwick and R. Rose (eds.) The Territorial Dimension in United Kingdom Politics (London: Macmillan, forthcoming 1982).
15. Scharpf, F.W. "Interorganisational Policy Studies: Issues, Concepts and Perspectives" in K. Hanf and F.W. Scharpf (eds.) Interorganisational Policy Making (London and Beverly Hills: Sage, 1978), p. 347.
16. Scharpf "Interorganisational Policy Studies", p. 347.
17. Bramley, G. and Stewart, M. "Implementing Public Expenditure Cuts" in S. Barrett and C. Fudge (eds.) Policy and Action (London: Methuen, 1981).
18. For a discussion of the term "issue network" see A.G. Jordan "Iron Triangles, Woolly Corporatism or Elastic Nets: Images of the Policy Process" Journal of Public Policy, 1, 1981, 95-124.
19. Scharpf "Interorganisational Policy Studies", p. 354.

20. Scharpf "Interorganisational Policy Studies", p. 355.
21. Scharpf "Interorganisational Policy Studies", pp. 358-359.
22. Scharpf "Interorganisational Policy Studies", p. 357.
23. Scharpf "Interorganisational Policy Studies", p. 358-359.
24. Scharpf "Interorganisational Policy Studies", pp. 356-357.
25. See, for example, J. Raine, R. Greenwood, G.W. Jones and J.D. Stewart (eds.) "In Defence of Local Government" (Birmingham: Institute of Local Government Studies, 1981).
26. Finer discusses the "fear of centralisation" since the middle of the 19th century in H. Finer English Local Government (London: Methuen, 1945), p. 9. For a discussion of the controversies of the late 19th century see D.E. Ashford "A Victorian Melodrama: The Fiscal Subordination of British Local Government" in D.E. Ashford (ed.) Financing Urban Government in the Welfare State (London: Croom Helm, 1980).
27. Keohane, R.O. and Nye, J.S. Power and Interdependence (Boston: Little Brown, 1977), p. 24.
28. Keohane and Nye Power and Interdependence, pp. 23-24.
29. Scharpf "Interorganisational Policy Studies".
30. Rhodes Control and Power.
31. Keohane and Nye Power and Interdependence, pp. 10-11.
32. Keohane and Nye Power and Interdependence, p. 230.
33. Central Policy Review Staff Relations between Central Government and Local Authorities (London: HMSO, 1977).
34. For a discussion of the factors influencing wage bargaining see A. Thomson "Local Government as an Employer" in R. Rose and E. Page (eds.) Fiscal Stress in Cities (London: Cambridge University Press, forthcoming 1982).
35. Raine, J. et al. (eds.) "In Defence of Local Government".
36. Keohane and Nye Power and Interdependence, p. 231.
37. Keohane and Nye Power and Interdependence, p. 44.
38. Rose, R. Understanding the United Kingdom (London: Longmans, forthcoming 1982).
39. Keohane and Nye Power and Interdependence, p. 44.
40. Keohane and Nye Power and Interdependence, p. 232.

41. See H. Wolman "Local Government Autonomy and Intergovernmental Finance in the United States and the United Kingdom" in R. Rose and E. Page (eds.) Fiscal Stress in Cities (London: Cambridge University Press, forthcoming 1982).
42. Key, V.O. The Administration of Federal Grants to States (Chicago: Public Administration Service, 1938), p. 4.
43. For a comparison of the United States and United Kingdom grants systems see E. Page "Grant Consolidation and the Development of Intergovernmental Relations in the United States and the United Kingdom" Politics, 1, 1, 1981, 19-24.
44. Stewart, J.D. "From Growth to Standstill" in M. Wright (ed.) Public Spending Decisions (Oxford: Martin Robertson, 1980).



## Appendix A

### Research Sources

The focus of the thesis required analysis of documents, above all laws and circulars, which have not been examined systematically by political scientists in the past. The purpose of this appendix is to outline the sources used in an analysis of the centre's instruments.

#### i) Laws

The full texts of public Acts of Parliament, that is to say laws other than Statutory Instruments and private and local Acts of Parliament, are contained in the Statutory Publications Office's Public General Acts published annually by HMSO. Useful commentaries on Acts of Parliament are contained in P. Allsop and S. Kahn-Freund (eds.) Current Law Statutes Annotated (London: Sweet and Maxwell, annual). Comprehension of legislation is sometimes difficult, and the second reading debates on the legislation reported in Hansard provided valuable assistance as did H. McN. Henderson's "Scottish Legislation in the Seventies" in H.M. Drucker and N.L. Drucker (eds.) Scottish Government Yearbook 1981 (Edinburgh: Paul Harris, 1980). Unless otherwise stated, the analysis of the legislation passed in the 1970s takes no account of which, if any, parts of the legislation have not been brought into force.

#### ii) Money

Scottish local authority financial statistics which refer to total expenditure incurred are published well after the end of the financial year to which they refer has ended. The latest (as of April 1982) issue of Scottish Abstract of Statistics published in 1981 contains only "provisional" figures for expenditure and income

in the financial year ended March 1979. Furthermore, these are not disaggregated to give figures for each local authority.

Useful statistical sources for local government finance were the Reports by the Convention of Scottish Local Authorities on the Rate Support Grant (Scotland) Order, published at the beginning of each calendar year and giving up to date expenditure figures for local government relevant expenditure (i.e. expenditure for Rate Support Grant purposes) and the annual Rating Review published by the Chartered Institute of Public Finance and Accountancy, giving abstracts of the budgets of each individual local authority in Scotland.

### iii) Circulars

There is no collected volume of local government circulars. Some Scottish Office Departments publish consolidated lists of circulars, but not all circulars received by local governments can be traced in this way since some circulars out of circular series, from non-Scottish Office departments or are circulars in series not commonly sent to local governments (e.g. some National Health Service circulars). Series circulars, for which consolidated lists were available, were easily traced, with the Scottish Office supplying those missing from the University of Strathclyde Library. Additional circulars were located during visits to the Library at Strathclyde Regional Council where copies of all circulars received are stored - including circulars addressed to district councils only. Unfortunately, it is quite possible that the 390 circulars located and analysed do not constitute a complete census of the circulars issued in the financial year to March 1978. The precise degree to which the circulars analysed fall short of a census is unknown, although it is likely to be very small.

iv) General

During the course of the research I spoke to 32 members and officers in local government in Scotland. The interviews were not of a common format since they were intended to gain details of interactions with central government officials which focused upon particular and separate issues. The interviews were conducted primarily in late 1978 and early 1979 in Strathclyde Region (2), Lothian Region (3), Central Region (1), Renfrew District (5), Argyll and Bute District (5), Dundee District (4), Glasgow District (3), Angus District (3), East Kilbride District (2), East Kilbride Development Corporation (1), Bearsden and Milngavie (1), the Convention of Scottish Local Authorities (2). I am grateful to the councillors and officials interviewed for their kind help.

## Appendix B

For the purposes of section VI in chapter five the messages of circulars were coded according to 14 categories:

- i) A circular may request information; for example, Scottish Office Finance circular 13/77 requests information on the outturn expenditure of local governments.
- ii) A circular may give information: for example, Home Office circular 167/77 gives the addresses of people to be contacted "for reporting incidents involving unexploded missiles, mines, ammunition and other explosive devices".
- iii) A circular may offer technical advice: for example SDD circular 23/77 introduced technical papers on waste treatment.
- iv) A circular may inform a local government of the existence of legislation: for example SDD circular 45/77 introduced the 1977 Minibus Act.
- v) A circular may offer a lengthy interpretation of legislation. For example, an SDD letter dated November 23 1977 offers a lengthy interpretation of statutes concerned with compulsory purchase.
- vi) A circular may make a routine adjustment to financial arrangements. For example, the Finance Division frequently issues circulars which give effect to alterations in the rate of interest charged by the Public Works Loan Board.
- vii) A circular may inform local governments of impending legislation. For example, SWSG circular 10/77 tells of legislation proposed on attendance allowances for the handicapped.

- viii) A circular may ask local governments to take action without any statutory basis for requiring that they take it. For example, SDD circular 24/78 asks local governments to embark on a programme of insulating council houses.
- ix) A circular may ask local governments to distribute documents to the public. For example, SWSG circular 15/77 asks local governments to arrange for the distribution of the "Be a Good Neighbour Scheme" leaflets.
- x) A circular may solicit comments: for example SED circular 988 asks for comments on the Report of the Working Party on Drama in Schools.
- xi) A circular may remedy errors made in other circulars: for example SDD letter dated November 9 1977 informs local governments that a page may have been missing from a previous circular and that they should contact the Department to receive the missing page.
- xii) A circular may state the government's views: for example, Scottish Office Finance Division circular 15/1977 encloses and summarises the Government's response to the Report of the Layfield Committee.
- xiii) A circular may set standards: for example SWSG circular 3/77 states that lifts which do not conform to certain British Safety Standards should not be installed in residential homes, but may be suitable for private households.
- xiv) A circular may announce the Secretary of State's use of his discretionary powers: for example SDD circular 4/77 announces the use made by the Secretary of State in Rent Rebate Schemes.

The messages contained in the circulars are not consistently classifiable according to one of these categories alone. In 133 cases (35 per cent of the 190 circulars) it was necessary to use an additional classification for the circular. For example SHMD(EG) 9/77 gives authorities information in transport in the case of war and also asks local governments to take action by making plans for home defence. The classification of circulars was forced into one or two of these fourteen categories, and the frequency of each of these categories is presented in table B.1.

Table B.1

The Messages of Circulars

<u>Message of Circular*</u>	<u>Number</u>	<u>Percentage</u>
Gives Information	118	22.2
Introduces legislation	96	18.0
Adjusts financial arrangements	71	13.3
Interprets legislation	54	10.2
Asks authorities to take action	34	6.4
Asks authorities to distribute	31	5.8
Requests information	24	4.5
Remedy errors	23	4.3
Set Standards	20	3.8
Gives technical advice	20	3.8
Tells of impending legislation	15	2.8
Uses discretionary powers	11	2.1
States government's views	8	1.5
Solicits comments	5	1.0
Total:	<u>528</u>	<u>99.7**</u>

\* for discussion of the categories see text.

\*\* percentages do not add up to 100 due to rounding.

The bulk of circulars (22.2 per cent) give information. Typically, this information concerns relatively minor matters, such

as the costs of sending policemen on detective courses (SHHD 9/77) or letting local authorities know why there has been a delay in implementing the EEC Directive on cocoa and chocolate products (SHHD letter May 12 1977). The other large category of circulars (18.0 per cent) comprises those circulars which introduce legislation to local governments. Usually these are brief circulars which merely offer local governments information that the legislation exists. Even those circulars which are classified as "interpreting legislation" (10.2 per cent) often do little more than explain the broad purposes of the legislation. The other large category is the one which adjusts financial arrangements (13.3 per cent); a large portion of these were made of circulars covering Public Works Loan Board Rates of Interest circulars and circulars adjusting the rates of interest after entry onto vacant land (30 of the 71 circulars in this category). The remaining third of circulars contained a wide variety of messages (see table B.1).

## BIBLIOGRAPHY

- Advisory Commission on Intergovernmental Relations State Limitations on Local Taxes and Expenditures. A-64 (Washington DC: ACIR, 1977).
- Allen, C.K. Law and Orders (London: Steven and Sons, 1965).
- Allsop, P. and Kahn-Freund, S. (eds.) Current Law Statutes Annotated (London: Sweet and Maxwell, annual).
- Ashford, D.E. "The Effects of Central Finance on the British Local Government System" British Journal of Political Science, 4, 1974, 305-322.
- Ashford, D.E. "A Victorian Drama: The Fiscal Subordination of British Local Government" in D.E. Ashford (ed.) Financing Urban Government in the Welfare State (London: Croom Helm, 1980).
- Association of County Councils "Review of Government Controls over Local Authorities" (London: ACC, 1979).
- Bachrach, P. and Baratz, M.S. "Two Faces of Power" American Political Science Review, 56, 1962, 947-952.
- Bailey, S.T. "Fewer Pupils - Greater Stress" in R. Rose and E. Page (eds.) Fiscal Stress in Cities (London: Cambridge University Press, forthcoming 1982).
- Barnett, J. Inside the Treasury (London: Andre Deutsch, 1982).
- Barrett, S. and Fudge, C. (eds.) Policy and Action (London: Methuen, 1981).
- Bebbington, A., Davies, B. and Coles, O. "Social Workers and Client Numbers" British Journal of Social Work, 9, 1981, 93-100.
- Bell, R. and Grant, N. Patterns of Education in the British Isles (London: Allen and Unwin, 1977).
- Bertram, J. Staatspolitik und Kommunalpolitik (Berlin: Kohlhammer, 1967).
- Boaden, N. Urban Policy-Making (London: Cambridge University Press, 1971).
- Bone, T.R. School Inspection in Scotland 1840-1966 (London: University of London Press, 1968).
- Bramley, G. and Stewart, M. "Implementing Public Expenditure Cuts" in S. Barrett and C. Fudge (eds.) Policy and Action (London: Methuen, 1981).
- Bulpitt, J. "Conservatism, Unionism and Territorial Management" in P.J. Madgwick and R. Rose (eds.) The Territorial Dimension in United Kingdom Politics (London: Macmillan, forthcoming 1982).



- Burton, I. and Drewry, G. "Public Legislation: A Survey of the Session 1979/80" Parliamentary Affairs, 35, 1982, 7-37.
- Buxton, R. Local Government (Harmondsworth: Penguin, 1973).
- Central Policy Review Staff Relations between Central Government and Local Authorities (London: HMSO, 1977).
- Chartered Institute of Public Finance and Accountancy Financial, General and Rating Statistics (London: CIPFA, annual).
- Chartered Institute of Public Finance and Accountancy Rating Review (Glasgow: CIPFA, annual).
- Chester, D.N. Central and Local Government (London: Macmillan, 1951).
- Clarke, J.J. The Local Government of the United Kingdom (London: Pitman, 1939).
- Collins, C.A., Hinings, C.R. and Walsh, K. "The Officer and the Councillor in Local Government" Public Administration Bulletin, 28, 1978, 34-50.
- Commission for Local Authority Accounts in Scotland Accounts Commission (Edinburgh: HMSO, 1976).
- Committee Appointed by the Lord President of the Council The Preparation of Legislation. Cmnd. 6053 (London: HMSO, 1975).
- Committee of Inquiry into Local Government Finance Report. Cmnd. 6453 (London: HMSO, 1976).
- Committee of Inquiry into Local Government Finance Appendix 10 (London: HMSO, 1976).
- Committee on Ministers' Powers Report. Cmnd. 4060 (London: HMSO, 1932).
- Convention of Scottish Local Authorities Minutes of Meeting (Edinburgh: COSLA, quarterly).
- Convention of Scottish Local Authorities "The Rate Support Grant (Scotland) Order" (Edinburgh: COSLA, annual).
- Convention of Scottish Local Authorities "The COSLA Critique" (Edinburgh: COSLA, 1981).
- Convention of Scottish Local Authorities "A Time to Listen - A Time to Speak Out" (Edinburgh: COSLA, 1982).
- Craig, C. "COSLA. A Silent Voice for Local Government?" in H.M. Drucker and N.L. Drucker (eds.) Scottish Government Yearbook 1981 (Edinburgh: Paul Harris, 1980).
- Crispin, A. "Local Government Finance: Assessing the Central Government's Contribution" Public Administration, 54, 1976, 45-61.

- Crompton, P. "Subverting Housing Plans: Some Institutional Realities" in H.M. Drucker and N.L. Drucker (eds.) Scottish Government Yearbook 1981 (Edinburgh: Paul Harris, 1980).
- Cross, C.A. The Principles of Local Government Law (London: Sweet and Maxwell, 1974).
- Crozier, M. The Bureaucratic Phenomenon (London: Tavistock, 1964).
- Daniels, P. "The Convention of Scottish Local Authorities" (Glasgow: University of Strathclyde Department of Administration unpublished paper, 1979).
- Danziger, J.L. Making Budgets (London and Beverly Hills: Sage, 1978).
- Davies, B. Social Needs and Resources in Local Services (London: Michael Joseph, 1968).
- Davies, B. "Social Service Studies and the Explanation of Policy Outcomes" Policy and Politics, 5, 3, 1977, 41-59.
- Davis, K.C. Discretionary Justice (Baton Rouge: Louisiana State University Press, 1969).
- Dearlove, J. The Politics of Policy in Local Government (London: Cambridge University Press, 1973).
- Dearlove, J. The Reorganisation of British Local Government (London: Cambridge University Press, 1979).
- Department of the Environment The Rate Support Grant Order 1977. Report by the Secretary of State. HC 57 (London: HMSO, 1977).
- Department of the Environment The Rate Support Grant Order 1978. Report by the Secretary of State. HC 63 (London: HMSO, 1978).
- Department of the Environment Central Controls over Local Authorities. Cmnd. 7634 (London: HMSO, 1979).
- Dror, Y. Public Policy Making Re-Examined (Scranton, Penn: Chandler, 1968).
- Dunleavy, P. Urban Political Analysis (London: Macmillan, 1980).
- Dunleavy, P. The Politics of Mass Housing in Britain 1945-1975 (Oxford: Clarendon Press, 1981).
- Dunleavy, P. "Professions and Policy Change: Notes Towards a Model of Ideological Corporatism" Public Administration Bulletin, 36, 1981, 3-16.
- Dunsire, A. Implementation in a Bureaucracy (Oxford: Martin Robertson, 1978).
- Dworkin, F. Taking Rights Seriously (London: Duckworth, 1977).
- Dykes, D.D. Scottish Local Government (Edinburgh and London: Oliphant, Anderson and Ferrier, 1907).

- Elliott, M.J. "The Role of Law in Central-Local Relations" (London: Social Science Research Council, 1981).
- English, J. (ed.) The Future of Council Housing (London: Croom Helm, 1982).
- Finer, H. English Local Government (London: Methuen, 1945).
- Forrest, R. "The Social Implications of Council House Sales" in J. English (ed.) The Future of Council Housing (London: Croom Helm, 1982).
- Foster, C.D., Jackman, R. and Perlman, M. Local Government Finance in a Unitary State (London: George Allen and Unwin, 1980).
- Gibson, P. "How Scotland Got the Housing (Homeless Persons) Act" in H.M. Drucker and N.L. Drucker (eds.) Scottish Government Yearbook 1979 (Edinburgh: Paul Harris, 1978).
- Gill, A.M. "The Relationship between Central and Local Authorities" Public Administration, 50, 1972, 215-216.
- Grace, C. and Wilkinson, P. Sociological Inquiry and Legal Phenomena (London: Collier Macmillan, 1978).
- Greenhill, N.J. "Professionalism in the Police Service" in D.W. Pope and N.L. Weiner (eds.) Modern Policing (London: Croom Helm, 1981).
- Greenwood, R. "Fiscal Pressure and Local Government in England and Wales" in C. Hood and M. Wright (eds.) Big Government in Hard Times (Oxford: Martin Robertson, 1981).
- Gregory, R. "The Minister's Line: Or, the M4 Comes to Berkshire" Public Administration, 45, 1967, 113-128; 269-286.
- Griffith, J.A.G. Central Departments and Local Authorities (London: Allen and Unwin, 1966).
- van Gunsteren, H.R. The Quest for Control (London: John Wiley, 1976).
- Gyford, J. Local Politics in Britain (London: Croom Helm, 1976).
- Haider, D.H. When Governments Come to Washington. Governors, Mayors and Intergovernmental Lobbying (New York: Free Press, 1974).
- Hartley, O.A. "The Relationship Between Central and Local Authorities" Public Administration, 49, 1971, 439-456.
- Heald, D. "Scotland's Public Expenditure 'Needs'" in H.M. Drucker and N.L. Drucker (eds.) Scottish Government Yearbook 1981 (Edinburgh: Paul Harris, 1980).

- Heald, D. "The Scottish Rate Support Grant. How Different from the English?" Public Administration, 58, 1980, 25-46.
- Heald, D. "Territorial Equity and Public Finances: Concepts and Confusion" (Glasgow: University of Strathclyde Studies in Public Policy No. 75, 1980).
- Heald, D.A. "Public Expenditure Cuts and RSG: What Are the Issues?" in J.F. Malcolm (ed.) "Public Expenditure and the Rate Support Grant" (Glasgow: Centre for Urban and Regional Research Discussion Paper No. 2, 1981).
- Heclo, H. and Wildavsky, A. The Private Government of Public Money (London: Macmillan, 1981).
- Henderson, H. McN. "Scottish Legislation in the Seventies" in H.M. Drucker and N.L. Drucker (eds.) Scottish Government Yearbook 1981 (Edinburgh: Paul Harris, 1980).
- Hill, M. Understanding Social Policy (Oxford: Martin Robertson, 1980).
- Hill, M. "The Policy-Implementation Distinction" in S. Barrett and C. Fudge (eds.) Policy and Action (London: Methuen, 1981).
- Hobson, M. and Stewart, J.D. "The Legal Profession in Local Government" Public Law, 1969, 199-218.
- Hood, C. The Limits of Administration (London: John Wiley, 1976).
- Hood, C. "So You Think You Know what Government Departments Are?" Public Administration Bulletin, 27, 1978, 20-32.
- Hood, C. and Dunsire, A. Bureaumerics (Farnborough, Hants: Gower, 1981).
- Hunter, D. Coping with Uncertainty. Policy and Politics in the National Health Service (Letchworth, Herts: Research Studies Press, 1980).
- Isaac-Henry, K. "The English Local Authority Associations" Public Administration Bulletin, 33, 1980, 21-41.
- Jackman, R. "The Block Grant in England" in J.F. Malcolm (ed.) "Public Expenditure Policy and the Rate Support Grant" (Glasgow: Centre for Urban and Regional Studies Discussion Paper No.2, 1981).
- Jackson, P.W. Local Government (London: Butterworths, 1976).
- Jackson, W.E. Local Government in England and Wales (Harmondsworth: Penguin, 1959).
- Jones, G.W. "The Future Looks Bleak for Local Government" Municipal Review, 600, 1980, 232-234.
- Jones, G.W. and Stewart, J.D. "Why the Council Hatchet Job Is So Unfair" The Times, 14 August, 1981.

- Jones, G.W., Stewart, J.D. and Greenwood, R. "Making Government More Local" New Society, 25 February 1982, 304-306.
- Jordan, A.G. "Iron Triangles, Woolly Corporatism or Elastic Nets: Images of the Policy Process" Journal of Public Policy, 1, 1981, 95-124.
- Jowell, J. "The Legal Control of Administrative Discretion" Public Law, 1973, 178-220.
- Keating, M. "The Scottish Local Government Bill", Local Government Studies, 1, 1975, 49-61.
- Keating, M. "Administrative Devolution in Practice: The Secretary of State for Scotland and the Scottish Office" Public Administration, 54, 1976, 133-145.
- Kellas, J. The Scottish Political System (London: Cambridge University Press, 1975).
- Keohane, R.O. and Nye, J.S. Power and Interdependence (Boston: Little Brown, 1977).
- Key, V.O. The Administration of Federal Grants to States (Chicago: Public Administration Service, 1937).
- Kilroy, B. "The Financial and Economic Implications of Sales" in J. English (ed.) The Future of Council Housing (London: Croom Helm, 1982).
- Kirwan, F.X. "The Scottish Development Agency: Structure and Functions" (Glasgow: University of Strathclyde Studies in Public Policy No.81, 1981).
- Kochen, M. and Deutsch, K.W. Decentralization: Sketches Toward a Rational Theory (Cambridge Mass: Oelgeschlager, 1980).
- Lukes, S. Power. A Radical View (London: Macmillan, 1974).
- McCulloch, D. "How the AMA Fought and Improved the Housing Bill" Municipal Review, 607, 1980, 133-134.
- McDonald, S.T. "The Regional Report in Scotland: A Study of Change in the Planning Process" Town Planning Review, 48, 1977, 215-232.
- Management and Personnel Office Civil Service Year Book 1982 (London: HMSO, 1982).
- Martin, F.M., Fox, S.J. and Murray, K. Children Out of Court (Edinburgh: Scottish Academic Press, 1981).
- Mechanic, D. "Sources of Power of Lower Participants in Complex Organisations" Administrative Science Quarterly, 7, 1962, 349-364.
- Midwinter, A.F. "Local Authority Financial Planning in a Turbulent Environment" (Glasgow: University of Strathclyde Studies in Public Policy No. 46, 1979).

- Midwinter, A.F. "Selling Scotland's Council Houses. Local Responses to National Policy" Municipal Journal, 14 September, 1979.
- Midwinter, A.F. "The Scottish Office and Local Authority Financial Planning: A Study of Change in Central-Local Relations" Public Administration Bulletin, 34, 1980, 21-43.
- Midwinter, A.F. "Conflict and Confusion: The Politics of the Rates" (Glasgow: University of Strathclyde Department of Administration, 1981).
- Midwinter, A.F. and Keating, M.J. "Policy Leadership in Scottish Government" (Glasgow: University of Strathclyde Department of Administration unpublished paper, 1981).
- Midwinter, A.F. and Page, E. "Cutting Local Spending. The Scottish Experience" in C. Hood and M. Wright (eds.) Big Government in Hard Times (Oxford: Martin Robertson, 1981).
- Morris, S. "British Chief Constables: The Americanization of a Role" Political Studies, 29, 1981, 352-364.
- Municipal Publications Ltd. Municipal Year Book (London: Municipal Publications Ltd., annual).
- Murie, A. "A New Era for Council Housing?" in J. English (ed.) The Future of Council Housing (London: Croom Helm, 1982).
- Murray, C. de B. How Scotland is Governed (Edinburgh and London: Moray Press, 1938).
- Nelson, S. "Participating in GEAR" (Glasgow: University of Strathclyde Area Survey Unit, 1980).
- Newton, K. "The Local Fiscal Crisis in Britain: A Non-Crisis which is neither Local nor Financial" in L.J. Sharpe (ed.) The Local Fiscal Crisis in Western Europe (London and Beverly Hills: Sage, 1981).
- Newton, K. and Sharpe, L.J. "Local Outputs Research" Policy and Politics, 5, 3, 1977, 61-82.
- Norton, P. The Commons in Perspective (Oxford: Martin Robertson, 1981).
- Page, C.S. Local Finance in Scotland (Glasgow: Wm. Hodge, 1967).
- Page, E. "Why Should Central-Local Relations in Scotland be Any Different from those in England?" Public Administration Bulletin, 28, 1978, 51-72.
- Page, E. "Comparing Local Expenditure: Lessons from a Multi-National State" (Glasgow: University of Strathclyde Studies in Public Policy No.60, 1980).
- Page, E. "The Measurement of Central Control" Political Studies, 28, 1980, 117-120.

- Page, E. "Grant Consolidation and the Development of Intergovernmental Relations in the United States and the United Kingdom" Politics, 1, 1, 1981, 19-24.
- Page, E. "Grant Dependence and Intergovernmental Finance" (Glasgow: University of Strathclyde Studies in Public Policy No.80, 1981).
- Page, E. "The New Gift Relationship: Are Central Government Grants Only Good for the Soul?" Public Administration Bulletin, 36, 1981, 37-52.
- Page, E. and Midwinter, A.F. "Remote Bureaucracy or Administrative Efficiency: Scotland's New Local Government System" (Glasgow: University of Strathclyde Studies in Public Policy No.38, 1979).
- Paterson, K. "Local Finance in Scotland" (Glasgow: Strathclyde Regional Council (mimeo), 1980).
- Peters, B.G. The Politics of Bureaucracy (New York and London: Longman, 1978).
- Planning Exchange "Research for Planning. A Review of Research Carried Out by Central Government for Scottish Planning Authorities" (Glasgow: The Planning Exchange, 1978).
- Polsby, N. "Empirical Investigations of Mobilisation of Bias in Community Power Research" Political Studies, 27, 1979, 527-541.
- Punnett, R.M. British Government and Politics (London: Heinemann, 1976).
- Raine, J., Greenwood, R., Jones, G.W. and Stewart, J.D. (eds.) "In Defence of Local Government" (Birmingham: Institute of Local Government Studies, 1981).
- Regan, D.E. "The Police Service: An Extreme Example of Central Control Over Local Authority Staff" Public Law, 1966, 13-34.
- Rhind, J.A. "The Need for Accountability" in D.W. Pope and N.L. Weiner (eds.) Modern Policing (London: Croom Helm, 1981).
- Rhodes, R.A.W. Control and Power in Central-Local Government Relations (Farnborough, Hants: Gower, 1981).
- Rhodes, R.A.W., Hardy, R. and Pudney, K. "Public Interest Groups and Central-Local Relations in England and Wales" Public Administration Bulletin 36, 1981, 17-36.
- Rhodes, R.A.W. and Midwinter, A.F. "Corporate Management: The New Conventional Wisdom in British Local Government" (Glasgow: University of Strathclyde Studies in Public Policy No.59, 1980).
- Robson, P.W. and Watchman, P. "The Homeless Persons Obstacle Race" Journal of Social Welfare Law, 1981, 1-15; 65-82.
- Robson, W.A. Local Government in Crisis (London: Allen and Unwin, 1966).

- Rose, R. "Housing Objectives and Policy Indicators" in R. Rose (ed.) The Management of Urban Change in Britain and Germany (London and Beverly Hills: Sage, 1974).
- Rose, R. Managing Presidential Objectives (New York: Free Press, 1976).
- Rose, R. "On the Priorities of Government" European Journal of Political Research, 4, 1976, 247-289.
- Rose, R. "The United Kingdom as an Intellectual Puzzle" (Glasgow: University of Strathclyde Studies in Public Policy No.7, 1977).
- Rose, R. What is Governing? Purpose and Policy in Washington (Englewood Cliffs, NJ: Prentice Hall, 1978).
- Rose, R. "Changes in Public Employment: A Multi-Dimensional Comparative Analysis" (Glasgow: University of Strathclyde Studies in Public Policy No.61, 1980).
- Rose, R. Do Parties Make a Difference? (Chatham, New Jersey: Chatham House, 1980).
- Rose, R. "What if Anything Is Wrong with Big Government?" Journal of Public Policy, 1, 1981, 5-36.
- Rose, R. "Disaggregating Government: Pre-Conditions for Understanding Growth" (Glasgow: University of Strathclyde Studies in Public Policy No.86, 1981).
- Rose, R. Understanding the United Kingdom (London: Longman, forthcoming, 1982).
- Rose, R. and Page, E. "Chronic Instability in Fiscal Systems. Tracing the Path of a Random Walk" in R. Rose and E. Page (eds.) Fiscal Stress in Cities (London: Cambridge University Press, forthcoming 1982).
- Sbragia, A. "The Politics of Local Borrowing: A Comparative Analysis" (Glasgow: University of Strathclyde Studies in Public Policy No.37, 1980).
- Scarrow, H.A. "Policy Pressures by British Local Government. The Case of Regulation in the 'Public Interest'" Comparative Politics 4, 1971, 1-28.
- Scharpf, F.W. "Interorganisational Policy Studies: Issues, Concepts and Perspectives" in K. Hanf and F.W. Scharpf (eds.) Interorganisational Policy Making (London and Beverley Hills: Sage, 1978).
- Schofield, A.N. Byelaws of Local Authority (London: Butterworth, 1939).
- Scottish Association of Chief Building Control Officers "Synopsis of Meeting. March 21st 1979" (Glasgow: Scottish Association of Chief Building Control Officers (mimeo), 1979).



- Scottish Development Department Scottish Housing Statistics (Edinburgh: HMSO, quarterly).
- Scottish Development Department Scottish Housing. Cmd. 6852 (Edinburgh: HMSO, 1977).
- Scottish Education Department Secondary School Staffing (Edinburgh: HMSO, 1972).
- Scottish Education Department Education in Scotland in 1975. Cmd. 6421 (Edinburgh: HMSO, 1976).
- Scottish Home and Health Department Health and Welfare Services in Scotland. Report for 1966. Cmd. 3337 (Edinburgh: HMSO, 1967).
- Scottish Homeless Group "Housing (Homeless Persons) Act 1977. A Review of the First Six Months" (Edinburgh: Shelter, 1978).
- Scottish Homeless Group "No Recourse for the Homeless" (Edinburgh: Shelter, 1979).
- Scottish Office The Rate Support Grant (Scotland) Order 1977. Report by the Secretary of State. HC 91 (Edinburgh: HMSO, 1977).
- Scottish Office The Rate Support Grant (Scotland) Order 1978. Report by the Secretary of State. HC 40 (Edinburgh: HMSO, 1978).
- Scottish Office Scottish Abstract of Statistics 10 (Edinburgh: HMSO, 1981).
- Select Committee on Scottish Affairs Minutes of Evidence Monday 7th July 1980 (London: HMSO, 1980).
- Sharkansky, I. The Routines of Politics (New York: Van Nostrand, 1970).
- Sharpe, L.J. "Theories and Values of Local Government" Political Studies, 18, 1970, 153-174.
- Sharpe, L.J. "Instrumental Participation and Urban Government" in J.A.G. Griffith (ed.) From Policy to Administration (London: George Allen and Unwin, 1976).
- Sharpe, L.J. "Reforming the Grass Roots" in D. Butler and A.H. Halsey (eds.) Policy and Politics (London: Macmillan, 1973).
- Shulz, M. "The Development of the Grant System" in C.H. Wilson (ed.) Essays on Local Government (Oxford: Blackwell, 1948).
- Stanyer, J. Understanding Local Government (Glasgow: Fontana, 1976).
- Statistisches Bundesamt Statistisches Jahrbuch fuer die Bundesrepublik Deutschland 1981 (Bonn: Statistisches Bundesamt, 1981).
- Statutory Publications Office Index to the Statutes (London: HMSO, 1980).

- Stewart, G. and Stewart, J. "The Housing (Homeless Persons) Act 1977: A Reassessment of Social Need" in M. Brown and S. Baldwin (eds.) The Year Book of Social Policy in Britain 1977 (London: Routledge and Kegan Paul, 1978).
- Stewart, J.D. "From Corporate Planning to Community Planning" Local Government Finance, May 1972, 155-159.
- Stewart, J.D. "From Growth to Standstill" in M. Wright (ed.) Public Spending Decisions. Growth and Restraint in the 1970s (London: George Allen and Unwin, 1980).
- Stewart, J.D., Gibson, J. and Game, C. "Grant Characteristics and Central-Local Relations" (Birmingham: Institute of Local Government Studies (mimeo), 1981).
- Taylor, S. "The Politics of Enterprise Zones" Public Administration, 59, 1981, 421-439.
- Thomson, A. "Local Government as an Employer" in R. Rose and E. Page (eds.) Fiscal Stress in Cities (London: Cambridge University Press, forthcoming, 1982).
- Tibbett, J.E. Social Workers as Mental Health Officers (Edinburgh: HMSO, 1978).
- HM Treasury Needs Assessment Study - Report (London: HM Treasury, 1979).
- HM Treasury The Government's Expenditure Plans 1981-82 to 1983-84. Cmd. 8175 (London: HMSO, 1981).
- Wade, E.C.S. and Phillips, G.G. Constitutional Law (London: Longman Green and Co., 1946).
- Walkland, S.A. The Legislative Process in Great Britain (London: Allen and Unwin, 1968).
- Webb, S. Grants in Aid. A Criticism and a Proposal (London: Longman Green and Co., 1911).
- Weber, M. Wirtschaft und Gesellschaft (Tuebingen: J.C.B. Mohr, 1972).
- Webster, B. and Stewart, J.D. "The Area Analysis of Resources" Policy and Politics, 3, 7, 1974, 5-16.
- West Midlands Group Local Government and Central Control (London: Routledge and Kegan Paul, 1956).
- Whitman, R.C. and Cline, R.J. "Fiscal Impact of General Revenue Sharing, Block Grant and Categorical Grants" (Washington DC: The Urban Institute, 1979).
- Wilensky, H. "The Professionalisation of Everyone?" in O. Grusky and G.A. Miller (eds.) The Sociology of Organisations (New York: Free Press, 1970).

- Wilson, C.H. (ed.) Essays on Local Government (Oxford: Blackwell, 1948).
- Wolman, H. "The Determinants of Program Success and Failure" Journal of Public Policy, 1, 1981, 433-464.
- Wolman, H. "Local Autonomy and Intergovernmental Finance in the United States and the United Kingdom" in R. Rose and E. Page (eds.) Fiscal Stress in Cities (London: Cambridge University Press, forthcoming, 1982).
- Wright, D.S. Understanding Intergovernmental Relations (North Scituate, Mass: Duxbury Press, 1978).
- Wright, M. "Pressures in Whitehall" in R. Rose and E. Page (eds.) Fiscal Stress in Cities (London: Cambridge University Press, forthcoming, 1982).
- Yates, D. The Ungovernable City (Boston Mass: MIT Press, 1977).
- Young, E. Developments in Planning Law in Scotland (Glasgow: The Planning Exchange, 1977).
- Young, K. "Urban Politics: An Overview" in K. Young (ed.) Essays on the Study of Urban Politics (London: Macmillan, 1975).
- Young, K. "Values in the Policy Process" Policy and Politics, 5, 3, 1977, 1-22.