

A “House of Citizens” for the Scottish Parliament

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A collaboration between:

The **Sortition Foundation**: a not-for-profit company whose mission is to promote and institute sortition in empowered assemblies. We envision a world free from partisan politicking, where representative samples of everyday people, selected by lottery, make decisions in informed, deliberative and fair environments.

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Executive Summary

The recent Citizens' Assembly on the future of Scotland¹ has painted a considered and compelling picture of what an improved democracy in Scotland could look like, including a proposal, **supported by 83.5% of its members**, to complement the elected Scottish Parliament with a permanent citizens' assembly (with regular rotation of membership), i.e., to establish a **House of Citizens in the Scottish Parliament**.

Such a House of Citizens would place Scotland at the forefront of democratic innovation and make it a global leader in citizen empowerment and engagement; we strongly recommend this proposal be adopted by all political parties to increase the level of trust in our political institutions and decision-making.

In this report we provide details and answer questions about the workings of such a chamber, and propose a demographically representative sample of 73 members of the public, selected by lottery, to fulfil this role for at least one but preferably two-year terms (with half of them rotating out every year). A three year trial is proposed whereby the House of Citizens is granted advisory powers only, after which a citizens' review would propose which future powers the House of Citizens should have, and suggest improvements to the processes outlined below.

Establishing a House of Citizens as a second chamber in the Scottish Parliament would increase public trust in parliament and boost the confidence of legislators that there is broad public backing for their decisions. Building on the recent experience of Scotland's citizens' assemblies, and other such assemblies from across the globe, we know that a House of Citizens is both feasible and popular.

¹ www.citizensassembly.scot

Why a “House of Citizens”?

Whether justified or not, increasing numbers of people no longer trust politicians and the political process; the feeling that politicians make short-term decisions based largely on political calculations – irrespective of citizens’ wishes – is undermining faith in democracy itself.

Perhaps reflecting these feelings, the recent Citizens' Assembly of Scotland voted overwhelmingly (83.5% support) that the **“Scottish Government and Parliament should set up a ‘house of citizens’ to scrutinise government proposals and give assent to parliamentary bills”**.

Our recent polling also demonstrates significant support from all across Scotland. Introducing a permanent House of Citizens as a second chamber for the Scottish Parliament received almost three times as much support as opposition. Replacing the House of Lords with a permanent House of Citizens received support from a clear majority of Scotland residents. **It is obviously an idea which is rapidly gaining popularity.**

Below we outline how the Scottish Government and Parliament could implement a permanent House of Citizens that would not only bring the public’s voice into the legislative process, but bring the citizens’ **considered and informed judgement** into policy making.

If a representative and informed sample of citizens, selected by lottery,

has the chance to deliberate on proposed legislation and decide together if they think it is in the best long-term interests of Scotland, then we believe there would be several direct and observable benefits, including:

- A substantial increase in the public trust in legislative decisions;
- Increased confidence of members of parliament that they have broad public backing for their decisions;
- A convincing counter to critics (in the media and elsewhere) that claim there is little or no public support for proposed legislation;
- An immeasurable boost to a legislative proposal if the House of Citizens gave near unanimous support for it;
- A very public counterweight to the perceived capture of the political process by elites and other vested interests.

Furthermore, if this process became an institutionalised aspect of Scottish democracy, the cost - with respect to holding one-off, ad hoc citizens’ assemblies - would be considerably reduced as the necessary infrastructure and staffing capacities could in many cases become established and rely less on consultants and contractors.

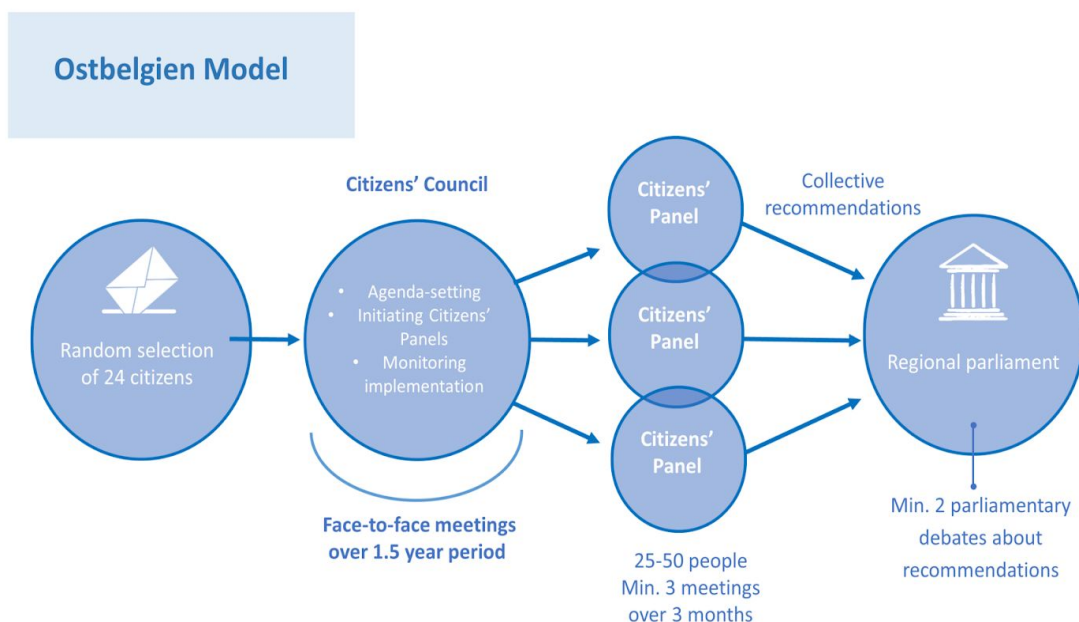
The overarching benefit of establishing a permanent House of Citizens in the Scottish Parliament would be **a profound increase in the legitimacy of Scottish laws** by providing solid evidence of the considered endorsement by a representative sample of deliberating Scottish citizens.

Case Study: A Second Chamber in the Ostbelgian (East Belgian) Parliament

In early 2019 the small Ostbelgian Parliament (for the German-speaking community of Belgium) voted to establish a permanent Citizens' Council of 24 people meeting for 1.5 year terms. This group can propose up to 3 topics for consideration by separate Citizens' Panels, whose recommendations are submitted to the elected parliament, which then must consider and publicly respond to them.

is successfully progressing its aims and mission.

There are several other examples of sortition bodies (selected by lottery) becoming institutionalised, for example the City of Toronto's permanent, on-going Planning Review Panel², and several moves towards future institutionalisation, such as French President Emmanuel Macron's commitment to reforming the French *Social, Economic, and Environmental Council* to include the informed recommendations of 150 citizens, selected by lottery, in its decision-making.³



Source: OECD: *Innovative Citizen Participation and New Democratic Institutions: Catching the Deliberative Wave* (OECD, 2020)

The first meeting of the Citizens' Council was in late 2019 and the body

²

<https://www.oecd.org/gov/innovative-citizen-participation-and-new-democratic-institutions-339306da-en.htm> p.123

³

https://carnegieendowment.org/files/10-17-19_Chwalisz_Deliberative.pdf

A Second Chamber for the Scottish Parliament

The Scottish Parliament is currently a unicameral legislature with 129 Members of the Scottish Parliament (MSPs) with elections occurring, in general, every five years. At the moment there is no “House of Review” that scrutinises legislation passing through the Scottish Parliament. The proposal here is to establish such a chamber in the form of a **House of Citizens (HoC)** which would be populated with a representative group of permanently resident Scottish people, selected by lottery.

There are two principal aspects of this proposal addressed below:

1. What powers would a House of Citizens have?
2. How would such a chamber be implemented?

The first question is, in the authors’ opinions, of far greater consequence than the second. The implementation – although the details are very important – could beneficially be instigated and then undergo regular review to fine-tune the precise details.

Powers of a House of Citizens

The precise powers of any HoC in the Scottish Parliamentary system will obviously be a significant factor in its acceptance by the Scottish Parliament.

There are two powers which we consider fundamental for a House of Citizens:

1. Legislative scrutiny; and
2. Independent agenda setting and the power to instigate (a limited number of) autonomous citizens’ assemblies.

Below we present three options of increasing levels of empowerment that the HoC could have in relation to legislative scrutiny. Irrespective of these powers, the HoC should have the power to also set (at least some of) its own agenda, including the establishment of independent citizens’ assemblies and/or public inquiries into matters it considers of significant public importance.

The HoC should have regular “agenda setting” deliberative sessions (for example, every four-six months) whereby it decides on a limited number of topics to be evaluated by independent, autonomous, one-off, 50-person citizens’ assemblies. Such **agenda setting sessions** could:

- Consider the need for independent inquiries into, for example, the causes of significant matters of public concern (e.g COVID-19, financial crises, failures of oversight, corruption) and/or reviews on the quality and practices of specific instances of parliamentary democracy.
- Consider petitions submitted by the public and civil society if supported by a specified minimum number (and/or percentage) of the Scottish population.
- Be informed (but in no way constrained) by experts, politicians, civil servants, and

civil society representatives as to what are the key issues of the day.

This right of the HoC to have some powers to set its own agenda would be important in holding the government to account if, for political reasons, the government was unable or unwilling to address contentious issues of high public concern.

It should be mandated that, at a minimum, the recommendations of any such independent citizens' assembly be tabled and debated in parliament within 6-months of the submission of the assembly report and the government of the day must respond publicly to the recommendations.

Outlined below are three possible (increasing) levels of empowerment that could be granted to the HoC with regards to legislative scrutiny.

A) Advisory Chamber

This option would give the HoC the least power. It would be mandatory for the elected chamber to submit legislation at "Stage 1" of the legislative process (consideration of the general principles) to the HoC and take into account their advice. For every *substantive* bill, as it passes through this first stage, the HoC would be given adequate time and resources to scrutinise it.

The power of the HoC in this case would be one of "informed public judgement" and would rely largely on their standing with the media and other organisations to be effective agents for change.

B) House of Review

This option envisions the HoC to be somewhat comparable to the House of Lords. In this instance the HoC would be incorporated into "Stage 3" of the Scottish legislative process (final parliamentary assent) and would have the power to amend or delay any bill, except money or supply bills. There would be a limit on how long the HoC could delay a bill of (for example) six months.

This would increase the power of "public judgement" mentioned above whilst affirming the HoC as subordinate to the first chamber. By allowing the HoC to amend, or delay, proposed legislation for some time, it would force the first chamber to take the considered opinion of this representative chamber more seriously.

Note: It may be pertinent to highlight that **democratic legitimacy and accountability** does not stem only, or even primarily, from elections and the once-every-few-years act of voting. Accountability is strongly related (especially between elections) to the justifying of decisions and the governmental scrutiny conducted by a free press, independent judiciary, active civil society and guaranteed civil liberties. Legitimacy similarly stems from how close legislators approach the ideal of informed deliberation, taking into account diverse viewpoints and considering the long-term good of society. It is decisions made for personal, party political, or short-term electoral ends that can lack legitimacy. Selecting members of the HoC by lottery could actually get closer to the ideals of legitimate, informed, and accountable decision-making – after all, it is similar to how Scotland

populates juries and most people believe that the decisions of 12-15 people on a legal jury are legitimate.

C) Legislative Chamber

This most powerful option envisions the HoC to be a chamber much like, for example, the Australian Senate.

In this instance both chambers have the power to introduce legislation, and all bills must pass through both chambers to become law. Various restrictions could be placed on this power. For example, the HoC may not be able to introduce or amend money or supply bills.

A further possible proviso could allow for a bill that has been rejected twice by the HoC to be considered at a full sitting of both chambers, where a simple majority would suffice for passage.

Our Proposal: A Three-Year Trial and Regular Reviews

We propose that initially a three-year trial of the HoC should be instigated with Option A powers (Advisory Chamber). This would enable the HoC to establish its principles and processes, smooth out any teething issues, accommodate the public to the HoC idea and allow the Scottish Parliament to adjust to working with the HoC.

After this three year trial, an independent citizens' review should be held into the HoC effectiveness, its procedures, mechanisms and powers.

We propose the review be carried out by an independent citizens' assembly. This assembly should have extensive access to past and present HoC members, politicians, civil servants. It should recommend improvements to the HoC processes and structure and propose which level of empowerment (option A, B or C above) the HoC should be given in the future. Any recommendations with supermajority support should be tabled and debated in parliament.

We further recommend that a citizens' review assembly become a regular occurrence, perhaps every five-to-seven years. Several years of experience with the HoC would provide ample opportunity to refine the HoC processes and for future governments to prepare for any progression towards a more empowered chamber. Regular review will mean the HoC will not only improve, but thrive.

Implementation of a House of Citizens

This section addresses some of the common questions of implementation, but is not intended to be an exhaustive list. It is important to note that all of these are subject to debate and modification, and all of them should be reviewed after the trial period.

How large would the House of Citizens be?

Our proposal is that there should be one member of the HoC from every geographical constituency of the Scottish Parliament, i.e. there should be 73 members, and that this number should change whenever the number of constituencies change.

A second chamber with 73 members would be large enough to be broadly representative of the population while being small enough so as not to pose too great a financial burden on the public purse.

Note that this is smaller than the total number of MSPs (129) as it does not include the “additional members” allocated under Scotland’s proportional electoral system; its smaller size would also establish a clear dominance of the first chamber.

For how long would a person serve in the House of Citizens?

It is important to balance various aspects of this question:

- HoC members must have the time necessary to learn their role in the HoC and understand the mechanisms and complex processes involved in exercising their function;
- Membership of the HoC should not cause unnecessary disruption to the life of the HoC member;
- We should be wary of the potential ‘institutionalisation’ of these members, whereby they become “players” in the “power game” of parliamentary party politics.

It is the proposal here that HoC members serve for at least one year, and preferably two years. In the details below two-year terms are assumed, although one year terms would lead to only minor changes.

An annual, staggered system of appointment would be used so that the introduction of new members to the HoC would not cause unnecessary disruption and the assembly would contain significant elements of continuity. In this way, assuming two-year terms, every year half of the members (36 or 37) of the HoC would be replaced. It is assumed that legislation establishing the HoC would need to include clauses such as those in Statutory Maternity/Paternity Leave legislation, whereby employers would guarantee HoC members an equivalent position and salary upon return to work after his or her term of office.

Furthermore:

- if a HoC member was a tertiary student they should be able to suspend their studies with no penalty;
- if the HoC member was self-employed or working for, or the owner of, a small business, additional funds to compensate for his or her absence could be made available; and
- if the HoC member was under 18 and attending secondary school he or she could (optionally) take up the position after the completion of school.

How often would they meet? What would they do when they are not sitting?

Initially the HoC should sit whenever the Scottish Parliament is sitting. Currently this means typically from Tuesday-Thursday for approximately 35-37 weeks of the year. Outside of these times he or she would be expected to engage in consultation with members of the public, civil servants or civil society, and to progress the business of the HoC in the manner that she or he sees fit.

To protect the HoC members from allegations of undue influence by vested interests we strongly recommend that all meetings should be publicly documented and must be done in a transparent and accountable manner. These should always be conducted on the HoC premises, and it should be made specifically illegal for lobbyists etc. to meet or pursue HoC members outside of the chamber offices.

We should also be open to the consideration that a formalised meeting timetable may not be appropriate for the HoC. Giving the HoC itself the powers to decide on its own schedule, or reviewing the schedule every year may result in it rapidly establishing the most effective timetable and procedures.

Privacy of House of Citizen members, votes and deliberations

There is a strong case to be made that since HoC members are to be a microcosm of Scottish society then voting and in-depth deliberation should be done in private. This would: enable the members to vote according to their conscience without fear of public backlash or media smear campaigns; allow them to avoid peer pressure from other HoC members; and would potentially reduce the effectiveness of any attempted corruption as the "buying" of votes could never be confirmed.

Similar arguments can be made for leaving the HoC members to deliberate in private; television cameras and the like necessarily affect the way in which people interact and what they say. Of course some sections of the HoC process could and should be open to the public and public scrutiny (such as expert interventions) but there should be a clear demarcation between public and private sessions.

Nonetheless, all final decisions, and decision processes, should be a matter of detailed public record, even if the voting record of individuals may not be included. Balancing transparency and the privacy needs of individual

members may need regular review of the effects of open or closed voting and deliberation.

How much would a member of the HoC be paid? How much would a HoC cost?

A financial incentive to spend two years on the HoC would be essential. We propose that members of the HoC be paid a salary comparable to the base salary of MSPs⁴.

This would make participation in the HoC a positively lucrative experience for the majority of Scottish people and would hopefully somewhat offset the disruption caused by a two-year interruption to careers and family life. For the few people who earn more than this we are confident that a two-year stint on a reduced – but still relatively high – income should be possible.

Members of the HoC would also be entitled to claim all the expenses an MSP is allowed to claim, including for staff, travel, living away from home, disability allowance, etc.

The cost of establishing a HoC may be significant, although there are several advantages and financial savings to be made from making it a permanent chamber. Of course the real question is **“How much should democracy cost?”** – we should keep in mind that the overall budget of the Scottish Parliament in 2020/21 was £49.3 billion, i.e. £49,300,000,000.⁵

⁴ which is approximately £65,000 at the time of writing.

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<https://www.audit-scotland.gov.uk/uploads/d>

How would the citizens be selected? Would it be compulsory? Would anybody be excluded from participating?

The citizens would be selected using a three-stage civic lottery process:

1. Official invitations are sent to 20,000 citizens or households, selected by lottery, inviting people to register their interest in becoming an assembly member, and inviting them to a day of information and discussion about the HoC (to be held over several weekends in differing locations across Scotland, or online). Every encouragement (including travel, accommodation, IT support) should be provided to the invitees.
2. After the information day, those that accept the invitation are requested to provide some socio-economic and demographic details, such as:
 - a. Gender;
 - b. Age;
 - c. Constituency (geographical location); and
 - d. Education level and/or average regular income.
 - e. Ethnicity
 - f. Disability Status
3. An independent body such as the Electoral Commission, in collaboration with the Office of National Statistics and/or National Records of Scotland, would then be responsible for guaranteeing the (fair) selection

[ocs/meeting/2020/ac202036b_budget_briefing.pdf](https://www.audit-scotland.gov.uk/uploads/docs/meeting/2020/ac202036b_budget_briefing.pdf)

by lottery of 73 people from this group to rotate into the HoC over the coming two years, such that the group continues to be a microcosm of Scottish society.

Every two years this process would then be repeated.

Civic lottery processes have been used repeatedly throughout Scotland, the UK, and the rest of the world and result in those selected being a close representation of Scottish society – there will be someone in the HoC with your approximate age, someone from your area, and someone with your socio-economic background.

It should be noted that there are several significant benefits from drawing the HoC members from as large a pool of people as possible:

- The larger the pool the easier it is to make the HoC a closer reflection of Scottish society;
- A larger pool will increase the broader societal benefits as the information days will act in part like a “school of democracy” for participants;
- If a HoC member resigns or departs from the HoC for any reason the closest match from the existing pool could fill the vacancy.
- This pool could also be used to recruit members for any independent citizens’ assemblies, reducing recruitment costs significantly.

Typically some groups of people are excluded from participation in citizens’ assemblies, and this may be desirable for the HoC. For example, the following people may be excluded on the grounds that they would unduly influence the HoC:

- Anyone who is in, or has held, political office.
- Anyone who has previously served in the HoC.
- High-ranking civil servants.

Those who are also excluded from jury duty, e.g. incarcerated prisoners, would also be excluded.

In citizens’ assemblies held to date throughout Scotland and the UK, non-citizens (immigrants, refugees) have been eligible for selection, and we recommend that this continue to be the case for selection to the HoC.

What would the physical structure of the HoC be? Where would it be located? Who would staff the HoC?

The HoC **should not be a debating chamber but a chamber of informed deliberation.**

The aim of the HoC would be to provide a deliberative space where its members come to a moral understanding of the likely effects of legislation and, as such, it should **not** be structured along the usual adversarial lines of parliamentary debating chambers.

The importance of structure and process cannot be overemphasised.

Assuming that COVID-19 restrictions end, we recommend that the chamber be structured flexibly. Small-table (8-10 people) simultaneous, professionally facilitated discussion would guarantee that no single personality can dominate proceedings, and would give maximal chance for every member of the HoC to express their opinion and respectfully listen to the opinions of others. During the COVID-19 restrictions many

citizens' assemblies have continued online and the HoC could emulate their processes and structure using online meeting tools with break-out rooms (instead of tables) and similar technologies.

Ultimately the HoC would be a separate chamber with specialised and dedicated support staff to assist the HoC members in pursuing their objectives, under the direction of a HoC secretariat. It would be important that this secretariat is not under the direct control of a minister of government – it should be a mandated independent body whose specific purpose is to support the HoC and be responsive to the needs and requests of HoC members.

Although some staff may be taken from existing ministries, many would instead be experts in facilitation, deliberation and community engagement methods, and could provide a range of services, such as training (and potentially accreditation) to professional facilitators, research assistance, and whatever else is needed for the HoC to function effectively, transparently and accountably.

HoC members themselves should ultimately be in control. Collectively they should be able to direct support staff, and, for example, request evidence from experts, politicians, civil servants and members of civil society: in fact anyone whom they deem fit to address the chamber. It will be important to allow HoC members to interrogate experts and come to their own conclusions regarding reliability and impartiality. Where possible, presentations by experts should always be peer-reviewed, and experts could be made aware that they are expected to

present findings in a balanced and impartial manner and/or to make their biases explicit.

The physical location of the HoC could also be important and highly symbolic. There is a strong argument to be made that it should not be in the same location as the first chamber, so as to reduce the potential influence of career politicians on HoC members. Locating it in a social or culturally significant space where HoC members can readily interact with a wide and diverse range of people could be important. By locating it in Glasgow it could be seen as a counterweight to Holyrood.

Conclusion

The instigation of one of the world's first **House of Citizens** in a parliamentary setting would be a momentous decision and put Scotland at the forefront of democratic innovation and citizen empowerment and engagement. It will, by necessity, be an immense learning experience and governments around the world would all turn to Scotland to observe the outcome.

Such a House of Citizens is **feasible**, **popular**, and indeed an **urgent necessity**. It would increase public trust in legislative decisions and boost the confidence of MSPs that their bills and laws have broad, well-justified public support.

It would counter the perceived capture of the political process by elites and other vested interests by putting everyday people's voices directly into the legislative process.

It would, indeed, be more than simply the inclusion of people's views into the legislative process. What these deliberating members of society will deliver is more than mere public opinion: they will increase the legitimacy of the Scottish Parliament by producing informed public judgements.