The UK Government's recent approach to the Silk Commission has been inflexibile and unimaginative

By Democratic Audit

The Silk Commission on the future of devolved Government in Wales promises to be a watershed moment in the history of Welsh government, with greater powers for the Welsh Assembly Government a necessary next step in the development of the country's governance arrangements. ***Laura McAllister*** *argues that the Government's approach Silk has been both unimaginative and inflexible, despite the coherence and clarity of the report itself.*

Silk, spending, sunset clauses, lockstep, landfill tax. It's been a busy old fortnight for politics in Wales. At first glance, politics here might appear less noteworthy, and certainly less belligerent, than it does north of Hadrian's Wall. Yet, one could argue that, like a vintage wine, Wales's devolved politics has a subtle and delicate quality that renders it even more interesting to the more refined palate.

The Commission on Devolution in Wales was set up in October 2011 by the Secretary of State for Wales, with former Clerk to the National Assembly for Wales, Paul Silk named as its chair. Silk had been the most senior official in the Assembly and acted as the principal advisor to the Presiding Officer responsible for all the services delivered to Assembly Members through the Parliamentary Service. He had been a Clerk in the House of Commons from 1975-1977 and 1979-2001, clerking three different departmental select committees – the Foreign Affairs (1998-2001), Home Affairs (1989-1993) and Energy (1984-1989) Committees. His Commission's reporting was split into two stages: the first report, in November 2012, covered part one of its terms of reference on fiscal and financial powers. The second report (on the powers of the Assembly) will be published in the spring of 2014.

Nearly a full year had elapsed since Silk had handed over his first report to the UK Government's representative in Wales, Welsh Secretary David Jones MP. When the Prime Minister and Deputy Prime Minister travelled to Cardiff on Friday, 1st November to (eventually) give their take on Silk Part 1, there was a consensus amongst politics-watchers that this announcement would likely shape the next chapter in the history of Welsh politics. In truth, we've probably already had a few too many chapters for a story that's scarcely a page turner.

From what some would politely call an 'infant' parliament, hamstrung by its weird and anachronistic initial constitutional status and with severely limited functions (some would say it could easily have been still-born); then, a period coping with its systemic flaws, most significantly a tiny backbench capacity (just over 40 elected politicians to conduct the full range of scrutiny necessary over a range of critical policy and financial matters). There is clearly more to do on this and we shall await Silk part 2 to see if serious under-capacity in Welsh devolution features – it is hard to see any way it can't, in my opinion. But for now, all attention was on the fiscal and financial picture.

The tone of the Prime Minister and Deputy Prime Minister's address to the gathered media in Cardiff Bay was fascinating. Clearly tactical and measured, with a strong sense of reinforcement as to who was calling the shots here, it fitted in well with a new Conservative approach to the challenges that lie ahead a year before the Scottish independence referendum. Cameron's words were also a far cry from the unionist bravado of old, around preserving the UK intact and at all costs.

Instead, he appeared keen to show that he was committed to devolution and had, at least psychologically, bought in to the new 'national' project in Wales. Clegg, meanwhile, used it as an opportunity to reinforce the Liberal Democrats' historic commitment to greater autonomy for Wales. The arguments utilised by Plaid Cymru and those who had long advocated greater powers for Wales were translated and articulated slightly differently by the UK Government – no more power without greater financial responsibilities, both politicians cleverly utilised the nomenclature of the Silk Report itself, 'Empowerment and Responsibility'.

That was the initial media platform. Then came this week's announcement. On 18 Nov (speedier than many of us had expected, anticipating a 'lost in the Christmas rush' appearance next month instead), a rather hastily drafted response emerged from Danny Alexander, Chief Secretary to the Treasury, and David Jones, Secretary of State for Wales that was formally presented to the Welsh Government Finance Minister, Jane Hutt.

This set out with more forensic detail which of Silk's 33 recommendations the UK Government deal supported. 30 of them given the nod, it seems-in full or partially. So, we will see immediate access to clearly specified, limited borrowing powers to allow infrastructure schemes like the M4 relief road to proceed as soon as possible; the devolution of non-domestic business rates (widely supported by the business and political communities); a new cash reserve (but linked to borrowing); Land Duty tax and Stamp Duty Land Tax devolved to allow the Welsh Government its own separate funding stream to repay money borrowed.

Of course, the truth about the new tax devolution is these taxes are small fry- the sprats to catch the bigger mackerel. In this case, enough to signal a significant shift in the maturing settlement in Wales, but not enough to allow the Welsh Government authority over substantial and radical policy diversity. This is further underlined when contextualised by the announcement over the far more significant issue of control over income tax. This was the most important of Silk's 33 recommendations and the announcement of last week saw the rejection of Silk's suggestion that the Welsh Government should be able to vary each income tax band.

Like the Holtham commission that preceded it, Silk had called for flexibility to allow for the shift of each income tax band, independently of each other. However, the UK government rejected the arguments of both Holtham and Silk, instead indicating that it would only allow a "lockstep" system, thus offering limited flexibility and forcing each band to move in tandem-its core argument being one of avoiding competitive advantage for one part of UK over other. Moreover, all of this will be subject to a referendum to be called in the same way as the 2011 referendum was, by the Welsh Government with a two-thirds majority in the Assembly.

So, what are we to make of all this? Commission Chair, Paul Silk must be quietly pleased. Having produced what was widely regarded as a admirably well researched, coherent and credible set of recommendations (itself calling for a referendum before income tax powers were devolved), he could scarcely be disappointed with the rejection of just the air passenger duty (which is likely to be resurrected elsewhere in any case) and aggregates duties. The lock-step mechanism simply replicates Scotland's and, in truth, I'm not sure Silk ever expected this to be approved in that form. Plus, if Scotland votes 'no' in next year's independence referendum, 'devo plus' is back on the table and this is likely to involve more muscular and flexible fiscal authority. Opportunities for the Welsh Government to piggy-back (once again) on the dynamics of Scottish devolution?

Overall, the biggest disappointment is the lack of substantial reconfiguration of the relationship between the Welsh Government and its UK counterpart- and specifically with the Treasury. Analysing the detail of this week's announcement, one gets more of a sense of entrenching traditional, historical flows of power, rather than a more appropriate rebalancing of financial and fiscal relationships to reflect both the reality of more muscular, legislative devolution in Wales and implementing Cameron's rhetoric of 'empowerment' and 'responsibility'.

The one thing we can be sure of is that the fallout from Silk Part One has fired the starting gun for the next Assembly election in 2016. For the first time, we can expect a proper and long-awaited economic feel to the political manifestos and ensuing debate. That can only be a good thing in a nation with falling turn-outs and understandably lukewarm engagement with the wafer-thin differences between the main parties over devolved policy choices.

How much party political arguments over when a referendum on income tax (with or without substantial changes to the Barnett formula) can ignite a slumbering political class remains to be seen. And even if that happens, it will take a brave future government to vary income tax so inflexibly (look at Scotland's experience). That said, we have Silk Part 2 to look forward to where debate over new policy fields that might be devolved-energy, criminal justice, policing etc- will take centre stage.

Overall, it seems odd that, despite Silk's skilful deliberations and measured recommendations, we have seemingly had the Scottish Calman Commission conclusions of 2009 imposed wholesale on Wales. As well as undermining the point of such commissions, it does show an inflexibility and lack of imagination at Treasury level, although that is more likely to be the outcome of coalition party negotiations than anything else. At least, we can look forward to Welsh politics beginning to mirror some of greater excitement and profile of its Scottish counterpart.

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