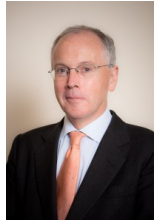


The Commission on Devolution in Wales: Considering what, if any, the next steps in Wales' journey of devolution should be

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*In 2010 the coalition government established the Commission on Devolution in Wales, tasked with considering Wales' constitutional arrangements. **Paul Silk**, Chair of the Commission, describes its recommendation for a degree of self-financing for the National Assembly. In the second part of their work, due out in Spring of 2014, the Commission is examining the powers of the Assembly more generally, with a view to improving the way in which the devolution settlement serves the people of Wales. He welcomes readers' input regarding norms or best practice from countries with systems of sub-national government.*



In the 14 years since it was first elected, the National Assembly for Wales has gone from a corporate body with some secondary law-making powers, to a national legislature with full primary law-making powers, standing alongside a separate Welsh Government. There has been an incremental process of substantial change.

Readers may remember that there was a very narrow majority in favour of devolution in the 1997 referendum, and this may be why the National Assembly elected in 1999 had fairly limited responsibilities. Even so, the establishment of the National Assembly gave Wales its first ever nationally elected autochthonous political institution.

In this early period, when I served as Clerk to the Assembly, the Assembly accrued more powers. A second Government of Wales Act in 2006 established the Welsh Assembly Government (now Welsh Government) as a distinct executive, and allowed the National Assembly to take on primary legislative powers in devolved policy areas, subject to parliamentary approval in each case. It also allowed for a second referendum on full primary law-making powers. This was held, earlier than many had expected, in 2011. In that referendum, the people of Wales voted convincingly for the National Assembly for Wales to take on primary powers in all areas of devolved responsibility.

The Westminster Coalition Government's programme for government in 2010 said that, if the people of Wales voted for primary powers, the time would be right for a consideration of Wales' constitutional arrangements. So the Commission on Devolution in Wales (often – despite my squeamishness – given the shorthand title of the Silk Commission) was established. We were given the job of considering what, if any, the next steps in Wales' journey of devolution should be.

Our Terms of Reference were developed in consultation with the Welsh Government and the four political parties in the Assembly. The Commission is independent of government, and has one member nominated by each of the political parties in the Assembly and four non-party members. We have had two parts to our remit – financial arrangements and broader powers. In both we are asked to come up with proposals that will have a broad acceptability in Wales.

Part I was concerned about whether tax and borrowing powers should be devolved to the Assembly. The Commission's first report in November 2012 [Empowerment and Responsibility: Financial Powers to Strengthen Wales](#) argued that funding devolved government like a central government department was inappropriate. We recommended that some tax and borrowing powers should be devolved, broadly in line with the powers given to the Scottish Parliament in the 2012 Scotland Act. This would include some smaller taxes such as landfill tax, stamp duty land tax, aggregates levy and long haul air passenger duty, and the full devolution of business rates. To ensure the National Assembly would be responsible for raising a meaningful level of its own expenditure, we recommended income tax be shared between the governments in London and Cardiff (following a referendum), with the National

Assembly being able to vary income tax rates. In addition we recommended other changes such as improved financial information and a new Welsh Treasury function. The UK Government and Welsh Government are discussing separately the operation of the Barnett formula in Wales.

As a cross-party Commission, we were particularly pleased to have produced a unanimous report that was welcomed by all the political parties in Wales, and was unanimously endorsed in a vote in the National Assembly. The UK Government's full response is expected in the autumn of 2013, but they have already clearly endorsed our argument for a degree of self-financing for the National Assembly. There is one area where we know they are still undecided as they launched a short consultation on the devolution of stamp duty in July.

In the second part of our work, the Commission is examining the powers of the Assembly more generally, with a view to improving the way in which the devolution settlement serves the people of Wales. This might include both changes to the powers devolved to the Assembly and other ways of making devolution work better such as closer working between the UK and Welsh Governments. We will publish our second report by the spring of 2014.

The Commission has received over 150 written responses to our call for evidence and is keen to receive further evidence. In May and June we held public meetings in all parts of Wales, and in early August we published an opinion poll we commissioned. This showed broad support for the devolution of further powers, but we are conscious that this is not a universally held view. All evidence collected is published on our [website](#).

Among the key issues raised are:

- should the existing conferred powers model, whereby specific powers are conferred on the Assembly by the UK Parliament, be replaced by a reserved powers model (similar to Scotland and Northern Ireland), whereby powers are devolved unless specifically reserved to the UK Parliament?
- should policing and justice powers be devolved (as in Scotland and Northern Ireland)
- should powers over energy, natural resources, rail and ports, broadcasting, employment programmes be devolved?
- should any powers be returned to Westminster?
- can the settlement be improved in other ways, such as improving cross border arrangements and more effective working between devolved and non devolved institutions?

The Commission has, as you would expect, visited both Scotland and Northern Ireland. But we have also been reviewing the international evidence on devolution, including the experience of federal systems abroad documented by the Forum of Federations – though we recognise that the fact that the UK does not have a federal system of government can make international comparisons difficult. We would welcome readers' input if they can suggest norms or best practice from countries with systems of sub-national government.

The Commission is aware of the need to ensure its recommendations are conducive to a stronger Welsh economy and business, something we sought to achieve with our first report. We are also well aware that the development of the Welsh devolution settlement has to be seen in the context of wider constitutional developments across the UK. If you have views about the future of Wales, we would like to hear from you by 27 September if possible. Further information can be found on [the Commission's website](#).

Note: This article gives the views of the author, and not the position of the British Politics and Policy blog, nor of the London School of Economics. Please read our [comments policy](#) before posting.

About the author

Paul Silk is chair of the Commission on Devolution in Wales. He is a former Clerk to the National Assembly for Wales, serving from March 2001 until December 2006, and was a Clerk in the House of Commons from 1975-1977

and 1979-2001. He has also worked as Presidential Adviser in the Parliamentary Assembly of the Council of Europe and has written and lectured extensively on Parliament and the constitution. He is an honorary Professor at the Wales Governance Centre at Cardiff University, and works regularly for the Westminster Foundation for Democracy. He was born in Crickhowell and lives near there now.