

Chapter 3 – Principles for Welsh Devolution

3.1 OVERVIEW

- 3.1.1 This chapter sets out the vision the Commission adopted to show how it interpreted its task of recommending how devolution could better serve the people of Wales, and the principles it agreed to guide its work.

3.2 OUR VISION

- 3.2.1 As set out in Chapter 1, our terms of reference asked us to consider the devolution settlement and to produce recommendations that would allow the National Assembly for Wales and the UK Parliament to better serve the people of Wales. We began our work by considering ourselves what were keen to agree what we believed 'better serve' ought to would mean. We, which could then be discussed our vision of an effective devolution settlement ed with people attending our public meetings to see whether they agreed with our vision for an effective devolution settlement.
- 3.2.2 We agreed at an early stage that our work should seek to provide a stable basis for devolved government for the future, in the with a hope that further modification of the settlement would not be necessary for several years. At the same time, w We recognised the possibility of a political impetus for constitutional change in the future. We also wanted any modifications we would recommend to enable the Welsh public to feel confident in understanding which of their elected representatives should be held to account for any specific issue.
- 3.2.3 We reflected on some of the criticisms made of devolution, and our views on what constituted good government. Some of the criticism that we heard about Wales's devolution settlement was that it was unstable and unclear, and that there was often uncertainty over which government was responsible for what policy. This was not helpful for government in Wales or in Westminster. Additionally, we heard a concern that political debate in Wales too often focussed on constitutional issues, rather than the performance of public services or the Welsh economy – on process, not delivery.
- 3.2.4 The vision that we agreed is set out in box 3.1 below.

Box 3.1: The Commission's vision

We believe that the people of Wales will be best served by:

- *a clear, well-founded devolution settlement that allows coherent political decisions to be made in a democratic and accountable manner; and*
- *political institutions that operate effectively and efficiently and work together in the interests of the people they serve.*

Devolution of power to Wales should benefit the whole of Wales and the United

Kingdom.

- 3.2.5 We were aware from evidence received that some people were not satisfied with the performance of devolution to date. We were clear that our remit was not to provide a review of whether the powers and responsibilities currently held by Westminster or Cardiff had been used well, but rather where they were best held. That said, we wanted to avoid making recommendations that would make the devolution settlement an obstacle to the delivery of good outcomes for Wales. Instead we believed our work should seek to ensure a devolution settlement that optimised the possibility of good outcomes for Welsh people. Our goal was that the governance of Wales should be done efficiently and collaboratively, regardless of how responsibilities might be distributed.
- 3.2.6 Our draft vision was discussed during the public meetings. These were opportunities for us to explain our task and to ensure that the public broadly agreed with our interpretation of it. People who attended these meetings were generally content with our proposed vision, though they also suggested modifications. For example, they encouraged us to make the desirability of efficiency more clear, something with which we readily agreed.
- 3.2.7 An additional matter raised in a number of public meetings in different parts of Wales was a feeling that the local area had not seen the advantages of devolution as much as other areas of Wales. This view was held strongly by a number of attendees, and was also raised in responses to ~~the~~ our questionnaire and in the focus groups held in advance of the opinion poll. We therefore included in our vision a [clear statement](#) ~~view~~ that devolution should benefit the whole of Wales as well as the United Kingdom.
- 3.2.8 [Our vision, refined as it was by the comments made to us, guided our work. We hope that this vision also has a wider applicability and might be the basis for the approach of Governments in London and Cardiff, and others, to devolution in Wales.](#)
- 3.2.9 In addition to our vision, we were keen to also agree some key principles – something that proved very helpful in the first part of our work.

3.3 PRINCIPLES FOR DEVOLUTION

- 3.3.1 As set out in Chapter 2 ~~above~~, the fourteen years of devolution in Wales have seen broadly three stages of development. ~~I, with a sense that~~ this evolutionary process reflected political considerations at the time or perceived flaws in the settlement. We were keen to ensure that our recommendations, as in Part I, were based on a clear set of principles. [As we wanted our vision to have a wider applicability, so we wanted ~~the~~ and ~~that~~ any principles we ~~would~~ used in our work ~~to be could also be seen more generally as desirable for devolution in the future, and could therefore be applied as~~ a framework ~~that could be applied to~~for the consideration of \[any\]\(#\)](#)

proposed future adjustments ~~minor changes~~ in the settlement ~~in the future~~. This would be in contrast to ~~the perception of~~ the reactive and piecemeal nature of the development of devolution in the past.

Box 3.2: Evidence on Principles

~~While some gave evidence on specific aspects of the Commission's work, such as the possible devolution of policing, we also received evidence on more general principles of devolution.~~

The Welsh Government based its evidence on the principle of *'Powers for a purpose'*.

The Chartered Institute of Taxation applied principles applied in the development of tax laws more widely, these principles were *'Consultation; Stability; Certainty; and Simplicity'*

The UK Changing Union Partnership suggested six core principles: *Respect for the settled will of the Welsh electorate; Democratic accountability; Stability and sustainability; Clarity and predictability; Effectiveness; and Consistency across the UK.*

Cardiff Law School suggested *'two key principles should underpin the legal framework... The first is that they should be as clear as possible to avoid doubt and conflict as between Cardiff and Westminster. The second is that they should be based on a coherent test which would enable understanding of why particular matters may, or may not, be allocated to one legislature or the other at the outset, and how matters may be allocated as they arise for determination in the future'*

SNAP Cymru set out that *'the principles of transparency, clarity and accessibility should underpin the devolution settlement'*

Community Housing Cymru believed *'transparency and consistency'* were the key principles that should underpin devolution and any modifications to the settlement.

The Parliament for Wales campaign outlined principles arising from international and European law, including self-determination, subsidiarity, equality in the devolved settlements and good governance.

True Wales stated that *'democratic principles should underpin any modification to the settlement'*.

The Law Society suggested that *'the principle of subsidiarity may result in a more logical and accessible settlement'*.

The Wales Council for Voluntary Action believed the principles of *'clarity, transparency and accessibility'* it submitted to the All Wales Convention, arguing for a move to full-law making powers, were still valid.

Wales TUC expressed a firm view that *'any consideration of changes to the settlement should be based upon the principle of fairness for the people of Wales'*.

Unite Wales supported *'a clearer constitutional settlement, one that clarifies accountability for responsibility for areas of public concern and by doing so makes devolved government more accessible to the people of Wales'*. Undeb Cenedlaethol Athrawon Cymru, the teaching union, set out the following principles to underpin any

change to the settlement *'An improvement to the welfare of the people of Wales; An improvement in accountability; Better clarity as regards responsibilities and legislative powers; Appropriate and adequate funding arrangements; and Creation of a more transparent and organized system that is appropriate to the purposes of the people of Wales'*.

The Bevan Foundation argued for a fundamental principle that *'government should be accountable the people for its decisions. Accountability requires clarity over who is responsible for what'*.

Professor Thomas Watkin argued that identifying principles would *'in itself improve the settlement'*.

The RSPB suggested that the principles of *'transparency, clarity and accessibility (based on reasonable cost) should underpin the devolution settlement'*.

Citizens Advice Cymru suggested the general principles to inform consideration of the devolution settlement: *'the structures and processes must be as clear, transparent and easy to engage with as possible; it must be possible for individuals to have ready access to justice and to be able to find out what law applies in their circumstances; [and] it must be easy to identify easily which elected representatives have the power to change that law'*.

Gofal suggested the following principles as a basis for further devolution: *'Providing a clear benefit to the people of Wales; Increasing transparency, accessibility and public understanding; Improving accountability and the quality of decision making; Supporting a holistic, whole person approach to policy and law making; Ensuring full and fair funding for devolved areas; [and] Preparing and equipping Wales for longer term devolution'*

~~The Wales Study Group of the Study of Parliament Group suggested 'Capacity (to discharge its roles); Clarity; Simplicity; Intelligibility (to internal and external stakeholders); Profile; Mutual respect and effective co-operation (between all UK legislatures); Legitimacy; Autonomy (to act on matters affecting Wales, without excessive prescription or unnecessary obstacles)'~~.

3.3.2 ~~Using the~~ The Commission agreed a set of principles based on suggestions put forward in evidence, ~~and also taking account of relevant to~~ the principles ~~we agreed~~ in our first report; and ~~of~~ our own vision for devolution in Wales, ~~we agreed a set of principles for the second part of our remit.~~

3.3.3 These ~~se~~ principles ~~are we adopted for the second part of our remit were:~~

- *Accountability* – voters should be able to hold the responsible institutions to account for delivering policies in a transparent way;
- *Clarity* – voters should understand where decisions are made and the settlement should be straightforward and simple to operate;
- *Coherence* – the National Assembly for Wales should have freedom and autonomy to use devolved policy and legislative levers, within a coherent framework of powers;

- *Collaboration* – Governments should work constructively together;
- *Efficiency* – the arrangements should be affordable and provide value-for-money to the taxpayer, and should not place undue burdens on individuals or business;
- *Equity* – fundamental standards and rights should be enjoyed by citizens across the United Kingdom;
- *Stability* – the settlement should be well founded, sustainable and predictable in its operation, and meet the needs of current and future generations; and
- *Subsidiarity and Localism* – decisions should be made as close as possible to the person they affect consistent with addressing the relevant matter effectively, thus promoting empowerment.

3.3.4 In considering the evidence submitted to us, we used these ~~agreed~~ principles to evaluate ~~whether~~ the case for any change to the constitutional arrangements ~~was compelling~~. The remainder of the report reflects the outcome of these considerations.

3.3.5 ~~It is appropriate at this stage to make one general observation on the in-~~
~~relation to the~~ principle of efficiency. ~~I,~~ it could be argued that any change to the devolution settlement would involve additional cost to the Welsh Government, and that retaining the status quo would therefore ~~always~~ be more efficient. That is not ~~necessarily~~ the case. First, where a responsibility is transferred between governments, it is accompanied by a transfer of financial resources for the administration and delivery of that responsibility. Transfers should therefore not mean net additional cost to the public purse. Secondly, ~~while~~ it is true that there may be additional cost ~~from diseconomies of scale,~~
~~there may also be~~ ~~above and we consider this issue in more detail later in this report.~~ Third, ~~changing which government has a specific responsibility may-~~
~~present~~ opportunities for efficiency savings to be made, for example, by aligning previously disparate responsibilities. ~~Fourth,~~ there is ~~also~~ a more general argument that devolution improves the efficiency of the economy by decentralising decision making, fostering innovation and enterprise and aligning the allocation of resources with local preferences. ~~But we were very~~
~~conscious of cost issues: w~~ We consider the costs of our recommendations in Chapter 12 and the report also deals with relevant costs whenever discussing specific transfers of powers are recommended.

3.4 CONCLUSIONS

3.4.1 We believe that the people of Wales will be best served by a clear, well-founded devolution settlement; and by political institutions that operate effectively and efficiently and work together in the interests of the people they serve. Devolution of power to Wales should benefit the whole of Wales and the United Kingdom.

- 3.4.2 Any proposed changes to the devolution settlement should be tested according to the principles of accountability, clarity, coherence, efficiency, equity, stability and subsidiary.
- 3.4.3 In the next chapter, we discuss the model of devolution that would be most appropriate for Wales.