

Draft letter to Glynne Jones/Carys Evans

Costs of devolving new powers

I am writing on behalf of the Commissioners to seek further information on the potential costs of devolving any further powers to the National Assembly for Wales. I emphasise that the Commission has made no decisions yet on what, if any, transfers of powers to recommend in its forthcoming report, but it wishes to ensure that its assessment of the evidence which it has received is based on the most accurate information available. We should therefore be grateful if you could share with us any factual information which you already have available, or estimates that you can reasonably make, on the issues noted in the Annex to this letter.

We understand that when a power is transferred from the UK Government and Parliament to the Welsh Government and Assembly, there is a transfer of resources is agreed between the two Governments, normally based on the existing level of spending in respect of Wales by the relevant UK Department ; covering both the devolved programme itself and the administrative costs involved. This transfer of resources is neutral – it does not advantage the UK Government or the Welsh Government.

In addition, there would be an agreed change to the departmental comparability factor in the Barnett formula used to calculate future budgetary changes in future spending reviews.

However there may be some transfers of powers which could involve additional costs for the Welsh Government. In this we do not of course include ~~(excluding any costs or savings falling to the Welsh Government associated with devolved policy changes which the Welsh Government might decide to introduce following the transfer).~~ ~~For example, there may be transitional costs or diseconomies of scale.~~

We would be grateful for your best and most detailed available estimates of both the transfer of resources and any additional costs in the areas set out in the Annex to this letter. I should emphasise that these areas have been identified from the evidence we have received, including evidence from the two Governments, Welsh political parties, other stakeholders and individuals. They do not reflect our views – we are at this stage still gathering evidence. This information will be fed in to our deliberations. We fully understand that some of the information for which we ask may not be available or that estimates cannot reasonably be made.

In addition we would be grateful to know whether, in your assessment, managing a bigger devolved budget would itself involve significant additional costs, eg in terms of financial management; and whether the increase in the block budget would be significant enough to open up substantial opportunities for the Welsh Government to reorder priorities across its bigger block budget.

As noted above, the Commission has made no decisions but it would be helpful to have this information by 19 September ~~if possible in order please~~ to inform the Commission's consideration of the evidence it has received.

I am writing in similar terms to Carys Evans (Welsh Government).

Mark Parkinson

Annex

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We would be grateful for further information on the following:

- **DCMS** ~~bb~~roadcasting: if as some have advocated S4C were devolved and on the basis of its existing funding arrangements, it might be assumed that there would be a transfer of the existing DCMS grant to S4C and a transfer of the associated DCMS administration costs; we are not aware of significant additional costs for the Welsh Government. Is this the case?
- ~~Dft~~ **DfT** ~~ti~~transport: we have heard the case for transfers of powers in relation to ports, rail franchises, the rail network, bus and taxi regulation. We assume there would be transfers from DfT both in respect of the programme costs and administrative costs. We would be grateful for your estimate assessment of these transfers and any additional costs. In addition we would be grateful to know what, if any, unfunded risks would be transferred
- HO policing: we assume that if policing were devolved, there would be a transfer of the existing Home Office police grant to Welsh police forces, and associated HO HQ administrative costs. It might be assumed that the National Crime Agency would not be devolved (it is not in Scotland). In respect of the police college, police complaints and regulation, and police pay and pensions, it is assumed that the two Governments would need to agree the most cost effective arrangements, which might involve sharing of facilities. We would be grateful for estimates of any net additional costs to the Welsh Government on this basis
- DEFRA water: if sewerage policy were devolved, we would be grateful to know what the public sector funding implications would be bearing in mind that we understand this is a private sector function. Similarly we would be grateful to know of any public sector cost implications if there were devolution boundary changes beyond what has been agreed in the Water Bill

- DWP economy: it has been suggested to us that the DWP employment programme might be devolved. We would be grateful to know if this would involve a significant net additional cost for the Welsh Government
- DECC energy: it has been suggested to us that the Welsh Government should have powers similar to the Scottish Government, including in respect of renewable energy consents and obligations. We assume there would be a transfer of associated administrative costs from DECC to the Welsh Government. We would be grateful to know what transfers and additional costs there might be
- A number of MoJ issues have been suggested to us as follows
 - prisons: HMG estimate that developing the prison estate in Wales to be self-sufficient would cost an extra £80-£100 million per annum to build and run the additional prisons required (based upon the cost of building three separate PFI funded prisons). Additionally, using the example of the Scottish Prison Service HMG estimate that it would cost approximately £10 million more per annum to manage a separate prison service in Wales. However since then HMG have announced plans to build a new prison in North Wales, which we assume would turn Wales into an importer of prisoners from England. We would be grateful for revised and more detailed figures, including any assessment you have made of how a charging system might work if there were a net imbalance of prisoners between the two prison services
 - probation: HMG note that the provision of probation services in Wales is contracted to the Wales Probation Trust (WPT) by the National Offender Management Service on behalf of the Secretary of State for Justice. WPT's budget for 2012-2013 is £51.8 million. This funds a wide range of programmes, including integrated offender management, intensive alternatives to custody and a variety of accredited programmes designed to help offenders reform their lives, such as substance misuse and domestic abuse. We assume this sum would transfer if devolved. However HMG say that this figure does not reflect the total cost of probation provision in Wales as not all probation services are provided by WPT. Some offender services are contracted and managed centrally across England and Wales, such as electronic monitoring, bail accommodation support services, attendance centres and prisoners escort and custody services contracts. We assume that there would be an agreed transfer of funds to cover these and if these contracts continued, the Welsh Government would use the transfer to fund their share of the contracts. We would be grateful for further details of additional costs
 - HMG estimate that there would be a small cost implication as a result of establishing a separate youth justice system in Wales, which would include provision of functions currently delivered centrally from which the youth justice system in Wales benefits. We would to have estimates of amounts transferring and any additional costs
 - HMG note that there are no specific practical operational issues or complexities with establishing a separate courts and tribunals' administration system in Wales, but they estimate that a formal separation of the current system would

incur additional costs of some £13 million per annum from running separate courts and tribunals (both currently devolved and non-devolved) in Wales. We would be grateful for further details of these calculations

- HMG estimate that establishing a separate Welsh judiciary would result in the creation of a new Welsh Judicial Office, which they estimate would cost approximately £1.5 million per annum (taking into account small savings to an English Judicial Office). In addition, they estimate that the annual running cost of a separate Welsh Judicial Appointments Commission and Judicial Appointments and Complaints Ombudsman would be at least £500,000. Again further details would be welcome
- HMG say that separating the current England and Wales system would require separate contractual arrangements. The cost to cross-border providers would increase, as they would presumably need to bid for separate contracts for each jurisdiction. If these include the Welsh Government, HMCTS, LSC, the police, local government, the Children And Family Court Advisory and Support Service (CAFCASS) Cymru, Children's Commissioner for Wales and the NHS, such providers opted to focus only on England, as the larger jurisdiction, there could be knock on implications for the sustainability of supply in Wales and the cost of purchasing legal aid services. For example, for family public law care proceedings, the only area where we have regional fees, the solicitor fixed fee cost for Wales is second only to London. Again it would be helpful to have any estimates of additional costs
- WO conferred/reserved powers model. We have received evidence in support of a reserved powers model. We assume any legislative costs of introducing this would be absorbed. We would be grateful to know of any other costs or savings eg what the cost of the recent Supreme Court hearing was for HMG and WG and whether the choice of model would have a [systematic](#) bearing on future such costs
- any other cost estimates. We would be grateful of any other cost estimates which you might have available in relation to transfers of powers which have been proposed to the Commission eg in relation to devolving teachers pay.