

“Not bad for a 28-page report”: Experts respond to the Smith Commission’s proposals on Scottish governance

By Democratic Audit UK

The Smith Commission yesterday published its official recommendations for the future of Scottish governance following the Scottish independence referendum. Democratic Audit asked **Iain McLean**, **Coree Brown**, **Norman Bonney**, **Craig McAngus** and **Paul Cairney** to give their views on the proposals and their implications. (Part 2 can be found [here](#).)

Iain McLean, Professor of Politics, Nuffield College, University of Oxford

The *Report of the Smith Commission* is a modest document – only 28 pages long. But it packs a big punch. By some magic, Lord Smith has got all five parties in the Scottish Parliament to agree to a set of proposals, which the UK Government also endorsed as soon as they were published on 27 November. The process has involved some huge compromises, on all sides.



The **SNP** published its own proposals for ‘devo-max’. For two months it was rumoured that they would denounce Smith and walk out. They haven’t. Of course they have attacked Smith’s proposal as inadequate. But they have accepted them. Their first response was eloquently silent about Smith’s recommendation not to devolve North Sea Oil revenue. After 40 years of insisting that it is Scotland’s oil, the SNP has maybe started learning to beware what it wishes for.

The **Labour Party** was opposing the full devolution of income tax until the last moment, based on a fear that this would be fatal to Scottish MPs’ remaining at Westminster. They have switched. In truth, there will still be enough for Scots MPs to do (declaring war and peace for instance).

The **UK government parties** have made concessions that were unimaginable before the now-notorious September ‘Vow’. They have conceded control of some cherished DWP functions, including the widely hated ‘bedroom tax’, and of the Scottish operations of the Crown Estate. They have abandoned the insistence that the Treasury can unilaterally set the rules for devolution funding.

In promising to protect the Barnett formula, they were promising less than their readers may have realised. Contrary to widespread misconception, Barnett does not protect the relatively higher public spending per head in Scotland. If allowed to run on, it erodes it. That will now happen.

Not bad for a 28-page report.

Coree Brown, Programme Researcher, The Future of the UK and Scotland

The publication of the Smith Commission report will have implications for the strategy and position of all political parties, not least for the SNP. The party has endorsed the process, noting its acceptance that independence will not be considered by the Smith Commission. However, they have advocated a *'maximalist' outcome*, as consistent with the Vow made by party leaders in advance of the referendum. The *submission to the Smith Commission* made by the SNP-led Scottish Government and endorsed by the party underlines this approach.



The Scottish Government pledges that independence will not be achieved 'by the back door' through the Smith Commission. Instead the party focused its proposals on an outcome which would fall under broad understandings of home rule, near federalism, or devo max. Under the proposals made by the SNP, competences over the constitution as a whole, monetary policy, citizenship, defence, intelligence and security and aspects of foreign affairs would remain at Westminster. The remainder would be devolved, to ensure 'maximum self-government for Scotland'.

The Scottish Government also emphasised the sovereignty of the Scottish People and advocated the inclusion of provisions for Scots to (citing the Claim of Right) 'determine the form of government best suited to their needs' which is understood to leave the door open for further consultations on Scottish self-government.

In advance of publication, the party was *expected to argue* that the provisions are insufficient to fulfil the promises made in The Vow. And it did so. In First Minister's Questions on Thursday, *Nicola Sturgeon* stated that while welcome, the proposals were insufficient, failing to deliver a 'powerhouse parliament' that Scots were promised. *John Swinney* took to twitter, welcoming powers over taxation but noting limitations of the proposals in the fields of job creation and welfare.

So what is next for the SNP? The party has been open to intermediate steps falling short of their ultimate goal in the past. Devolution was described by the party as a part of a process, and they've successfully used the powers of the Scottish Parliament to both govern and to build the case for the further transfer of powers. It is likely that they will pursue this tactic again, using its remaining 18 months in government to demonstrate both the capacity of the Scottish Parliament and Government and the constraints inherent in the system.

Norman Bonney, Emeritus Professor at Edinburgh Napier University and Honorary President of Edinburgh Secular Society

Crossed wires and divergent perspectives between London based and Scottish based Labour elected politicians and senior party officials have been a persistent feature of Labour and devolution politics in recent decades. In 1973/4 UK Labour leader Harold Wilson had to insist, over dissident Labour Scots, that the establishment of a Scottish Assembly should be a manifesto priority. The establishment of the Scottish Parliament in 1999 by the Blair Labour government was surrounded by considerable tensions between the two centres of power as indicated in Alistair Campbell's and Lance Price's spin doctor memoirs.



The latest manifestations of these perpetual tensions have been the resignation of the Leader of

the Labour Party in the Scottish Parliament, Johann Lamont, stating she felt that the Scottish party was treated like a 'branch office' and the conflicting perspectives of senior Westminster based politicians like Alistair Darling and Gordon Brown over support by the leading candidate in the elections for a successor, Jim Murphy MP, that all of Scottish income tax revenues should be assigned to the Scottish Parliament. That neither of the two more senior MPs are likely to stand for re-election to Westminster in May 2015 is perhaps an indication of their fears that the concession of control over income tax banding and rates, with the exception of the initial threshold of eligibility to pay the tax, to the Scottish Parliament, endangers the position of a potential future Labour government to control the Westminster Parliament.

The need of the Scottish Government and the Scottish Parliament now to raise the revenues that it spends is a welcome addition to their powers. For a decade from 2009 they enjoyed expanding revenues without the responsibility for raising them. In more recent years they have had to curb expenditure while still being more generously funded for the functions served than was the case south of the border. Now they will have to make difficult decisions about how to raise a much higher proportion of the required revenues from the voters of Scotland. This can only be for the good.

Craig McAngus, Research Fellow, University of Stirling

Given its speedy turnaround, the not-so-long awaited report from the Smith Commission has been published. The report is short, with the recommendations centring around three main pillars. The two pillars which have gained, and will continue to gain, the most media coverage are those around the fiscal accountability of the Scottish Parliament, namely income tax devolution, and the devolution of welfare. On welfare, the Smith report recommends (see paragraph 49) that attendance allowance, carers allowance and disability living allowance, amongst others, should be devolved in their entirety to the Scottish Parliament. This seems sensible given that regulation and delivery of care is already devolved, and this is likely to please many in the wider care policy community in Scotland.



Perhaps the most intriguing recommendations (paragraphs 44 and 45) are those that advise the devolution of how Universal Credit is implemented and administered. In a nutshell, the power to vary frequency of payments and the money sent directly to landlords, as well as the capacity to vary the housing cost elements of Universal Credit would be within the competency of the Scottish Parliament. Associated with these capacities, the Scottish Parliament can also create and implement discretionary payment schemes without permission from the Department of Work and Pensions.

Assuming that these recommendations are put in place, the devolution of welfare has to be seen in its proper context. Firstly, devolving administrative capacities around Universal Credit allows for variation of a theme rather than a distinctive 'Scottish' approach. Secondly, the ability to implement discretionary payments is an exercise in mitigation against reforms that are largely framed as unfair by Scotland's political elite. Whether or not these extra capacities create demand for further welfare devolution down the line remains to be seen, but at the moment, the Smith report recommends a Scotland that is still very much part of the UK welfare state.



The Smith Commission document states “Complementing the expansion of its powers will be a corresponding increase in the Parliament’s accountability and responsibility for the effects of its decisions and their resulting benefits or costs”.

This is very misleading;

- 1. The Scottish Parliament delegates almost all policymaking responsibility to ministers, who are accountable to the public via Parliament. So, in practice, Scottish ministers are receiving greater responsibilities.*
- 2. The Scottish Government balances the Westminster idea of democratic accountability with others, such as institutional accountability (e.g. the chief executives of agencies take responsibility for delivery) and shared ownership (e.g. through community planning partnerships).*
- 3. The Scottish Parliament struggles to hold ministers to account at the best of times. When the Scottish Government devolves powers to the wider public sector, the Scottish Parliament struggles a bit more. The devolution experience is one of limited parliamentary influence.*
- 4. The Scottish Parliament will not grow in tandem with growing devolution. Instead, the same number of people will oversee a growing set of Scottish Government responsibilities.*
- 5. So, all other things being equal, greater ministerial responsibility will decrease democratic accountability.*

In fact, the Smith Commission recognises this point and recommends a response:

“The addition of new responsibilities over taxes, welfare and borrowing means that the Parliament’s oversight of Government will need to be strengthened. I recommend that the Scottish Parliament’s Presiding Officer continues to build on her work on parliamentary reform by undertaking an inclusive review which will produce recommendations to run alongside the timetable for the transfer of powers”.

This need to pass the buck is understandable, given the limits to Smith’s remit (the Commission also makes good noises about the need for public engagement, to help people understand what the Scottish Parliament does). What is less understandable is why the commission presents these measures as good for accountability. What it means is that the ‘Scottish Parliament’ will become more responsible for raising some of the money it spends – but, as long as it can only control one small part of a mix of taxes, that argument is misleading too. Overall, we have a vague and misleading statement, using the language of greater accountability, but it’s not greater democratic accountability. It’s the other kind of accountability. The kind where democratic accountability is further reduced.