

# **UK's Changing Union: Our Future Submission to the Commission on Devolution in Wales**

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**(On behalf of the UK's Changing Union: Our Future)**

## **Context**

Funded by the Joseph Rowntree Charitable Trust and the Nuffield Foundation, the UK's Changing Union is a joint initiative between the Wales Governance Centre at Cardiff University, the Institute for Welsh Affairs and Tomorrow's Wales/Cymru Yfory, focused on the future of the Union and the Welsh devolution settlement.

A central element to the project is the UK's Changing Union: Our Future youth initiative, a young person led organisation aimed at providing opportunities for young people to develop their ideas, participate in the constitutional debate and influence decisions.

Following the publication of Part One of the Commission on Devolution in Wales (the Silk Commission), 'Our Future' arranged an evidence gathering event in order to formulate our response to the Commission's call for evidence for Part Two of its' inquiry. This event, held at the Pierhead in Cardiff Bay on the 13<sup>th</sup> February 2013, brought young people and professionals from across civil society in Wales, alongside expert voices in the Welsh Media, Transport, Public Affairs and Legal arenas, together in order to broaden awareness of the existing settlement and to outline recommendations for reform.

## **Our recommendations**

At the heart of this submission is a fundamental principle: improving the governance of Wales. This principle is not only essential to any effective democracy, but has been at the heart of the Welsh constitutional debate, underpinning the Richard Commission's Report, the All Wales Convention and forming an important part of your commission's remit.

### *Devolution's Architecture*

In light of this principle, our first recommendation is that the Commission calls for the adoption of a Scottish style 'Reserved powers' model of devolution. The current 'conferred' powers model is complicated and leaves considerable doubt about the true delineation of competencies devolved to Wales and retained at Westminster, a legislative murkiness that, as we have seen, creates a potential minefield of legal challenges. As the Richard Commission argued, a transition to a clearer system where powers are specifically retained at Westminster, with the Assembly free to legislate in all other fields, would increase efficiency, provide greater accountability and confidence.<sup>i</sup>

Following our session on a Welsh jurisdiction, we would also urge the Commission to forensically examine the case for a Welsh jurisdiction. Whilst there are split opinions on the desirability at present for a Welsh jurisdiction, most noticeably being the Assembly's Constitutional and Legislative Affairs Committee Report which ultimately opted not to clearly support or oppose such a development, the Jurisdiction question will only advance in importance as the

Assembly increases its legislative output and it should thus be treated as a priority by the Commission.

### *Capacity*

Better Governance does not just entail constitutional re-ordering, but that time honoured political cliché: having the tools to do the job. In the case of the National Assembly for Wales, capacity has again been an ever-present element of the devolution debate, featuring in the Richard Commission's findings and the All Wales Convention's deliberations.

Whilst changing the internal structures of the Assembly is against the Commission's remit, the weight of the case for reform makes it unavoidable if the Commission is serious about delivering a better devolution dispensation.

First and foremost is the matter of the number of AMs required for an effective legislative Assembly to operate. As evidence to our session on capacity and the work on Richard previously warned, 60 AMs is simply insufficient for the Assembly to scrutinise the Government's legislative and departmental work.<sup>ii</sup> AMs are expected to serve on a wide number of committees, meaning that policy specialisation and effective scrutiny is significantly undermined. We therefore strongly recommend that your inquiry breaks from its remit and accepts the overwhelming case for an increase in the number of AMs.

Secondly, another issue that arose from our discussions on Assembly scrutiny was the effectiveness and accountability of the civil service in Wales. This has also previously created headlines, with the former Welsh Government Minister Andrew Davies a strident critic of the way Welsh civil servants have stifled reform. In the wake of the session's evidence, Our Future recommends that the Commission calls for a democratization of the civil service in Wales. Using the precedent of the UK Chancellor offering the House of Commons Treasury Select Committee a veto over future Chairs of the Office of Budget Responsibility, the Assembly should be given a similar role over the appointment of the Welsh Government's Permanent Secretary.<sup>iii</sup>

### *Welsh Media*

The weak state of the Welsh media has sparked a significant degree of comment and concern, not least because of the damaging impact a failing media has on the broader health of a democracy.<sup>iv</sup> Solving this problem, however, is not without difficulties and as such we can only recommend the following to the Commission:

1. That the Commission devotes significant time to analysis of the Welsh media, including exploring potential models offering a sustainable future.
2. A number of concerns were raised about media independence if devolution of S4C were to take place following the Welsh Government's recent disagreement with the channel over a Pobl y Cwm plotline. In the light of such fears, we would recommend that the Commission explores the practicality of a devolved S4C having a separate royal charter (along the BBC's lines).

## *The UK scene*

Aside from rationalising the Assembly's powers, a more holistic approach to the United Kingdom is needed, not least because of the fluid situation in Scotland and developing localism in England. Our Future therefore calls on the Commission to urge the UK Government to convene a UK Constitutional Convention, as the First Minister of Wales has repeatedly argued for.<sup>v</sup> Such a convention is essential to ensuring not only better governance for Wales, but for the United Kingdom as a whole.

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<sup>i</sup> Commission on the Powers and Electoral Arrangements of the National Assembly for Wales. (2004), p.250

<sup>ii</sup> Ibid p.262

<sup>iii</sup> Institute for Government, The evolving role of select committees, <http://www.instituteforgovernment.org.uk/our-work/parliament-and-political-process/evolving-role-select-committees>

<sup>iv</sup> Osmond, J. (8<sup>th</sup> February 2013). Decade of cuts continues at Western Mail, *Click on Wales* [online], <http://www.clickonwales.org/2013/02/decade-of-cuts-continues-at-western-mail/>

<sup>v</sup> BBC. (23<sup>rd</sup> January 2012). Carwyn Jones calls for constitutional convention, *BBC News* [online], <http://www.bbc.co.uk/news/uk-wales-politics-16693384>