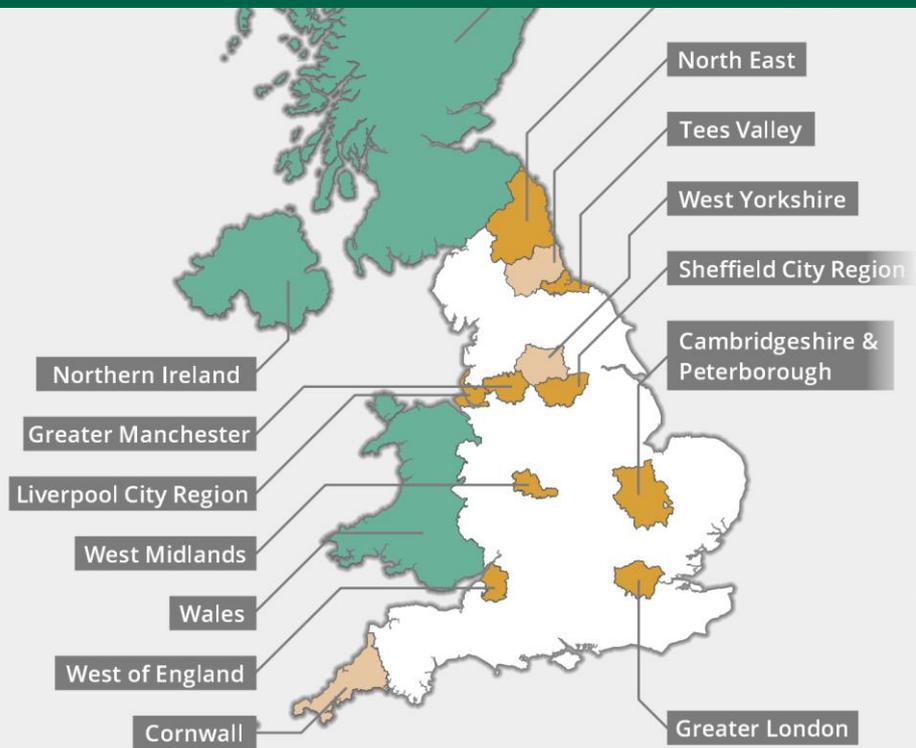
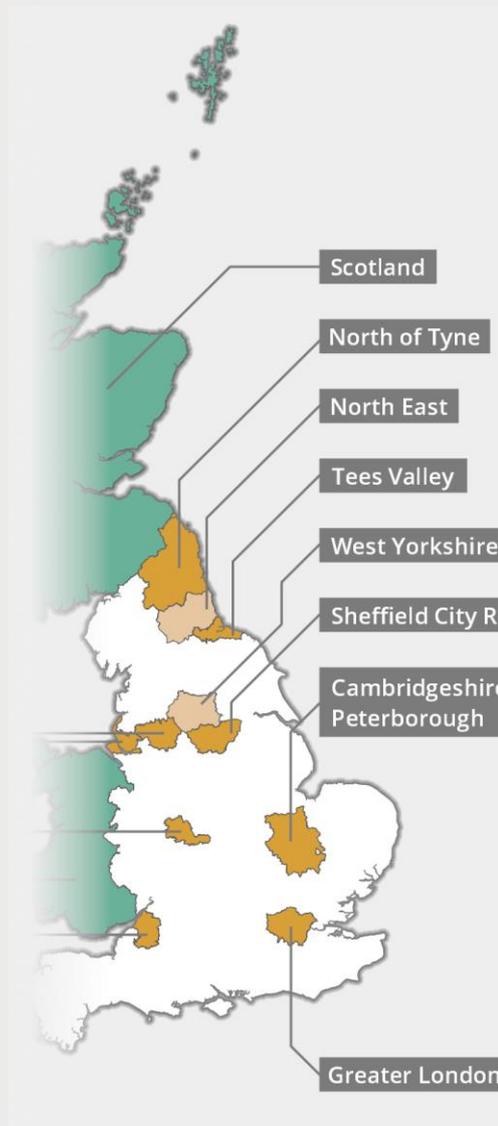


Research Briefing

By David Torrance

25 January 2022

Introduction to devolution in the United Kingdom



Summary

- 1 Introduction
- 2 Devolution in Scotland
- 3 Devolution in Wales
- 4 Devolution in Northern Ireland
- 5 Devolution in England
- 6 Intergovernmental relations
- 7 Devolved political leaders
- 8 Further reading

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Summary

“Devolution” is the term used to describe the process of transferring power from the centre (Westminster) to the nations and regions of the United Kingdom. The term is derived from the Latin, meaning “to roll down”.¹ It is different from a federal or confederal system of government, under which every constituent part of a state enjoys autonomy and sovereignty. Under the UK constitutional tradition of “parliamentary sovereignty” devolution is, in theory, reversible, and the devolved institutions products of UK statute.

Devolution in the UK

The legislative frameworks for devolution were originally set out in the Scotland Act 1998, the Government of Wales Act 1998 and the Northern Ireland Act 1998, although all three have subsequently been amended. There is also a non-legislative framework of agreements between Government departments and the devolved institutions which help resolve disputes between central and devolved government.

The UK system of devolution is asymmetric, in that different parts of the UK have different forms of devolution and varying degrees of power. Scotland, Wales and Northern Ireland now all possess executive and legislative devolution, while Metro Mayors in parts of England (and the Mayor of London) have only executive powers. Combined Authorities and the London Assembly can scrutinise executive decisions but not legislate in the manner of the Scottish Parliament, Senedd Cymru/Welsh Parliament and the Northern Ireland Assembly.

Devolved and reserved matters

Those three legislatures can only pass primary and secondary laws in devolved (or “transferred” in the case of Northern Ireland) areas, with “reserved” matters (or reserved and “excepted” in NI) remaining the responsibility of Westminster. The UK Parliament can still legislate in devolved areas, but, under the Sewel Convention, does “not normally” do so without the explicit consent of the relevant devolved body.

¹ James Mitchell, “Devolution” in D. Brown, R. Crowcroft and G. Pentland (eds), *The Oxford Handbook of Modern British Political History, 1800-2000*, Oxford: Oxford University Press, p187

Prior to the 1997 referendum on devolving power from Westminster to Wales, the then Secretary of State for Wales, Ron Davies, memorably referred to devolution as “a process, not an event”.² This briefing paper looks at both the “event” of devolution in 1997-99 and the “process” of its development since then, outlining the structure and powers of devolved institutions in Scotland, Wales, Northern Ireland, London and parts of England.

² “Return of the Welsh Nation”, Times Higher Education Supplement, 12 September 1997

1 Introduction

Devolution in the United Kingdom did not begin in the late 1990s. Rather it has taken many forms in Scotland, Wales and Ireland (later, Northern Ireland) since the 18th century:

- administrative – the practice of transferring central government responsibilities to territorial departments of the same government;
- executive – where the prerogative powers of UK Government ministers are transferred to ministers of devolved governments or, in England, elected “metro” mayors;
- legislative – where law-making powers are transferred from Westminster to other law-making bodies within the UK.

The application of these different forms of devolution has often reflected the composite nature of the UK which, as Professor James Mitchell has argued, has never been unitary but rather “a state of unions”.³

The United Kingdom of Great Britain and Northern Ireland developed over several centuries, first through [England’s union with Wales](#) (in the 1530s), then the [Anglo-Scottish Union of 1707](#) (which formed Great Britain), and the [British-Irish Union of 1801](#) (which formed the United Kingdom of Great Britain and Ireland). Its current geographical extent is less than a century old, a result of the secession of the Irish Free State in 1922.

Even the old English state had a regional dimension, with [Councils of the North](#) (1472-1641), [the West](#) (1539-40) and [Wales and the Marches](#) (1472-1689).⁴ Between 1603 and 1707, Scotland and England each had their own [parliaments under the same monarch](#), while until 1801 Ireland also had its own legislature, although it was constrained in many ways by England/Great Britain. After 1707, the Scottish church and legal system retained institutional autonomy, while Ireland, after 1801, had a form of executive devolution within the Union.

In the late 19th century a system of what was known as “administrative devolution” began to apply, first in Scotland (1885), then in Wales (1964-65) and, finally, in Northern Ireland (1972), the last of which followed more than 50 years of legislative devolution. Referendums on devolving certain powers to Scotland and Wales in 1979 failed to achieve the necessary threshold of

³ James Mitchell, *Devolution in the UK*, Manchester: Manchester University Press, p15. Mitchell has subsequently revised this to argue that “the UK might best be characterised as a state of evolving unions” (Mitchell, “Devolution”, p187)

⁴ None of these Councils were legislative in nature; their purpose being more judicial

public support. Attempts to restore legislative (and executive) devolution in Northern Ireland in the 1970s and '80s proved short-lived.

The devolution settlements associated with the Labour Government of 1997-2001 drew on aspects of these earlier schemes, while executive devolution was granted to London for the first time in 2000. Devolution to parts of England, meanwhile, only began in earnest after 2015.

2 Devolution in Scotland

2.1 Establishment

A [Scottish Home Rule Association](#) was formed a year after the Scottish Office opened in 1885, and for the next century it and several other organisations, movements and political parties proposed schemes ranging from “Dominion” status for Scotland within the British Empire, to “devolution” via a Scottish Assembly or Parliament in Edinburgh.

A [Royal Commission on the Constitution](#), which reported in 1973, recommended a directly-elected Scottish Assembly to deal with most domestic Scottish affairs.

1979 devolution referendum

The [Scotland Act 1978](#) gave legislative effect to this proposal, subject to a post-legislative referendum which was [held on 1 March 1979](#). The Act included an electoral threshold known as the “40 per cent rule”, which required 40 per cent of the total Scottish electorate (rather than of those voting) to endorse the proposals.

Although 51.6% of those voting supported a Scottish Assembly, that threshold was not met and thus the Scotland Act 1978 was subsequently [repealed following a vote in Parliament](#). Thereafter, organisations like the Campaign for a Scottish Assembly continued to campaign for devolution.

In 1989 a [Scottish Constitutional Convention](#) was convened to agree a blueprint for what was by then generally referred to as a Scottish Parliament (rather than an Assembly). This emphasised the “sovereignty of the Scottish people”, although as the academic James Mitchell later observed, this [Claim of Right for Scotland](#) embodied “a political rather than justiciable claim”.⁵

1997 devolution referendum

In 1995, the Labour Party committed to a pre-legislative two-question referendum on establishing a Scottish Parliament with tax-varying powers. Two years later, the Labour Party won the 1997 UK general election and

⁵ [Written evidence submitted by Professor James Mitchell \(CC 21\)](#), 17 October 2012. While the Scottish Labour and Liberal parties took part in the SCC, the Scottish Conservatives and SNP did not

passed the [Referendum \(Scotland and Wales\) Act 1997](#), which made legal provision for a non-binding two-question referendum.

Unlike the Scotland Act 1978, it did not include a turnout threshold. On 11 September 1997, when the referendum was held, 74% of voters agreed there should be a Scottish Parliament, while 63% agreed it should have tax-varying powers. The turnout was 60.4%.⁶

The Government's White Paper, [Scotland's Parliament](#) (Cmnd 3658), had been debated in the Commons on 31 July 1997.⁷

2.2 Devolved powers in Scotland

The [Scotland Act 1998](#) (as amended in 2012 and 2016) sets out matters on which the [Scottish Parliament](#) cannot legislate, known as general and specific reservations. The general reservations are:

- aspects of the constitution, including the Crown, the Union, the UK Parliament, the existence of the (criminal) High Court of Justiciary and the existence of the (civil) Court of Session;
- the registration and funding of political parties;
- international relations, including with territories outside the UK and the European Union, international development and the regulation of international trade;
- the Home Civil Service;
- defence of the realm;
- treason.

Specific reservations cover particular areas of social and economic policy reserved to Westminster. These are listed under 11 "heads":

- Head A – Financial and Economic Matters (fiscal – except devolved taxes – economic and monetary policy, currency, financial services, financial markets, money laundering);
- Head B – Home Affairs (misuse of drugs, data protection and access to information, elections to the House of Commons, firearms – except air weapons – entertainment, immigration and nationality, scientific procedures on live animals, national security, official secrets and terrorism, betting, gaming and lotteries, emergency powers, extradition, lieutenancies and access to non-Scottish public bodies);
- Head C – Trade and Industry (business associations, insolvency, competition, intellectual property, import and export control, sea fishing outside the Scottish zone, consumer protection, product standards, safety and liability, weights and measures,

⁶ See Commons Library Research Paper 97/113, [Results of Devolution Referendums \(1979 & 1997\)](#), pp6 & 9

⁷ [HC Deb 31 July 1997 vol 299 cc456-52](#)

- telecommunications, postal services, research councils, designation of assisted areas, industrial development and protection of trading and economic interests, distortive or harmful subsidies);
- Head D – Energy (electricity, oil and gas, coal, nuclear energy and energy conservation);
 - Head E – Transport (road transport, marine transport and air transport);
 - Head F – Social Security (non-devolved social security schemes, child support and pensions);
 - Head G – Regulation of the Professions (architects, health professions and auditors);
 - Head H – Employment (employment and industrial relations, health and safety, non-devolved job search and support);
 - Head J – Health and Medicines (xenotransplantation, embryology, surrogacy and genetics, medicines, medical supplies and poisons, welfare foods);
 - Head K – Media and Culture (broadcasting, public lending right, government indemnity scheme and property accepted in satisfaction of tax);
 - Head L – Miscellaneous (judicial remuneration, non-Scottish public body equal opportunities, control of weapons, Ordnance survey, time, outer space and Antarctica).

[Schedule 5](#) of the Scotland Act 1998 (as amended) gives a detailed and up-to-date breakdown of all general and specific reservations, as well as various exceptions. Everything not listed is assumed to be devolved.⁸

2.3

The Scottish Parliament

The single-chamber Scottish Parliament can pass primary legislation. The debating chamber is arranged in a hemicycle. There is no second, or “revising”, chamber. It currently operates a five-year sessional cycle, rather than the annual (or occasionally two-year) cycle used at Westminster.

Even before the Scottish Parliament moved to its custom-built home opposite the Palace of Holyroodhouse in 2004, it was often referred to as “Holyrood”, which is widely used as shorthand for the devolved Parliament, just as “Westminster” is for the UK Parliament.

Parliamentary governance

The Scottish Parliament is governed by [Standing Orders](#) and a [Corporate Body](#), which is responsible for providing the necessary property, services and staff. The Corporate Body is chaired by the [Presiding Officer](#), who also convenes the [Parliamentary Bureau](#), which allocates time and sets the work

⁸ See Commons Library Briefing Paper CBP8544, [Reserved matters in the United Kingdom](#), for a full list of matters which remain reserved to the UK Parliament

agenda in the Chamber (unlike the House of Commons, where the Government sets the business). The Bureau consists of one representative from each political party – or groupings of smaller parties and individuals – with five or more seats.

Elections

Under the Scotland Act 1998, ordinary elections for the Scottish Parliament were held on the first Thursday in May every four years, before moving (like the [Welsh Parliament](#)) to temporary five-year terms after the 2011 election.⁹

The date of the poll may be varied by up to one month either way by the Sovereign on the proposal of the Presiding Officer. A vote by two thirds of the parliament's members can dissolve the parliament, resulting in an extraordinary election which are in addition to ordinary elections unless held six months before the due date, in which case they supplant it.

Elections to the Scottish Parliament are conducted under the proportional [Additional Member System](#) (AMS), which produces 73 constituency and 56 regional list [Members of the Scottish Parliament](#) (MSPs). Until the reduction of Scottish MPs to 59 in 2005, constituency seats at Holyrood and Westminster were coterminous (except for Orkney and Shetland). The regional list MSPs are selected from eight regions based on the former European Parliament constituencies (Central Scotland, Glasgow, Highlands and Islands, Lothian, Mid Scotland and Fife, North East Scotland, South Scotland and West Scotland).

Each political party draws up a list of candidates to stand in each electoral region, from which the list MSPs are elected. Taking account of the constituency vote, these 56 list seats are then allocated proportionately using a system based on the [d'Hondt method](#) (the Welsh Parliament uses the same system). Those standing for places on the regional lists can also stand in constituency seats falling within that electoral region.¹⁰

As with all elections in the UK, citizens of Ireland and qualifying Commonwealth countries resident in Scotland are entitled to vote in Scottish Parliament elections, as are citizens of other EU member states (which is not the case at Westminster). Overseas voters on the Scottish electoral register are not entitled to vote. From the 2016 Holyrood election, the franchise was expanded to include 16 and 17 year olds (who had also been able to vote in the 2014 independence referendum).

By-elections for constituency MSPs are held in a manner similar to those for MPs, while on the regional list a departing Member is replaced by the next

⁹ The [Scottish Elections \(Dates\) Act 2016](#) then extended the Scottish Parliamentary term from four to five years, so that the next election could be held on 6 May 2021, with subsequent elections taking place every four years.

¹⁰ In the Welsh Parliament, by contrast, dual candidacy has always been restricted and was banned outright at the 2007 and 2011 elections

person on his or her party list. If there is no one else on the list, as was the case when the independent MSP Margo MacDonald died in April 2014, the seat is left vacant until the next Scottish Parliament election.¹¹

There are no legal restrictions on MSPs also being members of the House of Commons, House of Lords or European Parliament. Many MPs who were elected MSPs in 1999, for example, remained MPs until 2001, while Alex Salmond, First Minister between 2007-14, remained an MP until 2010.¹²

First meeting following an election

It has become a custom that the Queen “opens” each new session of the Scottish Parliament.

Following an election, the previous term’s Presiding Officer presides over the swearing-in of MSPs, who are required to [swear an oath of allegiance or make a solemn affirmation](#) to the Sovereign. A new Presiding Officer is then elected in a secret ballot, followed by two deputies.

Any MSP can stand for nomination as [First Minister](#) although, as at Westminster, this will normally be the leader of the largest single party.¹³ Once nominated, he or she is then recommended by the Presiding Officer and appointed by the Queen. The new First Minister then selects Ministers who (with the exception of two law officers) have to be MSPs.¹⁴ Another plenary session votes on the First Minister’s appointees.

If the Scottish Parliament fails to nominate a First Minister within 28 days of a vacancy arising, then [Section 46](#) of the Scotland Act 1998 stipulates that another election must be held.

Plenary sessions

The Scottish Parliament typically sits on Tuesdays, Wednesdays and Thursdays from early January until late June, and from early September until mid-December, with a two-week recess in April and October, and a week in February. It generally conforms to “family-friendly” hours, i.e. there are no late-night sittings.

Since 27 October 1999, the first item of business each week has been [Time for Reflection](#), which, unlike prayers in the House of Commons, is ecumenical. MSPs vote (electronically) on all motions and amendments moved during a plenary meeting at [Decision Time](#), which usually takes place at 5pm. After Decision Time on Tuesdays and Wednesdays, and following First Ministers Questions on Thursdays, there are 45 minutes of Members’

¹¹ BBC News online, [“Independent MSP Margo MacDonald dies”](#), 5 April 2014

¹² See Commons Library Briefing Paper SN04101, [Members of Parliament holding dual mandates](#)

¹³ The election of a First Minister can be delayed if coalition negotiations are ongoing

¹⁴ The Lord Advocate and Solicitor General may attend and speak in plenary meetings of the Scottish Parliament but cannot vote

Business. The [Official Report](#), like Hansard at Westminster, is the published record of parliamentary proceedings.

MSPs can debate and vote on motions concerning reserved matters, but not legislate for them.

Committees

The Scottish Parliament has a [committee system](#), although this does not distinguish between standing and select committees, as in the UK Parliament. Seven “[mandatory](#)” [committees](#) are set out in the Scottish Parliament’s Standing Orders.¹⁵

The committees undertake scrutiny of both legislation and policy and can initiate their own inquiries in relevant subject areas. Like committees of the House of Commons, those in the Scottish Parliament can meet in other locations. UK Ministers often appear before Scottish Parliamentary committees but are not obliged to do so.

2.4

How legislation is passed

The Scottish Parliament makes laws on what are known as [devolved matters](#). Public Bills can be introduced by a backbench MSP, known as [Members’ Bills](#),¹⁶ by a Cabinet Secretary or Minister (a Government Bill) or proposed by a Scottish Parliament committee (a Committee Bill). [Private Bills](#) can also be initiated by external promoters.¹⁷

Bills are then examined by the Scottish Parliament, mostly via committees, with one committee taking the lead. Before it can become law, a Bill has to complete three main stages:

- Stage 1: Parliamentary committees consider the “general principles” of a Bill and consult members of the public and external stakeholders. MSPs then debate and vote on the Bill in the Chamber;
- Stage 2: A parliamentary committee considers the Bill in detail and decides on proposed changes, or amendments.
- Stage 3: Parliament considers further amendments to the Bill and, finally, MSPs decide whether to pass or reject it.¹⁸

¹⁵ These committees are: Standards, Procedures and Public Appointments, Finance, Public Audit, Europe and External Relations, Equalities, Public Petitions and Delegated Powers and Law Reform

¹⁶ Each MSP can introduce two Member’s Bills during a parliamentary session

¹⁷ Only one [Hybrid Bill](#) has so far been considered, to authorise the building of a new Forth crossing by the Scottish Government because it affected people and bodies near the proposed bridge

¹⁸ Scottish Parliament website, [“How does the Scottish Parliament make laws?”](#)

- Before Stage 1, the Presiding Officer has to give their opinion on whether a Bill is within the Scottish Parliament's competence, although this is not binding on the Scottish Government.

Once a Bill is passed, there is a period of four weeks in which the [Advocate General for Scotland](#) (a UK Government law officer) can either refer it to the Supreme Court on the basis that it is incompatible with either the Scotland Act 1998 or the [European Convention on Human Rights](#), or confirm s/he does not intend to. Only then does the Presiding Officer write to the Queen asking for [Royal Assent](#).

[Section 35](#) of the Scotland Act 1998 also empowers the [Secretary of State for Scotland](#) to prevent Royal Assent being given to a Bill in certain circumstances, although this power has never been used.

Commons Library Briefing Paper CBP8441, "[The settled will"? Devolution in Scotland, 1998-2018](#)", has fuller details regarding the background and development of the devolution settlement in Scotland.

3 Devolution in Wales

3.1 Establishment

Political demands for Welsh autonomy were first articulated in the late 19th century,¹⁹ while in 1949 an advisory [Council for Wales and Monmouthshire](#) was appointed with the task of ensuring that the Government were “adequately informed of the impact of government activities on the general life of the people of Wales”.²⁰

A [Minister of Welsh Affairs](#) was created in 1951, while in October 1964 this became a Cabinet post as Secretary of State for Wales. A related department, the Welsh Office, was established the following year with a presence in Whitehall and Cardiff. This form of “administrative devolution” gradually acquired greater responsibilities, as in Scotland.²¹

1979 devolution referendum

In 1974, the Labour Government published proposals for a directly elected assembly in Wales with executive but not legislative powers.²² As with proposals for a Scottish Assembly, this was subject to a post-legislative referendum, which took place on 1 March 1979, St David’s Day. Only 20.3% of the Welsh electorate voted affirmatively, and so the [Wales Act 1978](#) was repealed by the successive Conservative administration.²³

1997 devolution referendum

In opposition during the 1990s, the Labour Party produced proposals for a Welsh Assembly – again with executive rather than legislative powers – in two documents, *Shaping the Vision* (1995) and *Preparing for a New Wales* (1996).²⁴ In June 1996, the party also committed itself to holding a pre-legislative referendum and, following the 1997 general election, it published a White Paper, *A Voice for Wales*, on 22 July 1997.²⁵

¹⁹ Kenneth O. Morgan, *Rebirth of a Nation: A History of Modern Wales 1880-1980*, 1987

²⁰ Alan Butt-Phillip, *The Welsh Question*, 1975

²¹ Russell Deacon, *The Governance of Wales: The Welsh Office and the Policy Process 1964-99*, 2002

²² See House of Commons Library Research Paper 97/60, [Wales and devolution](#), pp5-7

²³ David Foulkes et al, *The Welsh Veto: The Wales Act 1978 and the referendum*, 1983

²⁴ Several commentators believed this form of devolution, weaker than that proposed for Scotland, was the result of divisions among Welsh Labour MPs (see Martin Shipton, *Poor Man’s Parliament*, 2011, p8)

²⁵ HMSO, *A Voice for Wales: The Government’s Proposals for a Welsh Assembly*, 1997

A referendum was held on 18 September 1997 – a week after the vote in Scotland – and the result was a narrow “yes” vote, 50.3% or 559,419 votes, a majority of just 6,721.²⁶

3.2 Devolved powers in Wales

The original devolution settlement in Wales under the [Government of Wales Act 1998](#) did not equip the then National Assembly for Wales with primary law-making powers, and therefore most policy areas (beyond executive and secondary law-making powers) remained under Westminster control.

Following a cross-party campaign for Wales to gain legislative powers, [part 3](#) of the [Government of Wales Act 2006](#) granted the ability to pass “Assembly Measures” (primary laws) in 20 defined areas (set out in [Schedule 7](#)) via “Legislative Competence Orders”.²⁷ These required the consent of both Houses of Parliament as well as the [Secretary of State for Wales](#).

In 2014, the [Silk Commission](#) argued that the National Assembly should move to a reserved powers model,²⁸ a view endorsed by the UK Government the following year.²⁹ [Schedule 7A](#) of the [Wales Act 2017](#) (which was also added to the 2006 Act), followed the Scottish precedent in dividing reservations into general and specific areas.

General reservations largely follow those in Scotland (with the important exception of justice). They are:

- the Constitution;
- public service;
- political parties;
- the single legal jurisdiction of England and Wales;
- tribunals;
- foreign affairs etc;
- defence.

Specific reservations, again like those in the Scotland Act 1998, are divided into several “Heads”, but are more extensive than those in Scotland. These are:

²⁶ Fred Till, “[20 years that changes Wales: reflections on ‘Wales said Yes’](#)”, Institute of Welsh Affairs website, 26 September 2017

²⁷ The term “Measure” owed something to the Church (of England) Assembly created in 1919. This, later renamed the General Synod, also passed Measures subject to Westminster approval.

²⁸ Commission on Devolution in Wales, [Empowerment and Responsibility: Legislative powers to strengthen Wales](#), Cardiff, March 2014, chapter 4

²⁹ HM Government, [Powers for a Purpose: Towards a Lasting Devolution Settlement for Wales](#), Cmnd 9020, February 2015, para. 2.1.2

- Head A – Financial and Economic Matters (fiscal – except devolved taxes – economic and monetary policy, currency, financial services and markets, dormant accounts);
- Head B – Home Affairs (elections, nationality and immigration, national security and official secrets, interception of communications, communications data and surveillance, crime, public order and policing, anti-social behaviour, modern slavery, prostitution, emergency powers, extradition, rehabilitation of offenders, criminal records, dangerous items, misuse of drugs or psychoactive substances, private security, entertainment and late night refreshment, alcohol, betting, gaming and lotteries, hunting, scientific and educational procedures on live animals, lieutenancies, charities and fund-raising);
- Head C – Trade and Industry (business associations and business names, insolvency and winding up, competition, intellectual property, import and export control, consumer protection, product standards, safety and liability, weights and measures, telecommunications and wireless telegraphy, post, research councils, industrial development, protection of trading and economic interests, assistance in connection with exports of goods and services, water and sewerage, Pubs Code Adjudicator and the Pubs Code, Sunday trading, distortive or harmful subsidies);
- Head D – Energy (electricity, oil and gas, coal, nuclear energy, heat and cooling, energy conservation);
- Head E – Transport (road transport, rail transport, marine and waterway transport etc, air transport, transport security and other matters);
- Head F – Social Security, Child Support, pensions and Compensation (social security schemes, child support, occupational and personal pensions, public sector compensation, Armed Forces compensation etc);
- Head G – Professions (architects, auditors, health professionals and veterinary surgeons, employment, employment and industrial relations, industrial training boards, job search and support);
- Head J – Health, Safety and Medicines (abortion, Xenotransplantation, embryology, surrogacy and genetics, medicines, medical supplies, biological substances etc, welfare foods, health and safety);
- Head K – Media, Culture and Sport (media, Public Lending Right, Government Indemnity Scheme, property accepted in satisfaction of tax, sports grounds);
- Head L – Justice (the legal profession, legal services and claims management services, legal aid, coroners, arbitration, mental capacity, personal data, information rights, public sector information, public records, compensation for persons affected by crime and miscarriages of justice, prisons and offender management, family relationships and children, gender recognition, registration of births, deaths and places of worship);
- Head M – Land and Agricultural Assets (registration of land, registration of agricultural charges and debentures, development and buildings);
- Head N – Miscellaneous.³⁰

³⁰ Welsh Parliament website, ["Role of the Senedd and how it works-Powers"](#)

Schedule 7A gives a detailed breakdown of all general and specific reservations, as well as various exceptions to those reservations, which are therefore devolved.³¹

3.3 Senedd Cymru/the Welsh Parliament

Senedd Cymru/the Welsh Parliament has 60 Members of the Senedd (MS) consisting of 40 constituency representatives and 20 representing five multi-member regions. Regional members are elected, as in Scotland, via the Additional Member closed-party-list system to ensure a high degree of proportionality vis-à-vis total votes cast.

Following each election, which since 2011 are held every five years, the Parliament elects one of its Members to serve as Presiding Officer (Llywydd) and another to serve as a deputy. The Presiding Officer also chairs the Welsh Parliament Commission. Both the Presiding Officer and the Deputy Presiding Officer are expected not to vote.

The First Minister of Wales is directly appointed by the Queen (who also “opens” each new session) following a vote in the Parliament, and if no candidate is elected within 28 days of polling day, then fresh elections are necessary. The Welsh Parliament meets in plenary every Tuesday and Wednesday, as well as in several committees, of which there are currently 13.³²

Since 2006, the Welsh Parliament has been based at the custom-built “Senedd” (Welsh for “Parliament”) building in Cardiff Bay. Some call it the “the Senedd”, while “Cardiff Bay” is also used as shorthand for Wales’ governing institutions, like “Westminster” and “Whitehall” in London.

Following a public consultation, legislation to change the name of the National Assembly to “Senedd Cymru” in Welsh and “Welsh Parliament” in English was passed by Assembly Members on 27 November 2019 and given Royal Assent on 15 January 2020. The name change took effect on 6 May 2020.³³

³¹ Again, see Commons Library Briefing Paper CBP-8544, Reserved matters in the United Kingdom, for a full list of matters which remain reserved to the UK Parliament

³² Welsh Parliament website, Senedd Business-Committees

³³ See Commons Library Insight blog, “Senedd Cymru: Why has the National Assembly for Wales changed its name?”, 6 May 2020

3.4 How primary legislation is passed

As with other legislatures in the United Kingdom, proposed legislation in Wales is known as a “Bill” until it becomes an “Act” following a five-stage process:

- Stage 1: Consideration of the general principles of a Bill by a Parliament committee, after which these must be agreed by a majority of the whole Welsh Parliament.
- Stage 2: The Bill committee considers the legislation and any tabled amendments.
- Stage 3: The Welsh Parliament then considers the Bill and any amendments in plenary.
- Stage 4: A vote of the whole Parliament determines whether a final version of the Bill is to be passed or rejected.
- Stage 5: The Bill is given Royal Assent and becomes an Act of the Welsh Parliament. The word “Wales” is inserted to distinguish it from Westminster legislation.

Most Bills in the Welsh Parliament are introduced by the [Welsh Government](#), although legislation can also be initiated by committees, the Welsh Parliament Commission, individual Members of the Senate and public bodies or local authorities via private/hybrid Bills.³⁴

Commons Library Briefing Paper CBP-8318, "[A process, not an event](#)": [Devolution in Wales, 1998-2020](#), has comprehensive details of all aspects of the devolution settlement in Wales.

³⁴ Russell Deacon et al, *The Government and Politics of Wales*, 2018, pp128-30

4 Devolution in Northern Ireland

4.1 Establishment

A campaign for some degree of [Home Rule for Ireland](#) grew during the 19th century and won Liberal government support in 1886. It took almost 30 years until the [Government of Ireland Act 1914](#) (which provided for the establishment of a bicameral parliament in Dublin) became law, although it was suspended for the duration of the First World War.

Following the [Easter Rising](#) of 1916, Irish public opinion hardened in favour of complete independence from the UK. Under the [Government of Ireland Act 1920](#) (which repealed the 1914 Act) the UK intended to create two devolved parliaments in Northern and Southern Ireland, but this was overtaken by the [war of independence](#) (1919-21).

The [Anglo-Irish Treaty](#) ended the war and partitioned Ireland between the Irish Free State and Northern Ireland, the latter remaining part of the UK under the 1920 Act.

The [Parliament of Northern Ireland](#), housed at Stormont from 1932, always had an [Ulster Unionist Party](#) majority and government. In 1948, Ireland (or Eire) declared itself a Republic, something recognised by the [Ireland Act 1949](#). This also declared that:

in no event will Northern Ireland or any part thereof cease to be part of His Majesty's dominions and of the United Kingdom without the consent of the Parliament of Northern Ireland.

The Troubles

A civil rights march in Derry/Londonderry in October 1968 marked the beginning of a period known as [The Troubles](#), a violent conflict regarding the constitutional status of Northern Ireland.

By 1972, relations between the UK and Northern Ireland governments had broken down over the deteriorating security situation. The Northern Ireland Parliament was prorogued on 30 March 1972 and formally abolished in 1973 under the [Northern Ireland Constitution Act 1973](#).

The [Northern Ireland Assembly Act 1973](#) restored devolved government and elections, boycotted by Republicans, were held on 28 June. The new

Assembly³⁵ met for the first time on 31 July and following the [Sunningdale Agreement](#), a power-sharing Executive was established on 1 January 1974. It collapsed after only five months following a Loyalist general strike.

[Direct Rule](#) from Westminster was restored in July 1974, after which the [Northern Ireland Act 1974](#) provided that [Orders in Council](#) could be made for Northern Ireland in reserved and transferred powers, with only excepted matters enacted by primary legislation.

Developments in the 1980s

The [Northern Ireland Act 1982](#) made provision for a new Northern Ireland Assembly to monitor the activities of the Northern Ireland Departments and make proposals for the resumption by the Assembly of its former functions under the two 1973 Acts. The Assembly was dissolved on 23 June 1986 by the [Northern Ireland Assembly \(Dissolution\) Order 1986](#), before any devolution of functions had taken place. Thereafter, the 1973 and 1982 Acts remained in force, which left open the possibility of a new Assembly being elected.³⁶

The [Anglo-Irish Agreement](#) of 1985, meanwhile, enhanced the Republic of Ireland's role in attempts to resolve The Troubles. This established the Anglo-Irish Intergovernmental Conference, which was to be concerned with political, legal and security matters in Northern Ireland, as well as "the promotion of cross-border cooperation".

The peace process

On 15 December 1993, the [Downing Street Declaration](#) stated that the UK had no "selfish strategic or economic" interest in Northern Ireland. The following year, the [Irish Republican Army](#) (IRA) announced a "complete cessation of military activities", followed 43 days later by a similar announcement from the main Loyalist paramilitary groups.

On 22 February 1995, the UK Government published [Frameworks for the Future](#), which proposed new democratic institutions. A year later, the [Northern Ireland \(Entry to Negotiations, etc\) Act 1996](#) facilitated multi-party negotiations with the UK and Irish governments which began on 10 June, created an elected [Northern Ireland Forum](#), and made provision (under [Section 4](#)) for a future referendum.³⁷

The multi-party negotiations lasted for nearly two years and culminated with the [Belfast Agreement](#) (also known as the Good Friday Agreement) on 10

³⁵ As with the legislatures created in 1921 and 1998, the 1973 Assembly had three categories of powers: excepted, reserved and transferred

³⁶ See Cornelius O'Leary, Sydney Elliott and Rick Wilford, *The Northern Ireland Assembly, 1982-1986: A Constitutional Experiment*, London: C. Hurst, 1988

³⁷ For a detailed account of the peace process see Commons Library Research Paper 96/52, [Northern Ireland Current political developments](#)

April 1998. This provided for a new Northern Ireland Assembly, Executive and consultative [Civic Forum](#) (Strand 1);³⁸ a North-South Ministerial Council (Strand 2); and a British-Irish Council (Strand 3); amendment of Articles 2 and 3 of the [Constitution of Ireland](#), and a process for decommissioning weapons held by paramilitary groups and a programme for the accelerated release of paramilitary prisoners.

The Agreement was endorsed in a referendum on 22 May 1998. Most members of the UUP, the [Social Democratic and Labour Party](#) (SDLP) and Sinn Féin campaigned for a “yes” vote, while the [Democratic Unionist Party](#) (DUP) and Republican splinter groups campaigned for No. As in 1973, votes were counted on a Northern Ireland-wide basis. 71.1% voted Yes and 28.9% No. The turnout was 81%.³⁹

On 25 June 1998, elections were held to the [Northern Ireland Assembly](#) under the terms of the [Northern Ireland \(Elections\) Act 1998](#). It met for the first time on 1 July when David Trimble was elected First Minister (Designate) and the SDLP deputy leader Seamus Mallon deputy First Minister (Designate). The then Secretary of State for Northern Ireland, Mo Mowlam, appointed Lord Alderdice as the “Initial” Presiding Officer.⁴⁰

Meanwhile, the Northern Ireland Bill was introduced to the House of Commons to give legal force to the Belfast Agreement by transferring legislative functions to the Assembly and executive functions to the First Minister and Deputy First Minister, once negotiations were completed.

The Act also gave the Secretary of State the power to call for a referendum:

if at any time it appears likely to him that a majority of those voting would express a wish that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland.⁴¹

Subsequent developments

At the Assembly’s third meeting on 18 January 1999, it approved new departmental structures, which formed the basis of the present [Northern Ireland Departments](#).

US [Senator George Mitchell](#) presided over a review of the political process which concluded on 19 November 1999. This reached a compromise

³⁸ The Civic Forum met for the first time in October 2000 but was suspended along with the Assembly in 2002. It has not met since.

³⁹ Commons Library Research Paper 99/30, [Referendums: Recent Developments](#), p49. A referendum in the Republic of Ireland also endorsed the Belfast Agreement with 94% voting Yes (on a 56% turnout), as well as related changes to Articles 2 and 3 of the Irish constitution.

⁴⁰ The Assembly’s [Standing Orders](#) provided for the Presiding Officer to be addressed as “Speaker”

⁴¹ Commons Library Research Paper 98/76, [The Northern Ireland Bill: Implementing the Belfast Agreement](#). See also Commons Library Research Paper 98/77, [The Northern Ireland Bill: Some Legislative and Operational Aspects of the Assembly](#)

between the UUP and Sinn Féin positions on decommissioning, suggesting that all weapons should be put beyond use by 22 May 2000.

The Assembly met again on 29 November 1999. Ten Ministers, three each from the UUP and the SDLP and two each from the DUP and Sinn Féin, were nominated as were the Chairpersons and Deputy Chairpersons for the ten Statutory Departmental Committees.⁴²

On 30 November 1999, the Secretary of State made the [Northern Ireland Act 1998 \(Commencement Order No 5\)](#) which resulted in the formal devolution of powers to the Northern Ireland Assembly from 2 December 1999.⁴³ The Government of Ireland Act 1920 was [repealed](#) the same day.

4.2 Devolved powers in Northern Ireland

Under the devolution settlement in Northern Ireland, there are three categories of legislative powers: reserved, excepted and transferred. When fully functioning, the Northern Ireland Assembly can make primary and subordinate legislation on “transferred” matters; on “reserved” matters with the consent of the [Secretary of State for Northern Ireland](#) and, in limited circumstances, on “excepted” matters.

Excepted matters are subjects reserved to Westminster which will not be transferred unless under primary legislation. [Schedule 2](#) of the [Northern Ireland Act 1998](#) specifies these as:

- the constitution;
- Royal succession;
- international relations;
- defence and armed forces;
- nationality, immigration and asylum;
- elections;
- national security;
- nuclear energy;
- UK-wide taxation;
- Currency;
- conferring of honours;
- international treaties;
- distortive or harmful subsidies.

[Schedule 3](#) sets out “reserved matters”, subjects which could be transferred by [Orders in Council](#) to the Assembly provided there exists cross-community consent. These include:

⁴² With 92 out of 108 MLAs members of power-sharing parties, the role of Assembly “opposition” fell to smaller parties such as the [Alliance](#) and [Northern Ireland Women’s Coalition](#)

⁴³ Northern Ireland Assembly website, [“History of the Assembly”](#)

- firearms and explosives;
- financial services and pensions regulation;
- broadcasting;
- import and export controls;
- navigation and civil aviation;
- international trade and financial markets;
- telecommunications and postage;
- the foreshore and seabed;
- disqualification from Assembly membership;
- consumer safety;
- intellectual property.

Anything not listed in Schedules 2 or 3 is considered “transferred” to the Assembly, including:

- health and social services;
- education, employment and skills;
- agriculture;
- social security, pensions and child support;
- housing;
- economic development;
- local government;
- environmental issues, including planning;
- transport;
- culture and sport;
- the Northern Ireland Civil Service;
- equal opportunities;
- justice, prisons and policing.⁴⁴

This triple division of powers is unique to devolution in Northern Ireland and is derived from the former Parliament of Northern Ireland and aborted devolution schemes in the 1970s and 1980s.

Those previous devolution settlements also explain why welfare is fully devolved in Northern Ireland but not in Scotland and Wales. The Assembly, however, is constrained by the long-standing [parity principle](#), which requires Northern Ireland’s social security and pensions systems to mirror those in the rest of the UK. This principle also applied under the original devolution settlement (1921-72) but was only put on a statutory footing under the Northern Ireland Act 1998.

The [Corporation Tax \(Northern Ireland\) Act 2015](#) provided for the Assembly to have the power to set [Corporation Tax](#) in respect of certain trading profits, although it has yet to be enacted.

⁴⁴ Policing and criminal justice were originally “reserved” matters but became “transferred” on 12 April 2010

4.3 Northern Ireland Assembly

Voters elect 90 [Members of the Legislative Assembly](#) (MLAs), five in each of Northern Ireland's 18 multi-member constituencies.⁴⁵ Elections are conducted under the [Single Transferable Vote](#) (STV) system of proportional representation. Elections are now held every five years, but an "extraordinary" election can be held if the Assembly resolves to dissolve itself with the support of not less than two-thirds of MLAs, or if a First and deputy First Minister fail to be nominated.

MLAs do not take an oath of allegiance to the Sovereign, as at Westminster and in the Scottish and Welsh Parliaments, although they are required to give an undertaking against paramilitarism.⁴⁶ Ministers also have to take a [Pledge of Office](#). Members designate themselves "Nationalist", "Unionist" or "other" at the first meeting of an Assembly following an election and can only change their community designation between elections if they have changed their party-political affiliation.⁴⁷

The Assembly is chaired by a [Speaker](#) and three deputy Speakers. At least ten members (including the Speaker) must be present for a vote to be taken on any matter. The Speaker is responsible for chairing debates in the Assembly, acting as its representative, chairing its [Business Committee](#), which agrees what business should be discussed in plenary sessions (unlike in the House of Commons, where the Government decides business), and the [Assembly Commission](#), which ensures the Assembly has the property, staff and services it needs to carry out its work. The staff of the Assembly is known collectively as the [Assembly Secretariat](#)

Most decisions of the Assembly are taken by a simple majority vote. However, certain "key decisions", such as approval of a budget, must have cross-community support, either:

- Parallel consent, where more than 50% of MLAs agreed to the motion, including more than 50% of designated Nationalists and more than 50% of designated Unionists;
- A weighted majority, which requires the support of 60% of those voting, including 40% Unionist and 40% Nationalist support.⁴⁸

⁴⁵ Until (and including) the 2016 election, the Assembly consisted of 108 elected Members, six from each of Northern Ireland's 18 Westminster constituencies

⁴⁶ The Queen has not opened each new session of the Assembly, as in Scotland and Wales

⁴⁷ Before 2006, MLAs could change their designation without a change of party membership, something several did so to facilitate David Trimble's re-election as First Minister in November 2001

⁴⁸ Colin Knox, *Devolution and the governance of Northern Ireland*, Manchester: Manchester University Press, 2010, p19

Another important aspect of Assembly voting is called a [Petition of Concern](#). If, in accordance with [s42\(1\)](#) of the Northern Ireland Act 1998, 30 MLAs:

petition the Assembly expressing their concern about a matter which is to be voted on by the Assembly, the vote on that matter shall require cross-community support.

Measures agreed at St Andrews in 2006 also mean that 30 MLAs can petition the Assembly to refer a Ministerial decision back to the Executive for review.⁴⁹ The January 2020 [New Decade, New Approach](#) agreement included proposals to reform the Petition process.⁵⁰

The Assembly meets at the [Parliament Buildings](#) in Belfast, the former home of the Northern Ireland Parliament known as “Stormont”, which is also used as a metonym for the Northern Ireland Assembly.

Executive Committee

The [Northern Ireland Executive Committee](#) (or simply Executive) comprises the First Minister, deputy First Minister and eight (previously eleven) departmental ministers.

Together, these ministers exercise executive authority on behalf of the Northern Ireland Assembly, taking decisions on matters which individual ministers are required to refer to it under the terms of the [Ministerial Code](#), including significant or controversial issues and matters which cut across the responsibility of two or more ministers. The Executive also agrees proposals put forward by ministers for new legislation in the form of “Executive Bills”, draws up a programme for government and an agreed budget – all for approval by the Assembly.

The First Minister and deputy First Minister, as joint chairs of the Executive, are required to seek consensus on all issues. If this is not possible a vote may be taken, and if three Ministers request it, that vote must be taken on a cross-community basis.⁵¹

Executive ministers are nominated by the political parties in the Northern Ireland Assembly. The number nominated by each party is determined under the [d’Hondt formula](#) by its share of seats in the Assembly.⁵² The only exception is the Minister for Justice, which after the devolution of policing and justice in 2010 has been appointed following a cross-community vote in the Assembly.

⁴⁹ Derek Birrell & Cathy Gormley-Heenan, *Multi-Level Governance and Northern Ireland*, London: Palgrave Macmillan, 2015, p58

⁵⁰ See Commons Library Insight blog, [“Northern Ireland Assembly: ‘New Decade, New Approach’”](#), 10 January 2020

⁵¹ Ibid

⁵² The d’Hondt method is also used to determine membership of the Scottish and Welsh Parliaments

An unusual feature of the devolution settlement in Northern Ireland is that statutory powers are vested in individually constituted Executive Departments led by their own permanent secretary (something that was also true under the previous Parliament of Northern Ireland). Each minister thus has executive authority effectively independent of the others but must operate within the terms of the Ministerial Code when it comes to their obligations to the Executive.

This means that judicial review is usually directed at individual departments rather than “Northern Ireland Ministers” collectively, as in Scotland and Wales.

Initially, the First and deputy First Minister (who jointly head the [Office of the First Minister and deputy First Minister](#)) were elected by the Assembly, but under the 2006 [St Andrews Agreement](#) and subsequent legislation, they are now nominated, respectively, by the largest party within the largest political designation and the largest party within the second-largest political designation. If one resigns, the other automatically ceases to hold office and both vacant offices must be filled within a period of seven days. This form of power-sharing government is often known as [consociationalism](#).⁵³

Assembly Committees

Most MLAs are members of [Assembly Committees](#), which mirror and scrutinise the work of individual Northern Ireland Departments, policy, new laws and wider topics in detail.

The role of the Statutory Committees is to advise and assist each Northern Ireland minister in the development of policy within their departmental remits. There are also Standing Committees which deal with Assembly administration (i.e. the Business Committee).

The Chairpersons and Deputy Chairpersons of the Committees are selected by the nominating officers of the main political parties depending on their party strengths. Committee membership is also filled based on party strength in accordance with [Standing Order 47](#). Committees of the Assembly take decisions by a simple majority vote.

4.4

How laws are made in the Assembly

Most Bills are introduced by an Executive minister, but a Bill can also be introduced by an Assembly Committee or by an individual MLA. It then has to complete several stages before becoming an Act:

⁵³ See Arend Lijphart, [“The Northern Ireland Problem: Cases, Theories and Solutions”](#), *British Journal of Political Science* 5:1, 1975, pp83-106

- First Stage: The Speaker introduces the Bill to the Assembly. The Clerk of the Assembly reads out the Bill's title and the Speaker orders the Bill to be printed. There is no debate or vote;
- Second Stage: The Assembly debates the general principles of the Bill and then votes on whether to consider the legislative proposal further;
- Committee Stage: An Assembly Committee considers the clause by clause and line by line, discussing what amendments to make and produces a report on the Bill;
- Consideration Stage: MLAs debate the Committee's report, including proposed amendments, in the Assembly Chamber. Individual MLAs can also suggest amendments at this stage;
- Further Consideration Stage: This stage provides a further opportunity to amend the Bill. New proposals for amendments are debated and voted on in the Chamber;
- Final Stage: A final debate on the Bill takes place, although MLAs cannot make amendments at this stage. Members vote on whether or not to pass the Bill.

Following the first reading of a Bill, the Speaker sends a copy to the [Northern Ireland Human Rights Commission](#), and on the completion of all the Stages of a Bill sends it to the Secretary of State for Northern Ireland requesting Royal Assent. If this is granted, the Speaker makes an announcement at the next plenary sitting of the Assembly. The enacted law may come into effect immediately, or at a future date.

Commons Library Briefing Paper CBP-8439, [Devolution in Northern Ireland 1998-2020](#), has more details on every aspect of the devolution settlement in Northern Ireland.

5 Devolution in England

Devolution in England has progressed at a much slower pace than in Scotland, Wales and Northern Ireland. Only Greater London was included in the reforms of the late 1990s, while, more recently, the focus has been on devolving power to clusters of local authorities, for example in Manchester and Liverpool, together with the election of “metro mayors”. This has been executive devolution rather than legislative.

5.1 Historical background

In 1912, Winston Churchill, then a Liberal MP for Dundee, made a [speech advocating a federal United Kingdom](#) of 10 or 12 legislatures including seven English regions. As with similar proposals for “Home Rule” or devolution in Scotland and Wales, such schemes were often a response to the Irish Question.⁵⁴

Other proposals considered devolution on an England-wide scale rather than at the regional level. The 1919-20 [Speaker’s Conference on Devolution](#) recommended bicameral “Grand Councils” for England, Scotland and Wales constituted from existing parliamentarians, while a minority report instead urged directly elected legislatures.⁵⁵

Pressure for (regional or national) English devolution, however, was not as salient as that in Scotland and Wales. The 1973 [Royal Commission on the Constitution](#) considered but did not recommend the creation of an English assembly,⁵⁶ while in 1976 the then Labour Government published a consultative document on the “English Dimension”, which included the prospect of “elected regional assemblies with the ability to exercise functions in specified fields”.⁵⁷

During the 1980s and 1990s, the Labour Party continued to explore options for devolution within England. Its 1992 manifesto promised a “regional tier of government in the English regions” with responsibility for economic

⁵⁴ See J. E. Kendle, “[The Round Table Movement and 'Home Rule All Round'](#)”, *The Historical Journal* 11:2, 1968, pp332-53

⁵⁵ See Adam Evans, “[Four nations and a constitution: the Conference on Devolution, 1919-1920](#)”, [fournationshistory.wordpress.com](#), 2014

⁵⁶ Lord Kilbrandon, Report of the Royal Commission on the Constitution, Cmnd. 5460, London: HMSO, 1973, p65. As with the earlier Speaker’s Conference, [a minority report advocated directly elected assemblies across the UK](#), including five for England

⁵⁷ Lord President of the Council, Devolution: The English Dimension, HMSO, 1976, p13

planning and transport, which might later form “the basis for elected regional governments”.⁵⁸ The 1997 manifesto, however, promised to create [Regional Development Agencies](#) (RDAs) to co-ordinate economic development and, in time, introduce legislation:

to allow the people, region by region, to decide in a referendum whether they want directly elected regional government. Only where popular consent is established will arrangements be made for elected regional assemblies.⁵⁹

5.2 English devolution since 1997

Regional Development Agencies and “Regional Chambers” were established by the Labour Government in 1999. Mark Sandford has argued that these organisations amounted to a “form of regionalism, if not by stealth, then certainly by default”.⁶⁰

In 2003, the Government announced that referendums would (initially) occur in three English regions: The North East, Yorkshire and the Humber and the North West – areas in which consultations indicated the most support for regional government.

Each were planned to take place on 4 November 2004, but due to concerns about the use of postal ballots, only that in the North East took place. The result, on an all-postal ballot, was an almost four-to-one vote against a directly elected assembly.⁶¹ As the academic James Mitchell has observed, this “overwhelming rejection killed the idea [of regional devolution] dead”.⁶²

5.3 Greater London Authority and Mayor

In opposition, the Labour Party had also considered reforms in London. In 1996 it published *A Voice for London*, a consultative document which proposed a directly elected executive Mayor of London and a small, scrutiny-oriented Assembly. This became a manifesto commitment at the 1997 election:

London is the only Western capital without an elected city government. Following a referendum to confirm popular demand, there will be a new deal

⁵⁸ Labour Party, [It's time to get Britain working again](#), 1992

⁵⁹ Labour Party, [New Labour: Because Britain deserves better](#), 1997

⁶⁰ Mark Sandford, “Facts on the Ground: The Growth of Institutional Answers to the English Question in the Regions”, in Robert Hazell (ed.), *The English Question*, Manchester: Manchester University Press, 2006, p175

⁶¹ See BBC News online, [“North East votes 'no' to assembly”](#), 5 November 2004

⁶² James Mitchell, *Devolution in the UK*, Manchester: Manchester University Press, 2009, p210

for London, with a strategic authority and a mayor, each directly elected. Both will speak up for the needs of the city and plan its future.⁶³

This proposal became a Green Paper, *New Leadership for London*, in July 1997 and was to be subject to a referendum, the subject of separate legislation via the [Greater London Authority \(Referendum\) Act 1998](#).⁶⁴ This took place on 7 May 1998, resulting in a large “yes” vote on a turnout of 34%.⁶⁵

Following passage of the [Greater London Authority Act 1999](#), the first elections were held on 4 May 2000. Standing as an independent, Ken Livingstone was elected Mayor,⁶⁶ while four political parties achieved representation in the 25-member Assembly.⁶⁷

The GLA’s responsibilities

Together, the Mayor and [Assembly](#) constitute the Greater London Authority (GLA). Although it is often described as an example of ‘devolution’, inviting comparison with the Scottish Parliament, Welsh Parliament and Northern Ireland Assembly, its powers are very limited compared to those bodies.

The [Mayor of London’s website](#) says s/he has “a duty to create plans and policies for the capital” dealing with:

- Arts & Culture;
- Business & Economy;
- Environment;
- Fire (via the [London Fire Commissioner](#), over which the GLA has executive power);
- Health;
- Housing and Land (the Mayor publishes a [London Housing Strategy](#));
- Planning (the Mayor is required to produce a Spatial Development Strategy known as the [London Plan](#));⁶⁸
- Policing & Crime (via the [Mayor’s Office for Policing and Crime](#));⁶⁹
- Regeneration;⁷⁰
- Sport;
- Transport (via [Transport for London](#), over which the GLA has executive authority);

⁶³ Labour Party, [New Labour: Because Britain deserves better](#), 1997

⁶⁴ The full proposals were confirmed in a March 1998 White Paper entitled *A Mayor and Assembly for London*

⁶⁵ See Commons Library Briefing Paper 05817, [The Greater London Authority](#)

⁶⁶ Livingstone had been leader of the former Greater London Council between 1981-86

⁶⁷ Commons Library Briefing Paper 05817, [The Greater London Authority](#)

⁶⁸ The next version of the Plan is expected to be published in late 2019. The Mayor also has powers to intervene in applications of “potential strategic importance” submitted to London boroughs.

⁶⁹ The Mayor of London is ex officio Police and Crime Commissioner for London

⁷⁰ The London Development Agency was abolished in 2011, with some of its residual powers absorbed by the GLA

- Young People.

The Mayor of London holds all executive power in the GLA, but certain key actions can be prevented by the London Assembly. The Assembly may amend the Mayor's annual budget, or a Mayoral strategy, on a two-thirds majority. Other than this, it has no sanctions with which to prevent the Mayor taking a particular action.⁷¹

The functions of the Mayor differ across policy areas. For bodies such as Transport for London, the Mayor appoints members to their boards and sets their budgets and strategy: in practice, he has full authority, although the majority of their funding comes direct from the Treasury and cannot be moved to another budget area.⁷² Other matters, such as strategic housing funding, are handled "in-house" by the GLA, where the Mayor again has full authority.

In several additional fields, the Mayor is under a statutory duty to produce strategy documents, intended to serve as a policy direction for the public (and private and voluntary) sectors, but without the wherewithal to deliver the strategy.

The GLA has a functional power of competence, which may be used to promote economic and social development and environmental improvements within London.⁷³ Through this power, previous mayors have set up and resourced several initiatives. Generally, the Mayor is expected to extend his/her influence beyond the executive functions of the GLA and to use their democratic mandate to "knock heads together", providing leadership to a wide range of actors across London.

There is a supporting [Mayoral team](#), which in law are "political advisers", of which the Mayor can appoint eleven. Under previous Mayors these appointments have been described as "deputy mayors", or as the "Mayoral cabinet". Formally there is only one statutory "deputy mayor", who must be a member of the London Assembly.

Mayoral accountability

Under the 1999 Act, the Mayor must hold two public [People's Question Time](#) events per year; and [Questions to the Mayor](#), in front of the London Assembly, take place ten times per year.

The Assembly also has the power to hold the Mayor and his/her key advisers to account on a regular basis. It organises itself into subject-based scrutiny

⁷¹ No such rejection has ever taken place. So far, only the 2004 mayoralty has seen less than one-third of Assembly members come from the Mayor's own party. During that period, the significance of the power to reject the budget lay in its threat rather than its use. The power to reject strategies was introduced in the [Localism Act 2011](#).

⁷² Greater London Authority Act 1999, s31

⁷³ Greater London Authority Act 1999, s30 (2)

committees, taking evidence and publishing reports. It also has a budget, audit and standards committee (each covering the whole GLA family),⁷⁴ and a [Confirmation Hearings Committee](#). The latter is entitled to hold confirmation hearings for a range of key Mayoral appointments, though it has no power to veto them.

Changes to powers and functions

Since 2005, reviews of and extensions to the GLA's powers have been initiated by successive UK Governments via, for example, the [Greater London Authority Act 2007](#), the [Police Reform and Social Responsibility Act 2011](#), the [Public Bodies Act 2011](#) and the [Localism Act 2011](#).

In July 2012, the then Mayor Boris Johnson established the [London Finance Commission](#) to examine potential additional sources of revenue for the GLA. It produced a report, [Raising the capital](#), in May 2013 which proposed that all property taxation within London should be fully devolved to the GLA.

In July 2016 the Mayor, Sadiq Khan, reconvened the London Finance Commission in the wake of the June 2016 vote to leave the European Union. Its final report, [Devolution: a capital idea](#), was published in January 2017. The report recommends the devolution of several taxes to London government, such as stamp duty, Air Passenger Duty and Vehicle Excise Duty, together with a share of income tax and VAT revenue. A tourism tax was also proposed.

None of these proposals have yet been acted upon by the UK Government.

Sources of revenue

The GLA has several sources of revenue: Council Tax precepts; transport levies (congestion charge and emissions levy, and, from September 2019, the [Ultra Low Emission Zone](#) levy); fare revenue from transport; borrowing powers; the [Business Rates Retention Scheme](#); a [Community Infrastructure Levy](#) (introduced in 1 April 2012) payable on new developments in London, and a supplementary business rate of 2p in the pound on all businesses in Greater London with a rateable value over £55,000 (to fund [Crossrail](#)).

How the GLA is elected

The Mayor of London and the 25-member London Assembly are elected on a four-yearly cycle, with elections on the first Thursday of May.

The Mayor is elected by the Supplementary Vote system. Voting consists of two crosses: one in a column for the voter's first choice candidate, and one in a column for the second-choice candidate. The first choices are counted, and the top two candidates go through to a run-off. The first-choice votes for

⁷⁴ See London Assembly website for a [full list of committees](#)

other candidates are then examined, and where those voters have voted for one of the top two as their second choice, their vote is reallocated. The candidate with the largest number of votes following this process is the winner.⁷⁵ The [Elections Bill](#) will replace this with First Past the Post.⁷⁶

The London Assembly is elected by the Additional Member system. There are 14 single-member constituencies and 11 additional member or “top-up” seats for the whole of Greater London. Voters have one vote for the constituency member and one vote for the top-up seats. The latter are allocated on the basis of top-up votes cast, but this takes into account constituency seats won by the relevant party: hence overall party strength in the Assembly is proportional to the top-up votes cast. In the London Assembly, parties must also win at least 5% of the top-up vote to be entitled to a seat.⁷⁷

The election due in May 2020 was [postponed for a year due to the coronavirus pandemic](#). Sadiq Khan (Labour) was re-elected Mayor on 6 May 2021 with 55.2% of the vote; Shaun Bailey (Conservative) came second with 44.8%. In the London Assembly, Labour won 11 seats, the Conservatives 9, the Green Party 3, and the Liberal Democrats 2.⁷⁸

5.4 Devolution deals in England

Following the “no” vote in the 2014 Scottish independence referendum, the then Prime Minister David Cameron announced that, as well as devolving further powers to the Scottish Parliament, he also considered it important to:

have wider civic engagement about how to improve governance in our United Kingdom, including how to empower our great cities.⁷⁹

The [Local Democracy, Economic Development and Construction Act 2009](#) already allowed the creation of appointed “Combined Authorities” covering multiple local authority areas, for example the Greater Manchester Combined Authority established in 2011. The [Localism Act 2011](#), meanwhile, granted Combined Authorities a general power of competence.

Following the 2015 general election, the Conservative Government said it was:

committed to building strong city regions led by elected mayors, building on the ground-breaking devolution deal with Greater Manchester in November

⁷⁵ This system is also used for local authority mayoral elections and [Police and Crime Commissioners](#)

⁷⁶ This is also true of elections for Combined Authority Mayors

⁷⁷ This system is also used for the Scottish and Welsh Parliaments

⁷⁸ BBC News online, [“London elections 2021”](#)

⁷⁹ BBC News online, [“In full: David Cameron’s statement on the UK’s future”](#), 19 September 2014

2014. The Chancellor has asked all relevant Secretaries of State to proactively consider what they can devolve to local areas.⁸⁰

By a deadline of 4 September 2015, the Government received 38 bids from potential Combined Authorities for devolved powers, although some of these were intended to begin a discussion rather than representing a final position. The [Cities and Local Government Devolution Act 2016](#) also allowed for directly elected mayors in these areas.

After 2016, the pace of the devolution agenda slowed, with the 2017 Conservative Party manifesto pledging continued support for elected mayors in cities but not rural counties.⁸¹

As of May 2021, there are ten functioning devolution deals,⁸² all but one of which (Cornwall) involve Combined Authorities:

- [Greater Manchester](#) (latest deal agreed on 16 March 2016)
- [Sheffield City Region](#) (5 October 2015)
- [West Yorkshire](#) (13 March 2020)
- [Cornwall](#) (27 July 2015; no elected mayor)
- [North of Tyne](#) (24 November 2017)
- [Tees Valley](#) (23 October 2015)
- [West Midlands](#) (23 November 2017)
- [Liverpool City Region](#) (16 March 2016)
- [Cambridgeshire/Peterborough](#) (20 June 2016)
- [West of England](#) (16 March 2016)

All deals were negotiated privately between the UK Government and local authority leaders.⁸³ They were implemented via Orders passing through Parliament, under the [Cities and Local Government Devolution Act 2016](#). Some elements of the devolution deals do not concern statutory functions, and therefore do not require Orders. The deal documents themselves are not statutory.

Results of the seven Combined Authority mayoral elections held in May 2021 can be found in the Library briefing paper, [Combined authority mayoral elections 2021](#).

The Government published the first “devolution report” required under the 2016 Act on 2 December 2016 (covering 2015-16),⁸⁴ and the most recent

⁸⁰ HM Treasury, [Spending Review 2015: A country that lives within its means](#), 2015, p15

⁸¹ Conservative Party, [Forward Together](#), 2017, p32

⁸² There were two other agreed devolution deals in Greater Lincolnshire and Norfolk/Suffolk, but these later collapsed

⁸³ A series of [“Devolution and mayors: what does it mean?”](#) guides to each devolution deal are available at the MHCLG website

⁸⁴ See DCLG, [Secretary of State’s annual report on devolution 2015 to 2016](#), 2 December 2016

(covering 2019-20) on 16 March 2021.⁸⁵ These reports set out deals agreed, Orders made and funding provided during the financial year in question.

In November 2017, Sajid Javid, the then Secretary of State for Communities and Local Government, announced work on a devolution “framework”, with a “clear position on how [future] devolution negotiations should proceed”.⁸⁶

The [2019 Conservative Party manifesto](#) included an English devolution white paper, due to be published in 2022, with an aim of “full devolution across England”. This will now form part of the Levelling Up White Paper, publication of which is expected in early 2022.

Commons Library Briefing Paper 07029, [Devolution to local government in England](#), also includes details of unsuccessful Combined Authority negotiations.⁸⁷

Combined Authority powers

A number of core powers were made available to most Combined Authorities. These are:

- Further education: Local commissioning of the [adult education budget](#) took place from 2016-17, to be followed by full devolution of the budget planned from 2019-20;⁸⁸
- Business support: In most areas, local and central business support services are or will be united in a “growth hub”;
- The Work Programme: Devolved areas will participate in the commissioning of the [Work Programme](#);⁸⁹
- Fiscal powers: Most devolution deals include an investment fund; some areas are piloting full retention of business rates from 2017-18 onwards (London, Manchester, Cornwall, Liverpool and the West Midlands). Elected mayors will have the power to add a supplement of up to 2% on business rates;⁹⁰
- Integrated transport systems: Many deals include the power to introduce bus franchising, which would allow local areas to determine their bus route networks and to let franchises to private bus companies for operating services on those networks;⁹¹

⁸⁵ Ministry of Housing, Communities & Local Government, [Devolution annual report 2019 to 2020](#), 16 March 2021

⁸⁶ Nick Golding, [“Javid: Devo framework to provide 'clarity and consistency'”](#), Local Government Chronicle, 21 November 2017

⁸⁷ See pp6 & 8

⁸⁸ See the Commons Library debate pack [Skills devolution in England](#) for further details

⁸⁹ This was superseded in July 2017 by a new £28 million grant for devolved areas (except Greater Manchester and Greater London, which have their own arrangements) to develop a programme for ‘harder-to-help’ benefit claimants

⁹⁰ This power is on hold due to the falling of the Local Government Finance Bill in 2017

⁹¹ See the Library briefing paper on the [Bus Services Act 2017](#) for further details

- Planning and land use: Many deals include the power to create a spatial plan for the Combined Authority area, and/or the power to establish Mayoral Development Corporations.
- Some Combined Authorities, for example Greater Manchester, West Midlands and the West of England, also have some powers over housing, while Greater Manchester, Cornwall (although not a Combined Authority) and Greater London have a degree of responsibility for health policy.

Combined Authority Mayors

In most areas, elected mayors have an effective veto over decisions made by their respective Combined Authorities. Mayoral spending plans are, in most cases, to be subject to rejection by cabinet members on a two-thirds majority.

Further devolution to (or within) England?

Since 1998 the [Campaign for an English Parliament](#) has argued for a directly elected all-England legislature with powers:

at least as great as those of Scotland's, i.e. a Parliament and Executive (Government) that can make Acts (primary legislation) on the same domestic issues (e.g. health, welfare & education) that are devolved to the Scottish Parliament.⁹²

In a 2019 report, the [Constitution Unit](#) examined the [Options for an English Parliament](#).

There are also active devolution campaigns in certain parts of England such as [Yorkshire](#) and [Cornwall](#). Others argue that elected regional English assemblies should form part of a reconstituted federal UK.⁹³

⁹² See Campaign for an English Parliament website, "[Aims, Principles and Policies](#)"

⁹³ See, for example, Andrew Blick, [Federalism: The UK's Future?](#) The Federal Trust, April 2016

6 Intergovernmental relations

Most of the present machinery for intergovernmental relations (IGR) in the UK dates from the creation of devolved legislatures for Scotland, Wales and Northern Ireland in the late 1990s.⁹⁴ It does not at present include London or any of the Combined Authorities in England.

Since 1999, engagement between the [United Kingdom Government](#), [Northern Ireland Executive](#), [Scottish Government](#) and [Welsh Government](#) has taken place under the umbrella of “intergovernmental relations” (IGR). This refers to the relationships between ministers and officials of the four different governments within the UK.

As the House of Commons Public Administration and Constitutional Affairs Committee observed in a report, by 2018 there was a [“growing consensus that the current UK inter-governmental relations mechanisms are not fit for purpose”](#). This view was echoed by Lord Dunlop in his 2019 review of devolution (which included IGR), in which he concluded [“that the IGR machinery is no longer fit for purpose and is in urgent need for reform”](#).⁹⁵

A joint review was undertaken by the UK government and the devolved administrations to update intergovernmental structures and ways of working. The [Review of Intergovernmental Relations](#) reported on 13 January 2022 with all four administrations agreeing to work under the new arrangements.⁹⁶

The Review stated that collaborative working was “founded” on the following principles:

- maintaining positive and constructive relations, based on mutual respect for the responsibilities of the governments and their shared role in the governance of the UK
- building and maintaining trust, based on effective communication
- sharing information and respecting confidentiality
- promoting understanding of, and accountability for, their intergovernmental activity
- resolving disputes according to a clear and agreed process.⁹⁷

⁹⁴ See Commons Library Briefing Paper CBP8371, [Intergovernmental relations in the United Kingdom](#), for comprehensive details of IGR in the UK

⁹⁵ Cabinet Office, [Dunlop Review into UK Government Union capability](#), 24 March 2021

⁹⁶ Some of the new IGR reforms had been recommended in the Centre on Constitutional Change/Bennett Institute Report, [Reforming Intergovernmental Relations](#), which was prepared for joint review

⁹⁷ Cabinet Office, [Review of Intergovernmental Relations](#), 13 January 2022

The new IGR structures and processes are non-statutory. They do not create new, or over-ride existing, legal relations or obligations, nor are they justiciable.⁹⁸ The arrangements are to be “kept under review”.⁹⁹

Overall accountability for IGR continues to rest with the Prime Minister, the First Ministers of Scotland and Wales and the First and deputy First Minister of Northern Ireland.¹⁰⁰

6.1 IGR structure

The new IGR structure comprises three tiers:

- **Top tier:** The Prime Minister and Heads of Devolved Governments Council (“The Council”)
- **Middle tier:** The Interministerial Standing Committee (IMSC), the Finance Interministerial Standing Committee (F:ISC) and additional time-limited interministerial committees formed as necessary
- **Lowest tier:** a number of interministerial groups (IMG) formed to discuss specific policy areas¹⁰¹

In contrast with the previous IGR arrangements, engagement within the new structure is to take place regularly and not just “when needed”. Intergovernmental decisions, however, will continue to “work on the basis of agreement by consensus”.¹⁰²

6.2 Top tier

Intergovernmental relations in the UK will be overseen by the overarching Prime Minister and Heads of Devolved Governments Council (“the Council”). All middle-tier and portfolio (lower-tier) engagement will be accountable to this forum.

Annual meetings will be chaired by the Prime Minister. In addition, it is anticipated that the Prime Minister will engage with First Ministers and other parties, for example local leaders, outwith these structures. Other ministers and relevant parties will be invited to attend the Council depending on the specific agenda items under discussion.

⁹⁸ Ibid. The Review adds that “Nothing within them should be construed as conflicting with the Belfast/Good Friday Agreement”

⁹⁹ Ibid

¹⁰⁰ Ibid

¹⁰¹ Ibid. Annex B contains “Draft terms of reference for the council, IMSC and ICs, and draft list of IMGs”

¹⁰² Ibid

The functions of the Council will include:

- considering policy issues of strategic importance to the whole of the UK;
- overseeing the functioning of and providing strategic direction to the system of multi-level governance created by devolution;
- reaching decisions on strategic direction for IGR by consensus;
- acting as the final escalation stage of the dispute resolution process; and
- overseeing and regularly reviewing this agreement.¹⁰³

6.3

Middle tier

Interministerial Standing Committee (IMSC)

An Interministerial Standing Committee (IMSC) will consider issues which cannot be considered at the portfolio-level within the relevant IMG, in order to bring together strategic considerations affecting many different portfolios and to discuss any cross-cutting international issues. It will meet every other month, according to rotating arrangements, but could meet more or less frequently according to need and if agreed by consensus.

The IMSC will consist of the relevant IGR ministers from all governments. When portfolio-level expertise is deemed beneficial to the particular conversation at hand, ministers from other departments and ministries can be invited to attend.

When considering wider strategic international issues, ministers from the Foreign, Commonwealth & Development Office will be invited as necessary. This will be complemented by two internationally focused IMGs, including the Trade IMG to discuss agreements with the UK's new trading partners, and an IMG for the UK-EU Trade and Cooperation Agreement.¹⁰⁴

Finance Interministerial Standing Committee (F:ISC)

Building on previous engagement in the Finance Ministers Quadrilateral, a Finance Interministerial Standing Committee (F:ISC) will consist of representatives of Her Majesty's Treasury together with the devolved governments' finance ministers in order to consider finance and funding matters. The F:ISC will sit alongside the IMSC and have similar operating arrangements. The F:ISC will be chaired by the UK Government or a devolved administration finance minister. HM Treasury and the devolved administrations will publish joint communiques.¹⁰⁵

¹⁰³ Ibid

¹⁰⁴ Ibid

¹⁰⁵ Ibid. Annex C sets out the Draft Terms of Reference for the Finance Interministerial Standing Committee

Time-limited Interministerial Committee (IC)

If a cross-cutting issue normally falling within the remit of the IMSC requires specific consideration in isolation from other issues, due to political developments, repeat appearances on the IMSC agenda, or urgency, a time-limited Interministerial Committee (IC) can be established for that purpose.¹⁰⁶

6.4 Lowest tier

All governments will commit to regular portfolio-level engagement in areas of mutual interest. This engagement should take place formally within Interministerial Groups (IMGs), which are expected to cover a number of policy areas and will aim to meet regularly on a quadrilateral basis. The Review notes that much engagement at portfolio level is already in place and will be rebranded to align with the new IGR structure.

Any government will have the right to request that an item for discussion from an IMG be referred for consideration at the Interministerial Standing Committee or Finance Interministerial Standing Committee.

6.5 Standing IGR Secretariat

The Council, IMSC and ICs will be supported by a standing IGR Secretariat, consisting of officials from all four governments. The Secretariat will be accountable to the Council rather than to individual sponsoring governments. The IGR Secretariat will promote the efficient and effective maintenance of relations at each tier, facilitate prompt handling and resolution of disputes, and provide administrative support.

The IGR Secretariat will be hosted and funded by the Cabinet Office and staffed by officials from all governments (on a rotating basis if overall numbers of staff are lower than four). The Secretariat Head will be responsible for managing the Secretariat.

The IGR Secretariat's functions will include:

- determining dates, agenda, location and chairing of intergovernmental meetings of the Council, IMSC, and ICs, and establishing new IMGs as requested;
- compiling / commissioning background papers for discussion for the Council, IMSC, and ICs;

¹⁰⁶ Ibid

- reporting on the outcomes of meetings, drafting minutes and sharing joint communiqués for the Council, IMSC, and ICs;
- facilitating the process of dispute resolution;
- compile reports on IGR activity;
- gathering data relevant to the exercise of its functions.¹⁰⁷

The F:ISC will have its own Secretariat led collectively by officials from the members of the F:ISC.

6.6 Communication

The joint IGR Review commits each government to “increased transparency of intergovernmental relations through enhanced reporting to their respective legislatures”. The IGR Secretariat will support individual governments in making such reports to their legislatures and will also prepare an annual report on intergovernmental activity. All intergovernmental forums will also be encouraged to produce communiqués on their meetings and publish these online.¹⁰⁸

6.7 Dispute resolution process

The joint IGR Review commits all four government to “promoting collaboration and the avoidance of disagreements”. Any government, however, may refer a disagreement to the IGR Secretariat as a dispute.¹⁰⁹

Escalation of a disagreement between governments will only be considered after consideration has been given at portfolio-level, where a disagreement cannot be resolved at portfolio level, and has significant implications for the relationship between two or more governments. There are three stages:

- Stage 1: consideration of dispute by IGR Secretariat
- Stage 2: consideration by IMSC or F:ISC
- Stage 3: consideration by the Council

No party to a disagreement can be appointed to chair stage 1 or 2 of the dispute resolution process. For non-F:ISC disputes, the IGR Secretariat will, where appropriate, appoint a third-party to provide advice or conduct mediation.

The IGR Secretariat is required to report on the outcome of disputes at the final escalation stage, including on any third-party advice received. Each

¹⁰⁷ Ibid

¹⁰⁸ Ibid

¹⁰⁹ Ibid. Annex D sets out full details of the “Dispute Avoidance and Resolution Process”

government is also required to lay this report before its legislature and explain why, if applicable, they were unable to reach a solution.

For the F:ISC, the Review states that disagreements on funding may only legitimately be escalated to the IMSC “where there is reason to believe a principle of the [Statement of Funding Policy](#) may have been breached” and, further, that “policy decisions on funding are strictly reserved to Treasury ministers, with engagement with the devolved administrations as appropriate”. In the case of a dispute, the F:ISC Secretariat will be comprised of officials from the disputing parties.¹¹⁰

The Statement of Funding Policy sets out the procedure if there is a disagreement between UK Treasury ministers and the devolved administrations about “any aspect of its application for determining funding”:

[...] the relevant devolved administration can pursue the matter with Treasury ministers. [...] The Treasury will consider and respond to any such representation in taking this forward with the relevant party. This is also in line with the process outlined in the agreement on dispute avoidance and resolution in the Memorandum of Understanding between the UK government and devolved administrations [...] under which matters can also be raised through the Joint Ministerial Committee.¹¹¹

Failing any bilateral resolution, financial disputes can then be referred to the UK Cabinet, although there they could only be voiced by the relevant territorial Secretary of State, not the devolved administration itself.¹¹²

Under the new IGR arrangements, disputes raised in relation to the Welsh and Scottish Governments’ fiscal frameworks will continue to be managed through the arrangements as set out in their respective fiscal framework agreements.

6.8 Joint Exchequer Committees

Beyond the core IGR structures set out above, there also exist other intergovernmental bodies involving the four governments in the UK.

A UK-Scotland Joint Exchequer Committee (JEC) was established before Royal Assent was granted to the Scotland Act 2012, which allowed the Scottish Government to set partial income tax rates. It met initially on 27 September 2011, and again in 2012 and 2013, on the latter occasion in Edinburgh. Meetings were attended by Treasury Ministers, the Secretary of

¹¹⁰ Ibid

¹¹¹ HM Treasury, [Statement of funding policy: funding the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly](#), November 2015, p39

¹¹² HM Government, [Protocol for Avoidance and Resolution of Disputes](#), 2010

State for Scotland and the Scottish Government's Finance Secretary. The JEC [last met on 3 November 2016](#).

Following full devolution of income tax rates, implementation of the Scottish Rate of Income Tax (SRIT) is overseen by a Joint Programme Board. An Intergovernmental Assurance Board also oversees the planning and implementation of financial provisions, jointly chaired by the Treasury and the Scottish Government.¹¹³

There were prolonged negotiations between the UK and Scottish Governments regarding the "fiscal frameworks" that would govern related reductions to Scotland's "block grant" via the Barnett formula. This was resolved in February 2016.¹¹⁴

A similar Joint Exchequer Committee (Wales) was created shortly before the Wales Act 2014 received royal assent which, like the Scotland Act 2012, granted tax-varying powers to the then National Assembly for Wales.¹¹⁵ The UK-Wales JEC met on 20 October 2014, attended by Treasury Ministers, the Secretary of State for Wales and the Welsh Government Minister for Finance and Government Business. The JEC (Wales) last [met on 24 October 2016](#).

Other joint bodies

Building on the success of this JEC model, the UK Government then established another joint working group on welfare as "a forum in which UK Ministers and Scottish Ministers can discuss the operation of the new arrangements" both in advance of, and following, the Scotland Act 2016, which gave Holyrood greater control over welfare. Its first meeting took place on 11 February 2015.¹¹⁶

The January 2020 [New Decade, New Approach](#) agreement included a [UK Government – Northern Ireland Executive Joint Board](#) to be convened by the Secretary of State for Northern Ireland and including the First and deputy First Minister of Northern Ireland.

¹¹³ HM Government, [Scotland in the United Kingdom: An enduring settlement](#), January 2015, p36

¹¹⁴ HM Government/Scottish Government, [The agreement between the Scottish Government and the United Kingdom Government on the Scottish Government's fiscal framework](#), February 2016

¹¹⁵ On 6 May 2020 the National Assembly changed its name to Senedd Cymru/the Welsh Parliament

¹¹⁶ See Scottish Government Press Release, ["Joint Ministerial Working Group on Welfare"](#), 16 June 2016

6.9

Intergovernmental relations and Ireland

Intergovernmental relations are most important in the context of Ireland, its history giving it, to quote Professor Derek Birrell, “a politically symbolic importance, regardless of the practical and utilitarian outcomes”.¹¹⁷

The 1998 [Good Friday Agreement](#) (GFA) created (or rather revived) several statutory forums involving the UK, Irish and Northern Irish governments, as well as those (in one case) of the Crown Dependencies and the devolved governments in Scotland and Wales.

North-South Ministerial Council

Strand Two of the GFA provided that at least 12 subject areas would be identified for co-operation and implementation for mutual benefit under the aegis of the [North South Ministerial Council](#) (NSMC).

The NSMC is supported by a standing joint secretariat based in Armagh and staffed by personnel from the Irish Civil Service and the Northern Ireland Civil Service.

It meets either in “Plenary”, with the Northern Ireland Executive delegation led by the First Minister and Deputy First Minister and the Irish Government delegation led by the Taoiseach, in “Sectoral” format to oversee co-operation in the agreed 12 Areas or Sectors, or in “Institutional” formats where the NSMC endeavours to resolve disagreements and difficulties in the operation of the NSMC.

The NSMC last [met in Armagh on 30 July 2021](#).

British-Irish Council

The GFA also established the [British-Irish Council](#) (BIC) as an east-west counterpart to the NSMC, with a secretariat based (since 2012) in Edinburgh. According to the BIC’s website, its purpose is:

to promote the harmonious and mutually beneficial development of the totality of relationships among the peoples of these islands [...] the BIC will exchange information, discuss, consult and use best endeavours to reach agreement on co-operation on matters of mutual interest within the competence of the relevant administrations.¹¹⁸

It consists of representatives from the:

¹¹⁷ Derek Birrell, [“Intergovernmental Relations and Political Parties in Northern Ireland”](#), British Journal of Politics and International Relations 14:2, May 2012, p283

¹¹⁸ British-Irish Council website, [“About the Council”](#)

- UK Government;
- [Irish Government](#);
- Northern Ireland Executive;
- Scottish Government;
- Welsh Government;
- [Isle of Man Government](#);
- [States of Guernsey](#); and
- [States of Jersey](#).

The BIC usually meets twice a year at ministerial summits, and via “work sector” meetings, which include ministers and officials from specific policy areas. Work sectors cover energy, early-years policy, transport and misuse of drugs, all areas where there are common challenges across all member administrations.

Even while the Northern Ireland Assembly and Executive were suspended between 2002-07, the BIC continued to meet. The academic Alan Trench believed it had “taken on the function of acting as the symbolic meeting of governments of the British Isles”,¹¹⁹ although it had no executive authority or conflict resolution role. “To an extent”, argued Derek Birrell, the BIC also acted as a substitute for the “moribund” Joint Ministerial Committee, for it was perceived “as giving the devolved administrations greater leeway in a more equitable forum”.¹²⁰

By 2007, the UK Prime Minister had attended three BIC ministerial summits and the Taoiseach almost all, as had the First Ministers of Scotland and Wales. The SNP (in government after 2007) regularly praised the BIC, while it had a “neutral” character acceptable to both Unionists and Nationalists in Northern Ireland.¹²¹

British-Irish Intergovernmental Conference

A third body established under the Good Friday Agreement was the [British-Irish Intergovernmental Conference](#) (BIIGC), which subsumed the Anglo-Irish Intergovernmental Council and Intergovernmental Conference established under the 1985 Anglo-Irish Agreement.

The BIIGC grants the Irish Government a say in areas of bilateral co-operation and on non-devolved matters and, like the NSMC and BIC, has a joint

¹¹⁹ Alan Trench (ed), *Devolution and power in the United Kingdom*, Manchester: Manchester University Press, 2007, p165

¹²⁰ Birrell, p279

¹²¹ Birrell, p279

secretariat comprising officials from the UK and Irish Governments and based in Belfast. Meetings are normally chaired by the Irish Minister for Foreign Affairs and the Secretary of State for Northern Ireland, although provision is made for “summit” meetings between the UK Prime Minister and Taoiseach (as in 1999 and 2005).

Between December 1999 and February 2007, the BIIC met regularly but lapsed thereafter. It [reconvened on 25 July 2018](#), although neither the UK Prime Minister nor Taoiseach were in attendance.

Simon Coveney, the Irish Foreign Affairs Minister, viewed the July 2018 meeting as a mean “to achieve the earliest operation of the devolved institutions” in Belfast, although the UK Government stated that the BIIC is “not an executive body” and thus “there will be no derogation from the sovereignty of either government”.¹²²

Senior members of the Democratic Unionist Party have dismissed the BIIC as “a talking shop”.¹²³

The [BIIGC last met in London on 2 December 2021](#).

6.10 United Kingdom Supreme Court

If the Prime Minister and Heads of Devolved Governments Council handles disputes of a political (and financial) nature, then the courts and, ultimately, the [United Kingdom Supreme Court](#) (UKSC) deals with legal disputes involving “devolution issues” – i.e. challenges to the action of a devolved institution for acting ultra vires, or beyond its legal competence.

Although not a constitutional court per se,¹²⁴ the UKSC’s website says it “concentrates on cases of the greatest public and constitutional importance”, a reference to its role in hearing and determining questions:

relating to the powers and functions of the legislative and executive authorities established in Scotland and Northern Ireland by the Scotland Act 1998 and the Northern Ireland Act 1998 respectively, and questions as to the competence and functions of those established by the Government of Wales Act 2006, whether or not the issue arises in proceedings in England and Wales, Scotland or Northern Ireland.¹²⁵

¹²² UK Parliament website, [“British Irish Intergovernmental Conference: Written question – HL9134”](#)

¹²³ See Belfast Telegraph, [“DUP leader dismisses intergovernmental conference as ‘talking shop’”](#), 2 July 2018

¹²⁴ Lady Hale, President of the Supreme Court, has argued that the devolution of legislative rather than executive power to Scotland, Wales and Northern Ireland has turned the UKSC “into a genuinely constitutional court” (Lady Hale, [“Devolution and the Supreme Court – 20 Years On”](#), 14 June 2018)

¹²⁵ Supreme Court website, [“Role of the Supreme Court”](#)

Prior to the establishment of the UKSC under the [Constitutional Reform Act 2005](#) (which began work on 1 October 2009), “devolution issues” had been considered by the [Judicial Committee of the Privy Council](#). Although these had been limited in the case of the Scottish Parliament – between 1999-2004 only one Act was challenged on the basis that it was considered to have infringed the European Convention on Human Rights – referrals from the then National Assembly for Wales were more common.¹²⁶

More recently, an intergovernmental dispute as to whether the Scottish Government’s EU Continuity Bill was within the Scottish Parliament’s legislative competence was referred by the UK Government, a matter heard by the UKSC on 24-25 July 2018.¹²⁷ Two Acts of the Scottish Parliament were also [referred \(under section 33 of the Scotland Act 1998\) to the Supreme Court in October 2021](#).

6.11 The Sewel Convention

Legislative “consent” now forms an important part of the UK’s constitutional arrangements, a self-denying ordinance under which the UK Parliament will “not normally” legislate on devolved matters without the consent of the relevant devolved legislature.¹²⁸

Between 1999-2007, 79 Sewel (or Legislative Consent) Motions were passed in the Scottish Parliament, with Ministers in Edinburgh generally content to allow their colleagues in London to legislate on Scotland’s behalf.¹²⁹

After 2007, however, the Scottish Government indicated its opposition to aspects of the Sewel Convention, denying legislative consent for the first time over the UK’s Welfare Reform Bill in 2011. On that occasion, the UK Government amended sections of its proposed legislation, although in May 2018 there was no compromise: the Scottish Government refused consent for the European Union (Withdrawal) Bill, which was subsequently granted royal assent.

The Welsh Government also initially refused consent, having previously done so on seven occasions, the first being the Police Reform and Social Responsibility Bill in 2011. The Northern Ireland Assembly withheld consent for the Enterprise Bill in 2015.¹³⁰

¹²⁶ See Commons Briefing Paper 07670, [The Supreme Court on Devolution](#)

¹²⁷ Supreme Court website, [“Case details”](#)

¹²⁸ See Commons Library Briefing paper CBP-8274, [Brexit: Devolution and legislative consent](#)

¹²⁹ Paul Cairney, [“Intergovernmental Relations in Scotland: what was the SNP effect?”](#), 18 October 2010

¹³⁰ Institute for Government, [“Brexit and the Sewel \(legislative consent\) Motion”](#), 17 May 2018

6.12

English Votes for English Laws

Following the outcome of the Scottish independence referendum on 18 September 2014, the then Prime Minister David Cameron called for “a balanced settlement – fair to people in Scotland and importantly to everyone in England, Wales and Northern Ireland as well”. He added:

We have heard the voice of Scotland – and now the millions of voices of England must also be heard. The question of English votes for English laws – the so-called West Lothian question – requires a decisive answer.¹³¹

The [McKay Commission](#) on the “consequence of devolution for the House of Commons” had already reported in March 2013, and from October 2015 many of its recommendations were given effect in changes to House of Commons Standing Orders so that Members of Parliament from England, or from England and Wales, could give their consent to legislation that affected only England, or England and Wales, and which was within devolved legislative competence.¹³²

On 13 July 2021, the House of Commons [rescinded these Standing Orders](#), so English Votes for English Laws (EVEL) procedures no longer applied. The Standing Orders had already been temporarily suspended due to the coronavirus pandemic. In a [written statement](#) on 12 July 2021, Michael Gove, the Cabinet Office Minister, said that:

The introduction of the procedure in 2015 added additional stages to the legislative process in Parliament and in doing so introduced complexity to our arrangements and has not served our Parliament well.

¹³¹ UK Government Press Release, “[Scottish Independence Referendum: statement by the Prime Minister](#)”, 19 September 2014

¹³² See Commons Library Briefing Paper 07339, [English votes for English laws](#)

7 Devolved political leaders

7.1 First Ministers of Scotland

- Donald Dewar MSP (17 May 1999 – 11 October 2000)¹³³
- Henry McLeish MSP (26 October 2000 – 8 November 2001)¹³⁴
- Jack McConnell MSP (22 November 2001 – 16 May 2007)
- Alex Salmond MSP (16 May 2007 – 19 November 2014)
- Nicola Sturgeon MSP (19 November 2014 –)

7.2 Presiding Officers of the Scottish Parliament

- Sir David Steel MSP (12 May 1999 – 7 May 2003)
- Sir George Reid MSP (7 May 2003 – 14 May 2007)
- Sir Alex Fergusson MSP (14 May 2007 – 11 May 2011)
- Tricia Marwick MSP (11 May 2011 – 12 May 2016)
- Ken Macintosh MSP (12 May 2016 – 13 May 2021)
- Alison Johnstone MSP (13 May 2021 –)

7.3 First Ministers of Wales

- Alun Michael AM (12 May 1999 – 9 February 2000)¹³⁵
- Rhodri Morgan AM (9 February 2000 – 9 December 2009)
- Carwyn Jones AM (9 December 2009 – 12 December 2018)
- Mark Drakeford AM (13 December 2018 –)

7.4 Presiding Officers/Llywydd of Senedd Cymru/ Welsh Parliament

- Lord (Dafydd) Elis-Thomas AM (12 May 1999 – 11 May 2011)

¹³³ Jim Wallace was Acting First Minister of Scotland from 11-26 October 2000

¹³⁴ Jim Wallace was again Acting First Minister from 8-22 November 2001

¹³⁵ Following his resignation as First Secretary (the title was later changed to First Minister), Alun Michael held several UK ministerial posts. On 15 November 2012, he was elected the first Police and Crime Commissioner for South Wales.

- Dame Rosemary Butler AM (11 May 2011 – 11 May 2016)
- Elin Jones AM (11 May 2016 –)

7.5 First Ministers of Northern Ireland

- David Trimble MLA (UUP) (1 July 1998 – 1 July 2001, 6 November 2001 – 14 October 2002)¹³⁶
- Ian Paisley MLA (DUP) (8 May 2007 – 5 June 2008)
- Peter Robinson MLA (DUP) (5 June 2008 – 11 January 2010, 3 February 2010 – 10 September 2015, 20 October 2015 – 11 January 2016)¹³⁷
- Arlene Foster MLA (DUP) (11 January 2016 – 9 January 2017, 11 January 2020 – 14 June 2021)
- Paul Givan MLA (DUP) (17 June 2021 –)

7.6 Deputy First Ministers of Northern Ireland

- Seamus Mallon MLA (SDLP) (1 July 1998 – 6 November 2001)
- Mark Durkan MLA (SDLP) (6 November 2001 – 14 October 2002)
- Martin McGuinness MLA (Sinn Féin) (8 May 2007 – 20 September 2011, 31 October 2011 – 9 January 2017)¹³⁸
- Michelle O'Neill MLA (Sinn Féin) (11 January 2020 – 14 June 2021, 17 June 2021 –)

7.7 Northern Ireland Assembly Speakers

- Lord Alderdice MLA (Alliance) (1 July 1998 – 29 February 2004)
- Eileen Bell MLA (Alliance) (8 May 2007)
- William Hay MLA (DUP) (8 May 2007 – 13 October 2014)
- Mitchel McLaughlin MLA (Sinn Féin) (12 January 2015 – 12 May 2016)
- Robin Newton MLA (DUP) (12 May 2016 – 11 January 2020)
- Alex Maskey MLA (Sinn Féin) (11 January 2020 –)

¹³⁶ In 1998, Ulster Unionist MLA Sir Reg Empey served as Acting First Minister of Northern Ireland. David Trimble joined the House of Lords in 2006 and left the UUP a year later to become a member of the Conservative Party.

¹³⁷ In 2007 and 2011, DUP MLA Arlene Foster served as Acting First Minister of Northern Ireland

¹³⁸ During 2011, Sinn Féin MLA John O'Dowd served as acting Deputy First Minister of Northern Ireland

7.8 Mayor of London

- Ken Livingstone (4 May 2000 – 4 May 2008)
- Boris Johnson (4 May 2008 – 9 May 2016)
- Sadiq Khan (9 May 2016 –)

7.9 Mayors of Combined Authorities

- Cambridgeshire & Peterborough Nik Johnson (Labour, 2021 –)
- Greater Manchester Andy Burnham (Labour, 2017 –)
- Liverpool City Region Steve Rotherham (Labour, 2017 –)
- North of Tyne Jamie Driscoll (Labour, 2019 –)
- Sheffield City Region Dan Jarvis (Labour, 2018 –)
- Tees Valley Ben Houchen (Conservative, 2017 –)
- West of England Dan Norris (Labour, 2021 –)
- West Midlands Andy Street (Conservative, 2017 –)
- West Yorkshire Tracy Brabin (Labour, 2021 –)

8

Further reading

Review of Intergovernmental Relations:

[Review of intergovernmental relations \(HTML\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/review-of-intergovernmental-relations)

Devolution Guidance Notes:

<https://www.gov.uk/government/publications/devolution-guidance-notes>

United Kingdom Supreme Court: <https://www.supremecourt.uk/>

Between [1999-2005](#) and [2006-2009](#), the Devolution Monitoring Programme at [The Constitution Unit](#) produced regular – and comprehensive – accounts of the devolution settlement in Scotland, Wales and Northern Ireland.

Scottish Government: <https://www.gov.scot/>

Scottish Parliament: <http://www.parliament.scot/>

Scottish Parliament Information Centre (SPICe):

<http://www.parliament.scot/parliamentarybusiness/research.aspx>

Office of the Secretary of State for Scotland (formerly the Scotland Office):

<https://www.gov.uk/government/organisations/office-of-the-secretary-of-state-for-scotland>

Welsh Government: <http://gov.wales>

Senedd Cymru/Welsh Parliament: <http://www.senedd.wales>

Office of the Secretary of State for Wales (formerly the Wales Office):

<https://www.gov.uk/government/organisations/office-of-the-secretary-of-state-for-wales>

The History of Welsh Devolution: <https://senedd.wales/en/abthome/role-of-assembly-how-it-works/Pages/history-welsh-devolution.aspx>

Key events in the development of Senedd Cymru/the Welsh Parliament:

<https://senedd.wales/en/bus-home/research/bus-assembly-publications-monitoring-services/Pages/Key-Events-Home.aspx>

Northern Ireland Executive: <https://www.northernireland.gov.uk/>

Northern Ireland Assembly: <http://www.niassembly.gov.uk/>

Northern Ireland Assembly Research and Information Service (RaISe):
<http://www.niassembly.gov.uk/assembly-business/research-and-information-service-raise/>

Secretary of State for Northern Ireland:
<https://www.gov.uk/government/ministers/secretary-of-state-for-northern-ireland>

British-Irish Council: <https://www.britishirishcouncil.org/>

North-South Ministerial Council:
<https://www.northsouthministerialcouncil.org/>

History of the Northern Ireland Assembly (1998-2007):
<http://www.niassembly.gov.uk/about-the-assembly/general-information/history-of-the-assembly/>

Mayor of London: <https://www.london.gov.uk/about-us/mayor-london>

Combined Authorities:
<https://www.gov.uk/government/publications/devolution-and-mayors-what-does-it-mean>

Publications

James Mitchell, *The Scottish Question*, Oxford: Oxford University Press, 2014

Mark Lazarowicz & Jean McFadden, *The Scottish Parliament: Law and Practice*, Edinburgh: Edinburgh University Press, 2018

Hamish Macdonell, *Uncharted Territory: The Story of Scottish Devolution 1999-2009*, London: Politico's, 2009

Duncan McTavish (ed), *Politics in Scotland*, Abingdon: Routledge, 2016

Russell Deacon, Alison Denton and Robert Southall, *The Government and Politics of Wales*, Edinburgh: Edinburgh University Press, 2018

Martin Shipton, *Poor Man's Parliament: Ten Years of the Welsh Assembly*, Bridgend: Seren, 2011

Siobhán Fenton, *The Good Friday Agreement*, London: Biteback, 2018

Derek Birrell & Cathy Gormley-Heenan, *Multi-Level Governance and Northern Ireland*, London: Palgrave Macmillan, 2015

Tony Travers, *The Politics of London: Governing an Ungovernable City*, London: Palgrave Macmillan, 2003

Michael Kenny, *The Politics of English Nationhood*, Oxford: OUP, 2016

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