

It's a No: Now What?

Six Questions to Answer after the Scottish Referendum

It's a No – Now what?

In the end Scotland voted as it had always been expected to. But the narrowing of the polls in the final weeks of the campaign changed the game dramatically and led to the firm commitments of the three main party leaders at Westminster to devolve further power to Holyrood. [David Cameron has now set out the government's proposals for the next stage in the process](#), but many questions remain.

In the run-up to the referendum, the Institute for Government conducted research into what would happen after the result and what would be the implications of various proposals for further devolution.¹ Drawing on this work, we identify six questions that will need to be addressed in the coming weeks and months as the process the Prime Minister has announced proceeds.

How hard will it be to produce an agreed set of proposals for further devolution to Scotland?

The crossbench peer Lord Smith of Kelvin has been appointed to oversee the process to take forward the commitment to devolve further power over tax and welfare on the timetable set out in the closing stages of the referendum – a white paper will be published in November and draft legislation by January. His first task will be to reconcile the positions of the parties to produce a unified set of proposals.

Until the late surge for Yes in the polls, the three UK parties had each set out their own separate and different plans for further devolution to Scotland, which we set out in our recent paper, [Governing after the Referendum](#). The joint statements by the three parties in June and August of this year noted agreement on the general principle of further fiscal and welfare devolution, but explicitly stated that they would take their respective plans to the electorate in May 2015.

However, there were some important differences between the three parties' proposals that must now be reconciled. The key points of difference are around how far to go with further fiscal devolution. Labour in particular has been lukewarm about significant fiscal responsibility for the Scottish Government. Will they now move towards the other parties on more extensive devolution of income tax? Can consensus be reached on devolving other taxes such as Air Passenger Duty (as proposed by the Conservatives and Liberal Democrats) or even Capital Gains Tax and Inheritance Tax (as proposed by the Liberal Democrats)?

On welfare and benefits there are also important issues to resolve: consensus will need to be reached on which parts of the welfare state to devolve. Top candidates for devolution include housing benefit, attendance allowance and the Work Programme (each of which at least one of the unionist parties has proposed), but in principle the devolution of welfare powers could go much further.

Lord Smith and the parties may also want to broaden the range of issues on the table. The Liberal Democrats and Labour suggested the creation of new 'partnership arrangements' with more cooperative working between Westminster and Edinburgh in areas like energy, employment and transport. Will this idea be taken forward, and what sort of governance arrangements would be needed to make this work?

The final issue that will need to be resolved is the future of the funding formula that has been used since the late 1970s. The three party leaders made the 'Vow' that the 'Barnett allocation' would be retained even as the fiscal powers of the Scottish Parliament are extended. Precisely what is meant by this will need to be worked out. Does this mean that the current budget of the Scottish Government

¹ See Paun, A., Randall, J., Munro, R. & Shaddock, L., *Governing after the referendum: Future constitutional scenarios for the UK*, Institute for Government, 11 September 2014. [Accessed 18/09/2014:
<http://www.instituteforgovernment.org.uk/publications/governing-after-referendum>]

will not be cut, or is this a promise to continue increasing Scottish Government funding on the basis of the existing Barnett Formula? It is already clear that this pledge does not have the backing of many in Wales nor some of David Cameron's own backbenchers.

How will the SNP be engaged in the process of agreeing further devolution?

In the Edinburgh Agreement of 2012, which paved the way for the referendum to take place, the UK and Scottish Governments committed “to work together constructively in the light of the outcome, whatever it is, in the best interests of the people of Scotland and of the rest of the United Kingdom.”² David Cameron’s statement was unclear on how the Scottish government will be involved in the talks about the shape of the new settlement. But under the ‘legislative consent convention’, no new devolution settlement can be enacted without the consent of the Scottish Parliament – in which the SNP holds a majority until at least May 2016 – with legislation on this matter planned for 2015. This gives the SNP potentially significant influence to push beyond the proposals on the table from the unionist parties.

What are the implications of further devolution to Scotland for the UK government itself?

Further devolution to Scotland has implications for the rest of the UK and will constrain the policy options for future UK governments. For instance, devolution of certain elements of the welfare state could cut across the ability of the UK government to join up different policy levers and achieve wider goals. The clearest example of this is housing benefit, which is currently being rolled into the single Universal Credit payment across the UK. Disentangling the housing benefit portion of Universal Credit in Scotland would raise the complexity of an already-troubled policy.

Similarly, if more extensive control of income tax is devolved, this would make it very difficult for a future government to integrate income tax and national insurance, which the Chancellor is reportedly considering and organisations such as the Institute of Fiscal Studies have recommended.³

Fiscal devolution will also have an impact on the calculation of the block grant that funds the Scottish (and other devolved) governments. The devolution of limited fiscal powers under the Scotland Act 2012 will lead to the Scottish block grant from the Treasury being reduced by a proportionate amount (there have already been difficult negotiations about how to calculate this reduction). Further devolution will presumably lead to further such adjustments, but this will not necessarily be straightforward to calculate and agree.

Further fiscal devolution will also probably be accompanied by additional borrowing powers (to ensure the Scottish Government can compensate for fluctuating tax revenues). The extent of such borrowing powers and the mechanisms for this will need to be worked out.

Can cross-party consensus be found on solving the “English question”?

The Prime Minister’s proposals did not stop at Scotland. He announced that “the question of English votes for English laws – the so-called West Lothian question – requires a decisive answer” and he has placed the leader of the House of Commons, William Hague, in charge of producing proposals to be worked through a Cabinet Committee.

² HM Government and Scottish Government, *Agreement between the United Kingdom Government and the Scottish Government on a referendum on independence for Scotland*, Edinburgh, 15 October 2012 [Accessed 18/09/2014: www.scotland.gov.uk/Resource/0040/00404789.pdf] p.30.

³ See: ‘Britain’s Osborne may merge income tax and national insurance - the Times,’ Reuters, 30 June 2014 [accessed 29/08/2014: <http://uk.reuters.com/article/2014/06/30/uk-tax-idUKKBN0F501O20140630>] and Institute for Fiscal Studies, *Tax by Design*, Oxford University Press, 13 September 2011, p. 495. [Accessed 29/08/2014: www.ifs.org.uk/publications/5353]

This is a government process, with Labour invited to contribute ideas. Undoubtedly UKIP will also want to make its own input too. But while on the Scottish question the difference between the Conservatives and Labour are about detail, on the English question the parties have very different interests. Reducing the rights of Scottish MPs could weaken a potential future Labour Prime Minister – in extremis depriving the government of a majority on major areas of English domestic policy such as health and education.

The starting point for this process is likely to be the proposals of the McKay Commission – to introduce England-only stages of the legislative process but leaving the House as a whole with the power to make the final decision. This scheme could be introduced fairly quickly if necessary by a resolution of the House of Commons. But the question may be whether these proposals go far enough to satisfy English Conservative MPs.

David Cameron's statement also drew attention to the need for "wider civic engagement" on the future governance of the UK "including how to empower our great cities". There have been proposals on this issue from both [the Chancellor](#) and [Ed Miliband](#) but there is nothing concrete is on the table. And past experience shows that [promises of decentralisation have often failed to be delivered](#) in practice.

A further announcement on how these wider issues will be taken forward is to follow which should make clear how it relates to the Hague committee and its timetable.

What about Wales and Northern Ireland?

David Cameron drew attention to the existing proposals to give the Welsh government more powers. But if there is agreement on further devolution to Scotland proposed by Smith, will the Wales Bill before Parliament be amended to include the additional powers promised to Scotland? Will the Barnett allocation system also be retained for Wales (which does comparatively badly in terms of public funding compared with Scotland, even though Wales is much poorer)?

The Prime Minister's only mention of Northern Ireland was to draw attention to the need for the devolved institutions to "work effectively". But further fiscal devolution to the Northern Ireland Executive is already under consideration. Specifically, an announcement from the Chancellor is expected this autumn on the potential devolution of corporation tax to Northern Ireland, to help it deal with tax competition from the Republic. None of the unionist parties have proposed devolution of corporation tax to Scotland or Wales (though the Liberal Democrats suggest 'assigning' a share of the proceeds of this tax to the Scottish Government). But if this devolution to Belfast goes ahead, will the other devolved governments demand a similar power and how will the UK Government respond?

Is the proposed timetable feasible?

The timetable for agreeing the shape of the new settlement for Scotland is very tight and leaves little time for consultation or for the necessary negotiations between the parties on the detail of the package. But any delay would risk a backlash given the firm commitments that have been made. Lord Smith will be hard pressed to reconcile the differences between the three parties' devolution proposals and to secure the backing of the SNP government to produce the planned white paper by the end of November and draft legislation by January.

Perhaps more challenging is agreeing on the plans for English devolution, since the debate on this question is at a much earlier stage with ideas rather than worked-up plans. This debate needs to be rapid to meet the timetable. And finally, although there is a workable plan on the table for English votes for English laws – in the form of the options outlined by the McKay Commission in March 2013 – this remains just the starting point and is a contentious issue in view of the contrasting interests of the Conservatives and Labour.

All these discussions will occur against the background of the May 2015 UK general election, now just over seven months away. So the process will have to be open, inclusive and involve genuine consultation across the UK if these large, and far-reaching, constitutional questions are to be resolved and gain widespread support.