

# Ministers reflect on devolution

Lessons from 20 years of Scottish  
and Welsh government



# About this report

May 2019 marks 20 years since the first elections to the Scottish Parliament and the National Assembly for Wales and the formation of devolved governments in Edinburgh and Cardiff. This report looks at the experience of ministers in the Scottish and Welsh Governments over the first two decades of devolution.

We interviewed 13 former Cabinet ministers about their time in office and what advice they would give to their successors. The interviews quoted in this report represent their own views and memories. This report is published alongside the transcripts of the interviews, as part of the Institute for Government's existing Ministers Reflect archive.

Read the interviews:

[www.instituteforgovernment.org.uk/ministers-reflect/scotland](http://www.instituteforgovernment.org.uk/ministers-reflect/scotland)

[www.instituteforgovernment.org.uk/ministers-reflect/wales](http://www.instituteforgovernment.org.uk/ministers-reflect/wales)

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# Summary

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**Most politicians aspire to enter government and to have the opportunity to change the country. Since 1999, Scottish and Welsh politicians have had the chance to become ministers in the new devolved institutions in Edinburgh and Cardiff, as well as at Westminster.**

To inform aspiring politicians, future ministers and others with an interest in how devolution works, we interviewed 13 former Cabinet ministers from Scotland and Wales about their experience of governing and the challenges they faced, extending our existing archive of *Ministers Reflect* interviews with Westminster politicians.

This sample of interviewees is not fully representative of all those who have held office since 1999, but it does include ministers from every party of government in Scotland and Wales and from every session since 1999.\* One, Jane Hutt, has been a minister in every year of devolution.\*\* Our interviewees have collectively served 93 years in Cabinet, and they include holders of all the most senior posts, including three First Ministers, three Deputy First Ministers and former Finance, Health and Education Ministers (see the Appendix). In this report we discuss their key insights on what it takes to succeed in the job.

## **Who has held high ministerial office in Scotland and Wales?\*\*\***

In the two decades of devolution, a total of 48 people have served in the Scottish Cabinet and 36 in the Welsh Cabinet.<sup>1</sup> Five people have held the role of First Minister of Scotland, and four that of First Minister of Wales. The Scottish and Welsh Cabinets have comprised members of four different political parties. Of these, only Labour had past governmental experience. The remaining three parties – the Liberal Democrats, Scottish National Party (SNP) and Plaid Cymru – had never previously been in government.

Of the total of 84 Scottish and Welsh Cabinet ministers since 1999, 53 have been men and 31 women. Their average age on entering their first Cabinet post was 49. Only 11 had previous experience as an elected politician at Westminster. Four of these, including the initial First Ministers of both Scotland and Wales, had served as ministers in the post-1997 Labour Government. Just three former Members of Parliament (MPs), and no former ministers, have served in the Scottish or Welsh Government since 2007: two from the SNP and one from Plaid Cymru.

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\* As in Westminster, ministers in the top posts in Scotland and Wales are disproportionately men. So are our interviewees. This is something we will try to correct in future rounds of interviews.

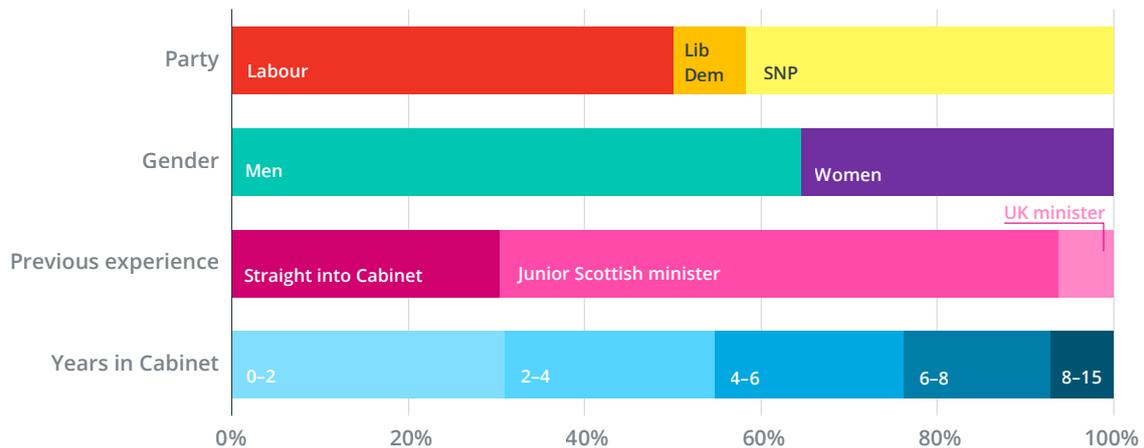
\*\* Continuously from May 1999 to November 2017 and again from December 2018 to the present.

\*\*\* All figures are as of 1 February 2019. We included all full members of Cabinet, including law officers, chief whips and leaders of the House for the periods they were in Cabinet.

On average, these Cabinet ministers have lasted for two years and eight months in each particular job, and for four years and three months in Cabinet in total.\* Of the 84 ministers, 44 had served previously as junior ministers at the devolved level before entering Cabinet.\*\*

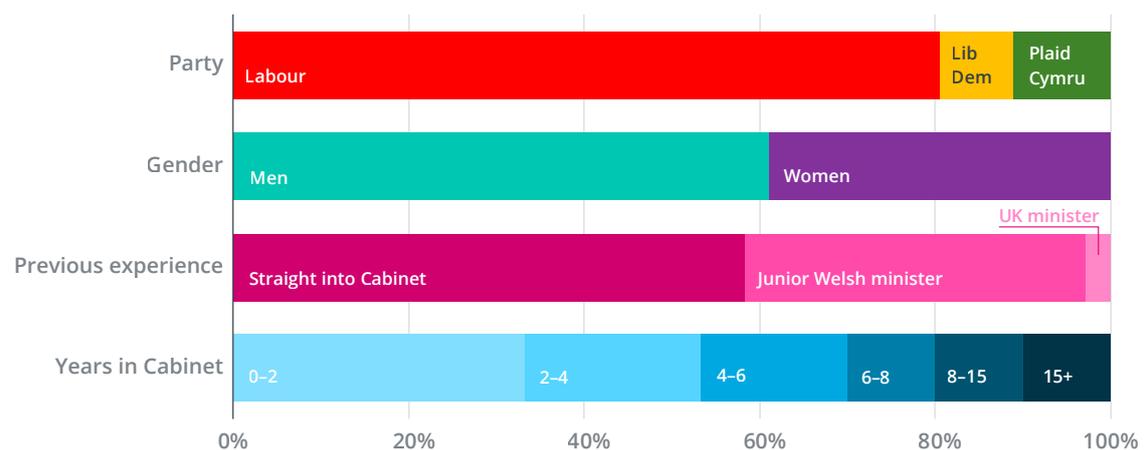
Figures 1 and 2 summarise the characteristics of Cabinet ministers in the Scottish and Welsh Governments in the two decades since the start of devolution.

**Figure 1: Scottish Cabinet ministers, 1999–2019**



Source: Institute for Government analysis of sources including Scottish Parliament Information Centre, MSPs: Historical Series.

**Figure 2: Welsh Cabinet ministers, 1999–2019**



Source: Institute for Government analysis of sources including Assembly.wales, Wales.gov.uk and BBC News.

\* For these figures, we have excluded ministers appointed to their current post since the 2016 elections.

\*\* This was, of course, not possible for those appointed to the first Cabinets in 1999, nor for those from the three parties that had never been in power before.

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## This report

The experience of Scottish and Welsh ministers has much in common with that of their UK counterparts.\* There is no training programme or induction period, and ministers must learn on the job how to be effective, often in portfolios of which they have little prior knowledge. But from the moment they take office, they must stand prepared to take important decisions and be held accountable.

Ministers find immediately that their time is a scarce resource, with numerous unavoidable day-to-day obligations and demands on their attention. Dealing with the tide of paperwork, as well as media and parliamentary responsibilities, can threaten to leave no time for anything else, but to be effective, ministers must identify clear priorities of what they wish to achieve, and maintain a consistent focus on these ultimate objectives. Ministers inevitably also have to deal with unexpected events and crises that can make or break reputations and careers.<sup>2</sup> For our interviewees, these included dealing with foot and mouth disease, serious information technology (IT) failures, bad exam results, rising waiting times in hospitals and terror attacks.

But there are also several distinct features in the context in which devolved ministers work and some important differences in the challenges they therefore face in achieving their objectives. These are the areas on which we focus in this report.

**Chapter 1**, on governing without a single-party majority, explores the lessons learnt by our interviewees about how to make a success of cross-party working. The Scottish Parliament and the National Assembly for Wales use proportional electoral systems that make single-party majorities a rare exception rather than the norm. As a result, Scottish and Welsh ministers negotiate and form alliances with members of other parties to pass legislation and Budgets, and even to survive in office.

**Chapter 2** explores both the difficulties and the opportunities that our interviewees have faced in governing in a context of constant institutional change. The devolved institutions were newly created in 1999 and, particularly in the early period, ministers faced pressure simply to demonstrate that devolution could work. Ministers also inherited a civil service that in certain respects lacked the capacity to fulfil the requirements of the new era. For instance, some found that there was insufficient capacity to develop policy and set budgets independently from Westminster. These functions had to be built up. In addition, devolution has evolved significantly since 1999 as further powers have been transferred. But along with these challenges, governing in a new institution has given ministers the opportunity to innovate in terms of both governance and policy.

**Chapter 3** discusses the main lessons that our interviewees have learnt about how to deal with Westminster, and also how to have an impact at the European Union (EU) level. Scottish and Welsh ministers must learn how to govern in the shadow of decisions made at Westminster – including those relating to budgets, international and EU affairs, and welfare policy – that have substantial knock-on consequences at the devolved level. Our interviewees reported that UK ministers neglect to consider

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\* For more on the experiences of UK ministers, see Hughes N, *How to Be an Effective Minister: What ministers do and how to do it well*, Institute for Government, 2017, retrieved 7 March 2019, [www.instituteforgovernment.org.uk/publications/how-be-effective-minister](http://www.instituteforgovernment.org.uk/publications/how-be-effective-minister)

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devolution issues and place pressure on them to follow UK Government policy, even in fully devolved policy areas.

We conclude by looking at how the main lessons identified in the report will be relevant for future generations of ministers.

All our interviews were on the record and have been transcribed and published on our website, as part of our existing *Ministers Reflect* archive,<sup>3</sup> to add to the 86 interviews we have conducted previously with former ministers from Westminster. We also conducted one Northern Ireland interview, but this report looks only at the Scottish and Welsh experience.\* We are very grateful to all those who agreed to be interviewed for this project.

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\* On 23 May 2018 we interviewed Mark Durkan, Finance Minister and Deputy First Minister in the early years of devolution to Belfast. The transcript of that interview can be found at: [www.instituteforgovernment.org.uk/ministers-reflect/person/mark-durkan](http://www.instituteforgovernment.org.uk/ministers-reflect/person/mark-durkan)

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# 1. Governing without a majority of your own

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The Scottish Parliament and the Welsh Assembly are elected by proportional electoral systems, making it difficult – although not impossible – for a single party to win a majority of seats. Ministers in Scotland and Wales therefore have to learn to negotiate and compromise with other parties to achieve their political objectives, and even to stay in power.

In the absence of a single-party majority, there are two principal ways to govern: in coalition or as a minority administration. In Scotland, Labour and the Liberal Democrats governed as a coalition from 1999 to 2007. The SNP has governed alone since then, first as a minority government, then for five years with an unexpected majority, and since 2016 as a minority government again.

In Wales, Labour has been in government ever since 1999. It had periods in coalition with the Liberal Democrats (2000–03) and Plaid Cymru (2007–11), periods governing alone as a minority government (1999–2000, 2003–07 and 2011–16) and since 2016 has had a narrow working majority: the current Welsh Government is not a formal coalition but has one Liberal Democrat and one independent (former Plaid Cymru) minister alongside Labour colleagues.

Both coalitions and minority governments have worked effectively in the two devolved nations. But the challenges for ministers differ. Ministers told us that in a coalition, the keys to success are to negotiate a clear and detailed shared policy programme at the outset, to set up robust systems for resolving disputes between the parties, and to ensure that each party is able to maintain its own political identity. In a minority government, ministers naturally face challenges in the legislature in getting bills and Budgets through. Ministers we interviewed were able to advance their agenda by prioritising areas where they had allies on the Opposition side, making tactical concessions and keeping the Opposition divided.

## **Coalitions stand and fall on the strength of their initial agreement**

Ministers who were involved in coalitions recalled the importance of reaching agreement both on a shared policy programme and on how the coalition parties would work together – the rules of the game.<sup>1</sup> One important advantage of a clear and comprehensive policy programme for ministers, we were told, was that it enabled them to deal with disquiet within their own party. Andy Kerr, a Scottish Labour minister during the Labour–Liberal Democrat coalition, told us that this proved useful for him as a Finance Minister in managing colleagues' requests for more money:

**“Our guys would be screaming for stuff to deal with something or a political priority, and we’d say: ‘Look, it’s not in the programme.’”**

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In Wales, former Deputy First Minister Ieuan Wyn Jones took Plaid Cymru into coalition with Labour, and he was determined to negotiate a comprehensive programme that left no room for disagreement about precisely what the Government had committed to. He resolved that “we’re going to have a document that details all the policies that we were going to deliver in every field: economy, health, whatever it was”. This ensured that Plaid ministers could proceed with their policy agenda in the knowledge that they had the backing of the (Labour) First Minister Rhodri Morgan. Wyn Jones recalled: “Even if there were decisions that would have been uncomfortable for his own party, he [Morgan] would back the Plaid minister, publicly as well as in Cabinet, as he felt that we’d agreed this programme and it had got to be delivered.”

Coalitions also require effective machinery for making decisions and resolving disputes. Lord (Jack) McConnell learnt this as First Minister of Scotland. When Labour and the Liberal Democrats renewed their coalition in 2003, greater emphasis was placed on governance questions: “In the first four years... one of the things that had provoked crises on a fairly regular basis was the fact that issues would arise that were not covered by the coalition agreement.” To avoid this, new committees were created to resolve disputes. These, he felt, worked well.

Lord (Jim) Wallace, who was Deputy First Minister of Scotland between 1999 and 2005, found that the civil service did not initially seem comfortable with having two sets of political masters:

**“They, quite properly, deferred to the First Minister but sometimes I felt they deferred to the First Minister in a way which didn’t remember that there was a coalition dimension to it.”**

Ieuan Wyn Jones likewise felt that there was a tendency among some officials to overlook the perspective of the smaller coalition partner: “Even though you might be a minister for whatever, if the First Minister says something happens, it is likely to happen.” In both Scotland and Wales, it was therefore agreed that all information going to the First Minister would also be copied to the Deputy First Minister, to ensure that policy and spending decisions took into account the position of both parties.

Of course, machinery and processes are not enough. A coalition can only work if there are strong and trusting relations between the central players on both sides, in particular the First Minister and Deputy First Minister. Asked for his advice on how to make coalitions work, Lord Wallace told us simply: “[M]ake sure that there is a good bond of trust between the First Minister and Deputy First Minister.”

### **Coalition parties need space to differentiate**

Another important aspect of managing coalitions is ensuring that each party has the space to differentiate itself from its partners in government, and that both sides get credit for government accomplishments. This is particularly important to ministers from the smaller party, who often fear that their distinct identity may be undermined by being in a coalition.

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Lord (Mike) German faced this problem when leading the Welsh Liberal Democrats during the Labour–Liberal Democrat coalition from 2000 to 2003:

**“[T]he most difficult thing was to learn how to manage to get credit for what you had done.”**

His solution was to use his party’s communications team to highlight anything the Government had done that derived from the Liberal Democrat manifesto: “Those things were ours. We could identify them quite clearly.”

In Scotland, the parties learnt that on votes that did not relate to government policy or legislation, there was no need to take a common coalition position. For instance, the Labour and Liberal Democrat Parties in Scotland disagreed on national issues such as joining the Euro and invading Iraq, but since these were matters for Westminster, the parties agreed to disagree, including in public and parliamentary debate.

Lord Wallace described the thinking: “There’s no coalition view on this. We don’t need to take a view on it. The civil service didn’t like that. Every debate had to have someone replying from the executive. I said: ‘Well, why? This is not a matter of collective responsibility.’” This tactic also frustrated attempts by opposition parties to exploit divisions between the coalition partners.

The smaller parties in both the Scottish and the Welsh coalitions were also helped by the fact that their leaders always took an important Cabinet portfolio alongside the role as deputy head of government. Ieuan Wyn Jones felt that “the mistake that Nick Clegg made is that he became Deputy Prime Minister but without a portfolio”. He opted to take on the economy and transport role, and ensured that Plaid Cymru colleagues gained the agriculture and culture (including the Welsh language) portfolios, which were both of political importance to his party. When he was Deputy First Minister of Scotland, Lord Wallace was first Justice Minister and then Enterprise Minister, both big and high-profile positions that kept him in the political spotlight.

All four coalitions formed in Edinburgh and Cardiff lasted until the following election, demonstrating that coalitions can provide stable government. But ensuring that there is agreement between the parties on every important issue takes time and energy, and may produce policy with which neither side is wholly satisfied. As Chief Whip during the Labour–Liberal Democrat coalition in Cardiff, Andrew Davies said: “[M]y job was to worry... have we got agreement? Have we got the wording for an amendment? So you just have to put a lot of effort into making it work for you.” He used special advisers to work through these questions with their Liberal Democrat counterparts, so that he could be confident that the coalition would stay united on all motions.

**All four coalitions formed in Edinburgh and Cardiff lasted until the following election, demonstrating that coalitions can provide stable government.**

It is notable that while none of the coalitions have collapsed, only once (in 2003) has a coalition been renewed after the election. Welsh Labour has typically preferred to govern alone when possible. In 2011, Plaid Cymru also apparently preferred to return

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to the Opposition after the coalition had led to a poor electoral performance. Carwyn Jones already felt pressure to govern alone after Labour won 30 out of 60 seats, but “the coalition option was removed [by Plaid Cymru] anyway as soon as the election was over”.

In Scotland, Lord McConnell concluded that by 2007:

**“[P]ossibly the coalition had run its course – that we’d had the stable government that the Coalition had helped provide, that we’d had the delivery and that maybe it was time to take a few risks and push the boat out with some more radical ideas.”**

His intention was therefore to seek to govern alone as a minority administration: “[W]e were ready for that, and that was how we had prepared for the aftermath of the election, if we had been lucky enough to pull it off.” Instead, the SNP overtook Labour (by a single seat) and Alex Salmond became First Minister, heading a minority government. SNP ministers were initially fearful that their time in office would be short. But the SNP not only survived a full four-year term, it also went on to win a majority in 2011 and remains in power today. Minority government proved more effective than forecast.

### **Minority governments can accomplish a lot – but need to prioritise and form tactical alliances**

A minority administration has a considerable amount of power simply by virtue of being in government. The absence of a majority becomes a problem only for those matters that must be passed in the legislature, as Ieuan Wyn Jones reflected:

**“[L]et’s be blunt, most decisions aren’t made as a result of votes in the plenary: 80% of government is administrative anyway, so you can do a lot [without a majority].”**

Naturally, strict prioritisation is necessary when it comes to any policy objectives that do require legislation.<sup>2</sup> Alex Neil served in the 2007–11 SNP minority government, which simply dropped or postponed some of its major policy objectives, including the independence referendum and local government finance reform: “[T]here was no point in trying, because that would just burn up your political capital, both inside and outside of Parliament.”

But with a divided Opposition, the Government can often pass a significant amount of legislation by forming temporary alliances on specific issues. This requires ministers and their advisers to pay close attention to the priorities and objectives of other parties. Shona Robison, Health Secretary from 2014 to 2018, describes how the SNP would “try to make common cause on the issues of the day. Clearly there would be some parties that would have a natural alignment [with us]. We went through all of our Programme for Government, their manifestos, to look at where there were areas of common cause and interest.”

Ministers in a minority government can avoid defeats by not bringing forward legislation when they have no allies with whom to build a majority. However, one thing that cannot be avoided is the passage of the annual Budget. This is therefore a moment of potential weakness for governments without a majority. Minority governments in

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both Edinburgh and Cardiff have usually managed to get their Budgets through, but not without making concessions on spending plans.

Labour's Jane Hutt was Welsh Finance Minister during one period of minority rule, and struck deals with opposition parties with whom there was a degree of common objectives. She recalled negotiating with different opposition parties on different occasions but "we never went near the Conservatives, no. For 20 years they voted against our budget. Every single time." Even when dealing with parties on the same side of the political spectrum, however, Hutt cautioned that getting budgets through can create pressure to concede expensive additional commitments: "You have to really avoid the pork-barrel politics."

### **Minority governments can survive – by keeping the Opposition divided**

Minority governments can hold on if the Government manages to keep opposition parties divided. But minority governments in both Wales and Scotland have faced defeat at various crucial points at the hands of a united Opposition. The most dramatic case came early in the life of the Welsh Assembly, when Alun Michael's Welsh administration had no majority and struggled to establish its authority, after a worse-than-expected result for Labour in the 1999 election. Michael, who had only become Labour's candidate for First Minister (then known as First Secretary) after the resignation of Ron Davies, reflected that "the whole atmosphere was very febrile in Wales for a period". As Chief Whip, Andrew Davies recalled that "actually keeping the whole thing afloat was a challenge; I had an NVQ Level 4 in ducking and diving".

**... minority governments in both Wales and Scotland have faced defeat at various crucial points at the hands of a united Opposition.**

Liberal Democrat leader Lord German felt that the Labour minority administration was too "subordinate to London, in a way which was not the intention of devolution", and that as a result the Welsh Assembly "didn't give the impression to the outside world of being an organisation which was about to make changes and to make a difference for Wales". In the end, Alun Michael was defeated in a confidence motion after less than a year in office, and his successor Rhodri Morgan formed a coalition with the Liberal Democrats shortly afterwards. According to Lord German, this followed "private conversations" between disaffected Labour members and his party even while Michael was still in office.

In 2005, Rhodri Morgan found himself at the head of another Labour minority government, and the three opposition parties worked together to make life difficult. Later that year, the opposition parties decided to vote down the Budget to force the Government to negotiate on its plans. The opposition alliance held until after the 2007 election when the three parties came close to forming a 'Rainbow Coalition' without Labour, before the Liberal Democrats backed out of the deal.<sup>3</sup>

In Scotland, the SNP minority government faced one serious moment of jeopardy in the period from 2007 to 2011, when, as in Cardiff, the opposition parties united to defeat the proposed Budget in 2009. However, this was a less co-ordinated move – the Opposition appeared to defeat the Budget almost by accident. The Government was

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temporarily on the back foot, but offered small concessions to opposition parties and passed the Budget at the second attempt. Shona Robison felt that this episode backfired on Labour, the principal opposition party: "They were all cock-a-hoop, [saying:] 'Does this mean the Government's going to fall?' But they got such a backlash, and didn't have the other parties with them, that I think they learnt quite quickly it doesn't quite work like that."

We were told that more recently the SNP had found it increasingly difficult to find allies on the Opposition side. Nonetheless, in early 2019, the Scottish Government passed its Budget in its traditional fashion, after striking an 11th-hour deal with the Scottish Greens, which included some additional funding for local government while leaving the bulk of the plans unchanged.<sup>4</sup>

The general pattern is that minority governments can survive longer and accomplish more than expected. But to do this, ministers must be realistic about what they can achieve; make tactical concessions while keeping a focus on strategic objectives; and deal separately with other parties to keep the Opposition divided.

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## 2. Governing in a new and changing institution

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The devolved Parliaments and governments were newly created in 1999 and have changed substantially since then. For ministers, governing in this context of new and changing institutions created a number of distinct challenges. Particularly in the early days, ministers reported facing pressure just to show that devolution was able to deliver effective government.

Some ministers found that the machinery of government they inherited in 1999 was not fit for purpose, in terms of either capacity or culture, and they had to work to resolve these issues. This task has been made more complicated by the ongoing process of devolution, with the Welsh institutions changing almost constantly since 1999, and Scotland taking on significant new powers after 2007.

The newness of the devolved institutions has also created opportunities for ministers to be more innovative, both in how they have organised government and in the policy decisions they have taken. But before they are able to start delivering on their policy plans, all new ministers must first face a sometimes daunting early period of settling in to the job. As at Westminster, Scottish and Welsh ministers have to hit the ground running.

### **New ministers must be prepared to take decisions and deal with crises immediately**

Day one in office is almost always a shock. For Kenny MacAskill (SNP), Scotland's Justice Secretary from 2007 to 2014: "It all passed in a bit of a blur... Nothing can really prepare you for Government." Jane Hutt became Health Minister in 1999 and told us "it was 'hit the ground running' really." She recalled "the Permanent Secretary saying... 'You've certainly got the poisoned chalice, taking on health.' And I quickly realised that was the case because it was a really, really tough time."

A new minister is instantly placed in a position of executive power, assuming accountability and expected to take decisions from the moment they take office. Lord German, who became Welsh Deputy First Minister in 2000, described the "stunning change" of entering government: "I'd been used to standing up and making statements about things that ought to happen but then suddenly the buck stops with you."

New ministers also often feel swamped by paperwork and demands placed on their time. Shona Robison found the transition to government (as Scottish Health Secretary in 2007) "quite a sharp, steep learning curve" as a result. She reflected:

"I think [it's] the volume of everybody, all the policy people relating to your portfolio, wanting to meet with you as much as possible. It takes you a while to be able to say 'no' and to begin to shape your own time a little bit more."

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But being a new appointee does not earn a minister a pass when there are questions to be answered. On his second day in the job, Lord German was “faced with journalists who wanted to know my view on absolutely everything to do with economic development”. Nor do unhelpful events respect the need for new ministers to learn their brief. Andy Kerr became Scottish Health Minister in 2004 and walked straight into a controversy about problems in a particular hospital: “I’d been Health Minister for about three hours and [the headline was] ‘New Health Minister in crisis’. I’m like: ‘what fucking crisis?’”

## Ministers in Scotland and Wales have faced additional pressure to show that devolution can work

Ministers in Scotland and Wales told us that governing effectively was seen as important not only for its own sake, but also as a way to demonstrate that devolution could work. In the early days of devolution, our interviewees recalled, the very existence of the new institutions felt vulnerable.

**In the early days of devolution... the very existence of the new institutions felt vulnerable.**

Devolution to Scotland was preceded by a long national debate. There was strong popular support for devolution in the 1997 referendum, when 74% of voters endorsed the creation of the Scottish Parliament,<sup>1</sup> and a clear contender for First Minister in Donald Dewar, Secretary of State for Scotland from 1997 to 1999. But

devolution was knocked off course by the untimely death of Dewar in 2000, and the resignation of his predecessor Henry McLeish just one year later.

Lord McConnell took over in November 2001 and recalled his concern at “the whole appearance of chaos and growing disenchantment from the population”. His first priority was to bring stability back into the Government, before he could get stuck into advancing his own policy priorities.

Looking back on his six years at the top, he felt that the ban on smoking in enclosed public places was his single best decision, not only for the public health benefits but also because it enhanced the authority of the new institutions:

**“The fact that people were willing to accept that the Scottish Parliament had that level of authority over their lives was the day when devolution really mattered in Scotland.”**

When the SNP took office in 2007, the existence of the Scottish Parliament was secure, but with no past government experience and a desire to build the case for independence, SNP ministers also felt under pressure to demonstrate their competence. Alex Neil recalled: “Part of the argument was: ‘Look at the difference we can make with these limited powers. What could we do if we had the full powers that came with independence?’” As the independence referendum approached, he reported, more contentious policies were delayed while “the stuff that was popular and uncontroversial was fast-tracked”. For the nationalist side, he told us, “part of the strategy was to prove how competent the Scottish Government was, which compared to Westminster wasn’t difficult to do”.

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Shona Robison also felt this pressure as the minister responsible for the 2014 Commonwealth Games, which took place in Glasgow shortly before the independence referendum: “What was important in relation to the referendum was the view that people would feel a sense of our ability to be able to manage big things like that... I was very conscious of that.”

In Wales, devolution rested on shakier foundations: the 1997 devolution referendum was won by a wafer-thin majority (50.3% voted ‘yes’<sup>2</sup>) and there were many, including within the Labour Party, who remained sceptical about the whole enterprise. As noted in the previous chapter, the first year of devolution to Cardiff was marked by political instability, culminating in the vote of no confidence in First Minister Alun Michael. Andrew Davies recalled the early concerns about the legitimacy of devolution and noted:

**“I think people forget, now that it has settled, that it was a damn close-run thing.”**

In this context, ministers were under additional pressure to succeed. Jane Hutt recalled that “the whole Welsh Assembly, and devolution, were very much under scrutiny as to whether we were worth it, whether we would deliver the goods”.

Over time, however, this pressure has subsided. As First Minister from 2009 to 2018, Carwyn Jones felt pressure to deliver but no longer worried that the success of his policies would be taken to represent the success of devolution: “No, not to show that devolution was working, not anymore, because devolution was an established fact, all the polls are very supportive. It’s now a question of making sure you deliver on behalf of your party, and on behalf of the country, of course, and also you keep your promises.”

### **The civil service had to adjust to the changing political context**

The newly elected institutions inherited the existing civil service structures and capacity of the pre-devolution Scottish Office and Welsh Office. But these proved inadequate for the demands of the new era, so the machinery of government and skill set of civil servants had to change substantially over the subsequent years.

In 1999, civil servants were suddenly subjected to a level of political oversight and scrutiny to which they were not accustomed. They were previously accountable to ministers in the Scottish Office and Welsh Office, but these ministers spent much of their time at Westminster (and in their constituencies) and so had less day-to-day involvement with the civil servants. The new governments also had more ministers than there had been in the old territorial offices. Furthermore, the establishment of the Scottish Parliament and the Welsh Assembly also meant that the work of government in Scotland and Wales started to be scrutinised far more closely by legislators. Several of those we interviewed felt that the civil service took some time to adapt to this new context.

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The change was particularly marked in Wales. Alun Michael suggested that officials “had no experience of dealing with elected representatives, no experience of dealing with journalists and no experience of dealing with the public”. Ieuan Wyn Jones likewise noted that: “In the days of the old Welsh Office, you didn’t need policy staff. Basically, they were given a grant and they just carried on with it, so the policy was Westminster policy and they just delivered it in Wales.” He felt that the sudden presence of ministers with their own policy plans came as “quite a shock”. Jane Hutt, a Labour minister in every year since 1999, told us: “I think it was tough for the civil servants. In the early days of devolution, they were working weekends, they were struggling with this level of responsibility to ministers.” Alun Michael concluded that there had been insufficient consideration beforehand of how the new institutions would work. Consequently, he told us:

**“It was the classic example of feeling that you were changing the wheels on the car when the race was already under way.”**

Leighton Andrews, a Labour minister from 2007 to 2016, agreed that parts of the civil service were slow to adjust to the enhanced level of political scrutiny they faced in the new era. But he thought there had been strong progress over the subsequent years. He spoke approvingly, for instance, of attempts by the head of the Welsh civil service to “instil a sense that civil servants were delivering for ministers, even to the extent that that phrase appeared on the computers in front of everybody”.

Carwyn Jones also felt that the situation had greatly improved, as it became more attractive for ambitious civil servants to work in Cardiff rather than Whitehall:

**“It was simply a question of saying to some of the people who had been here for a long time: ‘Look, it’s not a backwater department anymore. We need to be doing things. We need to do this, do that, you need to be doing it; and by the way there’s no England template, you’ve got to do it yourself.’ And also, as we developed our powers we became far more attractive for bright young graduates, particularly, to be in Wales. Because they saw there was a chance here for innovation.”**

**Devolution to Scotland benefited from the longer period of public debate about how the new institutions would work.**

The Scottish Office had greater capacity and more experience before 1999 of designing policies and drafting legislation that differed from those pursued in England. Devolution to Scotland also benefited from the longer period of public debate about how the new institutions would work, which may have helped to ensure that the civil service was better prepared.

As Deputy First Minister in 1999, Lord Wallace was impressed at how well briefed his officials were for his party’s policy priorities: “They had done a lot of work. In fact, they knew parts of our manifesto better than I did myself, with all the problems attached to it. I don’t remember detail on that but I do remember getting copious volumes of paper.”

Nonetheless, we also heard that certain parts of the civil service in Edinburgh had to be reorganised to meet the demands of the incoming government. Lord McConnell was

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Scotland's first Finance Minister in 1999. He discovered that First Minister Donald Dewar was not initially even planning to have a dedicated Finance Minister, and then having been persuaded of the need for this, decided to combine this role with other functions such as responsibility for the civil service, Europe and external relations: "It felt like this was a job that was not really perceived to be a full-time job, and therefore it had to be filled. But of course it proved to be the most difficult job because there wasn't a department and there wasn't a permanent secretary and there wasn't initially cohesion between the remits."

Lord McConnell spent his first six months trying to bring these functions together, for instance through a new management committee comprising officials from the different parts of his job: "There were linkages between the different functions. They were not always obvious, but I was trying to turn it into a cohesive department, with limited success maybe..." The first Scottish Government also created new bodies such as Audit Scotland and a representative office in Brussels, which we discuss in Chapter 3.

The Scottish civil service again had to adjust to a complete change of administration in 2007, when the SNP entered government for the first time. Shona Robison was part of this Government. She felt that officials initially viewed the arrival of nationalist ministers with a "mixture of excitement but also kind of caution". However, she found that any initial reservations faded and that "after a while, they began to be quite tuned in to the thinking, the philosophy, the politics, and also the ministers themselves in terms of how they liked to work".

Indeed, many interviewees found that officials welcomed ministers with clear objectives. "The worst thing for a civil servant is having a minister who has no idea what they want to achieve", according to Alex Neil, who served in the Scottish Cabinet from 2011 to 2016, "because they tend to either make bad decisions or no decisions." Consequently, former Welsh Finance Minister Andrew Davies' main advice to a new minister was simply "be very clear what you want to do".

### **The ongoing process of devolution has given ministers additional levers – and created new challenges**

Devolution is often described as "a process, not an event"<sup>3</sup> and this has proven true in both Scotland and Wales. Ministers in Scotland and especially Wales have had to operate in an environment of ongoing constitutional change, as further powers are transferred from Westminster. The initial Welsh devolution settlement was much more limited than that of Scotland. Until 2007, the Welsh Assembly had no primary legislative powers. Ministers had to limit their ambitions to reforms that could be made through tightly constrained secondary legislative powers, as defined in legislation passed at Westminster. Lord German described this as "trying to squeeze as much as we could get out of the legislation tube". When trying to make environmental regulations, he was disappointed: "The civil servants were very good at finding ways in which you could change the secondary legislation in order to be able to make changes, but you couldn't do major changes to the policy."

**Devolution is often described as "a process, not an event" and this has proven true in both Scotland and Wales.**

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If a policy change really did need primary legislation, this was possible but would take longer, as explained by Jane Hutt: “[W]e could get primary legislation through, but we had to join the Westminster queue.” In 2007, the Welsh Assembly gained partial legislative powers, but had to request the consent of the UK Parliament before it could legislate in any particular area. Only in 2011 did the Assembly take on full legislative powers, after a referendum that Carwyn Jones described as his proudest achievement as First Minister and “a crucial turning point in Welsh politics”. Since 2011, two further Wales Acts have been passed at Westminster, devolving further powers to Cardiff, including over some aspects of taxation.

This incremental expansion of devolved autonomy has generally enjoyed cross-party support in Cardiff. Alun Michael described the process of devolution as “a journey towards great clarity about those things where decision making needs to be more Welsh and subsequently local”. However, Jane Hutt felt that some responsibilities had been devolved without sufficient additional resources being made available. Examples she gave included the transfer of prison health services and student support in higher education, saying:

**“[O]ver the years, things have been transferred, sometimes at the convenience of the UK Government, and we haven’t always had the budget transfer.”**

Another challenge that our interviewees reported was that there had not always been sufficient civil service capacity to cope with the new powers.<sup>4</sup> Andrew Davies was Welsh Transport Minister when partial responsibility for railways was devolved from Westminster in 2005. He recalled that the officials in his department “were all road engineers... nearly all professional civil engineers, but none of them with experience of rail, which is a completely different industry. So we basically had to get people in quickly to give us the expertise.” Similarly, according to Carwyn Jones, when the National Assembly gained full primary legislative powers in 2011: “The biggest challenge we faced was developing the skills to draft primary legislation, because there was no expertise at all in the old Welsh Office.” These drafters also had to be bilingual and, he noted, “there’re not many of them in the world”.

In this context, Andrew Davies took a more cautious line on further devolution, for instance of criminal justice: “I always take the view of ‘powers for a purpose’ but sometimes you just think it’s about status. It is like the discussions around transferring responsibility for the criminal justice system... It is just going to be huge. And then you have got to have people of quality to do the job.”

However, Carwyn Jones put the positive case for further devolution strongly and said that “the powers we have are powers that we needed”. Tax devolution, he argued, had been necessary to enable the Welsh Government to borrow against its future revenue. He also believed that it made no sense for Wales not to have control of policing and justice, which is devolved to Scotland and Northern Ireland, given the interaction with devolved policy areas such as health and education.

In Scotland, the devolution settlement was left largely unchanged during the first eight years. The initial settlement was far more extensive in terms of powers under devolved control than its Welsh counterpart, and Scottish ministers therefore felt able to make

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many of the reforms they wished to within the scope of the levers in their control. There was, in fact, a backlog of reforms for which Westminster had not found time to legislate, and on which the new Scottish Parliament immediately got to work. As Justice Minister, Lord Wallace was responsible for a whole law reform programme, including in terms of freedom of information, rights for adults with incapacity and land. He noted: "There was the whole abolition of the feudal system. England had done it in 1290, we got round to doing it in 2001!"

There was... a backlog of reforms for which Westminster had not found time to legislate, and on which the Scottish Parliament immediately got to work.

The Liberal Democrats had begun to make the case for further powers before 2007, particularly over taxation, but Labour was less convinced.<sup>5</sup> The only significant change before 2007 was the 2005 transfer of responsibility for Scotland's railways, which Lord McConnell said was "a big budget and a big change". Andy Kerr, Labour Finance Minister from 2001 to 2004, felt at the time that the Scottish Parliament had sufficient power but later concluded that "we should have gone for more in terms of powers. What they would have looked like and what there would have been would have needed to be discussed at the time."

Only after the SNP took power in 2007 did the debate shift decisively to the question of further devolution. A limited package of powers was devolved in 2012. More significant was the Scotland Act 2016, which devolved control of a package of tax, welfare and other powers. This legislation was introduced following agreement reached in cross-party talks facilitated through the Smith Commission, which was set up after the Scottish independence referendum, and followed unionist parties' 'vow' to strengthen devolution if Scotland remained in the UK.<sup>6</sup>

Taking on entirely new functions, such as aspects of social security, brought with it implementation challenges for the Scottish Government. Alex Neil oversaw the transfer of welfare powers after 2016 and described the establishment of a new Social Security Agency as having been "a big success... it's early days, but that was a big task, and the civil service team in charge of that were excellent, absolutely excellent". But other changes proved trickier. For example, plans to adjust the implementation of Universal Credit in Scotland had to be delayed due to reliance on Department for Work and Pensions IT systems that had not been designed for policy variation between different parts of the country. Neil had to account for these delays to the media and others, and told us that "the IT constraints are much greater than people perhaps realise".

### **Devolution has created a space for policy and governance innovation**

Ministers are in politics to make a difference. Kenny MacAskill, former Scottish Justice Secretary, told us that: "Much of what you do is just keeping the show on the road. Any administration of any colour would do it." But, like most of our interviewees, what motivated him was to deliver concrete improvements to the governance of the country and the lives of its citizens. In his case, he was proudest of introducing the CashBack for Communities programme, which confiscates the financial proceeds of crime and invests them in activities for children and young people in Scotland.

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A core task for ministers is therefore to oversee the implementation of reform – to policy, institutions or public spending. This is also the yardstick against which the success of ministers is commonly measured. As Andy Kerr put it:

**“If you want to leave a legacy for your own party and for self-interest, or indeed for the country, you need to get stuck into reform and change the way we do things.”**

In the Scottish and Welsh context, there was a particularly strong expectation that devolution would lead to innovation and change. As the Institute for Government has previously discussed, a central rationale for devolution was to create a ‘policy laboratory’ in which each part of the UK could try out different policies that best fit their local circumstances, and to allow them to learn from each other about what works best.<sup>7</sup> Reflecting on the first term of devolution, Carwyn Jones told us: “We started off on a small scale, so people noticed it, for example by issuing free bus passes to everyone over 60.” As additional powers have been devolved and the capacity of the Scottish and Welsh Governments has expanded, ministers have gained further ability to introduce distinct policy reforms, which in a few high-profile cases have subsequently been emulated elsewhere in the UK.

When Carwyn Jones was First Minister, Wales became the first nation of the UK to introduce a soft ‘opt-out’ organ donation scheme, in which people do not need to register to be an organ donor but are assumed to have consented unless they opt out, although family members can override this presumption. This policy was expected to be contentious. Jones recalled that “what we did, once the legislation was passed, was advertise it all over the place, so people knew about it and the level of understanding of it was very high”.

Andy Kerr was tasked with implementing a smoking ban in Scotland – the first nation of the UK to introduce one. He remembers getting “dog’s abuse” from various groups involved in the licensed trade, fearful of the impact on their livelihoods and of the potential for disorder if customers refused to follow the new law. Kerr recalled: “I picked up a lot of angry pub sector people and I said: ‘Look, guys, it’s going to happen. How can I make it happen as least painfully for you as I can?’”

His solution included a big public education campaign to ensure that pub customers would know what was coming. Kerr also gave funding for environmental health officers in local government, who would enforce the ban once it was in place. This assuaged publicans’ fears that their staff would get caught up in fights telling people to stop smoking. Finally, Kerr was honest with pub owners and recognised that there were some concerns that he could not meet: “We acknowledged that some pubs were going to go out of business and just said ‘I’m sorry’, but also acknowledged that some others were going to grow.”

Scotland’s smoking ban and Wales’ organ donation scheme were not only implemented successfully: both policies have since been replicated elsewhere in the UK. Devolution ought to offer opportunities for learning from these policy innovations wherever they happen.<sup>8</sup> As Welsh Education Minister, Leighton Andrews “wanted to learn from the experience in England, particularly around literacy and numeracy”. But despite these high-profile examples of policy transfer, we encountered little evidence

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of systematic sharing of evidence and learning between the Governments. In Andy Kerr's view, "we were all just ploughing our own furrows. That's unfortunate, but I just think it was the nature of the politics of the time."

Governments in Scotland and Wales have also tried out new ways to organise public services, in particular to encourage collaboration between different parts of the public sector. Jane Hutt reflected that "one of the difficulties of government is the fact it's still so silo-based and competitive between departments and ministers". Part of the answer, in her view, was to appoint ministers to portfolios that cut across traditional departmental boundaries. From 2005 to 2007, she was Minister for Assembly Business and Chief Whip but also took on co-ordination roles as "a sort of children's minister and equalities minister". This enabled her to focus on cross-cutting priorities that were not necessarily linked to a particular department and might have otherwise been left behind.

**Governments in Scotland and Wales have... tried out new ways to organise public services, in particular to encourage collaboration between different parts of the public sector.**

Building and maintaining relationships with the wider public sector is easier in the devolved governments than for ministers in the UK Government, simply because of the difference in population size. Lord German found that informal encounters were an important part of his communications with other politicians and officials. He recalled running into someone he needed to speak to from the Welsh Development Agency at the supermarket and often having "a quick word with them [other ministers] en route" to the chamber. Andy Kerr was able to squeeze everyone who would be affected by his spending review into a single lecture theatre: "I had everybody in Scotland who mattered." For Leighton Andrews, Minister for Public Services from 2014 to 2016, a key priority was to encourage different parts of the public sector "to work better across silos, and also to change the culture so people across public services felt they were part of one Welsh public service".

In Scotland in 2007, the new SNP Government reformed the structure of government to encourage cross-cutting working.<sup>9</sup> The system was designed to align the whole of government and the wider public sector around an agreed set of social and economic outcomes. It replaced the traditional division of government into departments, each with a minister and its own targets, with a larger number of directorates that could work together more flexibly to achieve the Government's objectives. As part of this, a National Performance Framework was introduced alongside the SNP's first spending review in 2007, which sets out the outcomes that the Government is meant to work towards.<sup>10</sup>

Shona Robison argued that this framework had been a success, telling us that "significant progress has been made in trying to get government out of its silos". In health, she worked with the justice directorate to close the "revolving door" by which people with mental health conditions repeatedly ended up in the police and prison systems.

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**“[I]t gave a kind of sense of overarching purpose that you weren’t just in your own box and never mind anybody else... It wasn’t just one person or a couple of ministers’ business... It was, I think, helpful to what it is we’re trying to achieve here.”**

However, some SNP ministers were less convinced that this cross-cutting performance framework had made much difference to how they worked. Alex Neil thought that the new system “didn’t drive policy. Certainly not in the way that perhaps some people had intended it would do.” He commented further that “quite frankly, I didn’t have time to worry about what the rest of the Government was doing, I was too focused on what the health targets were”. Kenny MacAskill meanwhile admitted that “I find a lot of these management-speak things just drifted over my head”, and thought that the framework was more useful for civil servants than for ministers.

After 20 years, the devolved institutions are well established, and recognised in law as “a permanent part of the United Kingdom’s constitutional arrangements”.<sup>11</sup> The powers transferred to Edinburgh and Cardiff have enabled ministers in Scotland and Wales increasingly to innovate and to adapt policy to the distinct needs and preferences of their nations. But the process of devolution is unfinished, as further powers are transferred and the institutions adapt to the changing circumstances, including as a result of Brexit, in the context of an often-strained relationship with Westminster, which we discuss in the next chapter.

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## 3. Governing in the shadow of Westminster

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The powers of the devolved institutions are defined in and limited by legislation passed at Westminster and must (at present) be exercised in accordance with EU law. The size of the devolved budgets is still determined primarily by the Treasury, and varies year on year, depending on decisions taken about public spending in England. Many other decisions taken about English public services also have considerable indirect effects on Scotland and Wales. And Brexit will have a huge impact on devolution and create new requirements for co-operation between central and devolved governments, for instance in areas where new UK 'common frameworks' will replace EU law.

Scottish and Welsh ministers therefore have to negotiate and co-operate with UK counterparts to achieve their objectives and to influence decisions taken at Westminster (and in Brussels) that affect devolved matters. Our interviewees shared their reflections on how best to perform these functions.

### **Scottish and Welsh ministers must develop strong relationships with their UK counterparts**

Having good personal relationships with ministers at Westminster is helpful in many respects, but, our interviewees made clear, there is no magic solution to achieve this. Any number of personal, political and structural factors can create friction between governments that ministers have to find ways to overcome.

Lord McConnell captured the variable nature of his relationship with Westminster during his time in the Scottish Government: "It was mixed. It was occasionally turbulent, it was sometimes very productive." He recalled "a very good relationship with [International Development Secretary] Hilary Benn around the development of an international development policy". But he encountered "real resentment against that elsewhere in the UK Government" from those who felt that the Scottish Government should not be involved in this policy domain.

At the outset of devolution it was expected that the Secretaries of State for Scotland and Wales would act as the main point of contact between UK and devolved governments. But ministers from both Edinburgh and Cardiff quickly concluded that this was not the most helpful model. Lord German told us that there was not "a great deal of love lost" in his relationship with then Secretary of State for Wales Paul Murphy, who he felt was not "greatly enamoured" of the very idea of devolution.

Lord McConnell "was determined that we didn't get ourselves into a situation where there was only one route into the UK Government" and instead worked to develop a

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network of bilateral relationships between ministers in different policy areas. This is not always easy, especially when there is division at Westminster. In the Blair–Brown years, Lord McConnell “found the occasionally dysfunctional relationship between Number 10 and Number 11 hard to work with, because things would be agreed with one and then took ages to be implemented by the other”. The regular turnover of ministers at Westminster also disrupts relationships. Andrew Davies told us that “in two and a half years as Finance Minister, I dealt with three Chief Secretaries to the Treasury”.

Personal chemistry and rapport are not something that can be easily created where they do not exist. But Lord Wallace advised ministers to “try and build up the kind of personal relationships which go beyond politics. I think, too, that you’ve got to be very clear on what you want... but it is a matter of give and take and it does require a lot of trust”. Beyond that, he recommended a relationship based on the principle of “no surprises”.

Lord Wallace had established relationships with many of the leading figures in the UK Government from his own years in Westminster. As Justice Minister, for instance, he found his existing relationship with Home Secretary Jack Straw helpful. Subsequent generations of ministers, of which very few have had prior Westminster experience, have had to build relations from scratch. Political differences can make things harder: all the SNP ministers we interviewed had difficult relationships with Conservatives at Westminster. For instance, Shona Robison felt that “there were always issues of trust”.

But much just comes down to personalities. Labour ministers in Scotland had just as many scars on their backs from dealings with party colleagues, some of which we discuss below. As Plaid leader, Ieuan Wyn Jones dealt with both Labour and Conservative ministers and had good relations with people in both parties: “It just depended on individuals.” But he did find that “the more meetings that you had, the better the relationship developed”.

### **Scottish and Welsh ministers can face pressure to emulate UK Government policy**

Several of our interviewees recalled being placed under pressure to replicate policy decisions taken in Westminster, even when the policy area in question was fully devolved. This was particularly the case during the first eight years of devolution, when the Labour Party was the main party of government in Westminster, Edinburgh and Cardiff. Some Labour ministers at Westminster were reportedly reluctant to accept the simple logic of devolution – that policy differentiation would take place and that this was a matter for elected politicians at the devolved level to decide. Lord McConnell gave us a sense of the difficulties faced:

**“There was significantly more tension with ministers who represented Scottish constituencies than there was with English ones. There were occasional exceptions to that. We did have the odd humdinger of an argument with Margaret Beckett or John Prescott, but again they were part of that older generation that found the devolution of power and autonomy harder to accept.”**

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Lord Wallace gave the example of university tuition fees – he felt that there was pressure from the UK Government not to diverge from the position in England. The Coalition Government in Edinburgh decided to scrap up-front fees in 1999, opening up the first high-profile example of policy divergence between England and Scotland as a direct result of devolution. Lord Wallace remembered that: “Tony Blair did call us in, Donald [Dewar, then First Minister] and I went to see the man. And he wasn’t very comfortable with it. But then we said: ‘Well that’s devolution, Tony.’”

**The Coalition Government in Edinburgh decided to scrap up-front fees in 1999, opening up the first high-profile example of policy divergence between England and Scotland.**

Similarly, former Health Minister Andy Kerr recalled a heated phone call in which a UK minister put him under pressure to follow the English plan to reform nurses’ pensions. Like Lord Wallace, he advised simply standing one’s ground: “I had to simply tell that person that it was none of their business, and that: ‘We will make our own decisions, thank you very much, and despite your pressure, it will have no effect on the decision we’re going to make.’ And that’s the edited, polite language version...”

In 2007, Kenny MacAskill was the new SNP Justice Minister when terrorists attacked Glasgow Airport. This event exposed some tensions about who should take the lead in responding to such events. MacAskill felt that the British security services and the Metropolitan Police did not fully accept that this was a matter for the Scottish Government to lead on. Scottish ministers had to make clear that they would lead the response to the incident. MacAskill argued that:

**“Devolution was in situ, there was a different administration, we were not going to roll over and just simply kowtow. We were happy to co-operate, we worked very effectively with police forces and the security services south of the border, but this was our jurisdiction.”**

In Wales, Rhodri Morgan’s post-2000 Cabinets took a deliberate strategic decision to put ‘clear red water’ between the Welsh public policy agenda and the New Labour reforms in England.<sup>1</sup> This was seen as an important moment in Welsh devolution. To communicate this narrative to voters, Jane Hutt told us, “we started talking about Welsh Labour, ‘Made in Wales’ solutions”.

Ieuan Wyn Jones, who was Deputy First Minister from 2007 to 2011, felt that Welsh devolution evolved further after Rhodri Morgan was replaced by Carwyn Jones, who was the first First Minister with no background as a Westminster politician. As a result, Wyn Jones said that “he [Carwyn Jones] was much more relaxed about being able to do things” without Westminster approval. Carwyn Jones himself told us that things had moved on substantially since that early period, and that Welsh ministers might take different decisions from their UK counterparts, but this was “not because we want to be different from England, but because we think it’s right for Wales”.

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## The intergovernmental machinery can be helpful to devolved ministers, but plays a limited role

In addition to forming personal relationships with UK counterparts, Scottish and Welsh ministers engage with the UK Government through formal institutions such as the Joint Ministerial Committee (JMC). The JMC meets occasionally in 'plenary', with the Prime Minister and First Ministers in attendance, and in different 'functional' formats, comprising ministers from particular policy areas.<sup>2</sup>

Lord German viewed the JMC as a talking shop: "The JMC mechanism worked okay, but it was so infrequent and people didn't come to the table to make decisions. They came to the table to have the discussion." However, JMC meetings can be a good way to get devolved concerns onto the radar of UK ministers. Leighton Andrews represented the Welsh Government at a 2012 JMC meeting on welfare reform in his capacity as Minister for Education and Skills, chaired by Deputy Prime Minister Nick Clegg.

Andrews felt that simply registering his concerns with Clegg was helpful, since the Deputy Prime Minister might otherwise have been unaware of the implications for

**While the JMC is better than nothing, it is not particularly helpful... when there are more fundamental differences between the governments.**

devolution of the planned reforms. Having discussions in the JMC can also open up wider conversations between the governments. Ieuan Wyn Jones recalled that "sometimes you would be knocking on the door of other departments in London and nothing would happen, and then you could raise it at the Joint Ministerial Committee, and normally those doors would then open".

But the overall message from our interviews is that while the JMC is better than nothing, it is not particularly helpful from a devolved perspective when there are more fundamental differences between the governments. Leighton Andrews reached the conclusion that:

"The Joint Ministerial Committee is, you know, it's there, it's important to have it, if you're going to air genuine issues I think that it's valuable. [But] I don't think we'd evolved a structure – certainly not in my time – that demonstrated to us in Wales, that Whitehall had taken devolution on board."

## UK ministerial decisions can have major spillover effects at the devolved level

Many former ministers we spoke to had faced difficulties caused by decisions taken in Whitehall without due regard to Scottish or Welsh concerns. This can simply reflect a lack of awareness rather than hostility. After his brief spell as First Minister of Wales, Alun Michael returned to ministerial office at Westminster and is now the Police and Crime Commissioner for South Wales. In his experience: "[W]e still have a lack of understanding of devolution... for instance, the Policing Minister for England and Wales is also the Fire Service Minister for England, and we're constantly in a meeting where he says something and I have to go: 'Excuse me, fire service in England? That doesn't apply in Wales.'" Such oversights can be corrected, but they may reflect a deeper problem of how Whitehall thinks (or forgets to think) about devolution.

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UK ministers have sometimes failed to consult Scottish and Welsh ministers about policy changes that relate primarily to England, but do have effects at the devolved level. Leighton Andrews recalled how the Department for Work and Pensions (DWP) failed to take into account how the new Universal Credit system would interact with devolved matters: the DWP wanted to compel benefit claimants to attend training programmes that were funded by the Welsh Government. This led to “a big battle with [then Welfare Minister] Chris Grayling” and led Andrews to conclude that: “The DWP, I think, is a ministry which operates on an England model as a default.” Long negotiations over this issue led eventually to a concession by the UK Government.

Another example came when the UK Government legislated for university top-up fees in 2004. Lord Wallace recalled the concern in Scotland that this would lead to a big influx of English students taking advantage of more affordable higher education. In 2005, the decision was taken to charge English (but not EU) students a higher rate to avoid this problem.<sup>3</sup> As university fees in the rest of the UK have increased, Scotland has also increased its charge for English students. This policy has been a source of controversy.<sup>4</sup> From Wallace’s perspective, however, it was a necessary decision made in response to Westminster policy, rather than one that the Scottish Government would have decided on unilaterally.

UK ministers also often have discretion as to what information to share with the devolved governments, which can be a further source of friction. For instance, SNP minister Alex Neil had a dispute with UK Culture Secretary Jeremy Hunt, who, we were told, declined to share BT customer data that the Scottish Government needed to issue a contract for rolling out broadband across Scotland. He told us: “BT had no objections, but they [the UK Government] wouldn’t release that information to us, even though we made it clear we were perfectly happy to sign a confidentiality agreement.” In this case, the dispute was resolved by escalating it to the First Minister and Prime Minister.

### **Fiscal policy decisions are a particular source of frustration to devolved ministers**

Finance is an area where Scottish and Welsh ministers are particularly vulnerable to suffering the consequences of decisions taken in London. This is first of all simply a function of how the Barnett Formula operates: the Scottish and Welsh ‘block grants’ rise (or, in theory, fall) in line with decisions taken at Westminster about spending on public services in England. If the English NHS receives an extra £1,000 per person, then the devolved nations receive the same proportional per-person amount as a ‘consequential’ effect.<sup>5</sup>

‘Barnett consequentials’ meant that in the first two terms of devolution, from 1999 to 2007, when the UK Government had committed to a significant and sustained increase in public spending, Scottish and Welsh ministers benefited from sizeable annual budget uplifts. Andy Kerr recalled that as Finance Minister he would impress upon Cabinet colleagues the need for spending restraint and strict prioritisation, but that in practice the Chancellor of the Exchequer “Gordon [Brown] always managed to pull something out of the bag” in offering additional funding. This made the process of prioritising different spending requests less painful, although still necessary.

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But, while the generous fiscal settlements were welcome, there was often little that Scottish and Welsh ministers could do when the Treasury took decisions less to their liking. Lord Wallace recalled that Scotland's introduction of free personal care for older people in 2002 was saving the UK Government money, since people previously claiming Attendance Allowance in Scotland no longer needed to do so. Consequently,

**[W]hile the generous fiscal settlements were welcome, there was often little that Scottish and Welsh ministers could do when the Treasury took decisions less to their liking.**

“we thought that the financial Memorandum of Understanding meant that we should get some money back. But Alistair Darling as Work and Pensions Secretary just wouldn't hear of it.” An earlier dispute between the Treasury and the Welsh Government over the allocation of EU structural funds in Wales was a contributory factor in the downfall of Alun Michael as First Minister in 2000.\*

When, after 2007, the era of public sector austerity started, the devolved governments faced direct knock-on effects on their own spending capacity. The Scottish Government sought to protect the NHS Budget, but faced pressures stemming from spending announcements made by UK ministers. Shona Robison recalled the difficulty of “trying to guide this enormous organisation [the NHS] through a period of difficult change” in the context of austerity, driven by decisions taken at Westminster. However, she also believed that the pressure of austerity had forced ministers to embark on necessary reforms: “[P]erhaps that's the reason the previous administrations didn't embark on reform, because money just kept flowing in and they maybe didn't need to.”

The devolution of some important fiscal powers since 2012 (and especially since 2016)<sup>6</sup> has given devolved ministers a greater ability to mitigate such knock-on effects. But a block grant from the Treasury still makes up the biggest source of revenue for the Scottish and Welsh Governments.<sup>7</sup> This means it is crucial for ministers at the devolved level to build good working relationships with Treasury ministers. This has not always been an easy task. Andy Kerr said:

**“I didn't feel as though we had any decent relationship with the Treasury. I don't think they treated us with any respect whatsoever. I don't think I had a meaningful conversation with Gordon Brown about money in all the time I was there.”**

On a few occasions, ministers have even raised formal disputes on funding against the UK Government through the Joint Ministerial Committee's dispute resolution protocol. The Scottish, Welsh and Northern Ireland Governments triggered this process in 2012 when investment in the Summer Olympics in London was not matched by additional resources at the devolved level. But the dispute resolution process is chaired by a UK minister – it is not an independent mediation mechanism.<sup>8</sup> Consequently, Ieuan Wyn Jones told us that the dispute resolution protocol “wasn't worth the paper it was written on”, adding that when ministers from the devolved governments pressed for a more independent procedure, “of course, the Treasury wouldn't have any of that”.

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\* We discussed this in Chapter 1.

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The story is not an entirely bleak one. Welsh Finance Minister Jane Hutt had a more positive experience. She spoke of the “good working relationships” she developed with Treasury ministers through the regular meetings of the finance ministers’ ‘quadrilateral’ forum, in another example of how formal structures can have an important role in facilitating productive dialogue.

Hutt was also eventually successful in negotiating reforms to the Barnett Formula that took into account Wales’ specific needs. This process was a long one, illustrating the importance of sustained personal relationships between ministers, as well as the necessity of a degree of political alignment on goals: “I spent a lot of time over the whole five years [2010–15] regularly meeting with Danny Alexander who was the Chief Secretary [to the Treasury]”, with eventual success in the form of a new ‘fair funding’ arrangement that benefited Wales. Hutt also built a close relationship with her Scottish counterpart John Swinney, who was also in post for the entire 2010–15 Parliament. Although they were from different parties, Hutt said: “We made common cause about tackling austerity and all sorts of issues around the restrictions on our budgetary arrangements.” Finance is often – although not always – an area where the devolved governments have a shared interest in challenging Treasury decisions, so strengthening ties with devolved counterparts can be a sensible strategy.

### **Scottish and Welsh ministers must also try to influence decisions at the EU level**

A final – but highly important – domain in which devolved ministers face challenges is in defending their governments’ interests in relation to the EU. The devolved institutions were created in 1999 on the assumption of UK membership of the EU, and EU decisions have always had a major impact on how devolution works. For instance, EU law restricts the power of the devolved governments to legislate on key policy areas, and the devolved nations have all benefited more than the UK average from EU spending to support agriculture and regional development.<sup>9</sup> Because Scottish and Welsh ministers do not sit on the EU Council of Ministers, they have had to find other ways to make their voice heard.

Scottish and Welsh ministers have tried to influence EU decision making in two key ways. First, they have sought to influence the position that the UK Government has taken in negotiations at the EU level. Lord German described how the agriculture ministers of Scotland, Wales and Northern Ireland worked together to influence the UK position on EU agriculture meetings, which was discussed in regular ‘quadrilateral’ meetings chaired by UK Secretary of State for the Environment Margaret Beckett: “We used to have pre-meetings. So we’d go in and we’d say to her: ‘This is what we want.’ And she found it very difficult because it was three votes to one. So we won all sorts of deals.”

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Second, ministers have tried to strengthen their own presence and voice in Brussels. Lord McConnell told us that getting Scotland House set up in Brussels was one of his top priorities in the first year of devolution:

**“I wanted our engagement in Europe to be more than just the occasional seat at the Council of Ministers, or some kind of information point for Scottish people in Brussels, or as a recipient of EU rules and regulations. I wanted us to be engaged in the debate. So, we did engage and we had a number of ways of doing that.”**



### **A physical presence in Brussels enabled the Scottish Government to engage directly with EU policy makers.**



A physical presence in Brussels enabled the Scottish Government to engage directly with EU policy makers and to make connections with other powerful subnational governments, such as those of Catalonia and Flanders, through the Conference of European Regions with Legislative Power. It also helped ministers to build relationships with individual

commissioners: Lord McConnell remembered meeting Michel Barnier, then Commissioner for Regional Affairs, to discuss Scotland’s share of regional development funding.

In some cases, ministers at the devolved level have spoken for the UK as a whole at the Council of Ministers, after agreeing a position with the UK Government. Lord Wallace told us that when he was Justice Minister: “There was one occasion where an issue had more salience in Scotland than it did in England, and I remember David Blunkett [then Home Secretary] saying: ‘Well you may as well take the lead on this.’ So I sat at the [Council of Ministers’] table... And Blunkett was totally relaxed about that.”

Since 2016, Scottish and Welsh ministers have faced a new set of challenges stemming from Brexit. Interviewees admitted to complacency about the result and a lack of preparation for a pro-Leave vote. Leighton Andrews lost his seat in the Welsh Assembly shortly before the EU referendum, but was a close observer of the aftermath. He concluded that:

**“The outcome was quite a shock to the political establishment in Wales, although many of us thought it was going to happen. And I don’t think they were prepared, immediately afterwards, for what would happen next or what should happen next or had a definitive view of how to take things forward.”**

As Health Minister, Shona Robison was concerned about the impact of the uncertainty created by Brexit on areas like medical research and the pharmaceutical industry:

**“You see the impact now on the decision in Glasgow about not going ahead with a research project because of Brexit. In the here and now it’s having an impact. We were pointing that out and I think that hasn’t gone down well in UK Government circles.”**

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Scottish and Welsh ministers have also been frustrated by their limited ability to influence the Brexit process. Shortly before triggering Article 50, Prime Minister Theresa May affirmed that “the devolved governments should be fully engaged in [the Brexit] process”.<sup>10</sup> However, our interviewees argued that UK Government attempts to involve Scottish and Welsh ministers have been insufficient. Reflecting on the progress of Brexit negotiations in the autumn of 2018, Lord Wallace told us:

**“I don’t believe that the United Kingdom ministers are living up to what they said at the outset of proper and full engagement with Scotland, Wales and unfortunately there aren’t Northern Ireland ministers.”**

In 2018, the UK Government’s decision to push the European Union (Withdrawal) Act through Parliament without the consent of the Scottish Parliament strained relations. When ministers do not trust each other, communication can break down. Shona Robison told us that during the Brexit process “you felt sometimes you were sitting on the naughty step because we were seen as to only be talked to and informed when need had it”. For Carwyn Jones, the process of engaging devolved ministers in the Brexit process started badly, but improved after David Lidington, as Minister for the Cabinet Office, took responsibility for managing the relationship with the devolved governments: “I think he has changed the dynamic completely. But he doesn’t have time on his side.”

The UK and devolved governments have also had to work more closely together on the development of common frameworks for policy areas previously covered by EU law. The complexity and scale of this task have been daunting: asked about the need for common frameworks on health regulation after Brexit, Shona Robison told us that “it’s all unknown and it’s one of a million issues. That list of issues is never going to be resolved before Brexit happens.”

Unlike the Scottish Government, the Welsh Government ultimately gave its consent to the European Union (Withdrawal) Act, despite continuing reservations among Assembly members about the powers it gave UK ministers to intervene in devolved areas. Carwyn Jones explained the decision to back the legislation: “We got to a point where we understood there were some powers that needed to be exercised collectively.”

Jones also flagged agriculture, fisheries and state aid as areas of ongoing disagreement between Cardiff and Westminster.<sup>11</sup> He recognised the need for common rules in these areas, in order to preserve the functioning of the UK internal market. However, his concern was that any new post-Brexit regime in these areas would have to be binding on the UK as well as the devolved governments: “You also have to have an independent adjudicator on those rules. You can’t just say: ‘Well, the UK Government, or even, to my mind, an arm’s-length body, will decide.’ You need a court to do it.” He concluded: “Brexit carries with it the seed of the UK’s own disintegration, if it’s done badly. Done well, there’s an opportunity for us to recast the UK’s constitution.”

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# Conclusion

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Two decades after the start of devolution, 84 people have learnt at first hand what life is like as a Cabinet minister in Scotland or Wales. For this report, we captured the reflections of 13 of these men and women, including a number of the most senior politicians in Edinburgh and Cardiff over the past 20 years. Naturally, we heard a variety of perspectives about the challenges that ministers face at the devolved level and what it takes for them to be successful.

This report draws out some key themes; the full archive of interview transcripts contains a wealth of additional material that we would encourage readers to delve into.

It seems highly likely that the lessons we identify in this report will be relevant for future generations of ministers.

First, ministers at the devolved level will continue to require the ability to negotiate effectively with other political parties, to strike deals and to make compromises. Single-party majorities are possible and have occasionally happened in both Scotland and Wales. However, the proportional electoral system and multi-party politics that exist in both nations make it highly likely that coalitions and minority governments will remain the norm. The Scottish Parliament and the Welsh Assembly have recently been empowered to reform their own electoral systems and size, but if anything changes, it is likely to be in the direction of a more rather than a less proportional system.

Second, while the very existence of devolution is no longer seriously in doubt, it is clear that the devolution settlements will continue to be modified. Ministers must therefore continue to operate in the context of frequent institutional change. Further powers are still being transferred to both Scotland and Wales under legislation passed in 2016 and 2017. And Brexit will have a further significant impact, as additional functions that are currently held at the EU level are devolved, and new UK-wide frameworks are created to replace EU law. These processes will place additional strains on the capacity of the devolved administrations, while putting ministers under personal pressure to demonstrate that powers are best exercised at the devolved level. At the same time, ministers will have an enhanced ability to innovate and take policy decisions that better reflect the needs of their nations.

Third, Scottish and Welsh ministers will always need to work with UK ministers in order to achieve objectives. The size of the Scottish and Welsh budgets continues to be, in large part, a product of fiscal decisions taken at the UK level, often with reference to English policy concerns. In other areas – including welfare, justice and education – UK Government policy can have direct and indirect effects that constrain devolved choices, and Scottish and Welsh ministers cannot assume that these will always be taken into account early enough in the policy process.

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Brexit has already severely strained relations between central and devolved governments, and the process is far from over. Devolved ministers are currently having to negotiate with UK counterparts over the future of the devolution settlements and the constitution as a whole. This makes it all the more important that Scottish and Welsh ministers develop good co-operative relationships with UK counterparts. But they also need to be ready to negotiate and stand their ground to defend their interests. Decisions made at Westminster will continue to have significant impact, both positive and negative, on devolution as it enters its third decade.

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# Appendix: List of interviewees

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In Table A1 we set out further information on our interviewees and provide links to the interview transcripts in our *Ministers Reflect* archive, which also contains the transcripts of interviews we have conducted with other ministers over recent years (see [www.instituteforgovernment.org.uk/ministers-reflect](http://www.instituteforgovernment.org.uk/ministers-reflect)).

**Table A1: Information on our 13 interviewees**

Name	Party	Nation	Government position(s)	Date of interview
<a href="#">Leighton Andrews</a>	Labour	Wales	Minister for Public Services, 2014–16 Minister for Education and Skills, 2011–13 Minister for Children, Education and Lifelong Learning, 2009–11 Deputy Minister for Regeneration, 2007–09 Deputy Minister for Social Justice and Public Service Delivery, 2007	17 December 2018
<a href="#">Andrew Davies</a>	Labour	Wales	Minister for Finance and Public Service Delivery, 2007–09 Minister for Economic Development and Transport, 2002–07 Minister for Assembly Business, 1999–2002 Chief Whip, 1999	13 September 2018
<a href="#">Lord German</a>	Liberal Democrats	Wales	Deputy First Minister of Wales, 2000–01, 2002–03 Minister for Rural Affairs and Wales Abroad, 2002–03 Minister for Economic Development, 2000–01	11 September 2018

<b>Name</b>	<b>Party</b>	<b>Nation</b>	<b>Government position(s)</b>	<b>Date of interview</b>
Jane Hutt	Labour	Wales	Chief Government Whip, 2018–present Leader of the House and Chief Whip, 2016–17 Minister for Finance, 2011–16 Minister for Business and Budget, 2009–11 Minister for Children, Education, Lifelong Learning and Skills, 2007–09 Minister for Assembly Business and Chief Whip, 2005–07 Minister for Health and Social Services, 1999–2005	13 September 2018
Carwyn Jones	Labour	Wales	First Minister of Wales, 2009–18 Counsel General for Wales, 2007–09 Minister for Environment, Planning and Countryside, 2005–07 Minister for Environment and Rural Affairs, 2003–05 Minister for Agriculture and Rural Development, 2000–03 Deputy Minister for Agriculture and the Rural Economy, 1999	18 January 2019
Andy Kerr	Labour	Scotland	Cabinet Secretary for Health and Community Care, 2004–07 Minister for Finance and Public Services, 2001–04	27 September 2018
Kenny MacAskill	Scottish National Party (SNP)	Scotland	Cabinet Secretary for Justice, 2007–14	5 December 2018
Lord McConnell of Glenscorrodale	Labour	Scotland	First Minister of Scotland, 2001–07 Cabinet Secretary for Education and Lifelong Learning, 2000–01 Cabinet Secretary for Finance, 1999–2000	6 September 2018
Alun Michael	Labour	Wales	First Minister of Wales, 1999–2000	14 September 2018
Alex Neil	Scottish National Party (SNP)	Scotland	Cabinet Secretary for Social Justice, Communities and Pensioners' Rights, 2014–16 Cabinet Secretary for Health and Wellbeing, 2012–14 Cabinet Secretary for Infrastructure and Capital Investment, 2011–12 Minister for Housing and Communities, 2009–11	26 September 2018

<b>Name</b>	<b>Party</b>	<b>Nation</b>	<b>Government position(s)</b>	<b>Date of interview</b>
<a href="#">Shona Robison</a>	Scottish National Party (SNP)	Scotland	Cabinet Secretary for Health and Sport, 2014–18 Cabinet Secretary for Social Justice, Communities and Pensioners' Rights, 2014 Minister for Commonwealth Games and Sport, 2011–14 Minister for Public Health and Sport, 2007–11	17 October 2018
<a href="#">Lord Wallace of Tankerness</a>	Liberal Democrats	Scotland	Acting First Minister of Scotland, 2001 Deputy First Minister of Scotland, 1999–2005 Minister for Enterprise and Lifelong Learning, 2003–05 Minister for Justice, 1999–2003	19 June 2018
<a href="#">Ieuan Wyn Jones</a>	Plaid Cymru	Wales	Deputy First Minister of Wales, 2007–11 Minister for Economy and Transport, 2007–11	16 October 2018

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## Acknowledgements

We are very grateful to all the former ministers who agreed to be interviewed for this project and shared with us their insightful knowledge, advice and amusing anecdotes.

We would like to thank our colleagues Catherine Haddon, Hannah White and Bronwen Maddox for their comments and advice; and Melissa Ittoo, Matthew Batchelor, Magnus Summers and Nicole Valentinuzzi for their support.

Any errors or omissions are our own.

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