

Devolution: Beyond Welfare and Tax

Seminar Discussion

Edinburgh

Seminar Discussion, 28 October 2014

The Carnegie UK Trust works to improve the lives of people throughout the UK and Ireland by changing minds through influencing policy and by changing lives through innovative practice and partnership work. Further information can be found on our website www.carnegieuktrust.org.uk

1. Background

The Carnegie UK Trust with the University of Edinburgh and ACOSVO hosted a half-day seminar for senior charity stakeholders to consider the range of possible areas for further devolution for Scotland, ahead of the 31 October deadline for responses to the Smith Commission. Approximately 50 people attended the event and participated in discussions.

This note is the Carnegie UK Trust's summary of the main points from the seminar. It is submitted by the Trust to the Commission as a contribution to its work. The note should not be read as reflecting the views of the meeting as a whole or any consensus among the attendees.

- The theme of the seminar was 'Devolution: Beyond tax and welfare'. The participants shared thoughts about the process of responding to Smith and also stimulated thinking about the wider range of possible powers that could be devolved to Scotland.
- Some struggled to find principles on which to base discussion of the areas that should be reserved or devolved. In some ways this will be even more important when judging the proposals that come out of the Smith Commission.
- The items to be devolved are difficult to isolate. Many areas are interconnected in complex ways.
- The debate was in part on the focus should charities should put on beneficiary, civic and citizen participation on the Smith Commission proposals.
- Many of the internal discussions have been policy focused so far. Some reported even when the discussion was well focused on 'why reserve' or 'why devolve' they struggled with both interconnectedness and judgements at the heart of the referendum – security in numbers versus control over destiny.
- The current political (and to some extent public) debate on further devolution has predominantly focused on tax and welfare issues. This was felt to be as a legacy of the final weeks of the referendum campaign, rather than a systematic review of the possible areas which could be devolved.

- The confinement of the debate within such narrow parameters is artificial. It prevents consideration of the wider devolution possibilities from a more principled, rational or strategic starting point.
- A consistent theme was the search for the higher level of objective to assist decision making. The tension between the desire for more control over decisions that affect Scotland and the efficient level at which to make these decision was a theme that ran through the seminar.
- Many participants were less interested in the question being framed as ‘what should be transferred from Schedule 5’ and more in the higher level questions ‘how do we ensure social justice?’ or ‘how do we drive the Scottish economy?’ as the starting point. The result from both these types of question could be more devolution or not but the second type of question felt to many to be the most appropriate driver for charities.
- Concerns were raised over the both the process and extraordinary timescales of the Smith Commission. Participants felt that the timescales of the Commission were too tight to:
 1. allow for the submission of fully considered proposals by organisations;
 2. allow organisations to effectively consult with their beneficiaries;
 3. give people in Scotland an opportunity to meaningfully engage in the process;
 4. model any of the possible consequences of the likely changes.
- The rushed nature of the process risks an unsatisfactory outcome. Some thought there is a reasonable likelihood that the exercise may need to be repeated in near future.
- Some thought it might undermine the emerging confidence in public engagement in political discussion. Some participants raised the question of whether the short timetable represents a legitimate reason for declining to respond to Smith, given that further devolution presents both opportunities and risks for charities in terms of achieving improved outcomes for beneficiaries.
- However, whilst participants highlighted the challenges posed by the timetable, they recognised that the submission of views to the Commission provides an opportunity to maintain the public democratic engagement stimulated by the referendum; and to achieve constitutional change which can deliver more effective policy making.
- A very wide range of suggestions were made about reserved items to be taken out of Schedule 5. We hope the seminar will encourage some of the charities present to submit to the Smith Commission.

2. Principles for devolution

There was considerable discussion amongst seminar participants about the need for a set of principles to underpin further devolution for Scotland and drive the decisions on how and which powers should be devolved. The key principles which emerged from the discussions were that devolution should have a clear purpose and devolution should ensure both responsibility and appropriate power.

Purpose

There was a strong sense that devolution should not be a process of accumulating powers, rather it should have a clear and rational purpose as a key driving principle. It was generally agreed that:

- Devolution should not be about seeking to ensure particular policy outcomes but rather where the power lies for making decisions about those policy areas and the ability to exercise those powers effectively, regardless of the eventual policy direction.
- Whilst charities invariably have specific areas of policy on which they focus according to the beneficiaries they support, they must also be mindful of the fact that people's lives are complex and don't fall neatly into policy silos. Decisions about devolution of powers therefore need to consider and reflect how policy areas interconnect with and impact on each other. It was suggested that decisions about areas for devolution should be based on an analysis of policy clusters, with priority given to those that are deemed to work best and have the most impact in the public interest.
- An understanding of the distinctive elements of Scotland should also be a consideration in devolution decisions. The geography of rural, remote and island Scotland and the needs of the population in these regions were highlighted by some participants as an example of a context unique to Scotland (in the UK) and where it may make sense for powers to be devolved to ensure that this distinctiveness is taken into account in policy making.

Responsibility and power

Concerns were raised by some participants that devolution could result in the Scottish Parliament being given increased administrative responsibilities for the delivery of certain policies but with no legislative or fiscal power to design or shape the policy. It was also suggested that even in circumstances where legislative powers are devolved, the model adopted can still constrain a devolved government's ability shape its own agenda in these policy areas – as illustrated by the model of Social Security devolution

and principle of parity in Northern Ireland. There was a view amongst participants that devolution should be guided by the principle of responsibilities being accompanied by appropriate and adequate legislative and fiscal powers.

3. Beyond powers: institutions and accountability

Throughout the course of the seminar, conversations repeatedly touched upon issues beyond specific powers and policy areas that might be devolved and considered the wider implications of further devolution for institutions and accountability.

UK bodies

Regardless of the extent of further devolution agreed for Scotland it was recognised that a number of public bodies and institutions which have a UK-wide remit will remain, for example economic regulators. It was suggested that for these bodies to be truly 'UK' in carrying out their functions then they may need to put in place specific arrangements to recognise differences in context in Scotland and ensure equality of outcomes for citizens in Scotland and the rest of the UK. For example, this might include increased accountability to the Scottish Ministers and the Scottish Parliament, as well as to Westminster.

Scottish Parliament

It was noted that when the Scottish Parliament was first established it was set up for a particular purpose but with the addition of new powers and responsibilities, that purpose is changing. Some participants suggested that once the powers have been agreed, a review of the structures of the Scottish Parliament should be conducted to ensure that these remain fit for purpose in this new context. Some expressed the view that the legislative scrutiny process of the Scottish Parliament could also be improved following further devolution, including for example through increased engagement with charities in the pre-

legislative process. Whilst it is recognised that it is not for the Smith Commission to undertake an institutional redesign of the Scottish Parliament, it was felt to be an important issue for consideration as part of the devolution process, particularly in terms of understanding the potential impact of devolution on the Parliament and ensuring that it is able to effectively discharge its functions.

Different levels of Government

A number of participants noted during the seminar that the Smith Commission is operating in a wider context of debate in Scotland about the level at which powers should reside on different issues – European Union, UK, Scotland, local authority or community – and the interactions between these different levels. Again, while it was agreed that it was not for the Commission to consider changes in these arrangements other than those between UK and Scotland, it was thought it helpful for this broader context to be recognised.

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