



Llywodraeth Cymru
Welsh Government

REPORT, DOCUMENT

Independent Commission on the Constitutional Future of Wales: interim report - executive summary

The report provides an account of the first phase of our inquiry to the end of November 2022, and includes work completed and work in progress.

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Contents

Background

Values for strengthening Welsh democracy

Citizens' perspectives

Elected representatives and Civic Society

Devolution under pressure

Constitutional futures and Welsh democracy

Conclusion

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Background

The Welsh Government established the Independent Commission on the Constitutional Future of Wales in November 2021. Our Co-chairs are Professor Laura McAllister and Dr Rowan Williams, with 9 commissioners who come from diverse backgrounds and perspectives, some linked to a political party, others not.

This is our interim report, covering what we have learnt in the first phase of our work to November 2022, and looking ahead to our plans for the second phase in 2023.

The objectives set by the Welsh Government (see Appendix 2) are:

- to consider and develop options for fundamental reform of the constitutional structures of the United Kingdom, in which Wales remains an integral part.
- to consider and develop all progressive principal options to strengthen Welsh democracy and deliver improvements for the people of Wales.

Values for strengthening Welsh democracy

Our assessment of these options will be based on our values. We endorse the values of the Silk Commission, the Nolan Principles, and the Well-being of Future Generations Act, which are widely recognised in Welsh public life. Building on these, we have identified the following as particularly relevant to our inquiry:

- Agency
- Equality and Inclusion
- Accountability

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Citizens' perspectives

We launched our online consultation Dweud eich Dweud: Have your Say, on 31 March 2022 to give us an early insight into citizens' perspectives on governance.

There were some common themes in the responses. The need for transparent and accountable government at all levels came up repeatedly. Respondents expressed frustration with the status quo and their ability to influence decisions; often they did not know how Welsh governance works, or how they can hold politicians to account, apart from through the ballot box. Many responses favoured more direct democracy, with more powers to make decisions held locally. Many expressed a desire for a more comprehensible and less complex model of government.

While there was common ground, there were also distinct differences in values and priorities between respondents who favour more devolution, and those who favour a reduction in devolved powers.

Elected representatives and Civic Society

We have sought a diversity of views from across the political spectrum and will continue to seek as broad a range of views as possible. At this interim stage, we have heard more voices which are concerned about current arrangements and believe that change is needed, than those who believe the status quo is working well.

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Common themes raised by those who support maintaining current arrangements

The UK government ministers and Conservative ex-ministers we met argued the devolution arrangements are, overall, working well. We heard evidence that Brexit has presented new challenges for relationships between governments, and that trust in the UK government could be restored if there were to be a renewed commitment to partnership with the devolved governments.

Common themes raised by those who support change

Overwhelmingly, those who presented evidence to us were in favour of devolving more powers to Wales, to a greater or lesser degree. Several organisations who deliver services raised the difficulties presented by the complex overlap between devolved and reserved powers. Some who advocated further devolution, or a form of federalism, saw this as necessary to preserve the Union.

Devolution under pressure

The creation of a Welsh legislature and executive was a major step forward for Welsh democracy and has made possible laws and policies tailored to the needs of Wales.

But at this interim stage it is already clear to us that devolution is under significant pressure, as a result of Brexit and other factors.

We identify 10 immediate pressure points as follows:

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1. Instability of the devolution settlement

Recent developments have shown the vulnerability of the devolved institutions to unilateral decisions by the UK government, to which they have no meaningful redress. This undermines public confidence in the UK government's approach to Wales and works against constructive relations between governments.

2. Fragility of intergovernmental relations

The machinery for inter-governmental relations operates at the discretion of the UK government, and its reduced engagement in recent years has coincided with its willingness to override conventions. This enables unilateral decision-making which does not contribute to the best outcomes for citizens.

3. Absence of leadership on the Union

The UK government in recent years has not provided the consistent leadership needed for effective collaboration with the devolved governments. Its assumption seems to be that the interests of the Union, particularly after Brexit, require devolution to be kept in check, and even (from the viewpoint of many commentators) rolled back.

4. Constraints on policy and delivery at the boundaries of the settlement

Apart from tax varying powers, the scope of devolved powers has remained largely in line with the executive powers of the pre-devolution Wales Office. The UK government has not engaged with proposals to extend devolution, in spite of

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recommendations based on practical experience of front line delivery.

5. Problems with the system for financing devolution

The objective of achieving an evidence based, independently verified and transparent process for allocating resources between the nations and regions of the UK, remains essential and should underpin any proposals for constitutional change.

6. Restrictive budget management

The ability of the Welsh Government to manage its budget for the long term is constrained by detailed Treasury controls. It is hard to see why these are needed given its accountability to the Senedd for its stewardship of public expenditure.

7. Strains on representative democracy

Respondents to our consultation felt that the current system relies too heavily on indirect mechanisms for the public to influence policy, e.g. by voting for parties based on their manifestos, and holding government to account through the ballot box.

8. Information and accountability deficit

The respondents to our consultation lacked confidence in the mechanisms for holding government to account, and some had no knowledge of the mechanisms currently in place.

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9. The economic conundrum

The outlook for the Welsh economy within a UK economy which is one of the most unequal in Europe, is highly uncertain. But there is no certainty about the prospects for greater progress under a different constitutional model.

10. The constitutional conundrum

The supremacy of the Westminster Parliament means that any change to the current arrangements must be initiated by the UK government and agreed by Westminster. Whatever case for change is made, it is open to the UK government to ignore it.

In the next phase of our work we will explore how to tackle these pressure points, including through options for constitutional change.

Constitutional futures and Welsh democracy

We conclude that neither the status quo nor unwinding devolution are viable options for further consideration. In our view there are 3 viable options for the way forward for Wales. Each raises significant issues on which we will seek further evidence in the next phase of our work.

Three potential ways ahead for Wales:

Entrenched devolution

This option would protect against unilateral changes by the UK Parliament and

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Government, promote more constructive inter-governmental relations, and provide a more stable foundation for Welsh governance in the future. As part of our consideration of this option, we will review the case for expanding the devolved powers, including in respect of justice and policing. This option could provide greater stability and require minimal change for the rest of the United Kingdom.

Federal structures

This option would involve reform of the constitution of the UK on federal lines, including a separation of the UK Parliament and government's responsibility for England from their responsibility for the UK, and reform of the second chamber. In respect of powers held by the Senedd and Welsh Government, we intend to explore 2 main variants, either of which would be consistent with federal models elsewhere in the world:

- financial responsibility for welfare (pensions, unemployment benefit, disability benefits) is transferred to the Senedd, with responsibility for taxation principally resting with the Senedd (and responsibilities are broadly consistent with those devolved to Scotland and Northern Ireland), and
- welfare remains the responsibility of the United Kingdom government and Parliament.

Independence

Under this option Wales would become a sovereign country, eligible for full membership of the UN and other international organisations. A range of governance options could become available after Welsh independence, with the agreement of other parts of the UK, including free association and confederation.

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Conclusion

This interim report concludes the first phase of our inquiry. It is work in progress, but it is already clear from the evidence that there are significant problems with the way Wales is currently governed. In the second phase next year, we will investigate these issues in more depth and continue the conversation with the people of Wales about how they might be overcome.



**Y Comisiwn Annibynnol ar
Ddyfodol Cyfansoddiadol Cymru**

**The Independent Commission on
the Constitutional Future of Wales**

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