

Executive Summary

The establishment of devolved government in Scotland, Wales, Northern Ireland and London has arguably been this Government's most radical reform. However, devolution is not just a constitutional reform – it has profound implications for public services and there has been, as yet, comparatively little attention paid to the consequences of differentiated policy making.

This book is the result of a research project jointly co-ordinated by ippr and the ESRC Devolution Programme. It examines how public policy is evolving across the United Kingdom by focussing on a range of areas such as health and long-term care, education, industrial and regional policy. It takes each of these areas in turn and examines how policy is diverging, what pressures have led to this divergence, when does divergence become problematic and how can 'good practice' be spread across the UK.

It also examines broader questions. Do variations in policy between different parts of the UK matter? How are relations evolving between governments in different parts of the UK? Do the perceived inequities in public spending, highlighted by devolution, create pressure for a new fiscal settlement? Has the policy variation of the devolved institutions created a dynamic for further devolution in England, and if so what should a new devolution settlement look like?

Devolution and Public Policy in the United Kingdom: Divergence or Convergence?

In the first chapter Michael Keating 'sets the scene' for the rest of the publication, and discusses the general principles surrounding policy divergence. He examines the implications of the formal structures for devolution, and notes that modern government does not operate on the basis of watertight divisions of functions.

A serious constraint on policy divergence in practice may be the limited policy capacity of the devolved administrations. Interest groups might be a force for divergence (and Scotland has more of these than Wales) but even under the 'new form of politics' these interest groups must now confront each other in an open political system, vying for attention and competing for limited resources. Many have found the transition from lobbyist to participant in a policy process difficult.

Keating notes that the UK is a common security area, a common market and a single welfare state – each of these impose constraints upon divergence in practice. There is genuine concern to maintain co-operation in criminal law matters, and concern to maintain a common market may lead to some limitations on the devolved bodies. However, perhaps most important is the single welfare state, in which we have shared assumptions of the post-war welfare settlement – that is, broadly equivalent services free at the

point of use. 'Social citizenship' in the UK has been linked to a British identity, and many credit the welfare state in forging a sense of British, if not UK, identity.

The devolution settlement is at an early stage, and since the administrations, in Britain at least, are broadly in line politically there have been no causes for major policy divergence. We can nevertheless frame some typologies of policy divergence. *Non-comparable* policies exist when an issue exists in only one territory - the Welsh language for example. *Policy autonomy* exists where policy can be made according to local needs and preferences – for example education, social services or the structure of local government. *Concurrent policies* exist when similar policies are somewhat independently pursued – this may apply to health, where demands are similar and interest groups operate on a UK basis. *Policy uniformity* occurs when practical considerations or external pressures make for a single line – the International Criminal Court for example. Finally, *policy competition* is a form of policy autonomy but which is worth highlighting separately. In this case, policy is made to demonstrate innovation and imagination, encouraging experimentation and learning from best practice.

Health Policy and the NHS in the UK – 1997-2002

This chapter, written by Kevin Woods, notes that devolution means that health policy, and the funding and organisation of healthcare services, could develop differently in the four countries of the UK. Very few health related matters remain within the competence of the UK government.

As Woods notes, the biggest health related differences between the countries of the UK are the health status of their populations and the level of funding for the NHS. Age adjusted mortality rates per 1000 people in 1997 vary between 10.3 for women in England and 12.1 in Scotland. Per capita health and personal social services spending in 1999/2000 was highest in Scotland at £1271 compared with a UK average of £1072, and England of £1041. There are more available hospital beds in Scotland, Wales and Northern Ireland than in England; there are also more GPs per capita, and their level of prescribing is higher. The exception to this pattern is the private health care sector, which is much smaller outside England.

Despite devolution the historic pressure on the UK exchequer to find additional resources for health means that it will remain difficult for any UK administration to avoid an interest in health and the NHS throughout the UK. Indeed the Chancellor's review of the long-term funding needs of the NHS (the Wanless report) was a UK review. Health policies and the modernisation of the NHS have been the subject of more Joint Ministerial Committee meetings than any other domestic policy subject.

The prominence of health and NHS policy amongst the responsibilities of the devolved administrations means that making a success of them could be an important determinant of public views on the overall achievements of devolution, and making a success of health policy is commonly understood to require distinctive policies suited to the circumstances of each country.

No other health issue has demonstrated the power and consequences of political devolution than the issue of free personal care for the elderly, one of the recommendations of the Royal Commission on Long Term Care. Once the decision was made by the Scottish Executive to back free personal care, the money had to be found from within the Scottish block. Whatever the rights or wrongs of this policy, it was what the Scottish Parliament wanted. In bowing to Parliamentary pressure the Scottish Executive brought the meaning of political devolution to life for the wider public, not only in Scotland but throughout the UK.

Woods concludes that, in general, after three years of devolved government it appears that the forces of continuity – inherited policy, party political allegiance, the Barnett formula, a UK identity for the NHS and a rapidly expanding health budget – remain dominant for all that some differences have emerged. Nevertheless, it is still early days post-devolution and increasingly new politicians and new political institutions are making their mark on health and health care. As the devolution process evolves, it seems increasingly necessary to speak of the UK's national health services rather than of its NHS.

Industrial and regional policy in a devolved United Kingdom

This chapter, written by Andrew Gillespie and Paul Benneworth, starts by reminding us of the difficulties in distinguishing between industrial and regional policy. Industrial policy need not be blind to regional differences, and even spatially blind policies such as technology or sectoral policies will often have differential regional impacts. However, these are effectively unintended consequences as they are *national* industrial policies. However, the same type of policies can be framed with regional differentiation, and if they are framed specifically to reduce the degree of regional variation in industrial performance they become synonymous with regional policies.

The advent of devolution in 1999 was clearly likely to lead to divergence in industrial policies, as Scotland and Wales would pursue policies which were likely to reflect their different needs. Furthermore, national industrial policies are likely to become more territorially sensitive, leading to an increasingly spatially differentiated set of industrial policies emerging. Effectively, therefore the distinctions between industrial and regional policies will further blur.

The Scottish Development Agency (from 1989 Scottish Enterprise) and the Welsh Development Agency (WDA) have been strong advocates for their countries, and even pre-devolution were able to gain sanction to deviate from the official prescriptions of the centre. In contrast neither England nor the English regions had at this time a development agency, nor state bodies that could effectively 'campaign' for more regionally sensitive policies. This permitted Scotland and Wales to compete more aggressively with the English regions to attract inward investment. Gillespie and Benneworth also note that Scottish Enterprise quite early began to address issues of endogenous capacity, helped by the fact it had more powers than the WDA.

Post-devolution we might have expected more spatially sensitive policies in the UK's industrial policy, but evidence would suggest that the DTI has continued to be spatially insensitive and apply industrial policy activities to all parts of England. Despite rhetoric of 'widening the winner's circle' the current supply side approach reinforces the existing contours of the English knowledge economy.

One of the first outcomes from devolution has been the shift in the devolved territories to use policy tools to promote the interests of the territory rather than addressing local market failures to improve UK competitiveness. There are signs that there might be some convergence towards this position in the English regions. This new convergence is a shift of the centre of gravity of industrial policy towards greater regional sensitivity. Gillespie and Benneworth end by concluding that it is ironic that perhaps the greatest responsibility for the maturing of industrial policy in the English regions can be laid at the door of the devolved institutions of Scotland and Wales.

Developing Differently: Educational Policy in England, Wales, Scotland and Northern Ireland

This chapter, written by David Reynolds, suggests that perhaps Labour's educational policies were developed to reflect the perceived needs of the English educational system, which have less salience in the other three countries of the UK. The three countries were also historically higher spenders on education per pupil than England, and Scotland and Wales exhibited customarily higher levels of achievement at the 'top end' of the ability range.

Reynolds argues that the exercise of the 'market-based' solution to the historical British problem of poorer educational standards is not necessarily appropriate for the non-English countries. First, a much higher proportion of the population lived in rural areas or small towns in which there were effectively no choice of school. Secondly, the absence of published performance data in Scotland and Wales on the achievements of primary schools made 'consumer information' less persuasive. Wales indeed (although not Scotland or Northern Ireland) has ceased to publish national performance tables for secondary schools.

Thirdly, the three devolved territories have also seen an absence of the harsh rhetoric that has characterised England, where the period of office of Chris Woodhead was marked by attacks on the quality of education being offered. And the final distinctive feature of education in the three nations has been much less central prescription of methods, which has been a central plank of the 'standard's agenda' in England. Local education authorities also retain a more central role than that envisaged in England, where 90 per cent of funding is to be devolved to schools by 2004.

Reynolds concludes that while there has been advantage in not adhering to English policies in terms of deciding what *not to do* there must be further work on and understanding of what *to do*, in terms of distinctive policies. A challenge made more difficult by concerns over the educational research communities' capacity in both Wales and Scotland. In conclusion, it seems as if the three nations are moving towards a 'new producer-driven' set of arrangements to replace the 'consumer-driven' policies that predominate in England.

Devolution and the Restructuring of post-16 education and training in the UK

This chapter, written by Gareth Rees, notes that the difficulties of analysing the impact of devolution on the post-16 education and training sector are exacerbated by the heterogeneous nature of post-16 provision. Furthermore, the different elements of the post-16 sector have radically divergent relationships with the devolved institutions. For example, higher education occupies an ambiguous position in relation to the devolved institutions, not least because of its continued dependence on UK-wide systems of resource allocation such as the Research Assessment Exercise (RAE).

The well-known inequalities in power between the devolution settlements in Scotland, Wales and Northern Ireland have already resulted in quite significant contrasts between policies. Most notably perhaps, the restructuring of arrangements for student fees in Scotland have been significantly different from what has happened in Wales where the National Assembly simply does not have the power to abolish tuition fees.

One of the major policy initiatives in Wales in education has been the restructuring of the organisational framework for the Learning and Skills Sector through the establishment of the National Council-ELWa. The Education and Training Action Group, whose Plan presaged much of the reorganisation, was established before the creation of the National Assembly in the immediate aftermath of the 1997 General Election. Rees notes that the Plan changed as it was debated in the National Assembly, and in particular the role of business interests was significantly constrained at the expense of local education authorities and other

educational groupings. In part this reflects fundamental features of civil society in Wales where the role of the public sector (and especially local authorities) has historically been extremely powerful.

There are important pressures which continue to exert an influence in the direction of convergence of policy outcomes – it has been claimed that the Welsh proposals for the Learning and Skills Sector provided the blueprint for the development of the Learning and Skills Councils in England. Policy divergence is also restricted by the continuing influence of a ‘British system’, including employment and social security policy and most crucially spending. Furthermore, the Sector Skills Councils are currently being established as UK-wide organisations.

Whatever changes in the policy-making process and the policies which emanate from it, there is currently little evidence to suggest that there are significant changes in the ways that post-16 education and training actually operate on the ground. Still less can it be argued that the advent of democratic devolution has brought about differential progress towards wider policy aims – greater social inclusion or more rapid economic growth. This is partly explicable by the modest nature of policy divergence so far, but Rees concludes with a salutary reminder that the impacts of policies on educational outcomes are generally rather modest.

Devolution and the Governance of Rural Affairs in the UK

This chapter, written by Neil Ward and Phillip Lowe, starts by noting that the UK is a relatively urbanised country in European terms, but one with wide disparities in population density. The north and west of the UK contains peripheral rural areas still facing economic stagnation and low incomes. However, around most cities and much of southern and central England we see accessible rural areas experiencing population and employment growth with development pressures.

Recent years have seen a rising sense of crisis surrounding rural affairs across the UK, and rural areas have been subject to a profound set of restructuring processes. Two key new policy challenges have emerged: first the re-territorialisation of food production, and secondly the redefinition of the role of the rural in the regional, which concerns the distinctive value of rural places in an urbanised society.

Pre-devolution structures of governance allowed some leeway for different emphases, reflecting the distinct rural and regional geographies at work. The results of devolution to date have been a heightened public and political profile for rural affairs in the devolved territories. While the opportunity has been taken to re-label departments (for example, *Environment and Rural Affairs Department* in Scotland), the bulk of spending and activity goes on agriculture - although the scope for divergence lies more in other areas of

rural policy. We also see the beginnings of a consciousness about the role of agriculture and the rural environment in regional development in England.

However, there is no real acceleration in policy divergence as Common European frameworks have acted as a brake on divergent trends in important areas such as agriculture, and have raised particular problems in devolving crucial spending and resourcing decisions. The financing of CAP reform illustrates the difference that devolution has made to the governance of rural affairs. While MAFF (as then was) decided to apply modulation to 'green' the CAP and switch farm spending from production aids to support for the broader rural economy, there was much less enthusiasm in Scotland, Wales and Northern Ireland. It was only sold to the Scots and the Welsh by the Treasury conceding that it would provide the match-funding element rather than it coming from the devolved budgets. Ward and Lowe warn that ratcheting up modulation could prove a real test for devolution, and for the management of a single co-ordinated line on CAP reform.

Ward and Lowe also conclude that the handling of the outbreak of the Foot and Mouth Disease illustrates the comparative efficiency of the devolved administrations and illustrates the scope for competition between devolved structures. Scotland, as a smaller country with a smaller administrative establishment, could work more effectively and co-operatively across departments and with partners.

Beyond Barnett? Financing devolution

As David Heald and Alisdair McLeod note, although there are now devolved administrations outside England, the United Kingdom is still essentially a unitary state. Moreover, in comparison with other unitary states, there is highly centralised and unified control over public expenditure and taxation, exercised directly by, or on behalf of, the Treasury.

The Barnett system is best viewed as first a political accommodation and secondly as a means of containing political conflict. Much of the political attention currently paid to the Barnett formula hinges on the contradictory assertions that it is extravagantly generous to the devolved administrations, or that it is imposing destructive financial pressures upon them.

Applied systematically, the Barnett formula would result, over time, in equal expenditure per capita on devolved services in aggregate across the UK. A formula such as Barnett, which distributes equal per capita increments to each country, automatically delivers smaller percentage spending increases to those territories with the highest starting values of the index. Table 10.2 shows inter-country comparisons on the base UK=100 for Scotland (118), Wales (113) and Northern Ireland (133).

Heald and McLeod correctly argue that the devolved administrations have to resist pressures to replicate the changes in English comparable programmes. Suggestions that, for example, health in Scotland should therefore take its share of the formula consequences have to be firmly resisted. Quite apart from denying policy choice, the base positions of the programmes are different.

Should evidence of convergence appear, a needs assessment would be much more likely. If a needs assessment had been completed for all four countries, we would still have to address the issue of how to manage changes, upwards or downward, from the actual expenditure indexes to the needs indexes. Consequently, Heald and McLeod argue, something looking rather like the Barnett formula, operating on increments, would be quite likely to follow a needs assessment. Machinery, such as a Territorial Exchequer Board, to undertake the data collection and statistical analysis will be required if there is to be a needs assessment, the technical and political difficulties of which should not be underestimated.

The 'official' Treasury has long been suspicious that the territories are over-generously funded, and also too far out of reach. However, the 'ministerial' Treasury has been hesitant about opening up territorial political issues, especially as the achievable public expenditure savings are likely to be limited. Paradoxically, this makes the Treasury an unlikely ally of the devolved administrations in attempting to build on the Barnett system, rather than attempt anything radical. Above all, the Treasury would resist attempts to breach its highly centralised control of revenue. The approach of the 2003 elections will bring more attention, particularly in Scotland, to the issue of 'fiscal autonomy'. Whatever the precise powers of the devolved administrations we must remember their vulnerable position on revenue raising when control over the definition of tax bases and bands remains with the Treasury.

Uniformity and Diversity in Policy provision: Insights from the US, Germany and Canada

As Charles Jeffery argues, a theoretically powerful agreement in favour of territorial variation is that of regions as 'laboratories of democracy'. A traditional argument in the USA, those suspicious of federal government tend to support the laboratory idea as one unleashing the creativity necessary to compete in a rapidly changing economic environment; others concerned more strongly with social equity favour minimum levels of federally determined standards, fearing that 'laboratory' federalism in practice equates to a 'race to the bottom' with states competitively cutting back policy standards to maintain competitive advantages.

The argument for regional 'laboratories of democracy' has not been widely mobilised in European contexts, in part because of the whiff of 'race to the bottom' that adheres to them and because there has been a stronger notion of social equity in European states. But arguments for a more uniform policy provision now

seem to be weakening, and strikingly no member state in the EU became more centralised since 1980, while half have decentralised authority to a regional tier of government.

Jeffery draws a distinction between economic and social policy laboratories. The revival of 'laboratories of democracy' in the USA has had a primarily economic rationale, with a normative shift in the uniformity-diversity balance and an earlier confidence in the capacity of federal government eroded. The reunification of Germany, and the economic disparities between east and west, has also led to a renewed debate about the right balance to strike, and some Lander (led by Bavaria) feel that the status quo restricts their capacity to maintain their competitiveness in a global market and are propagating an alternative normative vision of 'competitive' rather than co-operative federalism. Canada is different. Historically one of the more decentralised federations political debate is highly territorialised. There is a different kind of collective normative judgement at play here: it is an expression of pan-Canadianism, which overarches a vast and diverse society.

More than economic policy, differentiation in social policy would seem to strike at the heart of the idea of 'social citizenship'. This is where the fear of a 'race to the bottom' comes in – some of the decentralist reforms in the US over the last two decades have widened the discretion states may apply in social policy questions.

In welfare, only in the USA is there an acceptance that state-to-state differences in policy standards are appropriate. In Germany common nation-wide standards have been maintained despite calls to loosen the federal policy framework. And in Canada considerable efforts have been made to renew the idea of a pan-Canadian social union in the recast form of a more collaborative federalism, less subject to the power of the federal purse.

Jeffery argues that a higher level of commitment to norms of social citizenship is reflected in healthcare. In Germany and Canada the delivery of healthcare is clearly constrained by a normative consensus on the need to maintain a 'solidarity community' (Germany) or 'social union' (Canada). In the USA, healthcare is subject to a significant level of regional variation, but there is also an underlying federal regulation providing for a minimum level of uniformity of provision across the US – that is, Medicare and Medicaid.

What happens in the USA, Germany and Canada suggests that senses of what is appropriate and what is not may vary over time. Within the UK a meaningful debate about 'items in common' and 'items to vary' has barely started, so it is doubtful that the norms underlying the current balance of uniformity and diversity in post-devolution UK are widely understood. Jeffery concludes that this is largely because the UK government has not done so.

Divergence and the Centre

In this chapter John Adams and Peter Robinson note that in the debate surrounding divergence within post-devolution UK, different forms of divergence seem to be treated similarly, and they try to separate out the different forms of divergence.

Adams and Robinson then address the role for the centre in a post-devolution era. They argue that the 'quasi-federal' responsibilities of Whitehall and Westminster must be exercised in a way that is compatible with the devolution settlement. At a time when the Treasury has been providing a sustained period of increased funding for public services, it is crucial that Whitehall and the devolved administrations work together to try and meet the expectations of the UK public for service improvements. If citizens feel that those services fail to deliver, there could be a major political backlash that might damage both the devolution process and the case for public services.

The centre also has a role in achieving social and economic justice between the various nations and regions of the UK. Clearly this must be achieved in a way compatible with the principle of devolution. Whitehall must come to terms with devolution and have a clearer concept of its territorial functions, and recognise when it operates on an English basis, when it performs UK-wide functions and it is performing a quasi-federal responsibility.

Whitehall must start to promote territorial justice in both social and economic policy, and take a strategic approach to addressing those inequalities in policy outcomes that could undermine the unity of the UK. There is real irony in the fact that it is in those policy areas where the desire for solidarity appears to be strongest (most notably health) that the scope for the centre to help deal with inequalities in outcomes appears to be weakest.

In practice, devolution seems to have strengthened the role of the Treasury. It both determines public expenditure decisions, and is one of the few UK departments dealing with the whole sweep of domestic public policy. Only the Treasury appears in a position to think through the implications of the concept of territorial justice.

Devolution is a process not an event, and the publication of the regional devolution White Paper – *Your Region, Your Choice* – is welcomed. It may also have the effect of spurring the DTI to sort out its role post-devolution. Despite the talk of a Barnett squeeze there is as yet little evidence of convergence in public spending across the territories of the UK, and we can expect a North East Assembly to make the issue one of its first and top priorities. It is very hard to see why the 'prudential' system for capital spending, signalled in Northern Ireland and for forthcoming English Regional Assemblies, should not also be extended to the

devolved Scottish and Welsh governments. Furthermore, in the medium term the complexities of the Welsh devolution settlement must be addressed. The halfway house of executive devolution makes significant but needless demands upon both Whitehall and Westminster and it is in the interests of all sides to foster a cleaner division of powers.