

Smith Commission on further devolution to the Scottish Parliament



Introduction

Lord Smith of Kelvin was asked to lead a commission of the five parties represented in the Scottish Parliament to look at what further powers should be devolved to the Scottish Parliament. His report has been published and sets out the agreement reached between the parties. The leaders of the main UK parties have given a commitment to legislate on this agreement.

This briefing outlines the key points of interest for UNISON members.

Fiscal Powers

Financial responsibility has been the focus of media attention and income tax is to be devolved. This is welcome and gives the Scottish Parliament the ability to mitigate the worst effects of austerity and English public service reform, as well as introduce a more progressive taxation system. There are some restrictions excluding personal allowances, savings and dividends. This is clearly aimed at minimising any future arguments over 'English' laws at Westminster. National Insurance is to remain reserved and this could cause difficulties as they tax similar incomes.

Assigning the first 10% of VAT is a largely cosmetic exercise as there are no powers to vary the rate. Air Passenger Duty and the Aggregates levy are to be devolved. While this is sensible there is a debate to be had over the climate change consequences. Business and consumption taxes remain reserved as UNISON and others argued.

The Barnett Formula will remain together with a fiscal framework based on a neutral starting point. This appears to be broadly what UNISON proposed, although the detail will need to be worked out. There is a complex and confusing section on enhanced borrowing powers that mentions the prudential regime we argued for, but not confirming it. The Treasury's dead hand can clearly be seen in the many caveats in this section.

Welfare

Pensions and Universal credit (UC) remain reserved as UNISON proposed to avoid volatile expenditure that could impact on jobs and services. However, there is only a limited devolution of Housing Benefit that falls short of separating it from UC, as we argued. This has the potential to be an administrative mess and will limit local authorities' ability to direct housing policy. It will also mean that staff and services will transfer from councils to the DWP – not quite our idea of devolution! A range of other benefits outwith UC are to be fully devolved and Parliament will have the power to introduce new benefits and top up existing ones.

KEY POINTS:

- Greater fiscal autonomy through devolution of income and other taxes.
- Barnett formula remains although new borrowing powers and funding mechanisms need to be worked up in detail.
- Some devolution of welfare other than Universal Benefit. Housing Benefit admin to be centralised.
- Work programme and tribunals to be devolved but not employment law
- Franchise and voting age devolved.



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Employment

Devolution of the work programme and closer working with job centres is welcome and will have implications for Skills Development Scotland and local authorities. The failure to devolve the National Minimum Wage and equalities legislation is disappointing. Tribunals are to be devolved, but not the substantive laws they administer, including employment law. UNISON argued for these powers to be devolved, but it should at least allow the Scottish Parliament to take a different approach on employment tribunal fees. Further consideration is to be given to operational control of health and safety, which is much weaker than we would have wished.

Other Powers

The permanence of the Scottish Parliament and Government, together with the Sewell convention being put on a statutory footing, is an important constitutional statement. As is the devolution of election law that will allow the Scottish Parliament to lower the voting age to 16. The super majority for changes to the franchise is a sensible check and balance, given the absence of a revising chamber.

The strengthening of inter-government mechanisms and a more formal consultative role is a useful step forward, although the full devolution of broadcasting and the energy market would have been a better approach. There is some devolution of energy efficiency, fuel poverty and onshore oil and gas extraction. This removes any lingering doubts over the Scottish Government's ability to take a decision on fracking. Rail franchises are to be devolved, again removing any doubt over the power to allow public sector bids. Consumer advocacy and advice is a welcome devolution although there was a strong case for going further on consumer protection.

While strictly speaking outwith his remit, Lord Smith makes a helpful statement on the importance of devolution beyond Holyrood to local communities. As UNISON has argued, subsidiarity, not centralisation should be the outcome of devolution. He also makes the case for parliamentary reform to strengthen scrutiny of government and legislation.

Conclusion

The Smith Commission agreement constitutes a significant shift of powers to Scotland. Particularly fiscal measures, although more work is needed on the mechanisms to ensure they deliver the spirit and intention behind the agreement. For those like UNISON who argued for a more radical programme, there are important omissions. Energy, employment, equalities and others should have been devolved, if the Commission had applied the subsidiarity test we argued for. The failure to properly devolve the administration of Housing Benefit, damages what is otherwise a sensible package of welfare devolution.

Next Steps

The next stage is to turn the Heads of Agreement into draft clauses by 25 January 2015. However, UNISON and others have argued that there should be a broader public engagement exercise to consider this agreement. We should also remember that devolved powers only matter if there is the political will to use them to create a fairer Scotland.

Further info

Smith Commission report

https://www.smith-commission.scot/wp-content/uploads/2014/11/The_Smith_Commission_Report-1.pdf

UNISON Scotland submission

http://www.unison-scotland.org.uk/scotlandsfuture/SmithCommission_UNISONSubmission_Oct2014.pdf

UNISON Scotland statement

<http://unison-scotland.blogspot.co.uk/2014/11/unison-statement-on-smith-commission.html>

UNISON Fairer Scotland web page

<http://www.unison-scotland.org.uk/scotlandsfuture/>



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