

23 November 2006 - Policy making in a devolved environment

In the last Hume Institute seminar of the Autumn 2006 series, Charlie Jeffrey and Jim Gallagher gave insightful presentations on the context for policy making in Scotland under devolution, followed by a wide ranging discussion session chaired by Deputy Minister Des McNulty MSP. This note summarises the speakers' argument, offers some personal reflections and notes some points made in discussion.

Summary

Charlie Jeffrey - the opportunities and constraints affecting Scottish policy making

Jeffrey made the case from a European perspective that Scottish Ministers have in many respects wider powers of independent action and are freer from state powers of interference than European counterparts – see PowerPoint presentation (seminar transcripts page). Among the points he cited were:

- wide legislative powers and a neater separation of powers, leaving less scope for central interference;
- no framework powers, such as exist even in Spain, for Westminster to specify minimum standards.
- high financial autonomy i.e., a large budget without the strings that would generally attach to state funding in
- no statutory machinery for intergovernment relations and minimal use of the non statutory arrangements that were prepared in advance of devolution. Hence little formal grip by the UK Government on Scotland within devolved areas.

Jeffrey suggested that the use made of this comparative autonomy over the past 7 years had been less than might have been expected, in his words “notable but sporadic policy innovations but no landmark transformation of public services and no step change in economic performance”. Seeking explanations he further suggested that the external constraint was not so much the actual powers reserved to Westminster as the dominance of England within the UK. England's size in the UK economy, together with its centralised government, the fusion of English and UK institutions and a London-centric national media, create spillover effects on Scotland from English policies that de facto limit Scotland's autonomy.

Jeffrey concluded on a cautionary note. The first 7 years of Scottish devolution have taken place in a benign environment, with large annual budget increases from the Barnett formula; and the same party in power in London as the senior coalition partner in Scotland. Both could change in the near future. He invited the audience to contemplate two questions. Are we exploiting to the full the present benign conditions? And are we thinking enough about what to do when these circumstances no longer hold?

Jim Gallagher – Institutional conservatism and the role of local government

Gallagher spoke about the internal constraints on Scottish policy making. Scotland has not followed Whitehall in making aggressive interventions e.g. quasi market solutions in the NHS and parts of local government. For Gallagher this reflects an

innate institutional conservatism, notably a reluctance to tamper with the roles and powers of quangos, NHS bodies, executive agencies and local authorities inherited from the pre devolution era and no longer fit for purpose.

Gallagher diagnosed an ambivalent attitude of Scotland-level politicians to local government. Ministers support local democracy - councils as elected spokesmen for the needs and priorities of their communities - but see them, in their role as service providers, as agents of national policies and in need of central control. Inevitably this created tensions.

The way forward is not to start redrawing the map of local government but to establish what councils are for, to clarify what they exist to do. Opining that there is a definite need for local democracy to be embedded throughout the public sector, a role that the Scottish Parliament, primarily a legislature, cannot expect to fill, Gallagher saw the key issue as how to reconcile local democracy with the strong evidence of public demand for uniform standards in some aspects of the services that local councils provide, notably education and community care.

Responding to this issue calls for some institutional redesign, incorporating at least four dimensions:

1. Who decides what to do?
2. Who finances what is to be done?
3. Who scrutinises?
4. Who integrates service delivery across services?

Gallagher offered some answers in the following set of suggestions for Scottish policy makers:-

- 1) Stop pretending that councillors take decisions of substance on education and community care – one way or another these are decided centrally.
- 2) Scotland level politicians should get off councils' backs on other things
- 3) All public services are local in their impact and need local scrutiny even if not provided by local government;
- 4) Scrutiny of the integrated local delivery of services should be the job of elected councillors.

In Gallagher's view the last two of these in particular would make for more effective government

Discussion

Among the points raised were the following:-

The previously important role of the Secretary of State for Scotland as 'Scotland's man in cabinet' is not perceived to have much reality, inevitably so given the primacy of the Parliament as Scotland's voice. Jeffrey thought any future for the role would be as a spokesman for the nations and regions across the UK, though this did not seem currently to be on the agenda.

Sewell motions (under which the Scottish Parliament gives its consent to Westminster's promoting legislation affecting Scotland in a devolved matter) have been unexpectedly numerous. Despite a relatively clear cut division of powers, there

are areas of policy – e.g. the proceeds of crime legislation - where respective responsibilities are so intertwined that treatment through a single Westminster bill is the practical option.

The parliament's legislation, it was argued from the floor, has significantly influenced the rights of Scottish citizens, with both new rights - community land purchase powers, right to roam, right of the elderly to free personal care; and new prohibitions - notably the smoking ban. Much closer links have also been established between Parliament and citizen. The speakers agreed though noting that those who access the Parliament tend to be representative of the range of interest groups rather than of the public at large or the business community.

On the future of local government, arguments were put against taking a principal/agent view of central/local relations in service delivery. In Scandinavia small government units successfully run important services. Some Scottish councils are innovating in service delivery across boundaries. Scrutiny skills are developing and PR will change the dynamics of scrutiny further. Gallagher agreed that local councils should not merely be service delivery agents. The role of democratic representatives of local needs is important -the practical issue remains how best to reconcile the requirements of local democracy, efficient service delivery and consistent standards where the public demand them.

Reflections

Gallagher's 'institutional conservatism', especially if seen as embracing a reluctance not only to alter the roles of tiers or agencies of government but also to adopt the levers of competition, consumer choice or charging in service delivery seems a strong explanation of the lack of radical policy making in Scotland - consider the extent to which Scotland has chosen not to follow England in e.g. foundation hospitals, top up fees and the like.

Yet Jeffrey's analysis of the constraints posed by spillover effects on Scotland of Whitehall decisions on English services is important. For example the decision not to follow England in applying tuition fees leaves Scotland with the problem of how to contend with the impact of the additional spending power for English universities on the UK- wide, if not international, market place for the best academics and students. .

The focus of the seminar was on the environment for devolved policy- making in general. It would be interesting to see the same questions addressed about policy making for the Scottish economy. No doubt issues of fiscal autonomy and reserved powers would feature more in such a discussion. But how do Scotland's devolved powers to affect economic performance compare with those of other European devolved entities and how well have we exploited them? Are there constraints of the mind? Have we got the roles of the different tiers and agencies of Government right? Subject matter here, perhaps for at least one more seminar!

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