



## **Response to the Independent Commission on the Constitutional Future of Wales call for evidence**

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The IWA is a registered charity no. 1078435

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### **Have your say**

#### **1. What matters to you about the way Wales is run?**

The Institute of Welsh Affairs (IWA) believes in democracy in its broadest sense, as the most effective form of governance to protect and enhance citizens' rights and freedoms and as a key enabler for developing a successful, clean and fair economy for Wales.

Democracy is far more than simply the election of representatives to legislatures and the resulting formation of governments and decision-making bodies. To maintain and enhance the health of our democracy, the people of Wales should have access to meaningful opportunities to both inform and scrutinise the ongoing activities of decision makers.

Where appropriate, the people of Wales should take part in direct decision making at a national and local level, too.

The IWA believes in the principle of subsidiarity, that decisions should be made as close as practicable to the people affected by those decisions. This principle should inform both the structure of governance and the mechanisms used to inform and make decisions, and to learn from the impact of those decisions.

We believe that how Wales is run (our system of governance) should be as clear as possible to the people of Wales, in order for lines of accountability to be evident for those wishing to understand who made which decisions and why.

Decisions are better and are better made by bodies where elected representatives are as diverse as possible, reflecting the people they represent, whether in terms of their individual characteristics, backgrounds or their political colours or beliefs. In practice, this means that we believe in affirmative processes within the electoral system to support the proportional representation of gender, race and other characteristics. This is why we support the Diverse5050 campaign.



It also means that we support maximum proportionality in terms of the number of representatives from political parties, or independents, elected based on the number of votes those parties or independents received across Wales. In practice, this means that we support the use of Single Transferable Vote at all levels of Welsh governance.

We believe that Wales should have a vibrant public sphere for open discussion of issues relating to how decisions impact people's lives. We would like to see a thriving, well-read media (online and in print) ensuring increased public knowledge of devolution. We would also like to see a significant proportion of the population – cutting across socio-economic status, class and occupation – taking an informed view on Welsh politics. We would like to see a minimum 75% turnout in Senedd elections and we are in favour of expansion of the Senedd to the proposed 96 member model but elected using the Single Transferable Vote to elect those members. We would also like to see people working in micro democratic structures at grassroots, community and local levels, as well as at national level.

The IWA also firmly believes that Wales should be an outward looking nation, active both regionally and globally. Regardless of the future constitutional make up of the UK, Wales should continue to build relationships with other nations and states, particularly locally within these islands, but also much further afield.

## **2. What do you think the priorities for the commission should be?**

The IWA urges the Commission to focus on the following themes and areas:

### **1) Welsh citizenship**

We believe that nations thrive when the population feel shared purposes. In practice, this requires people to feel a shared responsibility for the issues and challenges facing their community, area and nation, and to feel that they share in the wealth created as a result of national, regional or community efforts.

In order to achieve a shared purpose, there needs to be a shared understanding of issues and challenges, and an effective system of governance that enables people to feel collective responsibility for solving them.

For this to happen, there must be opportunities for people of all ages and backgrounds to both learn about and discuss challenges and issues, and for them to feel that they are being listened to, in some cases directly informing or taking the decision themselves.



To facilitate this, the Commission should focus on the following sub-areas:

- Understanding how people in Wales feel about citizenship
  - Ways of supporting people in Wales to participate in decision making and scrutiny
  - Opportunities for the use of deliberative democracy in Wales
  - Opportunities for the use of sortition within Welsh democracy
  - Opportunities for the use of direct democracy in Wales.
- 2) The challenges and opportunities posed by different models of governance for Wales within and without the UK

The IWA urges the Commission to look internationally as well as to the people of Wales for examples of different models of governance and learn from them, applying that learning to the issues and challenges faced by Wales both in the present and over future decades.

- 3) The impact of the current fiscal devolution settlement on the ability of Wales to invest in its people and economy

As the power and responsibility of the Senedd and Welsh Government have increased, the inability of Welsh Government to access sufficient funding to invest has grown in prominence. This inability to access investment funding is a blocker to growth and development in Wales. Both the Barnett Formula itself and the system for managing disputes relating to the formula should be assessed against alternative models of fiscal devolution such as a needs based system. The wider fiscal framework should be assessed, particularly in relation to the ability of Welsh Government to tax and borrow.

The IWA will be submitting a separate paper on Wales' fiscal framework to the Commission in Autumn 2022.

### **3. Thinking about how Wales is governed, by the Welsh Government and the UK government, what are the strengths of the current system, what aspects do you most value and wish to protect? Can you provide examples?**

#### Strengths

- The current system theoretically provides for a sharing of wealth across the UK.
- The current system provides for an internal market within the UK, enabling smooth trading across national borders, though we recognise the specifics in relation to Northern Ireland at the time of writing.



- In relation to Covid:
  - Response to Covid in relation to the initial lockdown and associated furlough scheme, sharing the financial impact of additional support required to households and businesses across the UK. (However this was also a weakness when it came to Welsh Government decisions on subsequent lockdowns.)
  - Procurement for the vaccination programme for the whole of the UK.
- In devolved policy areas, Wales can try out new policy approaches as an incubator with a smaller population from which the rest of the UK can learn (plastic bags, organ donation, Future Generations agenda).
- Welsh Government can also design new policy approaches that relate to the particular circumstances and needs of the Welsh population.

#### Weaknesses

- Under the current system, UK Parliament has ultimate power to legislate for Wales and to amend or even annul the devolution settlement.
- Existing conventions empowering the Senedd to prevent action by UK Parliament and UK Government in non-reserved areas are weak
- This includes a total lack of redress over, for example, significant funding decisions made through the Barnett Formula and UK Shared Prosperity Fund
- The devolution settlement is different in each part of the UK, ie for Wales, Scotland and Northern Ireland, at a headline level. In addition, different UK government departments' functions are also differently devolved. This complicated situation leads to an ongoing lack of clarity (in part due to inadequate media provision) as to where decisions are made, how resources are allocated to address issues and how to resolve disagreements.
- There is significant inequity in our borrowing powers: Wales can only borrow £150m annually up to a limit of £1bn for capital spending, whereas both Scotland and Northern Ireland can borrow up to £3bn. Scotland can also borrow more for resource spending.
- We note that, despite considerably increased responsibilities over policy making and delivery of public services between 2009 and July 2022, the headcount of Welsh Government has reduced from 6,137 to 5,644. This is not proportionate to the size of the total number of staff in UK Government departments responsible for devolved matters, and has led to the under-resourcing of both policy making and, crucially, effective public service delivery. Clearly, the size of the central administration budget is a matter for Welsh Government budget setting, but it is heavily influenced by the overall fiscal devolution settlement, including the Barnett Formula.



- Divergent electoral systems across the UK can lead to democratic confusion among people in Wales, particularly given the still-young nature of the Senedd and electoral reform. However, this is also a strength, as it allows the Senedd to implement democratic systems in Wales that work for the Welsh people at all levels of government, rather than those decided at a UK level.
- Westminster acts as both a parliament for England as well as for the UK and as England has over 19 times the population of Wales (59.59m to 3.1m according to the 2021 Census), the size of England will always be more important to political leaders in Westminster.
- We have previously published on inter-parliamentary relations and the weaknesses of the current system in terms of how both parliaments hold their respective governments to account for their individual decisions. We have also published recommendations as to how they might better coordinate and work together. Our September 2020 paper [Missing Links](#) sets out our concerns in detail.

The IWA will be submitting a paper to the Commission in relation to issues related to the potential devolution of broadcasting at a later date, so we have not included this issue here. However we refer the Commission to our longstanding media policy work and our audits in 2008, [2015](#) and [2020](#) which consistently note the detrimental impact on citizens in Wales of current media policy and public scrutiny of government and parliamentary decisions as they relate to Wales, whether at a UK or Wales level.

#### **4. Are there any problems with the current system, and if so, how could they be addressed? Again, please provide examples.**

Primarily, the lack of a written UK constitution leads to a sense of fragility for the devolution settlement, with the Senedd and Welsh Government protected through convention and Acts of UK Parliament rather than being placed on a more solid footing.

The lack of a clearly codified relationship between Wales and the UK also leads to regular friction points around the devolution settlement, and enables the UK Parliament to unilaterally override the settlement without an effective underpinning constitutional position for Welsh Government to use in challenging such actions through the Supreme Court. A recent example of this has been the UK Internal Market Act 2020.

Whatever the future constitutional arrangement of the UK may be, a written, codified constitution is vital to enshrine the rights of each legislature and government, and prevent unhelpful friction.



People in Wales may feel that democracy extends as far as voting for representatives and no further. Opportunities to engage meaningfully beyond this are few and these are poorly utilised. This leads to poor decision making and people holding elected representatives responsible for all issues perceived to be negative.

Increased use of citizens assemblies, appropriate use of referendums and public meetings could all create a more engaged and active population, leading to a feeling of shared purpose and better decision making.

**5. Thinking about the UK government, the Welsh Government and Welsh local government (your local council), what do you think about the balance of power and responsibility between these 3 types of government – is it about right or should it change and if so, how? For example, who should have more power, or less?**

The multi-tier system of governance in Wales is complex in regard to power, resourcing and responsibility. For example, some functions of local government in Wales, such as the administration of certain benefits, are resourced and overseen by UK Government, despite Welsh Government nominally holding control over local government in Wales. In another example, local government holds powers to implement certain schemes, such as road user pricing, whereas Welsh Government does not have the competence to implement such schemes on a national basis.

These anomalous situations generally arise from the ongoing design and ‘bolting-on’ of new policy to the current devolution settlement. They exacerbate the existing lack of public understanding as to which layer of government is responsible for what, and cause confusions and inefficiencies which ultimately impact negatively on citizens’ lives.

The bulk of funding for local government to exercise its functions is allocated by Welsh Government. The confusing interrelationship between funding and policy making power between Welsh Government, local government and UK Government should be addressed. This should include looking at the taxation system and how local/Welsh/UK taxes relate to their respective level of policy decision making.

In December 2021 we published a paper [What does Levelling Up Mean for Wales?](#) in which we set out our concerns in relation to the UK Government’s exercising of powers and responsibilities post-EU funding. Many of these concerns remain. We have followed up with our paper [Putting Businesses at the Heart of Levelling Up](#), pointing out issues in the interaction between UK Government, Welsh Government and local government.



## **6. As a distinct country and political unit, how should Wales be governed in the future? Should we:**

- broadly keep the current arrangements where Wales is governed as part of the UK, and the Westminster Parliament delegates some responsibilities to the Senedd and Welsh Government, with those responsibilities adjusted as in Q5, OR
- move towards Wales having more autonomy to decide for itself within a more federal UK, with most matters decided by the Senedd and Welsh Government, and the Westminster Parliament decides UK-wide matters on behalf of Wales (and other parts of the UK) OR
- move towards Wales having full control to govern itself and be independent from the UK OR
- pursue any other governance model you would like to suggest
- alongside any of these options, should more responsibilities be given to local councils bringing decision making closer to people across Wales and if so, please provide examples.

As a politically independent think tank and charity whose objects are to educate by providing research on socio-economic, political and scientific factors and their impact on public policy in Wales, the Institute of Welsh Affairs does not hold an organisational position on the above options. Our role is to ensure that the public are informed as to the relevant strengths and weaknesses of the various options, based on the evidence available, and that they are able to have their voices heard in decision-making.

However, we are pro-devolution: we believe that decisions should be made as close as practicable to those affected by those decisions. Future models of governance should be firmly based around this principle, whether it is Wales' relationship within or to the UK, or the relationship between Welsh Government and local/regional governance.

## **7. Overall, what is most important to you in about the way in which Wales should be governed in the future? Is there anything else you want to tell us?**

The IWA believes that the future governance of Wales should be centred around the following principles:

1. That decisions should be made as close as practicable to the people affected by those decisions



2. That democracy should be nurtured in its broadest sense. People in Wales should have opportunities to, and feel empowered by, engaging with decision making, informing decisions and scrutinising elected representatives between the set pieces of democracy i.e elections
3. People in Wales should be supported to feel like citizens, with a shared responsibility for their communities, regions and the nation
4. That, where appropriate, direct democracy should be considered
5. That deliberative and participatory democracy should be placed at the core of our democratic system, both to inform decision makers and to set the parameters of direct democracy.

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