



Global Counsel

Scotland's Choice

23 July 2013



Summary: Scotland's choice

- On the 18th September 2014 Scotland will hold a referendum on the single question “*Should Scotland become an independent country?*” Campaign activity on both sides is underway, and the debate has begun. The end of the summer break and the publication in the autumn of the SNP Scottish government’s major policy statement on independence will see the pace of campaigning go up a gear.
- Support for independence has waxed and waned over the last three decades. It has not followed the short term ups and downs of the economy, but has usually grown stronger during periods of Conservative government at Westminster.
- Since 1999 Scotland has had its own parliament, with significant spending powers - including spending on health, education, policing and local government. It has markedly fewer tax-raising powers and no powers over foreign and defence policy, energy policy or social security.
- A vote for independence would raise major questions about Scotland’s future on a number of big issues: membership of the EU and its terms; Scotland’s currency; monetary and fiscal policy; border and immigration policy.
- The answers to these questions are complex in part because Scotland leaving the UK would be a move with few or no precedents. As a result, many of the post-independence arrangements and mechanisms would have to be created from scratch and would be decided by the politics of the time. As a matter of tactics the UK government and the pro-union parties want to create as much uncertainty as possible about what would happen were Scotland to vote yes. As a result, a high degree of uncertainty surrounds what a post-independence landscape for Scotland and the rest of the UK would look like.
- Opinion polls point strongly to a no vote in 2014. However, a year is a long time in politics. Alex Salmond has described the campaign so far as the “phoney war”. Even if Scotland votes against independence a continuation of the status quo looks unlikely.
- Although there will only be a single question on independence on the ballot paper, there is significant momentum among the Scottish electorate for a third outcome: further devolution or ‘devo more’. What the ‘more’ should be is already the subject of party policy commissions and think tank reports as the pro-UK parties seek to formulate an offer for the Scottish electorate of further powers in the event of independence being rejected.
- Pro-union parties will want to convince Scottish voters that a no vote in 2014 is not a vote for the status quo, but will be wary of devolving away the union, or reopening difficult questions over Scotland’s uneasy constitutional status. This will be a difficult balance to strike. With this in mind, ‘devo more’ is likely to focus on balancing Scotland’s considerable spending powers by increasing its tax-raising powers.
- In the medium term it is within this ‘devo more’ debate that the terms of Scotland’s future in the UK are likely to be decided. The outcome will be a product of the content and tone of the pre-referendum debate, the level of support for independence in the referendum, and the outcome of the 2015 general election.
- However, the experience of Quebec suggests that a no vote in 2014 is unlikely to be the end of the Scottish independence question. The SNP is unlikely to disappear as a political force. And with potentially more powers going to Holyrood the trend will continue for politics in Scotland to be increasingly focussed on what happens at Holyrood rather than Westminster. David Cameron and George Osborne look very determined to fight for the union in 2014. However, demographics and political patterns make it an open question whether the next generation of Conservative leaders will be quite so determined.

The politics of independence

Scotland has been part of a British unitary state since 1707 when the Act of Union merged the English and Scottish parliaments and instituted Scottish government from the British capital in London. ‘The Union’ sustained a high level of popular and elite support through the eighteenth and nineteenth centuries, with Scottish Nationalism re-emerging as a potent force only from the late 1960s. It was driven intellectually by postcolonial theory, economically by the discovery of large reserves of oil and gas in the North Sea and ideologically by 18 years of Conservative government of a country in which the Conservatives have been in decline for much of the last forty years.

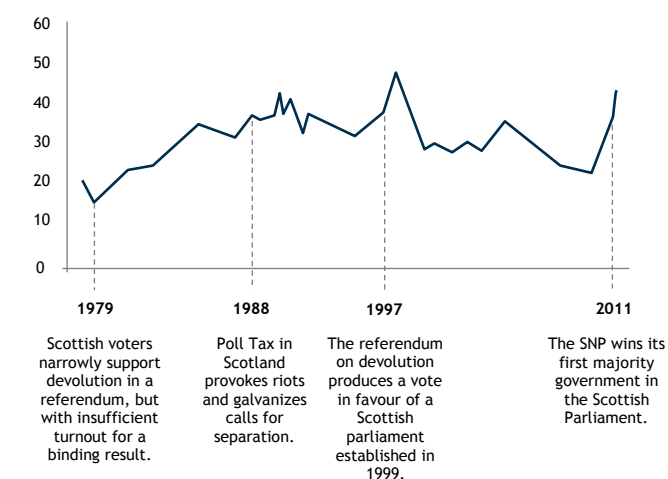


Fig 1: Historical support for Scottish independence
Source: IPSOS Mori, Scottish Public Attitude Monitor

Most Scots have been against independence in the modern period.

The incoming Labour Government of 1997 offered a referendum on the re-creation of a Scottish parliament with a wide-ranging brief on domestic and social policy but limited fiscal powers. This referendum was passed, and the Scottish Parliament was instituted in 1999. As events have turned out Holyrood has provided a strong platform for the Scottish National Party under the leadership of Alex Salmond. The SNP was returned as a minority

government in 2007 and as a majority government in 2011.

Support for independence in Scotland developed from being a distinctly minority taste in the late 1970s to reaching 30-40% support by the mid-1980s. It has remained relatively stable in that band ever since, rising to around 40% in the late 1990s and again over the last year. The high point of support for Scottish independence (47%) was 1998, after the successful devolution referendum and the announcement of the re-creation of the Scottish Parliament.

Patterns in support

Looking at the polling data over the last thirty years we can identify a number of interesting patterns:

- Mrs Thatcher’s undoubted political ascendancy in England did not extend to Scotland. The Thatcher period created a sense among many in Scotland that the country was being “ruled by” a government that was not representative of Scotland. The return of the Conservatives to power in 2010 has re-opened this issue, although it should be noted that the Liberal Democrats draw a significant part of their Westminster parliamentary strength from Scottish seats.
- The SNP being in power at Holyrood has not led to a significant rise in support for Scottish independence. The strong performance of the SNP under Alex Salmond reflects a range of things, including both perceptions of the general competence of the SNP administration and the weakness in recent years of the Scottish Labour Party. Scottish voters do not automatically make a link from support for an SNP government in Edinburgh and independence from Westminster.
- Support for independence is somewhat negatively correlated with the achievement and experience of devolution. Devolution did not create a renewed appetite for full independence. In fact in the wake of the creation of the Scottish Parliament, support for independence reverted to the lower band observed in the 1980s.

- Support for independence does not follow the short-term ups and downs of the economy. But the country's stronger performance in the last 20 or more years relative to many other parts of the UK has probably fostered greater confidence in the country's standing and its future prospects.
- The arrival of North Sea oil was an important part of the mix that ignited the interest in Scottish self-government, but support for independence does not correlate with North Sea oil prices. The highest recorded levels of support for independence were in 1998 when North Sea oil revenues were at historic lows. North Sea oil is, however, central to the political debate about the country's future.

“This is the phoney war”

Since October 2012, when Alex Salmond and David Cameron signed the “Edinburgh Agreement” on the terms of the independence referendum, neither the “Yes Scotland” nor the “Better Together” campaigns have managed to significantly move the dial, although trends suggest a slight strengthening of the no vote.¹ Support for independence has largely remained within the 30-35% band, with opposition anywhere between 45% and 59%, and 10% to 20% undecided.²

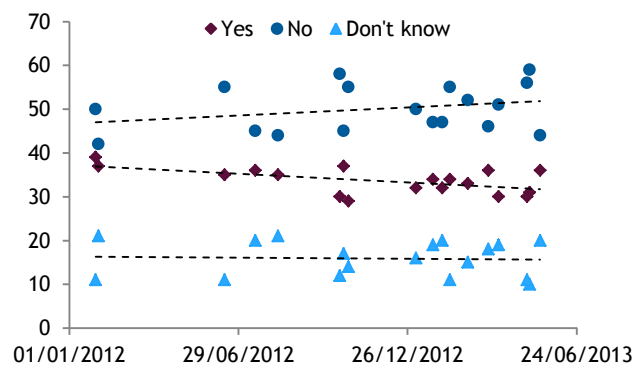


Fig 2: Support for Scottish independence since 2012 (among those certain to vote)
Source: IPSOS Mori, Panel, Ashcroft, TNS-BRMB, Angus Reid

This suggests that Alex Salmond and the “Yes Scotland” campaign are facing defeat. However, there will still be 12 months to go after the political summer break. In politics that is a long time. As 18 September 2014 approaches the volume and intensity of the debate will inevitably rise. Alex Salmond has labelled the debate to date a “phoney war”, and in recent years he has built his political reputation on

unexpected victories. The pro-UK campaigners need to remember that the SNP went into the 2011 Scottish election 20 points down but went on to win the election almost 15 percentage points ahead and with a majority of the seats.

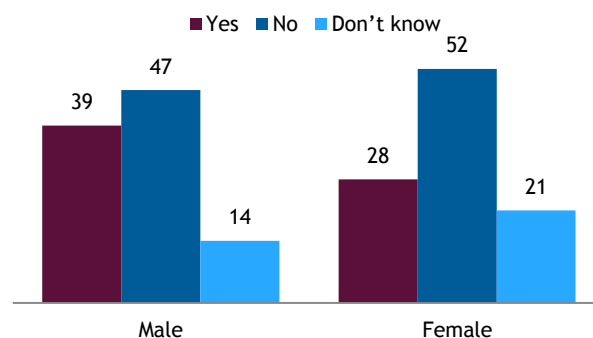


Fig 3: Support for Scottish independence 2013 averages
Source: IPSOS Mori, Panel, Ashcroft, TNS-BRMB, Angus Reid

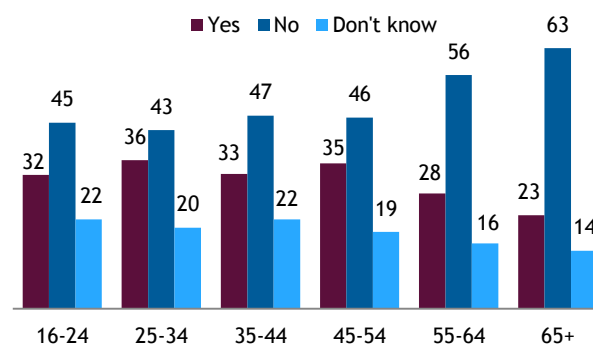


Fig 4: Support for Scottish independence 2013 averages
Source: TNS-BRMB, Angus Reid

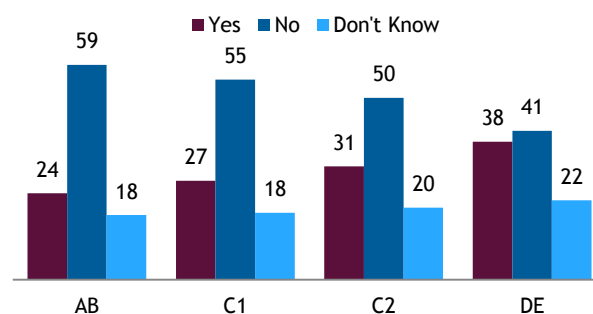


Fig 5: Support for Scottish independence 2013 averages
Source: TNS-BRMB

The Scottish National Party went into the 2011 Scottish election 20 points down but went on to win the election vote by almost 15 percentage points.

Looking at the demographic breakdown of the polls, the picture becomes clearer of which groups the “Yes Scotland” campaign will have to target to be successful. Across almost all categories of the electorate, no voters outnumber yes voters. It is however particularly striking that:

- older voters poll strongly against independence;
- better off middle class voters are more likely to say they will vote against independence than semi- and unskilled manual workers;
- Women are consistently less likely to say they will vote yes than men (although the SNP itself polls strongly among women voters).

Drawing on patterns of support over the last thirty years, we can identify four key factors in deciding the outcome of the referendum. These will be the variables to watch.

- First, whether voters can be convinced that independence would be best for Scotland’s economy;
- Second, Labour’s prospects of winning the 2015 general election and whether the party remains united in opposing independence;
- Third, the SNP’s performance at Holyrood and perceptions of the party as a party of government;
- Fourth, Alex Salmond’s personal standing with voters.

The implications of Scottish independence

In the event of Scotland voting for independence in September 2014 the implications would be significant and wide-ranging for both Scotland and the rest of the UK. Understanding and predicting the detail of those implications however is not easy. In part this is because the nature of Scotland's secession would be unprecedented in both the UK and the EU. Both entities would essentially have to improvise ways to handle the process as they went along. This inevitably means that most of the difficult questions would be settled by politicians and negotiation, rather than bureaucrats and constitutional procedure.

However, the uncertainty is also a product of the timetable for independence. The SNP Scottish government has stated a belief that a vote for independence in September 2014 would lead to Scotland becoming independent in May 2016. This looks optimistic, but even on this timetable much could change, not least the negotiating partners, courtesy of a UK general election in 2015, and if the timetable were to slip but a little, a Scottish parliamentary election in 2016.

Finally, as a matter of tactics the UK government and the pro-union parties have been seeking to maintain as much uncertainty as possible around the putative post-independence arrangements. The UK government is publishing a series of papers on Scottish independence which highlight the benefits of the unitary UK and unknowns surrounding Scotland becoming independent.³ This also highlights the role of the UK government, and the importance of the dynamic which emerges between Scotland and the rest of the UK during the referendum debate. It is not hard to imagine a scenario where a combination of Scottish sensitivity to perceived "condescension" from Westminster and an English view of Scottish ingratitude for the benefits of the UK, create the climate for antagonistic and fraught negotiations on the future.

Scotland's status in international law

One of the most fundamental questions is that of an independent Scotland's status in international law. Much of this would be dictated by the legal status of the separation process itself. This has been disputed

and would either have to be agreed between Scotland and the rest of the UK, or mediated by the International Court of Justice.

The weight of opinion is that Scotland would be considered to have seceded from the UK, making it a 'newly independent state', and leaving the rest of the UK as the 'continuing state'. In this case the rest of the UK would inherit all of the UK's existing privileges and obligations, whereas Scotland would have to renegotiate all of its international treaties. The UK government has received and published legal opinion to this effect.⁴

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However, this has been contested by some - not least the SNP - who claim that the UK would be dissolving itself voluntarily, bequeathing both Scotland and the rest of the UK with the obligations and privileges of the unitary UK. A final possible, but unlikely, outcome is that both Scotland and the rest of the UK would both be considered 'successor states' and have to re-establish all treaties. All three of these interpretations have been supported by various constitutional law experts, highlighting that the outcome is likely to be a matter of negotiation, and that international law in this area is far from established or clear.

Europe, Schengen and the euro

Scotland's membership of the EU is central to the SNP's vision of an independent Scotland. However, the EU has no protocols for regions to secede from existing EU members and re-join. Both legal opinion and comments from Commission President Barroso suggest that Scotland would have to reapply as a newly independent state for EU membership.⁵

The choreography of a transition to independence and a negotiation to be a member of the EU would be complex. Until the country is formally independent

and there are elections it is not clear who would have the political mandate to negotiate terms of EU membership. In the event EU negotiations had to wait until independence was achieved, there would be the possibility of Scotland for a time being outside the EU.

Scotland's EU accession would to some extent be out of its own hands. It is worth reflecting that the remaining UK would have a veto on Scottish EU accession, as would every Member State, including those such as Spain, who might be inclined to make the process difficult for fear of encouraging their own secessionist regions.

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Scotland, as a newly independent state, would also be obliged to agree to the 'acquis' - the set of conditions for membership of the EU.⁶ Among these two in particular look potentially fraught. First, Scotland would be obliged to sign up to the Schengen Agreement guaranteeing passport free travel across its borders to and from Europe. Currently the UK has an opt-out from Schengen, but Scotland joining would present a large weakness in the integrity of the UK border and a significant problem for its immigration policy. As a result it would raise the prospect of a physical border between the two countries to allow the UK to remain separate from Schengen.

This is an outcome that both countries are likely to wish to avoid. Scotland could, supported by the remaining UK, also negotiate an opt-out from Schengen and become part of an extended Common Travel Agreement as is currently in place between the UK and Ireland. This opt-out would be by no means guaranteed. To secure it would require the expenditure of political capital and imply delays in Scotland's EU accession process. Furthermore, without a physical border the remaining UK would

demand a strong coordination of immigration policy with Scotland, effectively restricting Scottish autonomy on the issue.

The second issue is that of the euro, to which every new EU Member State is obliged to sign up. Previously the SNP vision of an independent Scotland included joining the euro, however the continuing problems of the Eurozone has strongly eroded public support for this. It is not clear whether an independent Scotland would seek to negotiate an opt-out from the euro, but this would be highly politically contentious in Brussels, and Scotland's grounds for doing so as a newly independent state look weak.

Scotland will therefore probably have to sign up to join the euro; however in reality the timing would be flexible. Sweden voted against joining the euro in 2003 in a popular plebiscite, and has never been pressured to ignore the result. The Commission has publically accepted that the decision to join will be made by the Swedish people regardless of its treaty obligations. The same logic would probably be applied to Scotland; nevertheless the promise of joining the euro could be politically uncomfortable for Alex Salmond.

Would an independent Scotland have greater ability to represent its interests in Brussels than it does as part of the UK? This is difficult to gauge. It would certainly gain its own Commissioner in the College of the European Commission (assuming that this is not reformed to shrink the size of the Commission which cannot be excluded), and would probably end up with more MEPs in the European Parliament than it has today. Whilst it would be able to focus more closely on issues important to Scotland, with 5.2 million people, it would be the EU's ninth smallest country and arguably have rather limited weight in the Council and EU decision-making.

Scottish currency and monetary policy

The issue of Scotland's currency is both economically important, and politically significant. Having retreated from support for using the euro, the stated preference of the SNP government is now for Scotland to continue to use the pound sterling. This is probably economically rational as Scotland and the rest of the UK meet most of the criteria for an optimal currency area. There are two scenarios under which this might happen. First, Scotland would continue to use the

pound formally with the consent of the UK government and the Bank of England. The Bank of England would set interest rates for the currency block and act as a lender of last resort for financial institutions, much as it did in 2009. Such a scenario might also include collective debt liability. However, as the Treasury has made clear, an independent Scotland could not assume consent would be given, and in the event that it was the UK government would demand strict limits on Scottish fiscal autonomy.⁷ A second scenario is for Scotland to continue to use the pound ‘informally’, as Kosovo does the euro. However the risk of doing so and operating without a lender of last resort in a small country with a large financial sector such as Scotland is probably prohibitive.

There remains support both among academics and within the SNP for Scotland to establish its own currency, with its own national bank. This option would offer the most policy flexibility, however the new Scottish currency would almost certainly be pegged to UK Sterling. The credibility of this peg would obviously be one of the key determinants of the price of Scottish debt.

In 2011/12 tax revenues from oil and gas production accounted for 2% of the UK Exchequer’s tax take, in the same year it would have provided 19% of an independent Scotland’s.

A significant pillar of the offer of Scottish independence has been the promise of an economic policy distinct from the one followed by the UK government. In reality an independent Scotland would, like the rest of the UK, need a deficit reduction plan: Scotland ran an estimated fiscal deficit of 5% of GDP in 2011/12.⁸ Given that an independent Scotland would be likely to gain around 90% of North Sea tax revenues - based on a geographical division of offshore territory - Scotland would be able to afford, for the time being at least, to maintain public expenditure at current levels which are about 14% more per capita than the UK average.

However, maintaining this spending level would make problematic two of the SNP government’s flagship policies for independence: cutting corporation tax

and the creation of a Scottish sovereign wealth fund (SWF). Corporation tax receipts in Scotland are around £3 billion a year, and matching the rates of Ireland - on which model the policy is based - would, at first at least, cut those in half.

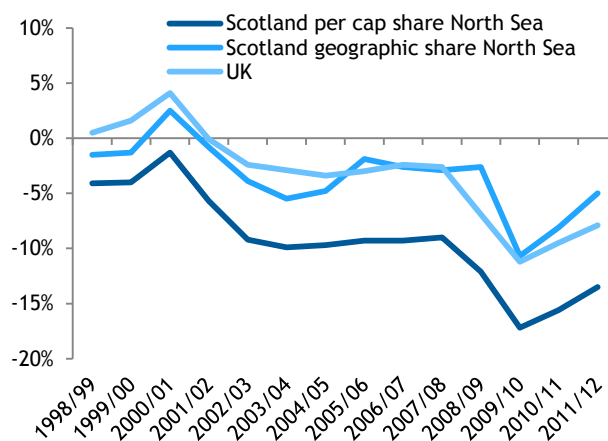


Fig 6: Net fiscal balance %GDP

Source: Government Expenditure and Revenue Scotland (GERS) 2013

It is also not clear that there would be sufficient tax receipts to set aside £1 billion for a SWF and £30 billion over 20 years as Alex Salmond has stated that he would. In his evidence to the House of Commons Energy and Climate Change Committee, Scottish energy minister Fergus Ewing came under pressure to state whether the SWF contributions would occur every year, or only in periods of relative economic growth. He stated only that “contributions to the oil fund would commence as soon as financially appropriate so to do.”

Inevitably North Sea oil and gas would play a very significant role in the state of Scottish finances. In 2011/12 tax revenues from oil and gas production accounted for 2% of the UK Exchequer’s tax take; in the same year it would have provided 19% of an independent Scotland’s. This will install a structural volatility in to the economy - which the SWF would be designed to counteract.

Over the past decade UK oil and gas tax revenue has varied from a £13.8 billion high in 2008/09 to a £5.3 billion low in 2003/04 (at constant prices). For the North Sea industry this may be have mixed implications. The absolutely crucial importance of the oil and gas industry to an independent Scotland might give it a better hearing in Holyrood than it currently

receives in Westminster. However, as such a major source of government revenue the industry might well find itself exposed to ad hoc policy initiatives in times of fiscal duress. There will also be concerns about the division of the estimated £20 billion cost of decommissioning of North Sea oil rigs which would be a major burden on the relatively smaller Scottish balance sheet, and could become a political flashpoint.

How much tax and spend in an independent Scotland?

A significant pillar of the argument for an independent Scotland has been that it will allow Scotland to express its own political culture which is perceived to be more pro-welfare spending and redistributive tax policy. However, it is an open question whether Scottish taxpayers are any different to those in the rest of the UK who are basically tax averse. It is notable that despite having the power to differ the income tax rate by 3p in the pound since devolution, Scotland has not to date used these powers.

Beyond 2014: Devo more?

The referendum has only a single question, but after 2014 there are three potential outcomes: independence, status quo, or further devolution - 'devo more'. For now it seems that Scotland will vote against independence. However, the status quo will probably also be rejected.

Polling prior to the confirmation that there would only be a single question in the referendum suggests that a majority of Scots support further devolution over either full independence or the status quo. Most Scottish voters think the Scottish government should be making most of the decisions about Scotland's future, but their perception is that many of those decisions currently are not being made in Scotland. Although there will be no option for further devolution on the ballot paper, the pro-union parties - Labour, Liberal Democrats and Conservatives - are already looking to address this 'devolution gap'.

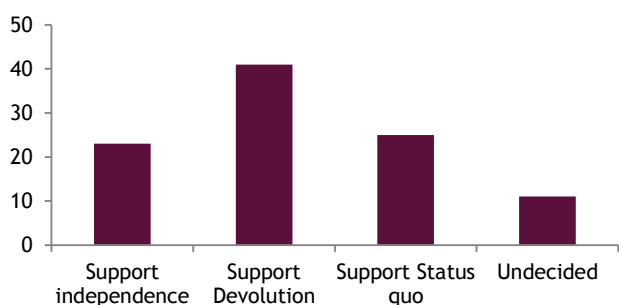


Fig 7: Scottish support for constitutional change
Source: Yougov October 2012

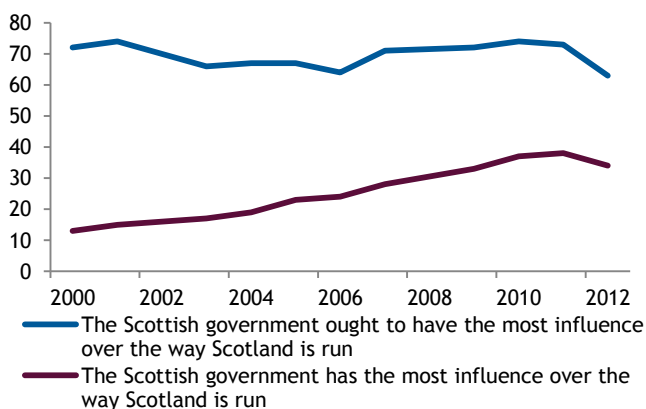


Fig 8: Attitudes to Scottish governance
Source: Scottish Social Attitudes Survey

How is Scotland governed today?

The 1998 Scotland Act established a Scottish parliament in Holyrood and a government of ministers accountable to it. The Act gives the Scottish government and parliament primary legislative powers, except where power is specifically reserved for Westminster. The main areas which are reserved include foreign and defence policy, immigration, and energy policy. This leaves the Scottish government with power over health and education, justice and policing, agriculture and the environment, tourism, local government and housing.

Since its establishment Holyrood has had power over large spending programmes, with the major exceptions of pensions, social security, and other welfare benefits. However, its powers of taxation remain relatively few. In 2011 it is estimated that Scotland controlled 70% of its total public spending, but raised only 12% of its own spending. Holyrood has the power to vary the income tax rate by 3p in the pound - a power it has not used to date - control over council tax, and control over business rates. Other than these limited tools, the Scottish government relies on the block grant from the UK government. Whilst the total amount the Scottish government can spend is substantially decided by the UK government, the grant comes without policy strings attached and can be spent in any way chosen by the Scottish government.

The 2012 Scotland Act is due to increase the powers of the Scottish government including additional powers over stamp duty, land tax, the landfill tax and possibly the aggregates levy. Most importantly, the Act will reduce the rate of income tax in Scotland by 10p on every band. The Scottish parliament will then be able to set a 'Scottish' income tax at any rate it chooses. Provided that Scotland remains in the UK, these powers will come into force in April 2016.

'Devo more': How much more?

Nevertheless, there remains significant momentum in favour of further devolution. The pro-union parties are already discussing their proposals for 'devo more'. The Scottish Labour Party's Devolution

Commission, chaired by its leader in parliament Johann Lamont, has published its interim report.⁹ The Liberal Democrat's Home Rule and Community Rule Commission have published their own vision for Scotland as part of a federal UK.¹⁰ Even the Scottish Conservative Party - whose leader Ruth Davidson had ruled out further powers in her leadership campaign in 2011 - has set up a working group to examine the current state of devolution and stated that they have heard Scottish voters' wish for the Scottish Parliament to have further powers.

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This is firstly a defensive measure to reassure voters that a no vote in the referendum is not a vote for the status quo. Second, the proposals are intended to position Labour, the Liberal Democrats and the Conservatives to seize the initiative post-referendum and in the run-up to the 2015 UK general election and the 2016 Scottish parliamentary election demonstrate that the SNP does not have a monopoly on delivering further powers for Scotland. For now this effort is aided by the fact that the SNP are unable to formulate their own version of 'devo more' for fear of undermining the case for independence.

The 'devo more' discussion among pro-union parties and think tanks has to date centred around two main questions:

- Should all or part of social security expenditure be devolved?
- How much of the Scottish tax take should be decided directly by the Scottish Parliament and government? In particular, which taxes?

Outside of defence and foreign affairs, social security is the most significant non-devolved item in the Scottish budget. Representing 40% of public expenditure in Scotland it is a major exception in Scottish parliamentary powers. However, outside of think tanks there is no support for devolution of social security. Both Labour and the Liberal Democrats see

pooling resources nationally rather than regionally as a better way to deliver social services. More fundamentally, both parties see social security as the glue which holds the UK together and gives it its rationale. The Conservative Party, as the party most wary of devolution, will almost certainly not propose such a radical step. At this point in the debate the devolution of social security looks highly unlikely, bar the possible exception of the delivery of certain programmes such as the Winter Fuel Payments.

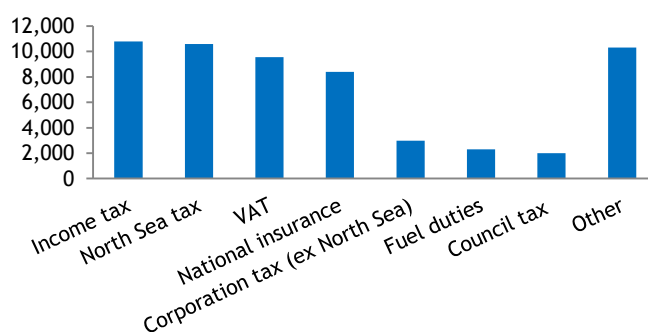


Fig 9: Scottish revenues 2011/2012, North Sea taxation based on a geographical division of revenues
Source: GERS 2013

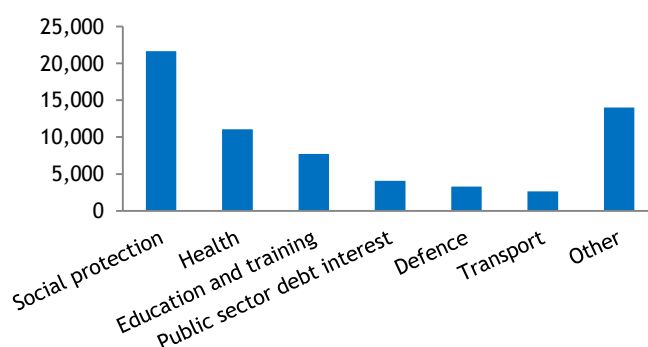


Fig 10: Scottish expenditure 2011/2012
Source: GERS 2013

The focus has therefore fallen on further tax-raising powers. The key arguments have been that such powers will increase electoral accountability, strengthen the incentives for the Scottish Parliament to focus more on the state of the Scottish economy and its tax base, and give Scotland more tools to promote growth and pursue its own distinct social objectives.

The boundaries of the 'devo more' discussion

The parties at Westminster will allow their colleagues in Scotland to go quite a long way to see off the threat of independence, and have to date been

supportive of the discussion of ‘devo more’. The Liberal Democrats are likely to be the most pro-devolution and the Conservatives the most cautious. Labour will want a credible package, but will be acutely aware of the pitfalls of going too far. In the event of a no vote, the SNP Scottish government might come forward with devolution proposals, but its credibility and leverage will be limited.

The actual package of ‘devo more’ proposals will depend on a combination of the strength of the yes vote and the outcome of the 2015 general election. Of the possible outcomes of the 2015 election a Labour-Liberal Democrat coalition would probably go furthest on “devolution more”, although Labour would be reluctant to go so far as to ignite a renewed “West Lothian question” debate about Scottish representation at Westminster.

Ultimately the boundaries of the ‘devo more’ discussion will be:

- The risk of Scotland’s links with the UK being ‘devolved’ out of existence by taking away the basis of UK unity;
- Fears that more tax-raising powers for Scotland may open up the “Pandora’s box” of re-examining how the UK’s block grant to Scotland

is determined. Scotland is far from one of the poorest parts of the UK and the current grant allocation is considered to be generous. A more “needs based” system would almost certainly allocate Scotland less;

- The further devolution goes, the more the question will be posed about how many MPs Scotland should elect to the UK Parliament and on what matters should they be allowed to vote. This is a question Scottish MPs in Westminster will not be keen to readdress;

Overall there is an appreciable risk that going too far will trigger a backlash against any perceived special treatment for Scotland in terms of funding or representation at Westminster.

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Proposals for further devolution

Tax-raising powers

Income tax	<p>The devolution of income tax is supported by a wide range of think tanks. The Liberal Democrats support the full devolution of income tax, including control over rates and bands, and the Scottish Labour Party Commission notes that “a strong case exists for devolving income tax in full” and that it is “minded to do so”.</p> <p>Some form of further devolution of income tax is highly likely, but it is not certain that this would mean complete devolution. The Labour Party Commission proposal for example has drawn sharp criticism within the party.</p>
Corporation tax	<p>Think tank Reform Scotland’s Devo Plus project has recommended fully devolving corporation tax. This is unlikely to happen. Both Labour and the Liberal Democrats have ruled out devolving control over rates, arguing that it could lead to downward cross-border competition. The Liberal Democrats have however proposed assigning Scotland its own corporation tax revenues.</p>
Other Minor Taxes	<p>Proposals differ over a range of minor taxes including inheritance tax, capital gains tax, air passenger duty, and the aggregates levy. Labour and the Liberal Democrats have supported full devolution of all of the above. There exists support from various think tanks for devolution of the above taxes plus the devolution of alcohol and tobacco duties.</p>
VAT	<p>Under EU law it is illegal to devolve VAT rate setting. It would be possible to assign VAT revenues to Scotland, however the administrative costs make this unlikely.</p>

Other areas

Employment law	<p>There is little prospect of devolution of employment law, much of which in any case comes from the EU. No pro-union party has expressed interest in further devolution in this area.</p>
National Insurance	<p>Under the Labour and Liberal Democrat logic that argues that UK-wide social services are a foundation of the union, National Insurance is likely to remain a UK-wide policy area.</p>
Energy policy	<p>Although the SNP government has skilfully used its existing powers - notably over planning permission - to develop its own role in energy, this is a reserved area. The integrated nature of the UK’s power and energy markets mean that further devolution is unlikely. To date pro-union parties have mentioned energy policy only to rule out further devolution.</p>

The union's next decade

Regardless of outcome, the 2014 referendum will almost certainly lead to further devolution of powers to Scotland. For now, the most likely route appears to be through a rejection of independence, followed by further devolution of tax-raising powers.

Losing the independence referendum would be a major setback for the SNP, however the party has become too established and deep-rooted for it to signal the party's demise. A no campaign victory is also unlikely to end the debate on Scottish independence. Examples in other parts of the world demonstrate the remarkable resilience of independence movements. In Quebec, having voted against independence in 1980 and again extremely narrowly in 1995, many had concluded that the independence debate was over. February 2013 however saw Premier Pauline Marois declaring that it was time for the independence movement to "go back on the offensive".

The referendum debate and further devolution of powers may quieten the debate for a period. However, it will also have served to give Scottish politics an even greater focus on what happens in Holyrood over Westminster. Today there are stories about the referendum campaign almost every day in Scottish newspapers. As the political powers housed in Holyrood increase, the Scottish wings of UK parties are likely to grow more detached from their colleagues in the rest of the UK.

English devolution?

From the point of view of the rest of the UK, the politics of fighting to keep Scotland in the UK may

also begin to look less appealing. Scotland's population in 1960 was 5.2 million, the same as it is today. The UK's population has however grown from 44 million to 53 million - a 20% increase. Scotland's relative weight inside the UK has decreased significantly, and it is likely to continue to do so in the future.

Support for keeping the union together may also become a more partisan issue in the future. In the 2010 general election one in nine of the people who voted Labour lived in Scotland. Almost a fifth of the Liberal Democrats' MPs were elected in Scotland. In England almost 10 million people voted for the Conservatives, however only 400,000 did the same in Scotland, and only one of the Conservative's 309 MPs were elected in Scotland. David Cameron and George Osborne are very determined to fight for a no vote in the 2014 referendum - albeit from a distance. If there a protracted "Scottish question" emerges in UK politics, future generations of Conservative leaders may be less determined to avoid the break-up of the UK.

Within this context the government's plan to launch a publication on addressing the vexed "West Lothian question" in the autumn takes on a greater significance. The issue of non-English MPs being able to vote on devolved matters in England has been a bugbear for parts of the Conservative Party for some time. It is not inconceivable that this autumn's proposal could in time prove the beginning of a devolutionary movement that is both predominantly Conservative, and English. Ultimately this could prove to be just as much a threat to the union as its Scottish predecessor.

The Scottish referendum: questions for business

Businesses should follow the Scottish referendum debate carefully. The outcome of the debate could have both direct impacts - such as the fiscal regime for the oil and gas industry - but also indirect impacts on business through changes in the commercial operating environment - access to the EU single market, currency, and regulatory regimes. This could necessitate adaptation and significant reassessment of established business models, particularly for the over 2,500 businesses which operate across the border.

Despite the comfortable lead in the polls for the “Better Together” campaign, the scale of the potential implications of independence and the likelihood of further devolution - both in the post-2014 period and beyond - mean that companies who ignore the issue could easily find themselves undertaking costly reactive responses. We suggest six questions which businesses need to be able to answer to ensure that they are not caught out.

- What are the business’s assets and interests in Scotland?
- How exposed are the business’s supply chain and distribution networks in Scotland? What are the business’s operations across the border into the UK and the rest of the EU?
- How many Scottish employees does the business have? Is the business prepared for the implementation of Scottish tax systems in parallel to those schemes for employees from the rest of the UK?
- Do shareholders understand the potential implications of independence or devolution for the business? Are they confident that the business is prepared?
- Will the business take a public position on Scottish independence? If the polls tighten will the business and executives come under political pressure to support a political campaign? What are the attitudes of employees, shareholders and executives to this, and does the company have a ‘fallback’ position?
- Are businesses with cross-border operations prepared for the way the debate may develop beyond the 2014 debate and over the next decade?

Global Counsel is a strategic consultancy based in London. Its senior team have worked at the highest level of politics, government and public policy in the UK, Europe and internationally. They have three decades of experience in public policy and public affairs.

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