**Universities and constitutional change in the UK: the impact of devolution on the higher education sector**

**Tony Bruce**

**Introduction**

1. This report considers whether the process of devolution has encouraged the development of more distinctive higher education policies in Scotland, Wales and Northern Ireland since 1999. The main aim of the devolution of legislative powers was the preservation of the United Kingdom by responding to pressures for self-government, which intensified from the late 1980s. The powers of the three devolved legislatures initially varied although subsequent changes mean that the differences between them have been substantially reduced if not entirely eliminated. As a result, responsibility for higher education was transferred to the devolved countries although the research councils remain a UK-wide responsibility.
2. The UK government’s policymaking process often considers devolved concerns late, or not at all, and the appropriate coordination mechanisms have not been fully developed. There are, however, strong links between the higher education funding councils (and with the Department for Employment and Learning in Northern Ireland) where there are long established arrangements for coordination and liaison as well as a significant amount of joint activity.
3. Changes to the UK government’s grants to the devolved countries are generally determined by the Barnett formula which has been applied since 1978. Under the formula, they receive a population-based proportion of the changes in planned spending on comparable UK government services in England. The comparability of services is assessed at each spending review in order to establish the extent to which services delivered by UK government departments correspond to services provided by the devolved administrations. Funding council grants, student loan subsidies, and bad debts are included in this comparability calculation but student fee income is not. A switch in university funding from funding council grant to student fee income in England, as is planned from 2012/13, will therefore result in the funding to the devolved countries being reduced.
4. The three countries now all have similar legislative powers enabling them to reshape their HE systems according to their own national priorities. However, in shaping these priorities they are strongly influenced by the wider market in which they operate for the recruitment of staff and students and the funding of research. In many respects, UK higher education remains a single market for students, staff and resources.
5. As well as market constraints, the devolved administrations face a number of common pressures affecting the direction of their HE systems, including the dominance of England; demographic decline; public expenditure reductions, increased competition for UK research funds; the need to improve economic performance; and the promotion of national identity, economic self-determination and cultural awareness.

**Diverging national higher education strategies**

1. Reviews of higher education have been in progress in all three devolved countries since 2008 and are at different stages of completion. In contrast to the rest of the UK, higher education in England has made a decisive shift in favour of a student-led, market based system. Change will be generated by competition although this will largely be driven by a state-directed process to control student numbers rather than by the market. The reforms being adopted in the rest of the UK will tend to reinforce the role of the state in driving change and this is likely to mean further divergence from the English model.
2. Although there are many differences of emphasis and policy detail, a number of common themes are emerging from the reviews. There is a less market-oriented approach to higher education than has been evident in England. The adoption of variable fees in the devolved countries reflects financial necessity rather than any enthusiasm for market principles and their introduction has been combined with protection for home domiciled students. In Scotland this now takes the form of a rejection of the principle of a student contribution while in Wales and Northern Ireland the fee for home-domiciled students from 2012/13 has been capped at existing levels.
3. Public funding for teaching will no longer be distributed in a block grant determined by a formula. It will be replaced by a more strategic approach to funding – with regional as well as national funding models - which facilitates the implementation of government plans for reform. Strategic incentives are to be offered to providers to deliver government priorities, including (in Scotland) a much sharper focus on provision of strategic economic importance.
4. All three countries see higher education as central to the development of a learning society, with lifelong learning a central tenet of their approach. There is an educational continuum with primary, post-primary and lifelong education policies being linked together. The different parts of the post-16 system should be connected so that learners easily move between them, with flexibility of provision being needed to cater for the changing needs of the learner and the economy. This includes (in Scotland) plans to integrate the planning of the curriculum and creating a statutory framework guaranteeing articulation between college and university.
5. There is an increased priority being given to widening access where progress since devolution has been mixed. In Scotland, universities will be required to broaden their approach to selection and conclude a widening access outcome agreement with the funding council (with financial penalties for failure to meet the terms of the agreement).
6. In a reversal of earlier policies, both Scotland and Wales have increased the concentration of research funding and they also aim to align university research more closely with national economic priorities. Both countries seek a restructuring of the post-16 sector through greater collaboration or merger. The planning roles of the Scottish and Welsh funding councils are being extended so that they can oversee the implementation of the new higher education strategies and ensure that progress on reconfiguration is made.

**Students**

1. Overall there has been growth in total UK student numbers of 34 per cent since devolution in 1999. Growth has been significantly slower in Northern Ireland than in other parts of the UK with Scotland and Wales showing almost identical growth. More than 18 per cent of higher education students studied in further education colleges in Scotland and Northern Ireland compared with less than 5 per cent in England and about 1 per cent in Wales.
2. All parts of the UK have shown strong gains in full-time postgraduate provision except for Northern Ireland, which also has the slowest growth in part-time postgraduate provision. There is greater variation in the recruitment of full-time undergraduates with a significantly better performance by England compared with the other countries. The growth in part-time undergraduates was particularly strong in Scotland while Wales and Northern Ireland saw a significant reduction; in England it grew slightly in excess of the UK average.
3. In England, participation by young people under the age of 30 has increased to 47 per cent in the decade to 2009/10, a rise of over 20 per cent. Of the other countries, only Northern Ireland has registered growth in participation (measured on a different basis to England) and this amounts to about 13 per cent over the ten year period. England and Scotland have a lower proportion of full-time undergraduate entrants from state schools than institutions in Wales and Northern Ireland. Northern Ireland takes the highest percentage of students from the lower socio-economic groups and has shown the greatest improvement since 1999; elsewhere there do not appear to be significant differentials in the rate of improvement in participation.
4. The percentage of international students is comparable across the UK (with an average of 11.2 per cent in 2009/10) except for Northern Ireland which has seen only a marginal increase since 2002/03 and remains at a low level. England has lost its place as the country with the largest percentage share of international students to Wales, where they constituted 13.4 per cent of the total in 2009/10 and have grown very rapidly over the past seven years. The growth of other EU students has been more uneven, with Scotland and Northern Ireland performing more strongly than England or Wales.
5. Mobility within the UK has declined significantly since 1996/97 when there were 110,570 students (12.5 percent) studying in a UK country other than their own. By 2009/10, 84,920 full time students studied outside their home domicile, representing 6.57 per cent of the total. English and Scottish full-time students are much more likely to be studying in their home country than those from Northern Ireland or Wales although there is an increased tendency for students from the latter to enter university in their home country. Although no more than a small fraction of English students study in other parts of the UK, in absolute terms England contributed nearly 50 per cent of the students studying in Wales and about 15 per cent of those in Scotland. Wales and Scotland have a much higher proportion of incoming students as a proportion of total enrolments than the other two countries. In contrast to England and Scotland, about 30 per cent of students domiciled in Wales and Northern Ireland study elsewhere.

**Student finance**

1. In 1999 tuition fees for full-time undergraduate students were charged at all UK universities under the Teaching and Higher Education Act 1998, which had ended free tuition and replaced maintenance grants by loans with income contingent repayments.
2. The new Scottish Executive established an enquiry into the funding of higher education in Scotland, which is a devolved matter under the Scotland Act 1998. The review recommended the abolition of upfront student fees for Scottish domiciled students studying in Scotland and their replacement by a graduate endowment scheme. As a result upfront fees were abolished and a replacement scheme was adopted: graduates were to pay back £2,000 with repayments starting once their earnings reached £10,000 a year.
3. The graduate endowment represented the first significant variation from UK-wide higher education funding arrangements and introduced the first complexities into the devolved system which have been its hallmark ever since. Under the new arrangements introduced in 2001 students from the rest of the UK studying in Scotland would continue to be liable for the same upfront fee that applied elsewhere but they would not be required to pay the endowment.
4. The UK government replaced the upfront fee with a variable fee of up to £3,000 from 2006 primarily to address the problem of under-investment in universities in England by increasing the contribution made by graduates as the principal beneficiaries of higher education. Variable fees were also introduced in Northern Ireland in 2006 and a year later in Wales but the endowment continued in Scotland (until it was abolished in 2008). The fixed fee charged to students from the rest of the UK studying in Scotland was retained but was increased from 2006. The increase was a response to fears that English applicants to Scottish universities would increase dramatically if no action were taken, forcing Scottish domiciled students out at the application stage and to concerns about an emerging funding gap.
5. In Wales, the government modified the new fee arrangements as they applied in England with the aim of making higher education more accessible to Welsh-domiciled students studying in Wales. From their introduction in 2007, variable fees were accompanied by an inflation-adjusted Assembly fees grant of up to £1,845 a year which was not repayable or dependent on income.
6. The UK government’s decision to raise the fee cap in England to £9,000 from 2012 has produced a consistent response from the devolved administrations. They have decided to protect their home domiciled students either by the continuation of free higher education (Scotland) or by providing a non-repayable fee grant to meet the difference in cost between the old fee and the new fee (Wales) or by maintaining tuition fees at their current (inflation adjusted level) of £3,465 (Northern Ireland). Welsh students will receive the grant wherever they study but there were no similar concessions for students domiciled in Scotland and Northern Ireland studying outside their home country who will be liable for the full fee. Scotland, Wales and Northern Ireland have all applied the English fee cap of £9,000 to their incoming students with the aim of increasing their fee income while avoiding any significant increase in recruitment levels.

**Funding of institutions**

1. There is a close correlation between the income of institutions and population shares except in the case of Scotland, which has a higher level of income, and Northern Ireland, which has a lower level of income. These countries also have the greatest dependence on funding council grants. Northern Ireland’s low level of fee income reflects its performance in recruiting international students while in Scotland it is a consequence of the government’s fees policy.
2. Institutions in England and Scotland have been funded at a consistently higher level than those in Wales and Northern Ireland since devolution. Wales has had the lowest teaching income per student except in 2005/06 when Northern Ireland was marginally lower. The size of the funding gap between Wales and England has been a major issue for the Welsh sector and was estimated at £69 million in 2007/08. In 2009, concern about the gap led to the abolition of the Assembly Fee grant, with the savings being reinvested in the sector.
3. It was the UK government’s decision to introduce variable fees in 2006, and then increase the cap to £9,000 from 2012/13, that raised the issue of relative funding levels for undergraduate teaching rapidly up the agendas of the devolved administrations. Fee income falls outside the Barnett formula and does not produce any additional funding for the devolved countries. The impact of the cut in public funding and the increase in the fee cap in England was likely to be most severe in Scotland which would be hit by the reduction in Barnett funding without the same ability as England to raise compensating fee income.
4. The Scottish government has recently provided significant funds from its block grant to close the funding gap. A contribution would also come from increased fees paid by students from the rest of the UK, with institutions being free to set their own fees up to a maximum of £9,000 from 2012. However, there are questions about the reliability of this source of income because of variations in demand and uncertainties about the future pattern of cross border flows. The gap with England would also be closed by securing £23 million a year in efficiency savings and by looking at charging EU students a ‘management fee’.
5. It is difficult to assess the effect of the funding changes in Wales from 2012 on the funding gap between England and Wales as their impact is uncertain. The Welsh government has adopted the essential features of the English fee regime but has accompanied them with a tuition fee grant for Welsh students to cover the balance of the fee over £3,465. The fee grant will be funded by reducing HEFCW funding for teaching by 35 per cent but this figure may need to be increased as average fee levels in England are significantly higher than those assumed by the Welsh government. As in Scotland the financial sustainability of the Welsh model depends on maintaining the flow of students to and from England although there is no certainty that this will be achieved.
6. Variations in funding per student between the countries of the UK have been an inevitable consequence of devolution as budget decisions are made in accordance with national priorities. The rise in the English fee cap to £9,000 could serve to increase these differences, particularly if the devolved countries do not maintain their share of the UK student market.

**Structure of the sector**

1. All four UK countries have considered the size and shape of their higher education sectors from time to time but only in Wales has it been a major theme since devolution in 1999. The view that there are too many institutions in Wales which are too small has been held by a variety of public bodies dating back to the1980s. In 2009, a higher education review concluded that there ‘was a compelling case for creating and consolidating critical mass, particularly in research and in wider reconfiguration, including merger, where clear outcomes can be identified and achieved’.
2. Although radical action has not been evident, the Welsh sector has, since 2002, developed new approaches to collaboration that have not involved merger. This has included the reconfiguration of subject provision, the sharing of services and the formation of major collaborative research institutes. There have also been four mergers, reducing the number of institutions from 13 to 10.
3. More recently political pressure for change has increased – partly in response to the additional constraints on public funding - and this is reflected in the statement that the government expected to receive ‘proposals for further reconfiguration of the higher education sector’. HEFCW has subsequently taken the lead in developing a more explicit description of the future shape of the sector and, in 2010, it outlined the principles on which the structure of the sector should be based.
4. The funding council’s proposals included the creation of a single metropolitan university for south-east Wales and extending links between Bangor and Aberystwyth with a view to eventual merger. A review of provision in north-east Wales is being undertaken before any action is taken. The government has threatened to dissolve the post-1992 institutions by invoking the Education Reform Act 1988 as a means of speeding up the reform process and imposing a new structure.
5. Until recently no major concerns have been expressed in Scotland about the structure of the sector and attention has focused on increasing research collaboration rather than mergers. The government has been more concerned to ensure that higher education is available in underserved areas and this has resulted in the creation of new provision. The question of the structure of the Scottish sector has however recently been raised in earnest. The conclusion is that there is room for some consolidation as there is too much duplication and unnecessary competition. The government argued that very often different colleges and universities are competing for the same students while similar programmes are being run by institutions within a few miles of each other.
6. As a result of these pressures, the government no longer seems willing to leave decisions on structure and what is delivered solely to individual universities. Under the proposals in the White Paper – and echoing recent developments in Wales - Ministers would be given the power to require the Scottish Funding Council (SFC) periodically to review the number and pattern of universities and make recommendations on changes. Following such a review Ministers would have the power to require the governing bodies to work with SFC to implement the recommendations.

**Governance of the sector**

1. The UK-wide Further and Higher Education Act 1992 created three territorial funding councils which (together with the Department for Employment and Learning Northern Ireland) assumed the funding responsibilities of the Universities Funding Council and the Polytechnics and Colleges Funding Council as well as those of the Scottish Office Education Department. Under these new arrangements, the funding councils were responsible for policy implementation but policy continued to be made by the Scottish and Welsh Offices based in London until devolution in 1999. In Northern Ireland the sector remained directly funded by a government department following devolution rather than through an arms-length body.
2. Since its creation in 1992 the funding council model has operated on a broadly similar basis in England, Scotland and Wales although differences in the policy and size of the sectors have produced variations in operating methods. The model is now being reviewed: the most radical changes have been proposed in England but in Scotland and Wales there have been strong political pressures to revise their remits so that they can intervene more directly in support of national objectives.
3. The first significant change to the model came in Scotland in 2005 when the separate funding councils for further and higher education were merged as the SFC. The SFC has increasingly been regarded as an arm of government, with a strategic role in the sector, and this trend has been underlined by increasingly prescriptive Ministerial guidance and changes to its funding methodology. The funds allocated by formula have been reduced in order to create a ‘horizon fund’ which distributes resources according to national priorities. The council’s role has also been affected by the government’s practice of engaging directly with the sector through formal and informal contacts.
4. In 2011 the Scottish government raised fundamental questions about the future role of the SFC and whether its allocation mechanisms were too conservative, protecting institutional stability rather than incentivising creativity or flexibility. The intention is that it will be given a new role of ‘leading and supporting change on a number of fronts This will need to be met by changed powers . . . in order to make more and faster progress’.
5. The Scottish government also initiated a separate review of university governance which reported early in 2012. It made wide-ranging recommendations which include transferring the Privy Council’s role in relation to universities to Scotland, enacting a statute for Scotland’s higher education sector setting out the key principles of governance and management, and establishing a stakeholder forum.
6. In Wales there are strong political pressures for the reform of governance despite the more active role played by the Higher Education Funding Council for Wales (HEFCW) in the development and implementation of policy in the last three years. Nevertheless, there is continuing political dissatisfaction with the performance of the sector and its relationship with the funding council and the Welsh government.
7. A review in 2011 suggested that the funding council should be replaced by new arrangements that reflected the specific needs of Wales. It argued for the retention of a separate arm´s length funding and regulatory body which formally incorporates the sector, links it directly into the delivery of national strategies and introduces a system that not only promises change but assures it. A consultation is planned early in 2013 with a view to reconstituting HEFCW as a strategic planning and funding body.

**Degree-awarding powers and quality assurance**

1. The award of university title and degree-awarding powers remains a non-devolved matter and the arguments for maintaining the status quo have prevailed so far, although this is now under review in Scotland. The Privy Council is empowered to grant institutions the powers to award their own degrees and in considering applications for such powers, it has sought advice from the appropriate territorial higher education Minister.
2. In England and Wales applications for university title are considered under criteria approved in 2004. In Scotland and Northern Ireland, they are considered under criteria approved in 1999 (which, before 2004, were applicable to all parts of the United Kingdom). In 2004 it was decided in England and Wales to change the criteria for the award of university title so that it was no longer necessary for an institution first to have secured research degree-awarding powers.
3. These changes were the first indication that the UK government was to take a more radical approach to degree-awarding powers and university title than has been evident in the other UK countries. They led to the creation of a group of new universities from former colleges of HE that had been awarding other universities’ research degrees. As a result of the new criteria four private providers in England have also been awarded degree awarding powers. Further changes have been proposed in England in the 2011 White Paper but seem unlikely to be matched elsewhere in the UK
4. All four countries subscribe to the principle that universities have the main responsibility for ensuring that quality and standards are maintained and that they should be independently overseen by the Quality Assurance Agency (QAA) which has a UK-wide remit. All universities use a common set of tools to underpin their work in maintaining quality and standards.
5. The legislation creating the funding councils in 1992 included a specific obligation to ensure that provision is made by each council for assessing the quality of the provision it funds. In 1997 the QAA was created as a UK-wide independent body funded by universities and funding council contracts, which require it to devise and apply quality assurance methods. The devolved countries continue to support the need for comparable UK standards based on institutional review and have endorsed the view that QA at subject level should be the responsibility of the universities.
6. Clear differences of approach have developed between the four countries and their contracts with the QAA require it to adopt different approaches. After 2001, quality assurance in Scotland began to move in the direction of quality enhancement and enhancement-led institutional review was promulgated in 2003. Wales has also moved in the same direction. The approach it adopted from 2003 was similar to that in England but there were no discipline-based audit trails or publication of summaries of external examiners’ reports. In 2009 an increased emphasis on enhancement and a greater focus on the learner experience were adopted. Further changes have been made which brought the review method closer to that adopted for England and Northern Ireland.

**Research funding and performance**

1. The devolved countries remain committed to the present UK research funding arrangements and the Scottish White Paper on HE (2011) states that the government will ‘work with the UK government to ensure continuity of access to research council funding during the continuing process of constitutional reform’. The devolved countries participate in a variety of UK wide-initiatives within the dual support framework.
2. The research council arm of dual support remains a UK responsibility and funds are allocated competitively to institutions in the four countries. The second arm – recurrent funding distributed by the funding councils – is a devolved responsibility. Funding for research is provided from the devolved countries’ block grants but allocated by reference to the results of the UK-wide Research Assessment Exercise. All UK universities strongly support their continued participation in the research assessment exercise. For universities that see themselves as global research players it makes little sense to be a big fish in a small pond.
3. In the 2008 assessment exercise English performance was better than the other countries, with 55 per cent of its research rated 4\* or 3\*, compared with 52 per cent in Scotland, 50 per cent in Northern Ireland and 49 per cent in Wales. How the results are translated into funding outcomes is the responsibility of each of the participating countries. In the initial period of devolution, they distributed their research funds less selectively than in England although this has now changed. There are significant variations in the proportion of funding council grant that is allocated to research, with both Scotland and Wales providing below the average for the United Kingdom.
4. UK researchers have produced 123,594 articles in 2010 and growth over recent years is positive in all four UK countries. The UK’s field-weighted citation impact, an indicator of quality that adjusts for differing citation practices in different subject fields, is second only to and closing in on the United States among the comparator group. Within the UK, its constituent countries reflect the UK’s overall positive trend in field-weighted citation, while Scotland shows a modest increase in article share relative to England, Wales and Northern Ireland.
5. Each of the devolved countries faces the challenge of ensuring that its best research is internationally competitive with the aim of providing the maximum benefit to the domestic economy. As each country reviews its research performance and strategy, a number of common themes are emerging. One is the need for more collaborative research. Scottish universities have a strong track record in pooling their research with the aim of building research capacity and avoiding the problems that arise from relatively small concentrations of researchers. Wales has also given priority to research collaboration although the focus has been on the creation of research centres in areas of national priority.
6. The second development is the move to increase the concentration of research funding. In Scotland, the government intends to accelerate the process of research concentration and this process is already underway in Wales. Third is the aim of aligning research activity much more closely to national objectives. In all three countries there is an explicit focus on targeting strategic research funding on national priorities determined by the government rather than by individual researchers. Finally, a variety of initiatives has been taken in the three countries with the aim of maximising the commercial potential of university research.

**Conclusion**

1. The most distinctive change associated with the process of devolving higher education has, of course, been the adoption of different student fee and maintenance arrangements. However, as a part of a UK market for domestic students, the devolved countries have not had an entirely free hand in shaping these arrangements. They have had to try to ensure that there is a balance of inward and outward student flows because of the need to avoid reducing opportunities for home students while maintaining the necessary income levels by attracting fee-paying students from the other countries of the UK.
2. There has been a mix of policy convergence and divergence since devolution although the pace of change is now increasing as the devolved countries undertake major reviews of their higher education policies. The policy conservatism that has been evident since 1999 is now being replaced by strong political pressure for change. Reform is being driven by demographic and financial pressures and the need to drive economic growth. There is a belief that higher education performance needs to be enhanced in order to maximise its impact and secure greater value for money in a period of economic stringency.
3. The social democratic governments in the devolved countries have shown little appetite for the market-based reforms adopted in England and while acknowledging the autonomy of universities they seem to be moving in some respects in the direction of a more traditional European model of higher education. The sector is seen primarily as serving economic and social objectives and the devolved governments are increasingly interventionist in their approach. This includes the enhancement of funding council powers, the abandonment of formula funding, the planning of provision on a regional basis, setting widening participation targets under statutory powers and specifying national priorities for research.
4. Devolving higher education has brought benefits to the devolved countries but there are also significant disadvantages. As we have seen policy autonomy is constrained by the impact of changes in the financing of higher education in England and the need to maintain funding at competitive levels. For the prospective student, the funding changes have meant additional layers of complexity with differences in fee and maintenance arrangements that may be difficult to understand. The evidence suggests that the impact of devolution on performance has been mixed. The highlights include recent increases in research income, growth in student numbers and a strong performance in the recruitment of international students in Scotland and Wales. In some other respects – participation rates of young people, social access to higher education and research quality – performance has been less consistent.
5. The devolution process has given the devolved countries the powers to make their own policy choices with the overall aim of securing the long term future of the United Kingdom. Whether this broader objective will be achieved seems increasingly doubtful but there is no doubt that devolution has provided the four countries with the opportunity to shape their own higher education sectors in a new direction even though these choices may have been constrained by the complexities of the devolution settlement, the existence of a UK market and the dominance of England. Whether those policy choices will lead to stronger and more competitive national systems remains to be seen.