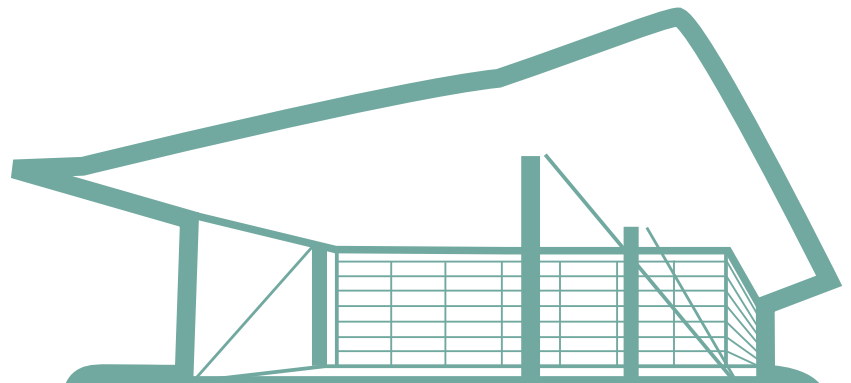


all Wales convention



Summary

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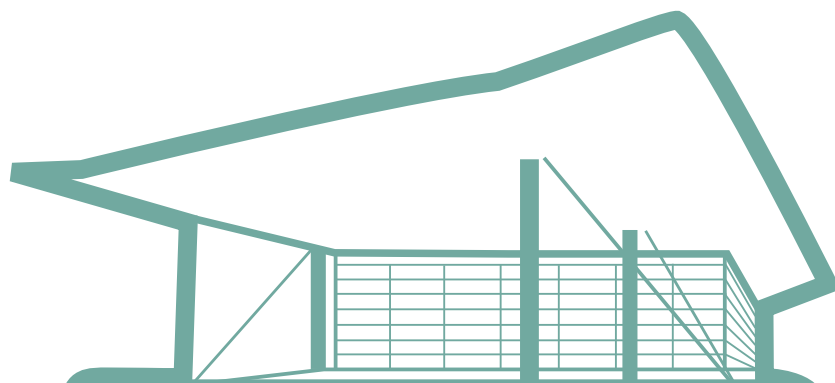
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Executive Summary

- i. The Welsh Assembly Government **set up** the All Wales Convention to assess public views on the primary law making powers which the National Assembly for Wales should enjoy.
- ii. The First Minister and Deputy First Minister appointed Sir Emyr Jones Parry as the Chair of the Convention in October 2007. An Executive Committee of 16 members, chosen to be broadly representative of the people of Wales, was appointed in July 2008 to steer the work of the Convention. All those who participated in the subsequent activities of the Convention became part of the Convention.
- iii. The Executive Committee analysed **the present constitutional arrangements** and the achievements of devolution to date. It developed a **communications and consultation strategy** to reach as many of the Welsh electorate as possible, using an understandable summary of the provisions of the Government of Wales Act (GoWA) 2006. This drew on the network of key Welsh organisations, arranged public events throughout Wales, encouraged the participation of young people, provided a formal consultation process, and included an interactive website. The Convention hosted a lively debate on **facebook**[®]. In aggregate, comments were received from 608 organisations and individuals, and a number of separate organisations distributed information to their members. (Chapter 1)
- iv. The background to the **current devolution settlement** in the context of wider devolution in the United Kingdom, and the phased approach in Wales, culminating in GoWA 2006, are set out in Chapter 2. It describes the executive devolution which has already occurred, the existing powers to make secondary legislation, and the National Assembly for Wales's currently limited powers to make primary laws, obtained in different ways with the agreement of the UK Parliament.



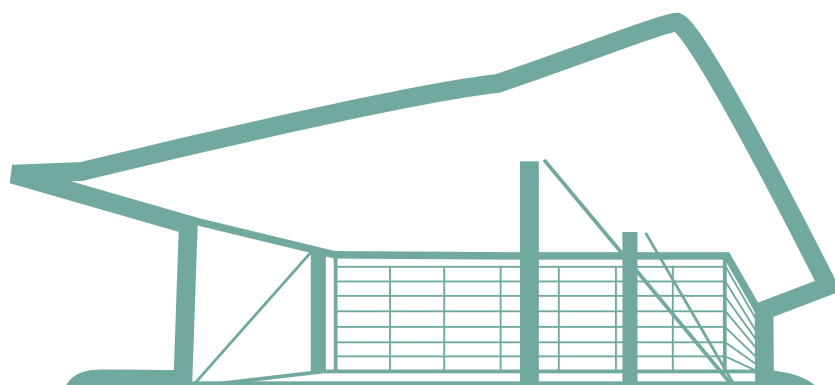
- v. Potentially, the National Assembly for Wales can now ask for primary law-making powers in part of any one of the 20 defined areas of Welsh life set out in GoWA 2006 and obtain the powers with the approval of the UK Parliament (section 2.3). There is also the option of obtaining primary law-making powers across all 20 areas all at once, but this would require the approval of a majority of the Welsh electorate voting in a referendum.

The choice therefore for the public debate focused on two alternatives:

- **Firstly, the current arrangements, where the National Assembly for Wales acquires powers to make laws step by step, with the permission of the UK Parliament (Part 3 of GoWA 2006);**
- **Or for the National Assembly for Wales to get powers to make laws in all 20 areas all at once after an affirmative vote in a referendum (Part 4 of GoWA 2006).**

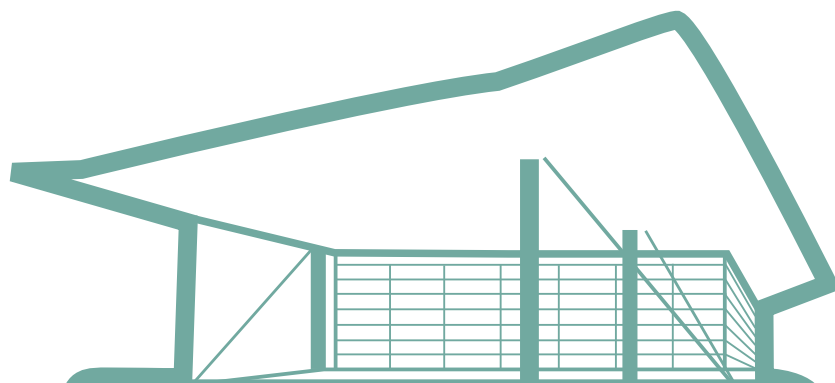
- vi. In either case, the issue is the allocation of existing powers between Westminster and the National Assembly for Wales, and the speed at which some of these powers should be transferred to the National Assembly for Wales.
- vii. The National Assembly for Wales could, by a two thirds majority, vote for the calling of a referendum. Both Houses of Parliament would then need to endorse the holding of a referendum and agree the question to be put. **If there were a “yes” vote, then Part 4 would come into effect.**
- viii. The evidence submitted covered the different arguments and observations relevant to these options (Chapter 3). This suggested that there were differing views on the extent of positive benefits which derive from devolution, and that the devolution settlement itself was seen to be complex.
- ix. The evidence indicated that, although financing often figured in public comment, the likely impact of a move to Part 4 would be broadly cost neutral.
- x. **Opinions were received on the two routes by which the National Assembly for Wales is currently acquiring powers to make primary law:**
- Legislative Competence Order (LCO) route (section 3.4)
 - Framework Bills route (section 3.5)
- xi. It was not recognised by most people that, since May 2007, **Framework Bills have provided more powers** for the National Assembly for Wales than the LCO route. The Framework Bill procedure is speedier, and can provide primary legislative powers or confer executive functions directly on Welsh Ministers. But the approach is opportunistic, rather than strategic, and requires a relevant UK Parliamentary Bill to which the provision to grant the primary law making power can be added. The National Assembly for Wales has no involvement in the consultation between the Welsh Assembly Government and Whitehall on the drafting of the Framework Bill.

- xii. The report details **how the LCO process works and its evolution**. Views were polarised, with a majority believing that the LCO process is cumbersome and slow. **The Convention therefore commends continuing improvements in the operation of the LCO process** and encourages Welsh Assembly Government / Whitehall engagement and close cooperation between those carrying out scrutiny in the National Assembly for Wales and in Westminster.
- xiii. The **scrutiny** exercised by the National Assembly for Wales and Westminster is examined in section 3.6. Scrutiny should be proportionate, recognising the provisions of GoWA 2006 and separate electoral mandates. There seemed general agreement that recent changes have improved scrutiny within the National Assembly for Wales. Under Part 4, as the LCO procedure would not apply, resources within the National Assembly for Wales currently devoted to scrutinising LCOs would be released to focus on draft legislation. **However, a more sustained effort on scrutiny is needed under Part 3 or 4, with opportunities as well for the National Assembly for Wales to consider proposals for changing its competencies that are to be included in any UK Bill.**
- xiv. Whether Wales has **the capacity** in numbers and skills to implement Part 4 is discussed in section 3.7. **The evidence suggests that the extra adaptation necessary to implement Part 4 should be manageable**, and the resource costs essentially unaffected. The legislative process will evolve further under Part 4, and importantly, capacities across the board currently devoted to the LCO process would be released to concentrate on actual legislation.
- xv. **The powers of the three devolved administrations** of the United Kingdom are compared in section 3.8. Essentially, only Wales has powers devolved specifically to it, while for Scotland and Northern Ireland, the formula assumes that those nations acquire all that has not been specifically reserved for Westminster.



- xvi. The rule of law is basic to democracy and laws should be adopted by a transparent process. Citizens should be able to access an accurate record of the body of Welsh law - a one-stop-shop. **The Convention recommends the creation of a single accessible record of all law applicable in Wales. Efforts should continue to ensure that the administration of justice in Wales better reflects devolution** (section 3.9).
- xvii. Detailed **provisions of Parts 3 and 4 of GoWA 2006** are considered in section 3.10, in particular the role of potential limitations on the use of powers. The choice on the table in a referendum is whether to implement Part 4 as it is. If required, the content of Part 4 could be amended before or after any referendum. If Part 4 were to come into effect after a “yes” vote, the National Assembly for Wales’s new powers would have been endorsed by the electorate. The Convention recommends that any subsequent change in the content of Part 4 should recognise the enhanced status of the National Assembly for Wales.
- xviii. The relative merits of Part 3 and 4 are assessed in section 3.11. **The Convention is convinced that Part 4 offers substantial advantage over the present arrangements in Part 3.** It would offer greater efficiency, permit a strategic approach to the drafting of the legislation, provide greater clarity, be more consistent with the rule of law and democratic tradition, and reflect the emerging maturity of the National Assembly for Wales.
- xix. Several other important issues were raised. Chapter 4 covers local authorities, policing, the Third Sector, the United Kingdom dimension and the European Union context. These may be little affected by the possible changes in the devolution settlement in Wales, but some practical recommendations and observations are made.
- xx. The arguments that were heard from the people of Wales about devolution and a **possible referendum on further powers** are considered in Chapter 5. This chapter reports the social research undertaken and sets out some of the data gained.
- xxi. **The conclusions and recommendations of the Convention’s work are all brought together in Chapter 6.** They stem from a robust, impartial examination of all the evidence received. The key points relevant to a referendum follow.
- xxii. **The evidence showed that the people of Wales support for and acceptance of devolution is solid. Our polling results showed 72% favour the present devolution or more.**
- xxiii. **Through the consultation process it became clear that the public has limited knowledge of the procedures and issues associated with GoWA 2006.**

- Much more needs to be done to inform the electorate** and this should be central to the conduct of any referendum campaign. Democracy requires that information be provided, the arguments be presented, and the electorate given the opportunity to be better informed. Every effort should be made to ensure issues are presented in clear, accessible language, and great care taken in the choice of terms, in order to best communicate what is at stake.
- xxiv. **Declared voting intentions in a referendum on Part 4 showed, in Wave 2 of our research, some 47% in favour and 37% against an affirmative vote, a margin of 10 percentage points** (plus or minus 3 percentage points, allowing for errors in the polling sample). However, these results should be interpreted with caution, as many factors affect voting intentions in any referendum. The polling results suggested that the voters in a referendum would be particularly influenced by developments and issues within Wales. Voting intentions are also influenced, and for some it is particularly important, by their basic attitudes, and indeed more fundamental positions e.g. Wales as a nation or the integrity of the United Kingdom. A referendum campaign which tapped into such values would be more likely to evoke support.
- xxv. **The judgement of the Convention is that a “yes” vote in a referendum is obtainable.** However, the evidence collected underlines that there can be no certainty about this.
- xxvi. The work of the Convention suggested that, if a referendum is to be held in good time before the National Assembly for Wales elections in May 2011, then **a decision should be taken by June 2010.**



xxvii. **The Convention commends its recommendations to the Welsh Assembly Government and believes that they deserve serious consideration by all involved in the governance of Wales. While attention will naturally focus on the Convention's support for the implementation of Part 4 and on the prospects for a referendum, it urges its other recommendations to be implemented on their own merits. It believes that the governance of the nation and the democratic process are vital issues, not just for elected representatives, but for the people of Wales, and advocates a continuing wide ranging public debate.**

This is a short summary of our report which was published on 18 November 2009. The full document is available on the All Wales Convention website (www.allwalesconvention.org) and in hard copy from:

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