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An Assessment of IGR in Post-Devolution UK**
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Intergovernmental Relations in Scotland before and after the SNP

Abstract

In Scotland, the formation of a minority government in 2007 by the Scottish National Party (SNP) provided the potential for profound changes in intergovernmental relations (IGR). This followed eight years of Scottish Labour-led coalition government characterised by a low-key and informal relationship with the UK Labour Government. From 1999-2007, discussions were conducted informally and almost entirely through political parties and executives. Although formal mechanisms for negotiation and dispute resolution existed – including the courts, concordats and Joint Ministerial Committees - these were used rarely (the Scottish Executive also played a minimal role in formal EU policymaking). Yet, an ‘explosive’ new era of relations between the Scottish and UK Governments did not arrive in tandem with a change of party in government (indeed, we can detect a greater SNP effect on the Scottish Government’s consensual relationship with local government). The aim of this paper is to explore these issues by asking two main questions: why were formal mechanisms used so rarely from 1999-2007, and what factors have produced muted rather than problematic IGR since 2007?

The New Political Context

In Scotland, the formation of a minority government in 2007 by the Scottish National Party (SNP) provided the potential for profound changes in IGR. From 1999-2003 and 2003-7, Scottish Labour and the Scottish Liberal Democrats formed a coalition (the *Scottish Executive*) which commanded the majority of MSPs in the Scottish Parliament.¹ In each parliamentary session (of four years) the parties produced a ‘partnership agreement’ setting out in detail their legislative and policy plans. While, in terms of their policy aims, the Liberal Democrats may have done disproportionately well out of the agreement, Labour was the senior partner in both sessions (McGarvey and Cairney, 2008: 121; Roddin, 2004). To a large extent, this allowed relations to develop between the UK and Scottish executives as if there was a shared party in government. The partnership agreement also allowed the UK, to a large extent, to see what was coming. This was consistent with the overall ‘no surprises’ approach between the UK and Scottish executives. Public disputes were rare and the mechanisms for IGR were largely informal and uncontroversial.

In 2007, Labour was replaced by the SNP as the party with most seats in the Scottish Parliament. After a brief flirtation with the Liberal Democrats (and the two Scottish

Green MSPs necessary to form a parliamentary majority), the SNP formed a minority administration and promptly changed its name to the *Scottish Government*. While the term ‘government’ may seem innocuous, it marked a particularly symbolic statement of intent for a new, nationalist party in office.²

At the same time, developments in UK politics spilled over into the UK-Scottish relationship. The ascension of a Scot, Gordon Brown, from Chancellor of the Exchequer to Prime Minister (combined with the perception of a high number of Scottish senior Labour figures in government³) brought to the fore an agenda on Scottish ‘advantage’ (McGarvey and Cairney, 2008: 165). Although these issues have yet to reach a crisis point (at least in terms of a concentration of public attention), the election of the SNP combined with the rise of Brown in 2007 focused UK media and (particularly Conservative) party attention on issues such as the representation of Scotland at Westminster (the reduction from 2005 of Scottish MPs from 72 to 59 only remedied Scotland’s over-representation), the West Lothian question⁴ and, most importantly, public expenditure (with the SNP leader Alex Salmond happy to reply that the solution to each problem was Scottish and English independence).

Since a reform of territorial finance did not take place in tandem with devolution, the issue of a higher per capita rate of public expenditure in Scotland than in England (which was never solved by the ‘Barnett formula’)⁵ has produced periodic bursts of media and public attention and therefore a growing perception within the UK government that it should address its treatment of Scotland. This perception is fuelled by Gordon Brown’s need to project the image of a British rather than Scottish Prime Minister. Such problems were solved in the short term by creating the Commission on Scottish Devolution (led by Professor Kenneth Calman) and inviting it to consider the future of Scottish public expenditure (and intergovernmental relations) as part of its focus on potential constitutional changes. There has also been a shift of UK media and public attention towards bigger issues such as the economic crisis (albeit with the occasional media link to Scotland’s advantage). However, there is a continuing sense, at least among academic circles, that the issue of Scotland’s financial (and political) position within the Union will be readdressed (see for example, McLean 2008). In other words, influence from actors in England will put pressure on the UK government to be relatively assertive in its relations with Scotland. Therefore, the new UK and Scottish Government contexts provided the potential to reinforce any shift in IGR caused by party incongruence.

The Potential for Shifting Relationships

From 1999-2007 the Scotland-UK IGR strategy was clear: discussions were conducted informally and almost entirely through executives. Although other mechanisms for negotiation and dispute resolution existed, these were used rarely. The role of the courts was minimal. There were no references of Scottish bills to judicial review; this was treated as a last resort and the Scottish Executive was more likely to ‘remove offending sections’ than face delay (Page, 2005). The role of Holyrood-Westminster relations was limited, and the Scottish Parliament was restricted to the passing of ‘Sewel’ motions giving consent for the Westminster Parliament (and in effect the UK Government) to pass legislation in devolved policy areas (Cairney, 2006; Cairney and Keating, 2004; they are

now officially called LCMs, legislative consent motions). There was a clear bias towards informality between executives. Although a *Memorandum of Understanding* was produced to guide the conduct of executives, and individual concordats to guide the cooperation between departments, the day-to-day business was conducted through civil servants in the executives without a religious reference to them (and they were updated rarely). As Horgan (2004: 122) suggests, there was an ‘informal flavour’ to formal concordats since - as in Canada and Australia - these are not legally binding. Rather, they represent a, ‘statement of political intent ... binding in honour only’ (Cm 5240, 2001: 5). The Memorandum’s main function is to promote good communication between executives, particularly when one knows that forthcoming policies will affect the other. This emphasis is furthered in the individual concordats which devote most of their discussions to reiterating the need for communication, confidentiality and forward notice (or the ‘no surprises’ approach). For the civil servants that produced them they represented ‘commonsense’ with little need to refer to them (Sir Muir Russell, former Permanent Secretary, Scottish Office and Scottish Executive, in Commission on Scottish Devolution, 2008a: 2; see also Jack McConnell, former First Minister, Commission on Scottish Devolution, 2008b: 13).

Although the Joint Ministerial Committee (JMC) was designed to allow the UK government to call a meeting with the devolved governments to coordinate working arrangements, discuss the impact of devolved policy on reserved areas and vice versa, share experience and consider disputes, it met infrequently (Trench, 2004).⁶ The JMC is a consultative rather than an executive body, with issues to be referred to it on the rare occasions that discussions between executives break down. Such was the bias against taking issues to the JMC that its members found little to discuss (Jack McConnell, Commission on Scottish Devolution, 2008b: 12; Jim Wallace, former Deputy First Minister, Commission on Scottish Devolution, 2008c: 9). Instead, bilateral working relationships between government departments became the norm, while matters of high concern were discussed through political parties (and Scottish and UK Labour ministers in particular). The existence of coalition in government in Scotland complicated matters to some extent, and the most high profile instance in which an issue ‘broke free’ from the quiet world of IGR related to a policy (free personal care for older people) linked closely to Liberal Democrat aims (there were also clear tensions on the issue of PR in local elections). Yet, there was no systematic pattern of disputes and little demand for high profile resolution. Overall, the formal system of IGR was prepared and treated as an afterthought (Mitchell, 2010).

The election of the SNP provided the *potential* for profound changes in IGR (and an opportunity for critics of informal IGR to push for reform). Before its election success in 2007, the SNP made very clear in public that it would not continue with the existing arrangements (McGarvey and Cairney, 2008). There would be far less scope for informal discussions between ministers, particularly since SNP leader Alex Salmond was openly critical of then Prime Minister Tony Blair (and Blair did not congratulate Salmond on his election as First Minister).⁷ The SNP would push for an independent civil service, along the lines of Northern Ireland, enjoying a more formal relationship with Whitehall departments. There would be little encouragement for the UK Government to propose

Sewel motions when the Scottish Parliament could legislate itself. There would be calls for a reinstatement of regular meetings of the JMC plenary, as a way to establish relations between the administrations and to signal that Scotland was an equal partner. The Scottish Government would also (perhaps) challenge and push the existing devolution settlement to its limits, with some issues (such as nuclear power) signalled as lines in the sand. Certainly, it would not take the same attitude to high profile disputes, since a key long-term electoral aim (which is evidently popular – Mitchell, 2010) is to demonstrate that the SNP is ‘sticking up for Scotland’s interests’ (by, for example, pushing for the return of ‘Scotland’s money’ for free personal care). Yet, as if to thwart the hopes by the Sun newspaper, this potential for an explosive new era of IGR has not yet been realised.⁸ There has also been little movement towards formalisation, with the JMC plenary meeting only twice since 2007 (Trench, 2008a; 2009a).⁹

The aim of following sections is to explore these issues by asking two questions: why were formal mechanisms used so rarely from 1999-2007, and what factors have produced muted rather than problematic IGR since 2007? To answer the former, members of the former Scottish Executive may link the smooth running of IGR to the successful pursuit of personal relationships, informality and bi-lateral discussions (suggesting perhaps that the intergovernmental framework is not in need of fundamental reform). However, we also have more ‘negative’ reasons which are also worth exploring: the Scottish Executive did its best to avoid conflict by limiting its aims and anticipating the reactions in Whitehall (particularly under the premiership of Jack McConnell); in most high profile cases, the Scottish Executive knew that it would not succeed through formal IGR mechanisms, or it knew that it would benefit more by not pursuing the issues; and, the Scottish Executive benefited (when subject to minimal interference) or suffered (when trying to influence, for example, UK policy in the EU) from Whitehall neglect, or the ‘disengagement from devolution’ of its ministers and civil servants. In each case, the explanation comes from an analysis of power relations rather than just the adequacy of IGR mechanisms.

Although it is too early to produce a long-term picture to answer the latter, initial impressions suggest five main factors. First, the SNP is not as confrontational as certain political parties and media accounts suggest. Second, the logic to informality, the ‘British Policy Style’ and humdrum day-to-day relationships is strong. Third, while there have been high profile disputes, these often appear to revolve around IPR (inter-party relations) rather than IGR. As such, the complication of minority government is that many potential intergovernmental issues are played out within Scotland. Although there may be more motivation, there is less room to create policy space through boundary-pushing legislation because the relevant bills do not command parliamentary support. This may skew instances of IGR towards matters in which the SNP Government seeks to obstruct rather than innovate (although, again, we may be talking about high profile exceptions). Fourth, no major decision on constitutional change has been taken since 2007. Therefore, the big constitutional debates have yet to take place between governments. Finally, we can explain a degree of continuity with reference to the continued asymmetry of power between the UK and Scottish Governments.

Why were formal mechanisms so rarely used from 1999-2007?

'Positive' Reasons

McGarvey and Cairney (2008: 167) characterise the reasons for a lack of formal IGR as 'positive' and 'negative'. Positive in this sense refers to explanations which suit both parties, such as when the civil service acts a useful conduit between government departments, there is a close relationship between a shared party of government, and when the use of the Barnett formula minimises the likelihood of public disagreement (Keating, 2005: 122–123). Yet, the reasons may be more positive for the executives involved rather than those they represent and are accountable to.

For example, there has been considerable criticism of the maintenance of the Barnett formula to determine changes to devolved public expenditure.⁵ Much debate revolves around what the Barnett formula was designed to do (see McGarvey and Cairney, 2008: 180-8; Keating, 2005; House of Lords Select Committee on the Barnett Formula, 2009). One suggestion is based on incrementalism: the formula represented an interim measure devised in the run up to political devolution in 1979 (on the basis of previous measures associated with the Goschen formula). The plan was then to negotiate a new system, based on a needs assessment study commissioned by the Treasury, with the new Scottish Assembly. When devolution did not materialise, this plan was dropped and Barnett remained. A further suggestion is that the formula was devised to satisfy two camps – the initial maintenance of Scotland's higher settlement would satisfy the Scottish Office (a UK government department), while the formula to calculate marginal changes to expenditure on the basis of Scotland's proportion of the UK population rather than its proportion of UK funding would satisfy calls to reduce Scotland's advantage in the long run. There is disagreement on the latter point. While a strict and accurate application of the formula suggests that it would reduce per capita spending levels in Scotland to a level similar to England, Midwinter (2004a; 2004b) argues that this was never the stated aim (and it did not happen). A more likely aim was to prevent any further advantage to Scotland and then bring Scotland's per capita spending closer to the figure identified in the Treasury's needs assessment. Yet, there is also debate about the extent of this so-called Barnett 'squeeze'. While Schmueker and Adams (2005) argue that it has not materialised, Keating (2005: 145) points to evidence of a convergence of spending in key devolved policy areas such as health and education (suggesting that areas such as agricultural and social security spending serve to maintain Scotland's high expenditure per capita - Bell, 2003: 42).

For our purposes, the most relevant reason to maintain Barnett is that it represented for the Treasury a way to avoid spending a disproportionate amount of time on protracted annual budget negotiations for sums that are small when compared to its overall commitments. A key tenet of the policy communities literature is that policy issues are portrayed as dull affairs to limit public interest and participation. If an issue can be successfully presented as a 'technical' issue for experts (related to a problem which has largely been solved), power can be exercised behind the scenes by a small number of participants (Baumgartner and Jones, 1993; Jordan and Maloney, 1997). In this sense the Barnett formula represents a successful attempt by decision-makers in Scotland and the

UK to keep the big and potentially most contentious questions of funding off the political agenda. Barnett ‘solved’ the problem of devolved finance without provoking the type of reaction that would fuel calls for constitutional change (this was certainly a requirement in the run-up to the 1979 referendum). The annual budget rounds then became almost automatic, with the only scope for negotiation around the ‘technical’ issue of Barnett consequentials.¹⁰ As a result, each side has tended to avoid reforms since a very clear sense of winning and losing would result from any deviation from the status quo. This was helped considerably during the 1999-2007 period by significant rises in UK and Scottish public expenditure. The types of disagreements on the adequacy of the funding settlement that we are now witnessing between the UK and Scottish Governments did not arise. These factors help explain why fundamental issues of territorial finance only tended to arise when linked – in the eyes of actors and venues which are not normally involved - to other events such as the election of a nationalist party just before the rise of a Scottish Prime Minister.

The extensive use of Sewel motions was also criticised, particularly during the 2003-7 session of the Scottish Parliament.¹¹ The procedure was created in anticipation of a small number of instances in which the UK government would legislate in devolved areas. The Memorandum of Understanding makes clear that Westminster retains the authority to legislate across the UK, but that the Government will follow the convention to, ‘not normally legislate with regard to devolved matters except with the agreement of the devolved legislature’ (UK Government *et al.*, 2001: 8). The Sewel motion is therefore passed in the Scottish Parliament to formally express this agreement. For the UK and Scottish executives the Sewel motion became a convenient process in which to minimise the need for lengthy negotiations to coordinate separate legislation when the boundaries between reserved and devolved responsibilities were unclear and/ or when a UK approach was necessary to maintain consistency of standards (and when the issues formed a small part of a much larger bill). Instead, the UK government legislated on Scotland’s behalf and, when appropriate, devolved the day-to-day responsibility for policy to Scottish ministers (*executive devolution* is the power to implement and shape public policy which has been routinely given to Scottish ministers by the UK government before and after 1999; it does not represent a transfer of powers to the Scottish Parliament). In many cases, the issues were innocuous (referring, for example, to the pension arrangements for international emergency service workers) and/ or commanded cross-party support (the Compensation Bill to make compensation claims for asbestosis was passed for expediency). Yet, there were also instances of political cowardice (with the Scottish Executive apparently keen to remove issues such as civil partnerships to another venue), reinforcing opposition party claims that Westminster was taking back the powers granted following devolution, that Scottish ministers were dodging their responsibilities, that the Scottish Parliament was marginalised from issues of IGR and that, therefore, formal contact on Westminster legislation affecting Scotland should involve a relationship between legislatures as well as executives (Winetrobe, 2005; Page and Batey, 2002).

The overall lack of formality in IGR was also criticised by the House of Lords Select Committee on the Constitution (2002). Since most contact between ministers and parties

was by email, telephone or ‘quick words when people meet socially’ it was not recorded in the same way as formal minuted meetings. The report suggests that such informality depends on the ‘fundamental goodwill of each administration toward the others’. However, if the importance of the JMC was not made clear from the start, this may store up problems when Scotland and the UK do not share the same party of government (or at least when those in key posts no longer know each other – Jack McConnell, Commission on Scottish Devolution, 2008b: 14). Giving the example of the foot-and-mouth disease crisis in 2001, it argues that formal IGR mechanisms have not worked well when called upon so far and that informal means cannot be relied upon in the future: ‘Devolved administrations may be more conscious of their distinct interests in future, or less willing to help the UK Government resolve its own problems . . . we wish to ensure that good and effective relations between governments can continue even if the present level of goodwill should decline’.

In such scenarios, the civil service may be seen as a saving grace; as a way to ensure that longer term relationships are maintained. Yet, the evidence for this is less impressive over time. For example, the need for mobility between Edinburgh and London was ‘a decisive argument in the decision to keep a unified civil service’ (Keating and Cairney, 2006: 53), but this mobility was exaggerated (70% of senior civil servants in Scotland have not enjoyed a spell working in a Whitehall department – 2006: 55) and its effect on the socialisation of civil servants going back to Scotland is unclear. Perhaps more evidence can be found in the idea of a Whitehall club in which civil servants in Scotland appreciated being invited to meetings or feared being excluded from them: ‘the Permanent Secretary and other staff made a point of travelling to London to occupy visibly the place that was left on offer at meetings of their Whitehall counterparts’ (Parry and Jones, 2000: 63).¹² Yet, this desire to contribute to UK policy and maintain (or, more likely over time, *build*) personal networks has been undermined by significant Whitehall ignorance of political differences in Scotland¹³ and a decreasing willingness among civil servants to trade-off time spent in the UK for time lost developing policy in Scotland. This is particularly the case in departments such as health and education where policy divergence suggests that the UK and Scottish agendas are unlikely to converge. Evidence from the Scottish Government’s Permanent Secretary John Elvidge suggests that the informal contacts between civil servants in Scotland and England had already diminished before the SNP took office. Although the SNP’s handling of a high profile disagreement on foot-and-mouth compensation in 2007 was said to have undermined the UK government’s willingness to engage informally through the civil service network, this would be, ‘breaking quite a slender thread’ (see McGarvey and Cairney, 2008: 131). In other words, the SNP era merely accelerated a reduction (but by no means abolition) of the formal and informal circulation of papers and ideas across the UK civil service network (Keating, 2010).

Negative Reasons

Issues of secrecy, marginalisation and agenda-setting associated with ‘positive’ reasons for informal IGR combine with problems associated with ‘negative’ reasons based on an asymmetry of power. The UK is asymmetrical in two senses - first because devolution was extended to a relatively small share of the population, with Scotland (8.6%), Wales

(4.9%) and Northern Ireland (2.9%) accounting for 16.4%; and, second, because the balance of power is tipped towards UK policy departments (and the Treasury in particular) dealing predominantly with the English population - in effect, making the Treasury a player and the referee in negotiations with devolved governments. As Keating (2005: 120) suggests, the centre is faced with a small set of devolved governments which do not match the powers of federated or devolved authorities in other countries such as Germany, Spain, Belgium or Canada. Scotland, Wales and Northern Ireland are not part of a collection of powerful regions and the UK does not have a 'supreme constitution' guaranteeing a level of autonomy for devolved governments (Watts, 2007). This imbalance of power was summed up by the early role of the Secretary of State for Scotland as the UK Government's representative in Scotland. Under its first Secretary John Reid, the Scotland Office was prepared to intervene in Scottish politics in a way viewed by the Scottish Executive as interference (Leicester, 2000: 27; McGarvey and Cairney, 2008: 159), while under its second, Helen Liddell, there was still a perception that it was a legitimate Scottish Secretary role to manage, if not the policy process, then at least the internal affairs of the Scottish Cabinet (Mitchell et al, 2001: 56). While the visibility of the Scottish Secretary receded from 2002, we may still get the sense that this is at the prerogative of the UK Government.

The asymmetry of power has two main effects. First, the devolved governments do not have a mechanism with which to oblige the UK government to consult and there has been a tendency for UK ministers to disengage from the IGR process. The lack of JMC meetings during a Labour-led Government was: 'a clear indicator that devolution is no longer a prime concern of the Prime Minister and other politicians' (Trench, 2004: 515-6). Moreover, civil servants in Whitehall often forget about Scotland and neglect to consult, then make statements on UK policy without a Scottish qualification or opt-out - a problem which grew over time as devolution faded from view in London (Keating, 2005: 125; Keating, 2010; McGarvey and Cairney, 2008: 167; Cairney 2009).

These issues were discussed briefly in the public domain following a leaked report from the Scottish Executive's EU office (Aron, 2006; SNP, 2006). The main finding is that, although the best way for the Scottish Executive to influence Europe is through Whitehall, its success varies. Any success depends on a disproportionate amount of work by Scottish officials, since Whitehall departments often ignore or forget to consult their Scottish counterparts. In some cases, Whitehall departments have deliberately excluded their Scottish counterparts from the process, while in most cases the problem is that the Executive is not consulted at a stage early enough to influence the direction of policy (in many cases, the problem was exacerbated by Scottish Executive ignorance of Whitehall processes). The overall success of IGR also varies strongly by policy area (and, in some cases, personalities) with, for example, a long tradition of consultation and cooperation in agriculture contrasting with areas such as economic development in which UK Government/ Scottish Office contact was minimal (interview, Scotland Office, 2009).

Constraints on Scottish influence in the EU are compounded by the fact that direct Scottish Executive contact with EU institutions is limited and discouraged by the UK Government. The Scottish Executive created an office in Brussels to boost Scotland's

presence in the EU strategy and has presented a fairly consistent international strategy: to promote Scottish interests internationally, build links with other regions and countries and promote a positive image of Scotland (Cairney, 2009). Yet, attempts by First Minister Henry McLeish (2000-1) to actively engage in EU discussions or form links with territorial governments seeking greater status in the EU (for example, by signing the 'Flanders declaration') were often rebuffed strongly by their UK counterparts, prompting his successor Jack McConnell to rearticulate the Executive's position: expressing more EU scepticism; calling for a greater use of EU framework legislation; and linking the Flanders declaration to concerns about EU, not UK, infringements of devolved competencies (Cairney, 2009). In other words, McConnell's approach was to stress the value of Scotland's position within the Union within the EU.

Second, when the two executives do interact, Scottish actors are reluctant to challenge the authority of the UK. For example, Page and Batey (2002: 513; Page, 2002) suggest that the UK government drove the agenda for policy coordination. Most Sewel motions came from UK departments after the legislative slot had been secured, with Scottish ministers 'effectively forced to agree to Westminster legislation in the devolved areas' given the uncertainty over devolved government powers and the prospect of the UK government referring the issue to the Judicial Committee of the Privy Council. Further, in high profile issues of disputes – such as free personal care for older people and Hepatitis C compensation - the Scottish Executive has been reluctant to 'rock the boat' and instead accepted UK 'victories' to maintain its good relationship with Whitehall (Trench, 2004).

The one-sided effect of asymmetry may be overplayed in the literature and qualified in various ways. The imbalance of the Sewel relationship may be exaggerated, since the process conferred significant benefits on the Scottish Executive and there is minimal evidence of threats to take issues to the judicial committee (it may be more a matter of Whitehall departments 'bouncing' their Scottish counterparts – a problem that the Cabinet Office's Legislative Programme committee secretariat has worked hard to minimise). A focus on a very small number of disputes exaggerates their overall importance. The Scottish Executive benefited in other ways (particularly financial) by not pursuing the free personal care issue. UK neglect allows considerable Scottish ministerial discretion and the ability to 'create policy space' by reframing policy issues as a way to 'shift venues' and justify legislating in reserved areas (although this was used rarely by the Scottish Executive - Cairney, 2006; 2007; 2009; McGarvey and Cairney, 2008).

Yet, even if we could demonstrate that the Scottish Executive 'punched above its weight', it is more difficult to argue that this justifies a type of IGR in which the executives involved have more to gain from the relationship than those they represent and are accountable to. For example, the Scottish Parliament's European Committee has long been kept in the dark about Scottish Executive/ UK Government discussions on the EU because the former maintained that a form of collective cabinet responsibility precluded it from revealing information that could undermine the UK line, while the latter's Scottish Secretary refused to appear before the committee to explain Scotland's role in EU

negotiations (Cairney, 2009). In other words, IGR appeared ripe for reform regardless of the party in office.

2007: what factors produced muted rather than problematic IGR?

First, in many cases the logic of informal IGR has direct parallels to the 'logic of consultation' between interest groups and government. As Jordan and Maloney (1997) argue, the policy community-like relationships between groups and government are pervasive as a 'consequence of policy making requirements'. Governments and groups trade access and influence for information and advice; this 'logic of policymaking ... acts as a drive towards ... stable, regulated predictable relations'. The logic of 'bureaucratic accommodation' refers to the benefits of reaching a consensus (or at least practical understanding) with interest groups rather than imposing decisions. Although operating within a 'majoritarian' system associated with 'top-down' policymaking, the UK government shares a common style with a range of governments in different political systems, based on the need of civil servants to gather information from interest groups and legitimise decisions through consultation. This need is strong since it encourages group ownership of policy and maximises governmental knowledge of possible problems. Further, the size of the state and scope for 'overload' necessitates breaking policy down into more manageable sectors and sub-sectors that are less subject to top-down control (see Cairney, 2008a). Even during periods of political conflict, this logic 'tends to reassert itself and policy community-type features can emerge in the context of the conflict'; on many occasions the resolution of high profile controversies requires disaggregation into a series of 'less contentious manageable facets that are processable within policy community arrangements' (Jordan and Maloney, 1997).

The lesson to be drawn from such relationships is that few governments are willing or able to bear the cost of continuous top-down policymaking, even if their political structures appear to give them a particular advantage in this regard. Therefore, first, a top-down approach to IGR is no more likely than a top-down approach to consultation. As Keating (2009) suggests, 'the UK has not experienced the phenomenon, found in Spain and Canada, of the central government using parallel powers to undermine the devolved level or compete within the same policy fields'. Indeed, in many policy areas there is effectively no 'centre' with the ability to direct devolved policy (Keating, 2010).

A second reason the SNP did not spark off a new explosive era of IGR is that the Scottish Government frequently has almost as much to gain from the same kinds of relationships fostered by the Scottish Executive (which was, in Alex Salmond's words, keen not to be seen arguing with its 'big brother' – McGarvey and Cairney, 2008: 162). Although there may be instances of high profile disagreements, there is a tendency for this charged atmosphere to give way to a more humdrum, day-to-day relationship as different actors work through the details (Jordan and Maloney, 1997). In this context, our research question refers to the extent to which the SNP Government would accept the relationship in the same way as its predecessor. Again, we can draw parallels with the decisions by interest groups to engage in insider or outsider strategies. Treated as a radical group, the SNP leadership's motives may revolve, 'around one central point: how many recruits will this bring into the organization?' (Alinsky, 1971: 113; Grant Jordan, in correspondence).

Specifically, ministers may be driven by the pay-offs associated with standing up for Scotland's interests and engaging in (and publicising) disputes even if there is no hope of winning them. Indeed, the link between actions and recruitment may be stronger for parties than interest groups. Yet, as Mitchell (2008) argues, it is increasingly difficult to treat the SNP as radical. Instead, the 'fundamentalists' have been replaced by 'pragmatists' in the SNP hierarchy which is 'more in search of respectability than revolution' (2008: 248) and which has found it more effective to recruit members through the 'presidentialization' of its leader and professionalisation of the party's operations (McGarvey and Cairney, 2008: 63).

The experience to date suggests that the SNP has been willing to adopt an *insider* strategy which tends to include an acceptance of the 'rules of the game', or a willingness to engage in self-regulating activities (the value of which some of the party rank-and-file may not appreciate) in the short term to allow it to benefit in the long-term. The best example to date may be the SNP's attitude to negotiations with the UK over EU policy formulation. There has been a stronger rhetoric on Scotland's independent role on the world stage (marking a shift, to some extent, from para- to proto-diplomacy - Keating, 2010: 162) and the desire of the Scottish Government to enjoy a higher status than before in relation to the UK, perhaps even taking the lead in UK/ EU negotiations in areas such as fishing (Cairney, 2009). Yet, as Johnston (2007) argues, SNP ministers have also shown a willingness to operate within existing structures, not only pushing for the extended use of the JMC Europe (still the only JMC to meet on a regular basis), but also agreeing to uphold a principle that they criticised in opposition: 'the devolved administrations are involved in the formulation of the United Kingdom line but on the basis that they may not disclose to anyone - including their own legislature or assembly - what disagreements they have had with the UK Government over the formulation of that line.' This led to the rather shameless defence of the process by Linda Fabiani as (until February 2009) Minister for Europe, External Affairs and Culture, when in her former guise as convenor of the Scottish Parliament's European and External Relations committee she was one of its harshest critics.¹⁴ Overall, the SNP approach has been 'pragmatic', consisting of a greater propensity to make direct submissions to EU institutions (e.g. regarding the North Sea 'supergrid') but 'not to disrupt the UK position' and based on an understanding of the 'reality of the pecking order where member states have the weight' (interview, July 2009). It (and the Scottish Parliament) is also involved in a very small proportion of the transposition of EU directives to Westminster (Keating, 2010).

On domestic matters we can also see more pragmatism than posturing. The SNP has pursued strongly the formalisation of IGR through the JMC machinery and has also sought the cooperation of its counterparts in Wales and Northern Ireland to boost the status of devolved governments in relation to the UK Government. However, it has rarely pursued this agenda with anything other than diplomatic means. Overall, the SNP Government has 'surprised many by not being overtly confrontational' and by encouraging its civil service to be, 'open, cooperative and helpful to their counterparts in the UK Government, rather than to maximise points of friction' (Trench, 2007: 46; Trench, 2008b: 56). While there have been publicised short-term disagreements, these

often give way to longer term negotiations behind the scenes (for example, the issue of Barnett consequential for the London Olympics has parallels in Jordan and Maloney's 1997 discussion of Brent Spar). Further, for example, Scottish Justice Minister Kenny MacAskill promoted the idea (in public and through its civil service) of piloting an airgun licensing scheme in Scotland as part of an overall UK strategy. This is a far cry from the SNP stance in opposition, critical of Jack McConnell's attempts to influence the UK informally and promising to lobby for Scottish control of the issue (Cairney, 2008b; McGarvey and Cairney, 2008: 163). These examples supplement the more ad hoc links between executives during crises (such as the terrorist attack on Glasgow airport, the moves to address a fuel crisis caused by strikes at the BP Grangemouth oil refinery, coordination of responses to tackle the foot-and-mouth outbreak in England – Trench, 2007 – and emergency meetings to address the spread of swine flu – Mitchell, 2010). Overall, as Keating (2010: 146) argues, 'a surprising amount of the old informality and co-operation has re-emerged as ministers at both levels realise that they have problems in common and need each other'.

Similarly, the early experience of Sewel motions suggests that there is a logic to the expediency and convenience that the process offers for fairly innocuous policy issues, or for a legislative process which results in more executive devolution. Therefore, the SNP Government made it clear in 2007 that they would not oppose them in principle as long as they operated within the UK political system (Mitchell, 2010; Crawford, 2007; Crawford, 2010). Since May 2007, the SNP Government has approved proportionally fewer (it passes 7 or 8 per year, compared to about 10 per year under the former Executive) and has sought, when possible, to promote Scottish parliamentary measures instead. However, we have not witnessed the type of sea change we might have expected from a party which, in opposition, presented principled stances against the process. Indeed, Labour MSP George Foulkes could not resist highlighting the SNP's use of Sewel motions as a result: 'It is an interesting paradox that there have been more bills at Westminster affecting Scotland in the current session than there are bills here' (Scottish Parliament Official Report, 20.2.08 c.6129 – although note that this has resulted partly from the inability of a minority government to pass legislation in the same way as the former majority coalition). Similarly, Johann Lamont (Labour) was keen to remind Parliament about the SNP's opposition to the use of Sewel motions when in opposition: 'On numerous occasions in the past, SNP members voted against entirely rational and logical LCMs on the basis that it was a point of principle for them to do so' (Scottish Parliament Official Report 20.2.08 c. 7140). Similar party-political points about the SNP handing powers back to Westminster (a classic argument used by the SNP when in opposition) prompted Communities and Sport Minister Stewart Maxwell to make a remark which could have been said by any Labour/Liberal Democrat minister from 1999-2007:

It is suggested that the LCM impacts on the Scottish Parliament's legislative competence or is tantamount to our handing back powers to Westminster. Let me be clear: only through changes to the reservations in the Scotland Act 1998 can powers be handed back to Westminster or the legislative competence of our Parliament altered. Individual motions, such as the one that we are discussing,

represent no more than a one-off agreement by the Scottish Parliament for Westminster to legislate on our behalf on a specific aspect of a devolved matter (Scottish Parliament Official Report 19.3.08 c.7106-7).

The third aspect of muted IGR results from minority government: many potential intergovernmental issues are played out within Scotland without necessarily reaching a decision-making point at the UK level. For example, the SNP Government may have relished a debate with the UK government over its plans for a local income tax to replace the council tax (as with the issue of free personal care, the policy change would trigger a loss of UK social security benefits to Scottish residents with no prospect of a sympathetic response from the UK government). However, it did not have enough MSPs or opposition party support to pass the legislation in its desired form. This opposition, along with the uncertainty over funding (particularly since the Scottish Government was preparing in public for a further loss of £500m from its budget), was cited by Finance Secretary John Swinney as the reason to withdraw the policy (Scott, 2009: 75). Similarly, although the Scottish Government was highly critical of its budget settlement in 2007, the Treasury's response was rather muted (merely suggesting, in response, that a prudent government could work with a settlement representing more than double the amount given to the first Scottish Executive). Much of this public debate was played out in the Scottish Parliament as Scottish ministers attempted to deflect opposition criticism and justify the incomplete delivery of manifesto commitments (such as the abolition of student debt). Although it may be a cliché to refer to Putnam's (1988) model of two-level games, there is a clear sense in which the Scottish Government has at least one eye on its domestic audience when reacting to decisions made in the UK (or in which the UK government can use its position to help Scottish Labour).

This lack of a Scottish Government ability to innovate with legislation has the potential to cause an imbalance of conflict towards instances in which the Scottish Government can obstruct UK policies. The main example has been nuclear power. While the issue of energy is a reserved matter, the Scottish Government has final responsibility for planning decisions and has signalled a willingness to refuse planning permission for any new nuclear power plant. Yet, the boundaries between devolved and reserved in this area have always been unclear and the Scottish Government's power has never been fully established. The line by the previous Scottish Executive was that it could make decisions on nuclear power under the executive devolution granted by the UK government (Cairney, 2006: 441), a stance taken in part to reinforce party political unity and perhaps because of previous Scotland Office suggestions that planning powers to secure energy supplies were reserved (Summers, 2002). In either case it is likely that, if the governments came to blows, the 'purpose test' – which suggests that the UK government has the responsibility – would be applied by the UK government to establish the primary aim of policy. It is still possible to envisage at least two scenarios, each based on the willingness of the UK government to assert its authority. The first is that it will amend the Scotland Act 1998 to clarify its responsibilities, rather than engage in a more uncertain court-based process which takes the matter out of its own hands. The second is that the matter becomes a commercial rather than governmental decision, with companies such as EDF deciding to pursue new nuclear plant production only in England (at least

until the next Scottish election). Yet, UK Government intervention has rarely seemed likely. For example, Tony Blair assured Alex Salmond in 2002 that the final decision rested with the Scottish Parliament (Summers, 2002), while an acceptance of the Scottish veto was also contained in its energy White Paper in 2008 (Trench, 2008b).

Fourth, IGR has been rather muted because the fundamental bone of contention between the SNP and Labour governments – constitutional change – has not come to a head. Instead, the SNP initiated a ‘national conversation’ with the Scottish population, in part as a means to keep the issue on the national agenda but also put off a decision until the SNP’s preferred 2010 referendum. Further, again, most debates about the referendum process itself are played out in the Scottish Parliament, with the SNP needing the support of at least two other parties to pass a referendum bill. This is almost certain not to happen. Instead, the opposition parties appeared eager to reject the bill as soon as possible and before the UK general election 2010 – prompting the SNP to publish a draft bill for public consultation rather than parliamentary consideration (Gunn, 2010).

Although the independence agenda took on a Scottish-UK dimension when Gordon Brown failed to support former Scottish Labour leader Wendy Alexander’s attempt to ‘call the SNP’s bluff’ and push for an early referendum on independence, this became primarily an internal party, rather than intergovernmental, matter. Labour was also able to buy some time from the Commission on Scottish Devolution led by Professor Kenneth Calman. The Calman Commission is a curious body ostensibly serving the interests of two clients: the Labour, Conservative and Liberal Democrat parties in Scotland¹⁵ (who passed a motion in the Scottish Parliament supporting its set-up) and the UK government. While its membership is from the great and good in Scotland, it is serviced by UK government departments (see Jeffery, 2009).

Until recently both processes have given the impression of a need to kill time without any particular interaction with each other, particularly since the Calman Commission had no remit to discuss independence (although the SNP agreed to make a submission to Calman following its deal with the Liberal Democrats to pass the annual budget - Scottish Liberal Democrats, 2009). In this light, the publication of the Calman Commission’s (2009) report produced both surprise and irony. It was surprising because the measures were rather ambitious, including most notably plans to: reduce UK income tax by 10 pence in the pound to oblige the Scottish Parliament to make a decision on how much tax should be raised; devolve Stamp Duty, the Aggregates Levy, Landfill Tax and the Air Passenger Duty; devolve responsibility for Scottish Parliament elections, airgun regulation, drink-driving limits, national speed limits, animal health funding, marine nature conservation, the Deprived Areas fund, discretionary elements of the reformed Social Fund and the prescribing of controlled drugs (e.g. heroin) to treat addiction; and formalise and extend the process of IGR. It was ironic because the party which has arguably been most in favour of implementing Calman’s recommendations immediately has been the SNP (although it is critical of the limitations of the version of ‘fiscal autonomy’ prescribed). Notably, while Labour and the Conservatives welcomed the report’s recommendations in principle, there has been no serious commitment to take them forward quickly. The UK Government produced a White Paper (Cm 7738, 2009) based on Calman’s proposals, but

this came too close to the 2010 general election to take forward (and it rejected a motion passed in the Scottish Parliament calling for the early transfer of some powers – see Trench, 2010).

Finally, we can explain a degree of continuity in IGR with reference to the continued asymmetry of power between the UK and Scottish Governments. This can be demonstrated in three main ways. First, the UK Government has been slow to agree to the reinstatement of regular JMC plenary meetings (although the JMC Domestic meeting may meet more frequently). Second, it has reinstated the role of a full-time Scottish Secretary, in part reflecting the need for more mediation between different parties but also the desire for Labour to regain political ground in Scotland. Although Murphy was initially at pains to stress his role as ‘Scotland's man in the cabinet rather than the cabinet's man in Scotland’ (Trench, January 2009a: 71), it is difficult to ignore the party-political overtones of statements about the ‘arc of insolvency’ (in relation to Alex Salmond’s previous discussion of certain independent countries as the ‘arc of prosperity’) and the apparent strategy of refusing First and Prime Ministerial meetings to ‘equate Salmond on a par with Murphy and therefore less important than Brown’ (Cairney, 2009). Murphy’s involvement has also produced, from the perspective of some members of the Scottish Government, a ‘less smooth, less direct’ relationship, or a ‘wedge’ between previously direct Scottish and UK Government departmental relationships as more issues are funnelled through a third party (interview, July 2009). Certainly, relations seemed smoother when the Scottish Government dealt with David Cairns (Minister of State) when the Scottish Secretary was still a part-time role (Mitchell, 2010). Note, however, that this narrative is disputed by the Scotland Office (interview, July 2009). For example, there is disagreement about the extent to which the Scotland Office helped or hindered a deal with the Ministry of Justice over the Somerville case (for the details of the case, see Trench 2009b: 86) and the issue of Forth bridge funding.

Third, the SNP is, to some extent, stoical about its status as one of many UK Government departments. In particular, it recognises the limits to its negotiating power with a Treasury department that exerts considerable power across the UK Government as a whole. Overall, the SNP finds itself in a difficult position. One of its main aims has been to present an image of governing competence, pursued in part by demonstrating that it can use its existing powers effectively. This is not consistent with a strategy of continuously venting its frustration with the power of the UK Government (however tempting this may be).

Perhaps surprisingly, the SNP’s biggest effect has been in its relations with *local* government. Again, this followed a combination of pragmatism and principle. Pragmatic benefits ranged from the broad need to present an image of governing competence (by fostering consensus and avoiding unnecessary disputes where possible) and the desire to establish policy distance between it and Labour, to the specific need to ensure local authority cooperation for its plan to freeze council taxes until it introduced a local income tax, perhaps with the added benefit of a sense of detachment from unpopular council decisions. Therefore, Finance Secretary John Swinney was quick to embark on a tour of councils and Alex Salmond signalled a ‘culture change in the

relationship between central and local government in Scotland. The days of top-down diktats are over' (Cairney, 2009). The Scottish Government then oversaw a series of measures to give to local authorities what they most wanted, or at least had been stripped of in previous decades. This includes, most importantly, a new concordat between the Scottish Government and COSLA which not only refers to 'mutual respect and partnership' but also (unlike previous agreements) reinforces the message with a series of tangible commitments: to not consider reforming local government structures; to introduce broader and longer term single outcome agreements (signalling a strong move away from centrally driven targetry); to reduce ring-fenced funding; to allow local authorities to keep their efficiency savings; and, in effect, to stop 'micromanaging' local government. These measures are consistent with its agenda on decentralisation, which also extends to moves towards direct elections to health boards (in part, an alternative to centralisation when pursuing waiting times standards), and its growing adaptation to minority government in which it is obliged to seek rather than impose agreement (interview, Scottish Government July 2009).

Conclusion: What does this tell us about the need to reform IGR?

The lessons from 1999-2007 are that informal IGR and the automatic continuation of the Barnett formula excludes most participants, while the Sewel process marginalises parliaments. There was an overall lack of transparency and accountability for what is already a fairly secret area of government. The civil service relationship was also not as strong as widely imagined. This suggests that the Scottish-UK relationship was ill equipped for a major crisis or a change of party in government. The arrangements may also have contributed to the effect of an asymmetry of power between UK and devolved executives, with the latter unable to fall back on (or unwilling to invoke) formal mechanisms when informal channels broke down. However, the effect of the asymmetry of power is by no means clear and we may consider just how much we could reasonably expect the Scottish Executive to benefit from its relationship with the UK. From the standpoint of an equivalent English region, Scotland may seem like it is punching above its weight and benefiting from side deals even when it appears to lose disputes.

As is the case with most reactive or incremental (rather than anticipatory) governments, the system of IGR has not shown signs of change until a change of circumstances. Thus, the election of the SNP has forced the issue of IGR higher on the political agenda, raising the prospect of an independent civil service (or at least a civil service which is increasingly operating in relative isolation) and, by the very nature of the new relationship, necessitating a higher degree of formality and planning between elected representatives of governments. Yet, the effect has largely been piecemeal, with high profile SNP calls for the reinstatement of JMC meetings having, at best, an uncertain effect. The UK Labour party has largely maintained its links in Scotland through Scottish Labour and it clearly takes more than SNP criticism to change its attitude to formal mechanisms. Whitehall departments have also shown a continuing ability to forget to consult the Scottish Government (Trench, 2008b: 56).

Therefore, informal, ad hoc and often unreliable relationships between ministers and civil servants in each executive are still the norm, prompting the Calman commission to

recommend major changes. First, it argues that the Joint Ministerial Committee (supplemented by a JMC Domestic and JMC Finance) should become a body to foster close working and cooperation relationships (perhaps like the JMC Europe) rather than just dispute resolution. Second there should be more training for UK civil servants to improve their knowledge of devolution and that the civil service code should be amended to ensure cooperation and mutual respect. Third, the Sewel process must be used better to foster meaningful links between Parliaments (and there should be a Westminster equivalent to the Sewel motion).

While the need for an overall review of IGR arrangements seems appropriate, the underlying assumption is often that we can separate the technical from the political (or, perhaps as academics, rise above the latter). Yet, it is difficult to gauge how possible and effective this would ever be. There are clear parallels with financial frameworks. For example, as the Calman Commission has so far suggested, any change to Scotland's funding system will be a political rather than a technical decision because the value of each choice depends on the weights we place on a range of often conflicting requirements (such as the value of territorial fiscal autonomy versus the scope for redistribution). Similarly, the history of Barnett represents a classic example of the need to avoid an approach based on the assumption of 'comprehensive rationality'. The Treasury needs assessment experience shows us that need is largely a political concept, with the measures and weights used unlikely to gather cross-party or cross-government support. While most may agree that Scotland enjoys an advantage over and above its 'need' for higher public expenditure, there has yet to be a process that will ensure satisfactory outcomes for all concerned.

With IGR, the lesson of incrementalism (in both a descriptive and prescriptive sense) is that with any change there will be winners and losers. As Keating (2009) suggests, moves to coordinate policy at the UK level may provoke a sense of British citizenship at the expense of Scottish, moves to address the spillover effects of one territory on another will restrict the autonomy of that territory, while the use of the JMC will lead to a potentially disproportionate power for the devolved territories or unilateral decision-making by the UK government. Further, even if formal intergovernmental mechanisms become more of a regular feature, we may still find that policymakers are reluctant to engage and, instead, find other arenas in which to resolve issues. Perhaps ironically, a more serious driver for engagement may come from the election of a Conservative government in the UK (on the back of English votes and minimal Scottish representation). The policy communities literature has long demonstrated that the need to appear legitimate in the eyes of those they govern is a strong driver for unelected decision makers. Recent remarks by David Cameron (2009) suggest that the advent of a new 'democratic deficit' may drive the UK government to engage more than a Labour government which still feels it has considerable legitimacy in Scotland.

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Annex 1. Examples of Issues over Reserved/ Devolved Boundaries 1999-2008

Issue and boundary	Details	Resolution
Ban on Smoking in Public Places – public health/ health and safety	The Scottish Executive legislation contradicted a concordat with the Health and Safety Executive, while regulations infringed on employment law	The measures were supported by the UK's Department of Health. The Scotland Office assisted issues of implementation, such as the ban on smoking in ships (reserved).
Hepatitis C – the NHS/ compensation for injury and illness	The Scottish Executive's plans for a compensation scheme for NHS patients infected by blood transfusions infringed on	The Scottish decision was delayed until a UK-wide scheme was introduced
International Aid – reserved, but with potential for executive devolution	Scottish Executive aid work in Malawi presented as an extension of UK policy aims	The UK government supported (or 'tolerated' – Keating, 2010) the Scottish initiatives
Asylum Seeking, Detention, Dawn Raids – asylum policy is reserved (with some doubt about the health and education of refugees detained in Scotland); devolved police forces implementing reserved policy	Civil society protests put pressure on the Scottish Executive to become involved in direct Home Office/ local authority relationships	Attempts by the Scottish Government to secure a 'protocol' on minimum standards of welfare and police conduct during this process had uncertain success. A UK decision to reform detention policy is in progress, with some prospect of children moved from Dungavel detention centre.
Free Personal Care – local authority provision of care/ social security benefits	Scottish Executive funding of personal care removes entitlement to UK Attendance Allowance benefit (for those in residential care).	A classic fudge. Scottish ministers dropped their claim, apparently in exchange for favourable interest charges on loans for council housing. The issue resurfaced when the Scottish Government commissioned Sutherland Report called for a return of the AA withheld.

Student Fees – higher education/ revenue collection	The Cubie report recommended fee repayment of reduced fees only when a graduate reached a £25000 per annum wage, but the threshold for repayments of loans (administered by the Inland Revenue) is set by the UK government.	The Scottish Executive accepted the UK threshold, which was then raised from £10000 to £15000 when tuition fees were introduced in England. The Scottish Government has now abolished student fees in Scotland.
Nuclear Power – planning/ energy	The Scottish Government has threatened to refuse planning permission to new nuclear power stations in Scotland.	UK Government has effectively restated its acceptance of the Scottish veto while criticising Scottish Government policy.
Gun Crime - reserved	Both Scottish Executive and Scottish Government have requested different measures in Scotland.	No resolution, despite support from Calman report.
Trident - reserved	The Scottish Parliament passed a motion in 2007 to object to the stationing of Trident missile bases in Scotland.	No resolution.
Elections	Following the Scottish Parliament 2007 elections fiasco, the Scottish Government called for responsibility to be transferred to the Scottish Parliament.	This has so far been rejected by the UK government, despite support from Calman report.
Marine planning and nature conservation	Largely a dispute between civil servants, although the issue was key to the development of wind-farms in Scotland.	Resolved via the JMC and subsequent Sewel motion granting executive devolution in areas between 12 and 200 nautical miles of Scottish coast (with the UK Government still leading the policy).
Forth Bridge	The Scottish Government will fund the £2bn project but is constrained by Treasury rules on capital borrowing.	No resolution – the UK Government (Treasury and Scotland Office) presented a package of £1bn funding, but the Scottish Government argued that

		this consisted of money (reserves, Barnett consequentials, land sales) it was already entitled to
Somerville case	Scottish Government uniquely susceptible to human rights/ compensation claims regarding slopping out in prisons.	Resolved with proposed amendment to Scotland Act and new Act in Scottish Parliament.
Alcohol policy	Overall policy has numerous reserved aspects such as drink-driving limits and duty/ pricing. But threat of legal challenge is largely from private interests, not UK Government.	Department of Health largely supportive. SNP will now take legislation through Scottish Parliament.

¹ 1999 result: Labour 56, SNP 35, Conservative 18, Liberal Democrat 17, Other 3

2003 result: Labour 50, SNP 27, Conservative 18, Liberal Democrat 17, Other 17

2007 result: SNP 47, Labour 46, Conservative 17, Liberal Democrat 16, Other 3 (Green 2, Margo MacDonald 1). The Conservatives were reduced to 16 when Alex Fergusson was appointed as Presiding Officer

² The UK Government strongly rebuffed previous First Ministerial attempts to formally use ‘government’ rather than ‘executive’ (Mitchell et al, 2001: 68-9).

³ Including Alistair Darling as the new Chancellor. Part of the reason for Scottish seniority in the Parliamentary Labour Party ranks is that, when Labour suffered large electoral defeats in the 1980s their level of Scottish electoral success remained high.

⁴ Scottish MPs can no longer vote on devolved issues such as health and education policy in Scotland. However, they can still vote on those same issues affecting England (i.e. out-with their own constituency and country), while English MPs cannot return the favour since these issues are devolved to the Scottish Parliament.

⁵ Named after Joel Barnett MP, Chief Secretary to the Treasury from 1974–79 (i.e. around the time the formula was introduced). It covers most of the Scottish budget and approximately 60% of public expenditure in Scotland (the rest is spent directly by Whitehall departments or merely channelled through the Scottish Government). The semi-automatic system is based on an initial funding settlement supplemented by the Barnett formula which adjusts the Scottish settlement in line with changes to the English budget. While the former re-established Scotland’s higher per capita spending, the latter is based on Scotland’s share of the UK population rather than the UK budget.

⁶ This varied by committee. The JMC plenary did not meet from 2003-7. The JMC Europe met much more frequently.

⁷ Salmond’s stance began almost immediately following the SNP’s election, with Salmond criticising Blair for (allegedly) negotiating with Libya over the release of the Lockerbie bomber (although unfortunate FCO wording may have been the bigger culprit). Although Salmond has less criticism for Brown, the pair does not meet regularly. See H. MacDonell 6.2.08 ‘Crisis – but First Minister and Brown haven’t met for a year’ The Scotsman <http://news.scotsman.com/scotland/Crisis--but-First-Minister.4954040.jp>

⁸ In the summer of 2007 the Scottish edition of the Sun ran a feature outlining a range of potential disputes (including nuclear power, defence, the local income tax and free personal care) alongside Alex Salmond and an explosion in the background.

⁹ These developments can be tracked here: <http://www.cabinetoffice.gov.uk/devolution/jmc.aspx>

¹⁰ Barnett consequentials are sums received (or lost) from the UK government when levels of spending in England change. The size of the consequentials are based on three estimates: Scotland's share of the UK population; the change in levels of spending of Whitehall departments; and the level of comparability in specific programmes (if an issue such as health is fully devolved then it is 100% comparable). There is considerable room for negotiation (or at least debate) on the level of devolution in some areas (such as transport, trade and industry) and hence the level of comparability.

¹¹ 79 motions passed from 1999–2007 (compared to 103 Executive bills). From 1999–2003, 20 of 41 (49%) were opposed by the SNP, rising to 25 of 38 (66%) from 2003–07 opposed by SNP, Green and/ or SSP MSPs.

¹² See also Sir Muir Russell (Commission on Scottish Devolution, 2008a: 7): “They [at the Permanent Secretary meetings in London] made us feel we were still part of a team, that colleagues in Whitehall departments had some responsibility for what we did. It was a network to raise issues. It meant that they cared and were interested. I always felt very much a part of it, not patronised and not eased out; taken seriously. It probably helped that I'd been doing that sort of thing for a long time anyway”.

¹³ As Russell demonstrates with the example of Universities UK (Commission on Scottish Devolution, 2008a: 3), this sense of London-centric UK disengagement from devolution is also felt by devolved arms of UK groups (see also Keating, 2005).

¹⁴ Bringing to mind an episode of Yes Minister in which Hacker attempts to reject a petition he began as an MP in opposition.

¹⁵ Which enjoy different relationships with their respective parties. The leader of each Scottish party leads the Scottish parliamentary party. However, while the Liberal Democrat Party is federal and the Scottish leader controls (as far as is practical) the Scottish party, the Scottish branches of the Labour and Conservative parties enjoy less overall freedom. The UK Labour party (or at least its leadership) has also shown a willingness to become involved in the decisions and conduct of the Scottish leader. Recent practical examples in opposition include the apparent ban on Conservative MSPs from making a formal contribution to the Calman Commission (for fear of embarrassing Conservative leader David Cameron, or tying his hands when elected Prime Minister) and the fall-out from Gordon Brown's non-support of Wendy Alexander's attempt to 'call the SNP's bluff' and push for an early referendum on independence.