



HOUSE OF LORDS

Library Note

Debate on 19 July: Silk Commission on Devolution in Wales

This Library Note aims to provide background reading for the debate to be held on 19 July:

“That this House takes note of the progress being made by the Commission on Devolution in Wales chaired by Paul Silk”

It sets out the Commission’s membership and terms of reference and describes its current work on part one of its remit, the possible devolution of fiscal powers to Wales. The Note then provides summaries of the key submissions it has received from the main political parties in Wales, from academics and from a selection of organisations. The Note concludes with other recent proposals that consider further devolution of fiscal powers to Wales.

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12 July 2012
LLN 2012/030

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1. Introduction

On 19 July 2011 Cheryl Gillan, the Welsh Secretary, announced in a written statement to the House of Commons that:

An independent commission will be established in the autumn to look at the financial accountability of the Welsh Government and the National Assembly for Wales. The commission will examine issues of fiscal devolution and accountability in Wales and will focus on building consensus.

(HC *Hansard*, 19 July 2011, col [115WS](#))

This Library Note provides information about the Commission's work to date on part one of its remit regarding the possible devolution of further fiscal powers to Wales. Section 1.1 sets out the structure of the Commission and its terms of reference. The Note then describes the Commission's work in Section 2 and summarises the key submissions it has received in Section 3. The Note concludes with Section 4, which outlines some of the further recent proposals that have been made on this issue.

1.1 Silk Commission: Membership and Terms of Reference

In October 2011 Ms Gillan announced in a written statement that the Commission on Devolution in Wales would be chaired by Paul Silk, a former Clerk to the National Assembly for Wales from 2001 to 2007. He would be joined by two independent members and four party political members, one from each of the four political parties in the National Assembly for Wales (HC *Hansard*, 11 October 2011, cols [25–8W](#)). These were: Dr Eurfyl ap Gwilym (Plaid Cymru), Dyfrig John CBE (Independent), Professor Nick Bourne (Conservative), Professor Noel Lloyd CBE (Independent), Rob Humphreys (Liberal Democrat) and Sue Essex (Labour).

Ms Gillan's statement explained that the Commission would carry out its work in two parts (*ibid*) and set out the terms of reference (see Box 1 below). The terms of reference stated that the Commission would proceed with part one first, looking "at the case for the devolution of fiscal powers to the National Assembly for Wales" and recommending "a package of fiscal powers that would improve the financial accountability of the Assembly, and which are consistent with the United Kingdom's fiscal objectives". Once part one was completed the Commission would move onto part two and look "at the powers of the Assembly, and recommend modifications to improve the present constitutional arrangements" (*ibid*).

Box 1: Terms of Reference

An independent Commission will be established to review the present financial and constitutional arrangements in Wales. It will carry out its work in two parts:

Part I: Financial Accountability

To review the case for the devolution of fiscal powers to the National Assembly for Wales and to recommend a package of powers that would improve the financial accountability of the Assembly, which are consistent with the United Kingdom's fiscal objectives and are likely to have a wide degree of support.

Part II: Powers of the National Assembly for Wales

To review the powers of the National Assembly for Wales in the light of experience and to recommend modifications to the present constitutional arrangements that would

enable the United Kingdom parliament and the National Assembly for Wales to better serve the people of Wales.

In undertaking Part I, the Commission should:

- Provide independent advice on the case for improving the financial accountability of the National Assembly for Wales consistent with the fiscal and constitutional framework of the United Kingdom;
- Consult widely on a package of fiscal powers which would improve the financial accountability of the National Assembly for Wales;
- Make recommendations on whether a package of fiscal powers could be devolved to the National Assembly for Wales which are likely to have a wide degree of support; and
- Consider and make recommendations on how best to resolve the legal and practical implementation issues from devolving a package of fiscal powers, including consistency within the United Kingdom.

Part I will be completed before work on Part II begins.

In undertaking Part II, the Commission should:

- Examine the powers of the National Assembly for Wales, and in particular:
 - The boundary between what is devolved and non-devolved;
 - Whether modifications to the boundary should be made at this stage; and
 - Any cross-border implications of such modifications;
- Consult widely on any proposed modifications to the current boundary;
- Make recommendations on any modifications to the settlement likely to have a wide degree of support; and
- Consider and make recommendations on how best to resolve the legal and practical implementation issues from those modifications.

(HC *Hansard*, 11 October 2011, cols [25–8W](#))

The statement added that the Commission would take into consideration the work of the Independent Commission on Funding and Finance for Wales (the Holtham Commission), which was set up following an agreement between Labour and Plaid Cymru in 2008. Its report, [Fairness and Accountability: A New Funding Settlement for Wales](#), was published in 2010. The key recommendations are set out in Box 2.

However, the Silk Commission’s terms of reference expressly stated it would: “not consider, in part I, the Holtham Commission’s proposals for funding reform in Wales, including Welsh Ministers’ existing borrowing powers, which are being dealt with through a separate bilateral process between the United Kingdom Government and the Welsh Government”. The terms of reference also stated that in part two the Commission would not look at “the structure of the National Assembly for Wales, including issues relating to the election of Assembly Members” (HC *Hansard*, 11 October 2011, cols [25–8W](#)).

Box 2: Holtham Commission—Key Recommendations

In order to strengthen the relationship between Welsh citizens and the Assembly that they elect, and to ensure that the Assembly bears some responsibility for the resources it spends, the Commission proposes the devolution to Wales of a number of specific tax-varying powers, including:

- **Income tax:** Part of the existing block grant should be replaced by revenue raised from income tax payers in Wales. Welsh Ministers should have powers to vary both the basic and the higher rates of income tax by up to three pence in the pound relative to the UK rate.
- **Property and land taxes:** Stamp duty land tax should be devolved to Wales. There is a case for more closely aligning council tax with property values, through more frequent revaluations and through additional bands for the most expensive properties. Local authorities should be given discretion to levy a higher council tax on second homes. There may also be a case for handing powers over capital gains tax on land and property to Welsh Ministers.
- **Minor taxes:** Landfill tax, aggregates levy and air passenger duty are potentially useful policy levers in areas where policy responsibility is already partly or wholly devolved. If Welsh Ministers decide that these taxes would help them deliver their policy goals, they could be devolved to Wales.

The Commission proposes that exploratory discussions should be held with the UK Government about the scope for devolving corporation tax, although it notes that devolution of this tax might generate significant budgetary risks for Wales. The Commission also argues that the Assembly Government should be able to introduce new taxes on goods or activities that are currently not taxed at the UK level.

The Commission has concluded that limited powers to borrow in order to finance capital projects should be passed to Wales, in order to reduce the uncertainty about future capital budgets that currently hampers investment planning, particularly for large-scale projects.

(Welsh Assembly Government press release, '[Holtham Commission calls for fairness and accountability in Welsh funding](#)', 5 July 2010)

Further information about the Silk Commission and its relationship to the Holtham Commission on funding reform in Wales, the fiscal changes found in the Scotland Act and the changes made to the powers of the National Assembly for Wales in May 2011 can be found in [Devolution in Wales: the Silk Commission](#) (House of Commons Library, 9 March 2012, SN/PC/06108). A research paper by the National Assembly for Wales Research Service, [The Silk Commission](#) (November 2011, 11/066), provides the initial political reaction to the establishment of the Commission and a summary of the debate held in the House of Commons on 3 November 2011 (HC *Hansard*, cols [1122–203](#)).

2. Fiscal Accountability: Commission's Work on Part One

Following the launch of the Commission, Paul Silk issued a statement in which he described the remit as "challenging and complex". The Commission would not "underestimate the task ahead". In reference to the division in the Commission's work, he said:

Over the years, devolution has been described as a process not an event. I couldn't agree more. It is therefore only right that following the referendum in March, we look at these two important areas.

(Silk Commission website, '[Silk Commission to hold its first Commission meeting](#)', 1 November 2011)

He then outlined the Commission's approach by stating:

I want this Commission to be as open, accountable and transparent as possible. After all, it is only by listening to the views of anyone interested in Welsh Devolution, that we can achieve wide ranging support and take people with us. I will always personally try to meet any representative group anywhere in Wales to discuss our work.

(ibid)

Following this first meeting, Paul Silk said the Commission was committed to delivering "reports that not only have cohesive and well supported recommendations, but deliver real workable solutions that will benefit the whole of Wales" (Silk Commission website, '[Silk Commission gets underway](#)', 4 November 2011). The call for evidence, published in support of its examination of financial accountability, identified three core questions:

- What, if any, tax powers including possible new taxes and levies should be transferred to Wales?
- What, if any, borrowing powers should be devolved to Wales?
- Do you have any other proposals for improving the financial accountability and empowerment of the Welsh Government?

(Silk Commission website, '[Call for evidence](#)', 25 November 2011)

In addition, the call for evidence also welcomed responses to a number of supplementary questions:

- What are the key principles that should guide consideration of the case for devolution of some fiscal powers to the National Assembly for Wales?
- What form of fiscal devolution would be appropriate for Wales which are consistent with the UK's fiscal objectives?
- Which tax receipts (if any) should be assigned to Wales and which (if any) tax powers should be devolved to Wales?
- What borrowing powers (if any) should the Welsh Government acquire (a) in the absence of fiscal devolution, (b) in the presence of fiscal devolution?
- How would any devolution of borrowing powers fit into a UK macroeconomic control framework?
- Are the proposals in the final report of the Holtham Commission the appropriate model for fiscal devolution for Wales? Which recommendations of the Holtham Commission do you agree with and which do you disagree with and why? To what extent are the fiscal powers proposed in the Scotland Bill transferable to the Welsh context?

(ibid)

In a statement released at the end of 2011, Paul Silk reflected on the Commission's work and said a lot had been achieved in a short space of time. He explained:

We have established a thorough work programme that will enable us to listen and engage with a range of stakeholders and members of the public as we develop our vision for Wales' fiscal future. Our new website is set up and will be an important vehicle for following our work over the coming months.

Our call for evidence has been issued—over 450 stakeholders have received a copy and we are also very keen to receive responses from members of the public. Anyone interested in responding has until 3 February and can find out more on our website.

(Silk Commission website, [‘Messages from the Chair: Reflections on 2011’](#), 28 December 2011)

He added: “We want to hear from people from all walks of life and therefore will be holding a number of public events across Wales in 2012 to help us achieve this. We will also arrange to hear from a number of invited stakeholders at evidence sessions and make ourselves available to discuss our work with representative groups throughout Wales” (ibid).

The Commission met again in January and February 2012. Paul Silk, Dyfrig John and Professor Lloyd also spoke to the House of Commons Welsh Affairs Committee about its work (House of Commons Welsh Affairs Committee, *Commission on Devolution in Wales: Oral Evidence*, 24 January 2012, [HC 1776-i](#) of session 2010–12). It was announced in early March that a short extension had been granted to the Commission in respect of its reporting dates. It would now report in late Autumn 2012 for part one and Spring 2014 for part two. Paul Silk explained that this was requested because the financial powers issue was “complex” and the Commission “felt that we needed a little more time to give thorough consideration to the issues” (Silk Commission website, [‘Welsh Secretary grants time extension to Silk Commission’](#), 8 March 2012).

In March 2012 the Commission published a public opinion poll that found 62 percent of people thought the Welsh Government should be able to vary some taxes in order to vary spending (Silk Commission website, [‘Survey reveals majority in favour of powers to borrow and vary tax’](#), 14 March 2012). The same month the Commission launched an interactive section of its website to encourage people to get involved and voice their opinions. It also held its first public event in Swansea; it was reported that 11 people attended (BBC News, [‘Silk Commission: Bourne ‘very confident’ over tax proposals’](#), 18 March 2012). A number of further events took place, with two to three meetings held each day. In announcing the final events, Paul Silk said:

We have been clear from the outset that we wanted to provide people across Wales with every opportunity to engage with us. By the end of May we will have visited every local authority area in Wales, something which has been important to us as a Commission.

(Silk Commission website, [‘Silk Commission to visit every Local Authority in Wales’](#), 24 April 2012)

The Commission was in Mid and North Wales between 27 and 30 March 2012, in South and West Wales between 17 and 18 April and made further visits to South East and North Wales between 8 and 10 May concluding on 29 May. Steven Morris, from the *Guardian*, followed the Commission for the day and reported back about the four events

he had observed for a blog posted on the *Guardian* website. The first of these was a coffee morning at the Oriel Mostyn in Llandudno. Mr Morris wrote:

To begin with the commissioners are wondering if many will turn up: numbers so far have been modest but those that have come have been engaged and full of ideas, the commissioners say. But, actually, as soon as the doors open, the people do come.

The first visitor, John Bond, from Dolgellau in Snowdonia, says he does not believe the commission will want to hear what he says. He's wrong, they do.

(Steven Morris, '[Commission asks Wales if it wants more powers—have your say](#)', *Guardian News Blog*, 29 March 2012)

3. Evidence

The Commission has now met a number of times, and in addition to the public events, it has also taken oral evidence from a number of individuals and organisations. [The Commission's website contains a section of oral evidence](#), though in summary form rather than verbatim records. The website also hosts a [larger number of written submissions](#). The following section of this Library Note summarises the key points raised in the contributions from the four main Welsh parties, from a selection of the academics who have contributed and from a number of the various organisations and stakeholders who have submitted evidence.

3.1 Political Submissions

3.1.1 Welsh Government

The written evidence from the Welsh Government stated that financial reform was “an important priority” that required a “comprehensive approach that addresses not just tax devolution and borrowing powers, but also includes a new and fairer method for determining the Welsh block grant”. It said its submission was based on the “assumption that consideration of tax devolution is part of a wider package of measures that includes, not least initially, a funding floor and also borrowing powers”. In terms of tax devolution the Welsh Government said it was “open-minded” but it depended on the “precise details of any proposal”. The interaction of devolved tax revenue with the block grant was of “great importance” though the case was strongest for tax powers to be devolved “where there is a substantial degree of devolved responsibility” and where devolving the power would “provide an additional lever for Welsh Ministers to deliver their policy objectives”. The Welsh Government said it had not asked for the power to vary income tax and insisted that any such transference of power would require a referendum.

The submission also set out the Welsh Government's thinking on borrowing powers. It said that the Welsh Government “should be able to borrow to fund capital investment, irrespective of whether or not significant tax devolution takes place”. Borrowing powers already existed in law but “at present the Treasury rules prevent us from exercising these powers in a way that would benefit Welsh citizens”. At present Welsh capital budgets were driven by English spending needs and so “access to borrowing powers would provide an important additional flexibility” that would help the Welsh Government “to manage its capital spending and implementing a prudent additional investment programme in a way that better meets the needs of Wales”. The submission noted that in any case “the resulting budget volatility” from significant tax devolution “might well

require further borrowing powers” ([‘The Welsh Government’s response to the call for evidence by the Commission on Devolution in Wales’](#), February 2012).

3.1.2 Plaid Cymru

Plaid Cymru’s written submission described four core principles at the heart of the party’s approach. Firstly “fiscal devolution is part of an evolving process by which Wales will become more economically and democratically self-sufficient”. Secondly the “Welsh Government currently has accountability over its expenditure without responsibility for its income”. Thirdly the “economy of Wales is underperforming” and fiscal powers would provide the policy levers to provide “a more prosperous and more equal society”. Finally “fiscal devolution would create greater clarity in terms of responsibility”.

The party noted that taxation and powers “play an important role in facilitating economic growth and ensuring social justice” and while they were “proven to work at a sub-central level throughout the world” they were “lacking under the current devolution arrangements in the United Kingdom”. The Welsh Government should therefore have “significant tax revenues and powers” transferred to it, “including income tax, VAT, corporation tax and resource taxes”. In addition “the Welsh Government should have powers to introduce and levy new taxes” and “ownership and control over the Crown Estates in Wales should be transferred to the Welsh Government”. In terms of the block grant the party believed a Commission was needed:

Fiscal devolution will result in adjustments to the Welsh block grant. Mechanisms used to calculate adjustments should minimise risks to the Welsh budget. A commission should be jointly established by the Welsh and UK Governments to oversee funding, including the remaining block grant (which should be needs based to ensure fairness). Full data on funding should be made available to enable scrutiny.

Finally, Plaid Cymru said the Welsh Government should be “able to borrow funds to be used for capital investment or to offset budgetary volatility” so becoming “free to choose the most efficient source of funding” ([‘Plaid Cymru: Submission to the Commission on Devolution in Wales’](#), February 2012).

3.1.3 Welsh Conservatives

The submission from the Welsh Conservatives Assembly Group said that the National Assembly was now “an established feature of the Welsh political landscape” and was “an important, accessible and democratic forum for the people of Wales”. It was noted that public spending was “higher per head in Wales than in most other parts of the United Kingdom” but “taxes collected are not”, meaning that Wales continued to benefit “enormously from economic and social union within the UK”. The party’s position was that whilst decision making had been brought closer to the people, Wales faced “continued challenges, particularly in raising the educational achievements and economic prosperity of its people”. Consequently “bold action” was required “to turn the Welsh economy around, reduce Wales’ dependence on the public sector and allow for the provision of equitable and modern public services”. The party’s approach was:

- Welsh Conservatives believe that consideration should be given to the devolution of some aspects of income tax, because this could make the National Assembly more accountable to the people it represents for the money it spends. We believe that there is considerable merit in exploring this policy.

- We note the potential benefits of devolving corporation tax to the National Assembly, but are not yet persuaded that these exceed the potential costs. Welsh Conservatives believe that more work needs to be done before a viable case can be made for the devolution of corporation tax to the National Assembly.
- Welsh Conservatives strongly support the conclusion reached by the Holtham Commission that the Welsh Government should acquire limited borrowing powers to finance capital spending.

([‘Welsh Conservatives’ Submission to the Silk Commission’](#), February 2012)

3.1.4 Welsh Liberal Democrats

The Welsh Liberal Democrat submission stated that the party was a longstanding advocate and supporter of devolution and had “argued consistently since the establishment of the National Assembly that it should possess additional financial and legal competencies”. The case for a federal state in the UK was explained and the necessity for the reform of the Barnett formula “on a needs basis”. The Liberal Democrats’ submission was therefore “predicated on the replacement or reform of the Barnett formula” and it recommended the Commission consider the issue: “We do not believe that the issues below can be considered without taking into account the underfunding of Wales through the Barnett formula”.

In terms of the party’s response to the call for evidence, it said the Liberal Democrats approached the question of tax powers on the basis of effectiveness, accountability and ease of operation. It said the party supported proposals for income tax and corporation tax to be devolved and believed that these should be developed on the lines of those for Scotland. In addition, despite the “significant difficulties in deciding which companies were Welsh”, there should be “a long-term aspiration... for the Welsh Government to have control over some element of corporation tax in Wales”. Powers over stamp duty, taxes related to waste management and recycling, industry specific taxes and business rates should also be devolved. The party also expressed its support for borrowing powers, noting that “failure to award similar powers to Wales will mean that the Welsh Government is unique amongst devolved parliaments and local government in not being able to borrow”. It recommended that the UK parliament legislate immediately so to “enable the Welsh Government to invest in capital development as soon as possible and stimulate economic growth in, and tax receipts from, Wales” ([‘Accountability, fairness and growth: Proposals to reform the funding arrangements of the National Assembly for Wales’](#), February 2012).

3.2 Academic Submissions

In an oral evidence session on 9 January 2012, a number of academics set out their views. In his initial remarks, Professor David Miles, of Imperial College London, and a former member of the Holtham Commission, said he thought that there was a strong case for the Assembly having powers over tax setting and borrowing, though it was important to consider the interaction of this power with the block grant. The strongest case was for income tax (being able to vary higher and lower rates separately) and property tax. On the basis of the specific policy changes he set out, close to £4 billion could be provided, he suggested. On the basis of these powers, the power to borrow made sense but only limited to about 20 percent of all annual spending. Alan Trench, of UCL, believed that the UK government’s system of block grants treated the Assembly like a UK government department. In times of restrained public spending this system also tied devolved governments to a model of welfare operated in England when they may

wish to pursue other approaches. Alan Trench argued that income tax should be wholly devolved together with some assignment of VAT so that the majority of Welsh revenue came from Welsh tax receipts. Professor Jim Gallagher, of Nuffield College Oxford and a former member of the [Calman Commission](#) on which the Silk Commission was modelled, also gave evidence. He said that “devolution of tax powers would improve the accountability and economic efficiency of the Welsh Government”. He believed though that the best taxes to devolve were those with an immobile tax base, such as property. The approach of Holtham—that taxes be levied on corporations on the basis of their employment in Wales—was the only practicable solution for corporation tax. The Welsh Government should be financed by its own taxes plus a share of taxes collected at the UK level, which could be assigned on need but, Professor Gallagher suggested, allocation according to origin could be an incentive for the Welsh to maximise receipts. Dr Gillian Bristow, of Cardiff University, endorsed the Holtham Commission proposals and said that “it was impossible to look at the issues of taxation and borrowing without also considering the block grant” ([‘Oral Evidence Session: Academic Panel’](#), 9 January 2012).

Professor Paul Bernd Spahn, a former member of the Holtham Commission, also gave evidence that day. Professor Spahn said that in other countries it was common for lower tiers of government to be funded through a combination of four pillars: an assignment of their own revenues, tax revenue sharing, grants and borrowing. He agreed that the Treasury’s funding mechanism treated Wales like a government department, although this was a benefit “during the period where expenditure was increasing more rapidly than revenue”. Professor Spahn believed that tax powers with immobile bases were the best candidates for devolution. He also thought that where grants were assigned on origin rather than need there would always be discrepancies between rich and poor provinces, citing Germany and Spain as contrasting examples. In terms of borrowing, he noted that as a general principle, sub-national borrowing was constrained by nationally set fiscal rules ([‘Oral Evidence Session: Prof Spahn’](#), 9 January 2012).

Rob Ball, David Eiser and David King of the University of Stirling submitted their views in a written response to the Commission’s call for evidence. The submission recommended:

- In order for the National Assembly for Wales (NAW) to raise a significant proportion of its revenue from taxes over whose rates it could have some discretion, we suggest that it needs a high-yielding income tax. There is also a case for some tax on businesses, such as non-domestic rates. We note that a similar approach to taxes is used in Spain for the Basque and Navarre provinces.
- We would advise against any form of ‘devo max’ in which the NAW might seek to raise taxes that covered all its expenditure. Wales has a lower income per head than the UK, and if it relied on its own taxes, it would have either relatively poor services or relatively high tax rates.
- We would advise Wales to press for any system of grants paid by Westminster to replace the rather ad hoc Barnett formula by needs assessment, because Wales has relatively high needs that may not be fully addressed in future owing to the Barnett squeeze.

([‘Commission on Devolution in Wales: Evidence submitted in 2012’](#), February 2012)

Written evidence from Andrew Crawley and Max Munday of Cardiff University observed that when making changes to any fiscal regimes it was “essential to be aware of all possible implications resulting from these actions”. Noting the importance of modelling scenarios and the lack of an existing Welsh model, they added “if Wales was to gain fiscal powers in respect of tax it would be difficult for economists to advise the Welsh Government on likely consequences” ([‘Evidence proposal for the Silk Commission: Dr Crawley and Prof Munday’](#), February 2012).

3.3 Organisations and Stakeholder Submissions

3.3.1 Welsh Local Government Association (WLGA)

The WLGA’s written submission set out the response of local authorities to the Commission’s call for evidence. [Caerphilly Council](#) and [Gwynedd Council](#) also submitted evidence. The WGLA said that any devolution of taxation powers should be accompanied by a reform of the current block grant funding arrangements “to ensure the financing of all governments within the United Kingdom is fair and seen to be fair, based on relative needs”. It added that the sub-national funding framework set out in the Calman and Holtham Commissions was an appropriate guide for the Silk Commission to use and that subsidiarity should underpin any devolved funding framework. In principle the WLGA said it supported devolution of some tax powers “on a case by case basis depending upon the level of adjustment to the Welsh block grant and subject to robust analysis of yield, growth rates and administration costs”. Any fiscal devolution should be accompanied by block grant distribution that allowed for tax base variations between countries. It said that it agreed with the Holtham Commission regarding the lack of apparent benefit under current arrangements of the full devolution of non domestic rates and “strongly supported” its recommendation that councils should have discretion to levy a council tax premium on second and empty homes. The power to borrow, as local government could, was supported ([‘Silk Commission Response: Welsh Local Government Association’](#), February 2012).

3.3.2 Institute for Chartered Accountants in England and Wales (ICAEW)

The ICAEW submission said that it recognised “the conclusive nature of the last year’s referendum on enhanced legislative powers for the National Assembly” and how “in many ways the lack of fiscal devolution” was “an anomaly”. It added that it was “deeply concerned to prevent any fiscal changes which may obstruct efforts to simplify the UK’s highly complicated tax system and/or which place additional burdens on Welsh businesses compared to their counterparts elsewhere in the UK”. In reference to the proximity of much of the Welsh population to the border with England and “the intensity of cross-border links”, the ICAEW said the “potential for differences in the tax codes in the two countries to have unintended consequences must be considerable”. The submission stated that the ICAEW were “highly sceptical of the case for devolving corporation tax to Wales” saying that “any powers to introduce new taxes would have to be exercised with extreme caution, given the fragile nature of the private sector economy in Wales”. However, the ICAEW said it supported greater investment in infrastructure and to this end supported the Holtham Commission’s proposals on limited borrowing powers for the Welsh Government ([‘ICAEW response to the call for evidence’](#) February 2012).

3.3.3 Business Community

On 13 February, Robert Lloyd Griffiths, Director, Institute of Directors (IoD) Wales and Iestyn Davies, Head of External Affairs, Federation of Small Businesses (FSB) Wales, [spoke to the Commission in an oral evidence session](#).

The Institute of Directors Wales submitted written evidence following this. The IoD said it would judge any fiscal devolution proposals around four themes: its accountability; how it aligned with the Welsh Government's functions; its impact on business; and its practicality. It said the argument of Holtham that "having to raise (some of the) money from the voters to whom a government is accountable strengthens democracy" was "compelling". However, it would have to be a tax power which impacted on a significant proportion of the population and, if VAT was not practical, that would have to be income tax. Whilst devolution of landfill tax, aggregates or possibly airport tax would be a sensible alignment with existing responsibilities, "these fiscal instruments will do nothing to improve general accountability". In terms of impact on business, the IoD said that it usually favoured competition between the nations but many of its members were "sceptical as to the consequences of devolving powers for taxation" and feared "business could be seen as an easy source of cash for social or environmental policy areas that the WG has traditionally favoured". There were also a number of practicalities in implementing tax powers, such as border hopping, where income tax would be levied and what constituted a Welsh business. The IoD said it supported block-funding arrangements being revised (['Silk Commission: Memorandum from Institute of Directors, Wales \(IoD\(W\)\)'](#), February 2012).

The FSB Wales pointed out that statistics showed that "the vast majority of Welsh businesses are micro and small businesses, encompassing 98 percent of the total businesses operating in Wales and providing a significant proportion of employment". It said that the "overall consensus from members was that the use of fiscal and other financial measures such as business rates as a means of stimulating economic growth would be welcomed but not without qualification". Alone, varying the tax powers of the Welsh Government would not be enough to lead to long-term economic improvement. There was also concern that changes could lead to an increase of burdens on small businesses and so the "ability to vary and reform taxation is desirable only if used to reduce the tax and regulatory burden on small business and should allow for the simplification of the tax system" (['Response to the Commission on Devolution in Wales: Submission by the Federation of Small Businesses'](#), 3 February 2012).

The Confederation of British Industry (CBI) Wales also submitted written evidence. It said that it was vital that the private sector in Wales was supported to drive economic recovery. It said the CBI supported "the retention of the unitary tax system for corporation tax" and "in the absence of a full assessment of the costs and implications of devolving income tax" it recommended "retaining the status quo". With regard to the smaller taxes, the CBI said it "would be open to further discussion on the costs and benefits involved in devolving landfill tax, aggregates levy and stamp duty but would not support the devolution of air passenger duty at this current time". On borrowing it said it recognised the merits of some borrowing powers but believed "a clear ceiling must be placed on the permitted level of borrowing, based on negotiations with HM Treasury" (['Silk Commission on Devolution: CBI Response'](#), May 2012).

3.3.4 National Farmers Union (NFU) Cymru

The evidence from the NFU Cymru stated that its members held "a wide range of views on what, if any, fiscal powers the NAFW should have". However, the NFU Cymru said it recognised that that the Barnett formula did "not serve Wales very well, and would welcome a fairer funding mechanism for Wales". It was suggested that the granting of fiscal powers to Wales did not have a mandate and a referendum would be required. The Assembly would also be required to give its consent to any such devolution of powers. It agreed that some taxes were more appropriate than others and any taxes would need to be "paid by a large proportion of the population, are significant in terms of the revenue

that they generate and are levied on immobile goods and services, and cannot therefore be easily circumvented” ([‘Submission from the NFU Cymru’](#), 27 January 2012).

3.4 Other Submissions

True Wales also provided the Commission with evidence, both oral ([12 March 2012](#)) and written. In its written submission, the group, which campaigns against what it sees as the gradual break-up of the United Kingdom and was part of the ‘no’ campaign in the Welsh referendum on powers, said that the March referendum was supported by only 23 percent of the electorate but was being used “as a ringing endorsement” of the plans for “far more radical devolution of power to Cardiff Bay”. Consequently it felt it necessary “to express our view that it is a foregone conclusion that the Silk Commission will recommend wide-ranging devolution of tax powers to the Assembly”. It said that the Commission’s minutes already hinted as much. With regard to the possible devolution of tax powers, the group said that the Commission “is unlikely to hear a single politician oppose the devolution of fiscal powers” and claimed that for “tribal reasons” politicians were constructing a “victimisation” narrative that Wales was being badly treated by the cuts and that could only be addressed with more powers for the Welsh Government. The prospect of tax powers and a “cut to the block grant” was also likely to be attractive to the cuts agenda of the Conservative/Liberal Democrat UK Government. True Wales argued that this “should prompt serious debate about how devolution should involve more democracy and accountability at local level, rather than the imposition of new taxes on the people of Wales”, but instead there was “no effort to explore any devolution models other than transferring yet more power to the Assembly: apparently, that is ipso facto democratic”. True Wales claimed politicians “will always want more power for themselves” and with increasingly separatist Welsh parties they had “no doubt that the Silk Commission’s ‘findings’ will be another stepping stone to the breakup of the UK and a poorer settlement for the people of Wales” (True Wales [‘Submission to the Silk Commission: Illegitimacy and the Inevitability of a Report Recommending Fiscal Devolution’](#), 15 January 2012).

There was also written evidence from the Changing Union Partnership Finance and Funding Working Group, a collaboration between the Wales Governance Centre at Cardiff University, the Institute of Welsh Affairs and Tomorrow’s Wales. Its aims were “to overcome the disconnected nature of the debate on constitutional matters in the four countries of the UK”. The group’s written submission regretted the exclusion of the Barnett formula from the Commission’s remit, saying that it would hinder the Commission from a holistic view of finance and funding but also because the group saw no prospect of a consensus on tax powers without a parallel reform of the Barnett formula. It made a number of recommendations, including:

- That the Commission should demand the creation of a Welsh version of GERS/Revenue and expenditure to give a firm basis to its recommendations.
- That the Welsh Government be given borrowing powers, that are not confined to loans from the DMO [Debt Management Office], but...
- That cash management of the Welsh Government’s funds should be devolved in order to encourage the efficient use of public funds, and avoiding unnecessary repeated friction around year-end adjustments.

- That the Commission should liaise with the Scottish Government and others to obtain a clearer understanding of what is meant by full fiscal autonomy or devo-max.
- That the Commission should explore the implications for Wales of the possible outcomes of the referendum in Scotland, as outlined in this paper.

([Wales in a Changing Union: First submission to the Silk Commission from the Changing Union Partnership Finance and Funding Working Group](#), 3 February 2012)

4. Further Developments

4.1 Business Rates Review: Incentivising Growth (May 2012)

In May 2012, the Business Rates Review Task and Finish Group, set up by Edwina Hart, the Welsh Business Minister, and chaired by Professor Brian Morgan, published its report into how business rates could be used to encourage economic growth. The group made 19 recommendations, one of which was that the devolution of business rates should be considered by the Silk Commission:

The current arrangements, whereby business rates are not devolved, limits the Welsh Government's ability to use business rates more strategically to promote economic growth. We see no reason why the calculation of the Welsh share of Business Rates should not be devolved. Council Tax is already devolved and Business Rates appears to be an anomaly which needs to be addressed. There would be both risks and rewards to this approach and the current system provides some protection from the downside volatility in rates yield. Ways to manage this volatility is something we feel the Silk Commission will need to look at closely. However, overall, we believe devolving rates would introduce both a hard budget constraint and a considerable incentive effect for Welsh Government and Local Authorities to widen the tax base. This is consistent with the overall incentive effect we wish to encourage.

(Business Rates Review Task and Finish Group, *Business Rates Review: Incentivising Growth*, May 2012, [p 3](#))

4.2 Carwyn Jones and the Case for Financial Reform (June 2012)

In an article published on Walesonline, Carwyn Jones, the First Minister, set out his priorities for Welsh devolution. He made a number of points. He said that Wales needed to borrow in order to invest in infrastructure. Noting that the Northern Ireland Executive had this power and Scotland soon would, Mr Jones argued that the status quo was "simply unsustainable". He maintained borrowing powers were "not a magic answer to all the challenges we face" and that a framework regulating borrowing would be needed. He said that reform of the funding grant was also needed:

This system is long out of date. Over time, it is very likely to lead to ever-greater underfunding of Welsh public services. Clearly, that is unacceptable, and any new system must address that problem.

The Barnett formula lacks a coherent rationale. It was originally introduced over 30 years ago as a temporary system and now has few defenders anywhere.

Reform of the formula can and must be part of the development of a coherent fiscal package for Wales.

(Walesonline, '[Carwyn Jones: "I make no apologies for wanting a fair deal for Wales"](#)', 21 June 2012)

The First Minister added that the funding floor proposed by the Holtham Commission "could be introduced at the stroke of a Treasury pen". Mr Jones then referred to the possibility of tax powers being devolved such as landfill tax, stamp duty land tax, aggregates levy and air passenger duty. These taxes, he said, "raise around £200 million per year in Wales and each may be a useful policy lever to help us deliver our priorities". In reference to the work of the Silk Commission, Mr Jones said:

I am putting the case for these changes against the backdrop of the independent Silk Commission, set up by the UK Government, which is reviewing the case for the devolution of fiscal powers. When the Commission was set up I welcomed it and I hope it will work to maintain the cross-party consensus on financial reform that exists in Wales.

I want the Commission to make quick progress, but whilst it is carrying out its work I will continue to press hard for a funding floor and borrowing powers at inter-governmental talks.

Wales needs a comprehensive package of financial reforms that delivers a fairer, more stable settlement.

(ibid)

4.3 NAW Enterprise and Business Committee: Ports and Airports (July 2012)

A report by the Enterprise and Business Committee found that Welsh Ministers could play a role in supporting an infrastructure that would enable Welsh ports and airports to prosper. Among its recommendations was that the Welsh Government should "continue to explore the case for devolving Air Passenger Duty to Wales for those services that generate sustainable inward tourism and business investment opportunities". The report noted that:

We understand that the UK Government has cut Air Passenger Duty for long-haul flights from Northern Ireland and is proposing to devolve elements of responsibility for APD to the Northern Ireland Assembly. We also understand that Air Passenger Duty will be examined by the independent Silk Commission, which is reviewing how the Welsh Government is funded and whether there is a case for devolving further powers to Wales.

(NAW Enterprise and Business Committee, *International Connectivity Through Welsh Ports and Airports*, July 2012, p 14, [para 31](#))

4.4 NAW Finance Committee Report: Borrowing Powers (July 2012)

On 3 July 2012, the National Assembly's Finance Committee published its report [Borrowing Powers and Innovative Approaches to Capital Funding: Report—July 2012](#). It made 17 recommendations in total. At its core was a proposal that the Welsh Government should be granted the power to borrow in order to finance capital spending and as a means to boost economic growth in Wales. The Committee was clear that the power to borrow should be granted "without negative impact on the Welsh block grant". It

said capital borrowing powers, if granted, should be put on a legislative footing and subject to a control framework negotiated between the Welsh Government and the Treasury. There would also be a national borrowing limit agreed. Jocelyn Davies, the Chair of the Committee, said in support of the recommendations:

In the current economic climate and against a backdrop of decreasing capital budgets, it is vital that governments are able to use limited resources effectively to undertake capital investment which can act as an important lever to support economic growth.

(NAW, '[Welsh Government needs borrowing boost to build economy says Finance Committee](#)', 3 July 2012)

