

Written evidence from Professor John Denham (EDE 26)

Public Administration and Constitutional Affairs Committee The Evolution of Devolution: English Devolution

I am the Director of the Centre for English Identity and Politics at the University of Southampton. I was MP for Southampton Itchen from 1992-2015 and the Secretary of State for Communities and Local Government from 2009-2010. (In that capacity I approved the formation of the Greater Manchester Combined Authority, the first of combined authority). My published work includes a study of Labour's approach to the governance of England (in *Governing England*, British Academy, 2018). I am also a Founder and Director of the Southern Policy Centre.

The focus of the Centre for English Identity and Politics is on the relationship between national identity and political choices, and on the governance of England and the union. In the past twenty years English, British and combined identities have taken on a political salience with, for example 'English not British' voters voting heavily Leave and 'British not English' voters tending to vote Remain. National identity is also a good predictor of attitudes towards English governance and the union.

The Southern Policy Centre is an independent think tank for central southern England. The SPC has delivered research, reports and events on devolution and regional policy since 2014 and has argued that any local devolution proposals should reflect a coherent regional strategy.

1. England's national governance

Discussion of devolution within England must start with the unsatisfactory nature of England's national governance. A key reason why English devolution has been challenging is that the national government and state from which powers might be devolved is ill-defined and lacks coherence. The key features are

- England is governed by the union government and state
- Although EVEL provides English MPs with a veto power on legislation, England does not have its own legislative programme, nor has EVEL provided the parliamentary 'voice' for the people of England that was initially promised.
- There is no clear machinery for English government at ministerial or official level. This mitigates against a coherent and joined up national policy for England. It has led to inconsistency between departments and ministers in their approach to devolution.
- There are very uneven mechanisms of accountability for minister or officials with responsibilities for the delivery of policy in England
- England's position within the union is made difficult by the ambiguous role of many ministers in representing both union and English interests.
- England's government is characterised by a high degree of centralisation that reflects the long-standing centralist traditions of the union state

England is the most centralised nation in Europe as measured by the local control of resources and in the over-dependence on Whitehall decision-making and the under-development of the capacity of local government to exercise autonomy and initiative. In turn this weakens the capacity of local government to work in concert with other institutions

(including universities, health services and business organisations) to shape local and regional policy.

While English devolution would be enhanced by a more coherent system of English national government, its absence should not be used as reason not to move ahead with devolution as swiftly as possible.

A more distinct machinery of English government and ministerial accountability would also improve intra-governmental relationships with the union. Parliamentary reform could provide the much-needed national forum in which England's future and interest can be discussed.

2. English devolution – devolutionary government

The purpose of English devolution should be to develop a better functioning state that delivers public policy more effectively, engages with the public more fully, and better reflects the different needs and interests of different parts of England.

The devolution debate is too often characterised in terms of the centre 'letting go' of powers and resources currently held by central government. While there are indeed many areas of public service and welfare delivery where better outcomes would be achieved by the devolution of power and responsibility to local and combined authorities there are also challenges where the role of the central state will be key.

The economic transformation required to meet zero carbon goals, for example, will require a strong and concerted drive from central government, including resources, regulation, public procurement and legislation. At the same time, the transformation will depend on elected local bodies with the resources, powers and autonomy to form effective networks and partnerships with small and large business, universities and other public bodies. The overall policy challenge with need synergy between local priorities and initiatives, regional issues including transport and energy, and national policy.

Managing this devolved state will require a new form of statecraft. This will be a more subtle culture of statecraft offering effective leadership of relatively autonomous institutions rather than seeking to mandate their behaviour. In devolutionary government the central state would no longer hold the default assumption that local action should be determined by or subject to the approval of the centre.

3. The principles of devolution

English consent

It should be noted that England is the only part of the union whose people have not been consulted or offered a referendum on how they wish to be governed in the past twenty years. The first principle of English devolution is that the people of England should have the right to decide on how they wish to be governed.

English aspirations have too often been subordinated to other considerations. The claim that England is too big to enjoy national political institutions has largely gone unchallenged for over 150 years. Technocratic preference for imposed regional structures or 'functional market areas' have taken little account of local views and identities.

Since UK devolution English domestic policy has been largely distinct from that of the rest of the union. The experience of English Votes on English Laws has shown that identifying English only legislation is far easier than had been assumed. As yet, neither development has triggered a rethink of how England is governed.

Public debate about England's governance is under-developed. Although the government can move ahead with many devolutionary measures it should also initiate a rich consultative process, involving deliberative citizens assemblies and other means, to recommend the principles of English devolution, including its national institutions and the approach to local devolution. After Parliamentary consideration, proposals should be put to English voters in a referendum.

Finance

Devolution should ensure the fair distribution of resources across England. The Barnett formula gives relative protection for the devolved administration against changes in union spending in England, but England's regions have no such protection. In recent years, austerity has fallen disproportionately on the poorest regions.

'Fair spending' is a contested concept. Different measures such as spending per head, deprivation, capacity to raise local income, and potential to generate economic growth all produce different outcomes. Government should establish an independent commission, ideally with cross-party support, to develop a fair funding formula with a view to embedding it as deeply into England's system of government as Barnett is to the union. It should be based on granular local data, such as LSOAs, and with the results aggregated to form the budget of local and combined authorities.

4. Equivalence with the devolved nations

As a matter of principle only Parliamentarians elected by English voters should be able to make legislation, vote on policy and hold ministers to account on issues that are currently devolved. While the extent of devolved powers is not consistent across the devolved nations, there are no issues that are devolved to any other nation that should not be subject to such English decision-making.

UK devolution has created national democratic institutions and the political communities of Scotland, Wales and Northern Ireland have all developed in depth and character since the creation of Parliaments and Assemblies. English reform also needs to create an equivalent national forum.

As in the devolved nations, England's own devolution should be decided by England.

The disparity of size between England and the devolved nations does mean that English decisions may have more impact on the smaller nations than vice versa. This highlights the need to improve the machinery of intra-governmental consultation.

5. Consistency in devolved and local government

The most important consistency is that residents in each part of England should feel that the appropriate powers and resources have been devolved to the organisations accountable for their area. This is far more important than whether devolution looks 'neat' or consistent from Whitehall.

In parts of England where counties retain a strong sense of identity, the unit of devolved government might be the county councils. Where these are too small to tackle strategic transport, energy and other infrastructure issues and government policy would need to incentivise cooperation between councils in order to gain collective control over devolved policies. In other areas, such as large combined authorities and London, there may be a single tier to which a wider range of functions can be devolved. Although an imposed regional structure should be avoided, there may be parts of England where a regional or sub-regional approach would best reflect public preferences and identities.

This flexible approach would produce a system of 'messy devolution' but it should be part of the statecraft of central government to manage relationships varying structures across the nation. If the centre insists on uniform structures these are unlikely to work well anywhere.

6. Devolution deals

The characteristic of devolution deals is 'elite co-option' in which central government engages local leaders and stakeholders to achieve the delivery of central government priorities. This has been a consistent feature of both current devolution policy and the regional administration of the 1997-2010 Labour government.

In limited terms the approach works. Local and central priorities often coincide to some extent and a pound spent locally will usually be more productive than one mandated centrally. However, the process does exclude many other potential priorities and areas of service delivery. It has tended to reward city centre regeneration, based on property and higher education, at the expense of more peripheral towns. It does not build up the capacity for autonomous innovation and initiative that is required.

Localities do not have any right to access devolved resources and powers. The 'deal-making' approach has led to inconsistent and arbitrary decisions and government has not taken a consistent approach to devolution deals. Proposals agreed by local authorities in, for example, southern Hampshire have been rejected apparently for reasons of national partisan politics.

7. Taking decisions on English devolution

It is time to move beyond the deal-making approach to create a consistent palette of devolved powers that local authorities and combined authorities can draw down. There will obviously need to be some criteria, ideally agreed with the Local Government Association, to ensure that the powers devolved are appropriate to the size and capacity of the devolved authority.

It would make sense to require some evidence of local support, whether through consultation or referendum, before powers are drawn down. To underline the shift from national to local accountability, this process should include public education about the powers and the responsibilities that the devolved authority is taking on.

8. Representation of England's localities

Representation within England

The key challenge is to establish a coherent machinery of English government with clear ministerial accountability.

This machinery would then be able to engage with local and combined authorities (or regional bodies where these are appropriate) through both formal and informal structures.

A Senate, established for the UK and including local representation, could also provide a structure for formal consultation between ministers responsible for English policy and representatives of English localities.

Intra-governmental representation

Assuming for now that the union retains its current basic structure, England should be separately represented in the intra-governmental machinery. Intra-government cooperation should include representatives from Northern Ireland, Scotland, Wales, England and the UK government. (There are wider questions on constitutional reform of the union that are beyond the scope of this paper.)

There is no merit in suggestions that would bring together representatives of the three devolved administrations with the UK government and only allowing with some form of consultative status for English local authorities. Aside from the difficulty of deciding who should represent England, such a structure would merely confirm England's marginal constitutional role within the union.

There is a strong case for a broader union forum or Senate, that brings together local government representatives from every part of the union together with national and union representatives. The current system of devolution tends to work against the sharing of common interests and good practice, and a broadly representative Senate would help to strengthen links and practical cooperation across different parts of the UK.

Such a Senate could also enable formal consultation with England's localities on English issues.

Parliament

England's parliamentary representation needs to provide a national forum in which England's issues and future can be debated, a legislative chamber for English domestic legislation, and a clear structure for Executive accountability. These conditions could be met either within a 'dual-mandate' Commons or a free-standing Parliament for England. There is no viable option for delegating either legislative functions to regional assemblies. In any case these could not provide the forum for English interests that is required.

A Senate at union level could also be to give English ministers the opportunity to consult representatives of English localities on a formal basis. However, the successful management of a devolved England will depend more on the development of effective devolved statecraft than on formal consultative mechanisms.

9. Public demand for change

As no major political parties or civic organisations have encouraged a broad-ranging public debate about England's governance, only limited weight can be placed on current polling to ascertain what might emerge from an informed and engaged debate. It is possible to highlight key elements of current attitudes:

- There has been majority support for the principle that Welsh, Scottish and Northern Irish MPs should be excluded from voting on English only-legislation for most of the past 20 years.
- A Parliament of England receives more support than opposition but, with a high level of 'don't knows' does not achieve majority support. It is perhaps surprising that support for a Parliament remains so high when no major party advocates such a change.
- Both options, and the maintenance of the status quo, are significantly more popular than elected regional assemblies. This suggests that the public prefer to see England treated as a national unit of government.
- Evidence on devolution within England is highly sensitive to the questions asked. The public have a broad preference for decisions taken closer to where they live but also want consistent standards of public service in all parts of England. (The two views are not mutually incompatible: it can be argued that the postcode lottery is the result of over-centralisation of service delivery).
- There is no part of England where regional or local identities are generally more widely or strongly held than English or British national identity. However, in many parts of England the local or regional identity is important to many people.
- There is significant polarisation by national identity with those who identify as 'English more than British' showing the strongest support for a Parliament or EVEL and most opposition to regional structures, whilst the opposite is true amongst the 'British more than English'.

On the basis of current polling, we might expect a citizen's constitutional convention to support a dual-mandate Westminster with a full-blooded EVEL, and administrative, financial

and executive devolution within England to recognisable local structures that might be combined authorities, counties or regions/sub-regions in different parts of the nation.

10. Conclusion

A new strategic approach to English devolution, based on principles agreed with the people of England, would enable each locality to draw down powers appropriate to the needs and identity of each area. The current centralist assumption of the union state should be replaced with devolutionary government that would enable central government to engage in a more effective and productive way with empowered local elected government. Further reforms to the organisation of England's governance and parliamentary representation would improve the government of England, support devolution and improve intra-governmental relationships across the union.

November 2020