

DEVOLUTION MONITORING PROGRAMME 2006-08

Scotland Devolution Monitoring Report

May 2008

Dr Nicola McEwen (ed.)

Institute of Governance, University of Edinburgh

www.institute-of-governance.org



The Devolution Monitoring Programme

From 1999 to 2005 the Constitution Unit at University College London managed a major research project monitoring devolution across the UK through a network of research teams. 103 reports were produced during this project, which was funded by the Economic and Social Research Council (grant number L 219 252 016) and the Leverhulme Nations and Regions Programme. Now, with further funding from the Economic and social research council and support from several government departments, the monitoring programme is continuing for a further three years from 2006 until the end of 2008.

Three times per year, the research network produces detailed reports covering developments in devolution in five areas: Scotland, Wales, Northern Ireland, the English Regions, and Devolution and the Centre. The overall monitoring project is managed by Professor Robert Hazell and Akash Paun at the Constitution Unit, UCL and the team leaders are as follows:

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Introduction

It has been commonplace in academic and media analyses of the 2007 Scottish Parliamentary election to note that the SNP's victory had little to do with a nationalist resurgence and that support for independence seemed at its lowest level since the Parliament's establishment. It is perhaps ironic, then, that the constitutional debate has been such a dominant feature of the SNP's first year in office.

In February, the SNP launched the second stage of its National Conversation at an event at the University of Edinburgh, in an attempt to engage more directly with civil society organisations. It also took the debate to Brussels. Meanwhile, the promised Scottish Constitutional Commission, conceived by the three main opposition parties and (belatedly) supported by the UK Government, was finally appointed, under the chairmanship of Sir Kenneth Calman, with the promise of an interim report before the end of the year. We have extended slightly the usual period of the monitoring report to cover the extraordinary events of early May, when Labour's leader in the Scottish Parliament, Wendy Alexander, used a television interview to announce her support for an early independence referendum, having hitherto vehemently opposed the idea. The position was somewhat diluted within a week – captured in Eberhard Bort's media analysis – after it became clear that she did not have the support of the Prime Minister or other UK Cabinet Ministers, nor the capacity to force the issue in the Scottish Parliament, provoking humiliation and further questions over her leadership. It has also had the consequence of making it difficult for the Labour Party in the Scottish Parliament to oppose a referendum bill when one is tabled by the SNP, or to refuse to hold a referendum on the conclusions of the Calman Commission, assuming it recommends a significant revision of the Scotland Act. We may yet see the multi-option constitutional referendum proposed by the First Minister in February, despite the initial hostility of the opposition parties.

This review period also saw the SNP government reach the milestone of its first year in office, while apparently still enjoying a prolonged honeymoon. The continued weakness of the opposition has certainly aided the SNP, but its ministers have also proved adept at negotiating delicate ad hoc alliances to secure parliamentary support, most notably in securing the Parliament's consent for its budget. There are challenges to come, however, both within the Parliament and in intergovernmental relations, particularly over its intention to replace the council tax with a local income tax, and in the development of the Scottish Futures Trust as a replacement for the

private finance initiative. These policy challenges and other policy developments are detailed throughout this report.

Dr Nicola McEwen
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May 2008

Chronology of Key Events: January – May 2008

- 15 January Leading Labour, Conservative and Liberal Democrat figures from Westminster and Holyrood meet to discuss the establishment of a constitutional commission to re-examine the devolution settlement.
- 17 January The Scottish Government responds to the recommendations of the Crerar reports into the rationalisation of regulatory bodies scrutinising local government.
- 6 February The Scottish Parliament passes the Budget proposed by the SNP minority administration after concessions are made to opposition parties.
- 7 February Police inquiry into alleged illegal donation to Wendy Alexander's Labour leadership campaign ends, with no charges brought.
- 12 February Scotland Minister David Cairns dismisses discussion of the devolution of fiscal powers to Holyrood as of interest only to the 'McChattering classes'.
- 14 February Summit meeting of the British-Irish Council
- 17 February Gordon Brown gives his backing to the proposed Scottish constitutional commission.
- 10 March It emerges that the 'Trump affair' – in which the Scottish Government has come under fire for its handling of Donald Trump's proposed £1bn golf development – will go to a public inquiry, to begin in June.
- 11 March Scottish Government publishes a consultation document on the SNP proposal to replace council tax with a local income tax.
- 16 April Secretary of State for Wales Paul Murphy meets with First Minister Alex Salmond to discuss a revival of plenary Joint Ministerial Committees (JMCs).

- 25 March Sir Kenneth Calman is appointed chair of the cross-party constitutional commission.
- 26 March Official launch of the second phase of the SNP's National Conversation.
- 20 April First Minister Alex Salmond announces his ambition for the SNP to capture 20 Westminster seats at the next general election at his party's Spring Conference.
- 28 April The full membership of the Calman commission is announced and the first meeting is held at the Scottish Parliament.
- 4 May Scottish Labour leader Wendy Alexander announces her support for an early referendum on independence.

1. The Scottish Executive

Paul Cairney

1.1 The Scottish Ministerial Code

The code of conduct for ministers suggests that: 'It is for individual Ministers to judge how best to act in order to uphold the highest standards. They are responsible for justifying their conduct to the Parliament'.¹ However, as the Local Government and Communities Committee and others have shown, you do not have to be responsible for enforcing the ministerial code of conduct to have an opinion on it (see section 2.3). Not surprisingly, the issues raised during the Trump affair (which will now go to a public inquiry)² have been linked to any planning story with a sniff of ministerial involvement. This includes Deputy First Minister Nicola Sturgeon's opposition (and hence 'failure to remain neutral') to the building of a 'woodland adventure course' in her constituency and alleged ministerial pressure on SEPA to withdraw their objections to a planned hotel resort in Aviemore. The links are perhaps not surprising given the explicit reference in the code to planning decisions:

6.11 One of the basic tenets of the planning system is that, in the interests of natural justice, decisions are based on an open and fair consideration of all relevant planning matters with the same information being available to all interested parties. Accordingly, Ministers, and in particular the Planning Minister, must do nothing which might be seen as prejudicial to that process, particularly in advance of the decision being taken. Action that might be viewed as being prejudicial includes (i) taking a decision, or being part of the decision-making process, in respect of an application which falls within the Minister's constituency; (ii) expressing an opinion publicly on a particular case which is, or may subsequently come, before the Minister for decision; (iii) meeting the developer or objectors to discuss the proposal, but not meeting all parties with an interest in the decision; or (iv) commenting on decisions once they have been issued, other than in terms of what has appeared in the decision letter or, in the case of structure plan approvals, any accompanying explanatory annexes.¹

¹ Scottish Executive August 2003 *A Code of Conduct and Guidance on Procedures for Members of the Scottish Executive and Junior Scottish Ministers*

www.scotland.gov.uk/Publications/2003/08/17996/25274#4

² 'Inquiry date set for Trump plans' (26 March 2008), *BBC News*

http://news.bbc.co.uk/1/hi/scotland/north_east/7314409.stm ; 08 '£1bn Trump resort to go to full public inquiry' (February 28 2008) *The Herald*

www.theherald.co.uk/news/news/display.var.2081601.0.1bn_Trump_resort_to_go_to_full_public_inquiry.php ; F. Urquhart, 'Public inquiry into Trump's £1bn golf resort set to start in 10 weeks' (11 March 2008), *The Scotsman* <http://news.scotsman.com/politics/Public-inquiry-into-Trump39s-1bn.3862884.jp>

Such criticism extended to ministerial involvement in a contract to tender hovercraft services to Stagecoach (owned by SNP donor Brian Souter).³ Alex Salmond and the Finance Secretary John Swinney are also not the only ministers to have their car journeys scrutinised.⁴ In what must now be considered a tradition in government, the transport minister Stewart Stevenson has been accused of making excessive car trips after committing himself to using other forms of transport.⁵

1.2 Quangos

The quango numbers-game continued with the Scottish Government's publication of its plans to rationalise public bodies (following the agenda set by the Howat report).⁶ These include a reduction of 'national public organisations' from 199 to 121 by 2011 (with 35 already announced, 17 announced in January, and the prospect of more reductions when the 32 Justice of the Peace Advisory Committees (JPACs) are replaced by 6 larger JPACs⁷) as well as a broader commitment to streamline the public sector and make governing arrangements more transparent. There is an implicit suggestion that the Scottish way of reform, including the promise to 'honour our crucial commitment to no compulsory redundancies', is superior to that of the UK Government.⁸ Yet, there are still no clear measures discussed on how efficient public bodies are (and how this should be measured⁹), whether they deliver value for money, and how their abolition/replacement will improve the delivery of public

³ J. Morgan, 'Sturgeon attacked over opposition to Go Ape assault course' (29 January 2008) *The Herald* www.theherald.co.uk/politics/news/display.var.2000640.0.Sturgeon_attacked_over_opposition_to_Go_Ape_assault_course.php; H. MacDonell 'Minister says 'judge for yourselves' in row over £80m hotel revamp', 6 February, *The Herald* <http://news.scotsman.com/politics/Minister-says-39judge-for-yourselfes39.3746825.jp;H.MacDonell>; 'SNP dismisses "absurd" Labour claims over donor', 28 January 2008, *The Scotsman* <http://news.scotsman.com/politics/SNP-dismisses-39absurd39-Labour-claims.3715850.jp>; I. Swanson, 'SNP faces hovercraft dust-up', 29 January 2008, *Evening News* <http://news.scotsman.com/politics/SNP-faces-hovercraft-dustup.3719954.jp>;

⁴ See the 'Sequence of Events' section in the Local Government and Communities committee report into the Menie estate (2.3) - www.scottish.parliament.uk/s3/committees/lgc/reports-08/lgr08-05.htm

⁵ H. MacDonell, 'A car trip a day for MSP who vowed to walk' (18 February 2008), *The Scotsman* <http://news.scotsman.com/politics/A--car-trip-a.3786703.jp>

⁶ 'Simplifying Public Services', (30 January 2008), Scottish Government News Release www.scotland.gov.uk/News/Releases/2008/01/30142848; H. MacDonell, "Bonfire of the quangos" described as a "damp squib" (31 January 2008), *The Scotsman* <http://news.scotsman.com/scottishexecutive/39Bonfire-of-the-quangos39-described.3728818.jp> '31.1.08 'Simpler, More Effective Government' www.holyrood.com/content/view/2029/10051/

⁷ These were originally flagged up for abolition in 2001 – see Scottish Executive (2001) Public Bodies: Proposals for Change www.scotland.gov.uk/Resource/Doc/158633/0043032.pdf

⁸ This is certainly SNP MSP Michael Matheson's take on the process – see Scottish Parliament Official Report (8 May 2008), c.8467 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0508-02.htm#Col8425

⁹ Measures based on the social representativeness of quango members have also been mooted in the UK – J. Carvell, 'North left in the cold as Londoners pack quangos', (14 February 2008), *The Guardian* www.guardian.co.uk/society/2008/feb/14/publicsectorcareers.localgovernment

policy.¹⁰ Indeed, there is no clear agreement on what public bodies are. This allows the intractable debates to continue within Parliament, with the Minister for Parliamentary Business, Bruce Crawford, arguing that:

We have been open about the task forces and other short-term groups that have been established to tackle specific issues. I am disappointed that some members have intentionally sought to confuse short-term groups – set up to involve and engage with stakeholders on specific issues – with appointed public boards and established public organisations that employ staff and deliver public services. ... Andy Kerr was one of the worst culprits¹¹

The reply from Labour's Andy Kerr perhaps demonstrates an insider's knowledge of the sleight-of-hand required by government ministers when describing cuts:

The pledge is to cut quangos by 40 per cent, but 39 new quangos are being created – the minister calls them short-term groups. They are costing £800,000 of taxpayers' money – the Scottish Broadcasting Commission alone is costing £500,000. The Government should acknowledge that it is creating more non-parliamentary bodies. It might label them differently, but a quango is a quango, and the money is still being spent on behalf of the taxpayer to deliver them – for example, £30,000 is being spent on the Council of Economic Advisers.¹¹

1.3 Scottish Water, Enterprise and Police Services

The Scottish Government has begun to consult on the future of Scottish Water. This is unlikely to lead to 'mutualisation' (which in this case suggests a form of public ownership combined with some private sector involvement in investment and/or competition in the delivery of services).¹² However, the review was preceded by a change to the non-domestic market for water which allows businesses to choose their supplier.¹³ Less extensive changes – such as a rebate scheme for poor service

¹⁰ Some may be harder to justify publicly than others – see L. Adams, 'Under threat: the £1.5m quango that monitors just five criminals', 20 February 2008, *The Herald* www.theherald.co.uk/news/news/display.var.2057507.0.Under_threat_the_1_5m_quango_that_monitor_s_just_five_criminals.php

¹¹ Scottish Parliament Official Report (8 May), c.8456-61

¹² For opposing views on the benefits and prospects of mutualisation, see Derek Brownlee MSP (Conservative) Scottish Parliament Official Report (2 January) c.6153 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0221-02.htm#Col6153; Unison Scotland, 'It's Scotland's Water - what does 'Mutualisation' mean?' www.unison-scotland.org.uk/water/mutualisation.html; D. Fraser, 'Ministers set for U-turn over mutual status for Scottish Water' (21 February 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2060843.0.Ministers_set_for_Uturn_over_mutual_status_for_Scottish_Water.php

¹³ 'Future of water industry' (3 March 2008), Scottish Government News Release www.scotland.gov.uk/News/Releases/2008/03/03105829; M. McLaughlin, 'Pulling plug on water monopoly' (4 March 2008), *The Scotsman* <http://news.scotsman.com/politics/Pulling-plug-on-water-monopoly.3838368.jp>

– seem more likely in the domestic sector.¹⁴ According to chief executive Jack Perry, the changes to the structure of Scottish Enterprise are now being implemented enthusiastically.¹⁵ However, the introduction of a new Scottish Police Services Authority to address problems with police fingerprint services (in the wake of the Shirley McKie case) has been received less well.¹⁶

1.4 Relocation

The Scottish Government announced a ‘new approach to relocation policy’ in January (much to the chagrin of Labour and the Liberal Democrats).¹⁷ Although the overall policy of relocating (on a case-by-case basis) when it provides ‘wider benefits for the taxpayer’ is very similar to the original approach taken by the Scottish Executive in 2000 (pursuing relocation only when ‘the interests of Scotland as a whole, the efficiency of government, and the delivery of high quality services to the public’ can be assured¹⁸), there are three key differences in the implementation. First, there is a more explicit rejection of compulsory redundancies (the previous policy promised consultation with staff and trade unions). Second, the Scottish Government has effectively rejected the Scottish Executive’s presumption against Edinburgh when considering new bodies and the fate of existing bodies whose lease is up for renewal (although sportscotland will still move to Glasgow). Third, the new policy is based on the argument that relocation has not worked:

Relocation policy to date has not achieved the benefits intended – wide job dispersal or assisting the areas most in economic need. A great deal of money, time and effort has been spent on moving organisations, incurring significant cost to business continuity and to staff.¹⁹

1.5 Civil service strikes

The strike by 10,000 civil servants from the Department of Work and Pensions in Scotland in March reminds us that most civil servants working in Scotland do so for

¹⁴ ‘Water industry could offer customer rebates’ (3 March 2008)

www.holyrood.com/content/view/2166/10051/

¹⁵ ‘Scottish Enterprise focus now clear, says Perry’ (11 February 2008)

www.holyrood.com/content/view/2071/10051/

¹⁶ E. Barnes, ‘New fingerprint agency “shambolic”’ (9 February 2008), *Scotland on Sunday*

<http://news.scotsman.com/politics/New-fingerprint-agency--39shambolic39.3762538.jp>
¹⁷ K. Schofield, ‘Government scraps old policy on job dispersal’ (29 January 2008), *The Herald*
www.theherald.co.uk/politics/news/display.var.2000653.0.Government_scraps_old_policy_on_job_dispersal.php; H. MacDonell, ‘Swinney calls halt to policy of relocation, relocation, relocation’ (29 January 2008), <http://news.scotsman.com/politics/Swinney--calls-halt-to.3719207.jp>

¹⁸ ‘Executive outlines process for relocation of public service jobs’ (6 July 2007), Scottish Executive News Release www.scotland.gov.uk/News/Releases/2000/07/e60ec015-4e4b-44de-b52f-9bcafdde72ca

¹⁹ ‘New approach to relocation policy’, 28 January 2008, Scottish Government News Release www.scotland.gov.uk/News/Releases/2008/01/28103558

the UK government (74 per cent) rather than for the Scottish government (26 per cent).²⁰

1.6 Freedom of Information

Freedom of information remains a 'success story', with public awareness of the Freedom of Information Act rising to 74 per cent (from 47 per cent in 2005), while 64 per cent of the public (and 89 per cent of authorities) think that public authorities are 'more open and accountable'. However, the Information Commissioner, Kevin Dunion, has expressed dissatisfaction with levels of engagement among ethnic minorities, the young and the old, and surprise about the low number of requests related to health and education.²¹ There is also continued uncertainty about how to bring private companies and housing associations delivering public services under the remit of the Act.²²

²⁰ A. MacDermid, '10,000 join first day of strikes by civil service', 18 March 2008, *The Herald* www.theherald.co.uk/politics/news/display.var.2126928.0.10_000_join_first_day_of_strikes_by_civil_ser vice.php; McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), p. 124.

²¹ 'Commissioner urges people from all backgrounds to be aware of their rights to information' (11 March 2008), Scottish Information Commissioner. www.itspublicknowledge.info/home/News/20080311C.asp; 'Commissioner wants older people to be more aware of their rights to information' www.itspublicknowledge.info/home/News/20080311B.asp; 'Commissioner wants young people to be more aware of their rights to access information'; www.itspublicknowledge.info/home/News/20080311A.asp; 'Info requests centre on politics' (10 March 2008), *BBC News* <http://news.bbc.co.uk/1/hi/scotland/7286030.stm>

²² H. MacDonell, 'Public denied information by gaps in law, says Dunion', (10 March 2008), *The Scotsman* <http://news.scotsman.com/politics/Public-denied-information-by-gaps.3859384.jp>

2. The Scottish Parliament

Paul Cairney

2.1 The Budget

The SNP Government's biggest hurdle during the budget process proved to be during the Stage 1 consideration of its principles. After considerably more substantial plenary debate than the Parliament is used to, the government won the vote by 64 to 62. It relied for this victory on support from the Conservatives and the independent MSP Margo MacDonald, as well as the abstention of the two Greens. However, as the previous report suggests, it did not have to make the major concessions that might be expected for such a tight vote. There was a commitment to fund 1000 new police officers and consider reducing business rates (for the Conservatives), a capital city supplement (for MacDonald), and a commitment to undergo a carbon assessment of future spending plans (for the Greens).²³ While perhaps significant for each party, these measures did not amount to a significant rethinking of the budget. Of course, they were necessary to jump the first hurdle, with each party negotiating further policy concessions in the lead up to the Stage 3 vote. These included a new drugs strategy and an accelerated cut in business rates (key planks of the Conservative manifesto) and more investment for public transport.²⁴ Further, these parties fared better than the Liberal Democrats, who abstained on the stage 3 votes, and Labour, who curiously supported an SNP amendment to the budget (on modern apprenticeships and standards of service for vulnerable groups) but then abstained on the amended motion.²⁵

²³ Scottish Parliament Official Report (23 January 2008) www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0123-02.htm#Col5287; P. McMahon, 'Unlikely Holyrood alliance helps SNP squeeze home in budget vote' (24 January 2008), *The Scotsman* <http://news.scotsman.com/politics/Unlikely-Holyrood-alliance-helps-SNP.3705302.jp>

²⁴ Scottish Parliament Official Report (6 February 2008) www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0206-01.htm ; 'Budget approved after deal' (6 February 2008), *BBC Scotland*, http://news.bbc.co.uk/player/nol/newsid_7230000/newsid_7232200/7232261.stm?bw=bb&mp=wm&news=1&bbcws=1 ; 'The Scottish Budget: Key policy plans laid out' , (7 May 2008), *The Scotsman* <http://news.scotsman.com/politics/The-Scottish-Budget-Key-policy.3752415.jp>; H. MacDonell, 'Swinney's last-minute deals over business rates and transport win vital support', (7 February 2008), *The Scotsman* <http://news.scotsman.com/politics/Swinney39s-lastminute-deals-over-.3752341.jp>; H. MacDonell, 'Conservatives claim victory as Goldie plays her hand just right', (7 February 2008), *The Scotsman* <http://news.scotsman.com/politics/Conservatives--claim-victory-as.3752348.jp>; BBC News 'Salmond makes resignation threat' (5 February 2008), *BBC News* <http://news.bbc.co.uk/1/hi/scotland/7229224.stm> ; D. Fraser, 'Concessions won by Tories become new campaign', (9 February 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2032103.0.Concessions_won_by_Tories_become_new_campaign.php

²⁵ Iain MacWhirter links this to a fear that Labour opposition might have produced an SNP defeat and early election. I. MacWhirter, '1 year of the SNP government' (27 April 2008), *Sunday Herald*

2.2 The Graduate Endowment

In second place is the Stage 3 passage of the Graduate Endowment Abolition (Scotland) Bill, which passed by 67 to 61 (in other words, as with finance, all MSPs voted). In this case, the parliamentary arithmetic changed, with the SNP bolstered by support from the Liberal Democrats, the Greens and MacDonald.²⁶ This experience of cooperation between the SNP and Liberal Democrats (coupled with developments in the SNP's plans for a local income tax²⁷) in the face of (often very personal) acrimony between MSPs demonstrates the type of 'new politics' in which, increasingly, all parties are likely to engage. Although many had hoped for the development of the type of consensus politics associated with the Nordic countries, we have so far witnessed something perhaps closer to the 'pork barrel' politics associated with the US, in which alliances shift by issue and deals are made on a one-off basis.

2.3 Scottish Parliament Committees

From 1999-2007 the main obstacles to committee autonomy were the coalition majority in each committee (combined with a strong party whip) and the sheer volume of government legislation, which restricted the amount of time available for conducting inquiries.²⁸ Since 2007, these constraints have been removed, but the value of committees may now be undermined by a different set of problems. The first of these is 'competitive partisanship', with the committee arithmetic producing greater scope not only for divided reports passed on the casting vote of the convener, but also (in the absence of rules or conventions about the use of casting votes) variations in outcomes according to the party of the convener. Notably, as the SNP gave one convenership (transport) to the Greens as part of a move to seek the support of its two members, the SNP controls only 4 committees (including finance) to Labour's 5.

www.sundayherald.com/news/heraldnews/display.var.2228412.0.1_year_of_the_snp_government.php ;

M. Settle, 'On borrowed time, say Scots MPs' (8 February 2008), *The Herald*

www.theherald.co.uk/politics/news/display.var.2028970.0.On_borrowed_time_say_Scots_MPs.php ;

Scottish budget showdown', *BBC News Q&A* <http://news.bbc.co.uk/1/hi/scotland/7230214.stm>

²⁶ Scottish Parliament Official Report, 28 February,

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0228-02.htm#Col6487

²⁷ R. Dinwoodie, 'SNP and LibDems set to join forces over plans to replace council tax' (3 March 2008), *The Herald*

www.theherald.co.uk/politics/news/display.var.2087197.0.SNP_and_LibDems_set_to_join_forces_over_plans_to_replace_council_tax.php ; see also the Scottish Government plans to promote the Liberal

Democrat policy on two hours PE in Schools, Scottish Government News Release 'PE in schools' (11 May 2008) www.scotland.gov.uk/News/Releases/2008/05/09135831

²⁸ McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), pp. 99-102.

The problem of committee size is strongly linked to the practical problems faced by a minority government trying to fill committee seats. The lack of SNP numbers undermined any hope for large committees (e.g. of 13 members) that would give the SNP an extra member (5 compared to Labour's 4), since this would produce the need for at least 70 posts (on at least 14 committees) to be filled using a pool of approximately 30 eligible MSPs (many of whom have little parliamentary experience). The alternative was to give the SNP an extra member on committees of 9. Since this garnered no support from the other parties, the compromise was for the two largest parties to be equally represented on committees of 8 (with even-numbered committees more likely to produce the need for casting votes).

The second post-2007 problem is the effect of committee partisanship on plenary proceedings, with divided reports reducing the ability of committee conclusions to command respect, particularly when: (a) the SNP Government can achieve the numbers in plenary that it cannot in certain committees (as with the graduate endowment bill); and/or (b) when partisanship undermines the ability of ministers (or senior civil servants) to maintain relationships with key members of committees (in the past there was greater scope for cooperation between the Scottish Executive and the coalition majority in each committee).

Yet, a focus on the theatre of politics is not complete without a look behind the scenes. This is because much of the business of the governing party is to find common ground (based, for example, on the precise wording of motions) before votes take place in committees and plenary. In this sense, much of the time spent by party business managers is to 'arrange the dance at 5pm'²⁹. In the context of committees, the saving grace may be for parties to agree to steer inquiries towards cross-party issues³⁰ – such as the need for 'early engagement' when trying to influence European issues (European and External Relations Committee), the need for realistic targets in the Public Appointments Equalities Strategy (Standards, Procedures and Public Appointments Committee), and the need to reform procedures to deal with subordinate legislation – or to hope for relatively uncontroversial bills (such as the Public Health Bill). If the pursuit of consensual and business-like practices within committees is the main aim (rather than, say, holding

²⁹ Interview with a party whip, 2008

³⁰ Although perhaps not the issue of greater resources for constituency MSPs – see R. Dinwoodie 'MSPs split over 'flawed' extra staff plan' (17 March 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2123886.0.MSPs_split_over_flawed_extra_staff_plan.php ; I. Swanson, 'Two-tier allowance system for MSPs clears first hurdle' (12 May 2008) <http://news.scotsman.com/politics/Two-tier-allowance-system-for-MSPs.4070866.jp>

ministers to account in public), then the inquiry into the planning process surrounding the Menie Estate (the Donald Trump affair) does not seem like a good candidate. The report followed high-profile exchanges between opposition committee members and Alex Salmond, culminating in a report highly critical of the conduct of Finance Secretary John Swinney and the First Minister.³¹ It is also notable for the unprecedented level of dissent from the three SNP members. In committees in the past, such dissent would normally be minimised by a change of wording.

In contrast, despite the tumultuous progress of the Budget Bill, now the Budget (Scotland) Act 2008, the Finance Committee's report on the Budget process stuck largely to less controversial subjects such as: the need to weight government priorities in the National Performance Framework; the merits of hard targets versus 'direction of travel' targets; ring-fencing; efficiency savings; the time available for scrutiny; and the availability of information provided by government. The report even seemed to play down party disagreements on the adequacy of Scotland's settlement from the Treasury (with no dissent apparent in the report).³²

2.4 Committee Reports and Inquiries (January – May 2008)³³

Audit:

- 6 May – 2nd Report 2008: Report on the 2006/07 Audit of the Western Isles Health Board

European and External Relations

- 2 May – 1st Report 2008: Report on an inquiry into the transposition of EU directives

Finance:

- 6 May: Report on the financial memorandum of the Creative Scotland Bill
- 16 January – 1st Report 2008: Stage 2 of the 2008-09 Budget process, Scottish Government response
- 16 January: Report on the financial memorandum of the Glasgow Commonwealth Games Bill

³¹ H. MacDonell, 'Cavalier, poor judgment, no awareness – Salmond is slated over Trump resort' (14 March 2008), *The Scotsman* <http://news.scotsman.com/politics/Cavalier-poor-judgment--no.3878332.jp>

³² McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), p192.

³³ Excluding most annual reports, routine subordinate legislation reports, financial memoranda, budget reports (which are brought together by the Finance Committee's stage 2 report) and reports on subordinate legislation.

Standards, Procedures and Public Appointments:

- 29 February – 2nd Report 2008: Draft public appointments equalities strategy – diversity delivers
- 18 January 2008 1st Report 2008: Elections to the Scottish Parliamentary corporate body

Subordinate Legislation:

- 2 May: Report on the delegated powers in the Creative Scotland Bill at stage 1
- 25 April – 17th Report 2008: Glasgow Commonwealth Games Bill
- 20 March: Report on Judiciary and Courts (Scotland) Bill – Stage 1
- 18 March – 12th Report 2008: Inquiry into the regulatory framework in Scotland
- 21 February – 8th Report 2008: Legislative consent memorandum on the Pensions Bill

Education, Lifelong Learning and Culture:

- 25 January – 1st Report 2008: Report on the Legislative Consent Memorandum on the Education and Skills Bill – LCM (S3) 6.1

Health and Sport:

- 18 March – 2nd Report 2008: Stage 1 Report on the Public Health etc. (Scotland) Bill

Justice:

- 2 May – 11th Report 2008: Stage 1 Report on the Judiciary and Courts (Scotland) Bill
- 26 March – 10th Report 2008: Legislative consent memorandum on the Statute Law Repeals Bill – LCM (S3) 11.1
- 5 March – 6th Report 2008: Legislative consent memorandum on the Pensions Bill – LCM (S3) 8.1
- 24 January – 4th Report 2008: Report on inquiry into the effective use of police resources
- 16 January – 2nd Report 2008: Legislative consent memorandum on the Criminal Justice and Immigration Bill – LCM (S3) 7.1

Local Government and Communities:

- 14 March – 6th Report 2008: Legislative Consent Memorandum on the Housing and Regeneration Bill LCM (S3) 10.1
- 14 March – 5th Report 2008 (Volumes 1 and 2): Planning Application Processes (Menie Estate)
- 15 February – 2nd Report 2008: Stage 1 Report on the Glasgow Commonwealth Games Bill

2.5 Parliamentary Bills (January – May 2008)*Scottish Government Bills Passed:*

- Abolition of Bridge Tolls (Scotland) Bill -removes the toll payable of the Forth and Tay road bridges.
- Budget (Scotland) Bill
- Graduate Endowment Abolition (Scotland) Bill – removes the £2000 fee payable by certain students when graduating from a Scottish university or college.

Scottish Government Bills in Progress (latest stage reached):³⁴

- Creative Scotland Bill (Stage 1)
- Glasgow Commonwealth Games Bill (Awaiting Royal Assent)
- Judiciary and Courts (Scotland) Bill (Stage 1)
- Public Health etc. (Scotland) Bill (Stage 2)

Members' Bills in Progress

- Scottish Register of Tartans Bill (Jamie McGrigor, Conservative) (Stage 1)

Proposals for Members' Bills (most recent first):³⁵

- Proposed Apprenticeship Rights (Scotland) Bill (John Park, Labour)
- Proposed Environmental Levy on Plastic Bags (Scotland) Bill (Mike Pringle, Liberal Democrat)
- Proposed Rural Schools (Scotland) Bill (Murdo Fraser, Conservative)
- Proposed Control of Dogs (Scotland) Bill (Alex Neil, SNP)

³⁴ For a description of the bills' main features, see A. Paun (eds.), 10.3 *Scotland Devolution Monitoring Report: September 2007* (section 10.3) www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Scotland_Sept07.pdf

³⁵ See www.scottish.parliament.uk/s3/bills/MembersBills/index.htm

- Proposed Tobacco Sales Licensing (Scotland) Bill (Christine Grahame, SNP)
- Proposed Property Factors (Scotland) Bill (Patricia Ferguson, Labour)
- Proposed Sentencing of Offences Aggravated by Prejudice (Scotland) Bill (Patrick Harvie, Green) – the proposal has gathered sufficient support for a Bill to be introduced.
- Proposed Energy Efficiency and Micro-generation (Scotland) Bill (Sarah Boyack, Labour) – the proposal has gathered sufficient support for a Bill to be introduced.
- Proposed Abolition of Forth and Tay Bridge Tolls Bill (Helen Eadie, Labour) – this was superseded by the Scottish Government's bill.
- Proposed Sunbed Licensing (Scotland) Bill (Kenneth Macintosh, Labour) – the proposal has gathered sufficient support for a Bill to be introduced
- Proposed Disabled Persons Parking Bays (Scotland) Bill (Jackie Baillie, Labour) – the proposal has gathered sufficient support for a Bill to be introduced

2.6 Sewel (Legislative Consent) Motions passed (January – May 2008)³⁶

Sewel motions (formally known as legislative consent motions) permit the Westminster Parliament to legislate on a devolved matter with the explicit consent of the Scottish Parliament. The first year of SNP Government saw a total of 7 Sewel motions passed by the Scottish Parliament, compared with 9 in the first year of the 1999 session and 13 in 2003. It is too early to determine whether this marks the start of a downward trend, but what is notable is the pragmatic way in which the SNP has adapted to government in its continued use of this legislative mechanism. George Foulkes (Labour) could not resist highlighting the SNP's use of Sewel motions: 'It is an interesting paradox that there have been more bills at Westminster affecting Scotland in the current session than there are bills here'.³⁷ Meanwhile, 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'.³⁸ The same debate saw a significant reversal of roles, with Conservative MSP David McLetchie suggesting that 'SNP members will vote this evening to permit our mother Parliament in Westminster to end a statutory power that is presently exercisable by Scottish ministers'. This prompted a response

³⁶ A full list of motions and links to SPOR discussions is provided by the Scottish Government: www.scotland.gov.uk/Topics/Government/Sewel. The numbers differ because the monitor lists motions chronologically by date passed in the Parliament

³⁷ Scottish Parliament Official Report, 20 February, c6129

³⁸ Ibid 19 March, c.7140

from Stewart Maxwell (Minister for Communities and Sport) 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.³⁹

Legislative Consent Motions:

81. Health and Social Care Bill (9 January). The UK bill includes provisions on the regulation of healthcare professions (some are reserved, some devolved; some operate in reserved and devolved areas) in response to the fifth report on the Shipman inquiry. There was no plenary debate or formal opposition.

82. Dormant Bank and Building Society Accounts Bill (24 January). The bill transfers money from dormant bank accounts to the UK government, to be distributed by the Big Lottery Fund (BLF). The motion gives powers to Scottish ministers to direct the BLF on Scotland's share (£40m, allocated via the Barnett formula). There was no formal opposition, but the motion was amended (Jackie Baillie, Labour) to ensure that ministers engaged in public consultation and reported to parliament before using its powers.

83. Criminal Justice and Immigration Bill (30 January). The bill gives the Serious Fraud Office access to information held in Scotland when investigating cases in England and Wales, makes the breach of a violent offender order instigated in England and Wales an offence in Scotland, extends transfer of sentenced prisoners provisions (according to Council of Europe convention) to Scotland, and subjects detained immigrants in Scotland to control by the new commissioner for offender management. There was minimal plenary debate (prompting Scottish Government assurance that it would legislate on pornography separately) and no formal opposition.

³⁹ Ibid 19 March, c.7106-7

84. Education and Skills Bill (20 February). The bill allows for information sharing between the Scottish and UK Governments on the earnings and employment of higher education graduates. There was no formal opposition and limited plenary debate.

85. Pensions Bill (13 March). The bill extends provisions on pension compensation to Scottish courts. There was no plenary debate or formal opposition.

86. Housing and Regeneration Bill (19 March). The bill removes the power (never used) of Scottish ministers to sign agreements to provide services in connection with the regulation of social housing. The motion prompted much debate on the use of LCMs (particularly since it was used merely for expediency), but no formal opposition.

3. The Media

Eberhard Bort

3.1 A good year for Scotland

Writing on 28 December 2007, at the end of an amazing 12 months in Scottish politics, BBC Scotland journalist John Knox summed up the year gone by: 'Alex Salmond has leapt upstream and spawned a new Scotland. We are not the same country we were just 12 months ago.' Since his election success, 'Alex Salmond has succeeded in walking on water, according to one German newspaper, and again surprising everyone, even Labour, by governing with a sure hand and performing well in the opinion polls.'⁴⁰

That set the tone for the subsequent assessments, as the first anniversary of the SNP minority government approached: 'By any yardstick, Alex Salmond has had a good year', even if 'the success has been built more on style than substance.'⁴¹

'A good year for Scotland,' ran a leader comment in *Scotland on Sunday*, which nonetheless made some critical remarks:

Having taken the decision to go it alone, Salmond has failed to fulfil the manifesto commitments his party made on cancelling student debt and giving grants to first-time homebuyers. The SNP had to be bullied by the Tories into standing by its own pledge on increasing police numbers. And a promise to cut class sizes in primary schools has been shown to be impractical.

However, the paper went on to assert that

the record of the SNP's first year in power is impressive. Policies such as freezing Council Tax, cutting prescription charges, scrapping bridge tolls, scrapping the graduate endowment and saving some local hospital units from downgrading have struck a chord with wide sections of the Scottish electorate. These were solid, tangible policies with a material effect on people's lives, and they left much of the electorate feeling that this was a Government that could get things done.

It concluded:

⁴⁰ John Knox, 'A year when Salmond spawned new era', *BBC News*, http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/scotland/7163646.stm

⁴¹ Leader Comment, 'Big tests are yet to come' (2 May 2008) *Daily Record*

As we approach the anniversary of the SNP's victory and head into the administration's second year, this newspaper is still in disagreement with the Scottish Government on some major planks of its programme. Its plans to scrap Council Tax and replace it with a Local Income Tax represent an unwelcome new burden on the Scottish middle classes. And we disagree with the SNP's aim of complete independence from the rest of the United Kingdom; a far more sensible – and popular – course of action would be to negotiate more powers for the Holyrood Parliament, especially the financial levers necessary to inject some dynamism into the Scottish economy.

But there is one matter on which we are able to congratulate Salmond and his ministerial team wholeheartedly, and that is the effect their victory seems to have had on the general mood of the Scottish people. Today, Scotland feels more comfortable with itself than it was a year ago. There is a welcome air of confidence and ambition in the country that must, in some part, be the result of a new spirit in Scottish public life. For that reason alone, this has been a good year for the Scottish Government, and a good year for Scotland.⁴²

This assessment chimed with other verdicts: Kenny Farquharson asserted that Salmond was 'changing the face of a nation'.⁴³

'One year on, there are few who do not believe that victory over Jack McConnell's Labour was a breath of fresh air,' ran the leader in the *Sunday Express*: 'Alex Salmond's stature as First Minister continues to grow by the day, defying those waiting, and perhaps praying, for the honeymoon to end, and he has led a very competent government.'⁴⁴ But it also warned of 'complacency' – 'The hard work is yet to come.' That was also the view of Eddie Barnes in *Scotland on Sunday*.⁴⁵

While conceding that Salmond was 'enjoying an extended political honeymoon,' John Curtice saw parallels with Tony Blair, whose early years as Prime Minister were 'largely marked by timidity.' Salmond's minority government, though, gave him 'little choice but to appear timid'. In Curtice's view, 'he is more a prisoner than a master of his office.'⁴⁶

⁴² Leader Comment, 'A good year for Scotland' (12 April 2008), *Scotland on Sunday*, <http://news.scotsman.com/scotland/A-good-year-for-Scotland.3976753.jp>

⁴³ Kenny Farquharson, 'Changing the face of a nation' (13 April 2008), *The Sunday Times*.

⁴⁴ Leader Comment, 'What a difference a year has made with Alex at the helm' (4 May 2008), *Scottish Sunday Express*

⁴⁵ Eddie Barnes, 'Feelgood factor will only last if Salmond delivers real change' (4 May 2008), *Scotland on Sunday*

⁴⁶ John Curtice, 'More prisoner than master of office' (3 May 2008), *The Times*

The Scotsman saw a First Minister who ‘has been lucky to date,’ as he ‘is marking a successful first year.’ However:

The next 12 months will demand he delivers more in concrete terms. The SNP’s plan for a local income tax will hurt double-income families and harm incentives. The First Minister should ponder what the 10p tax reform did to Labour and think again about how to reform the council tax.⁴⁷

‘It has been an extraordinary year in Scotland,’ was Tom Gordon’s verdict. Twelve months on from the election, Alex Salmond is ‘still riding the crest of an unprecedented wave of popular support’, despite potential set-backs like the Trump affair and ‘academic rumblings about the shoddy, ill-prepared state of the government’s plans for a local income tax (LIT) and a Scottish Futures Trust’:

For this Salmond owes much to a team of fiercely loyal lieutenants. Kevin Pringle, the spin doctor who has effortlessly greased relations with the media while Alexander has burned her way through press officers like nitric acid.... Likewise Bruce Crawford, the party’s business manager, who has pulled off seemingly impossible feats for a minority government.⁴⁸

The Trump affair,⁴⁹ the accusation of running a ‘special access’ administration,⁵⁰ criticism that his Government was breaking promises⁵¹ and missing growth targets,⁵² concerns about the Government’s concordat with local councils resulting in service cuts affecting the most vulnerable in society,⁵³ and problems with the Scottish Futures Trust (intended to replace PFI),⁵⁴ the STUC’s slamming of SNP tax policy,⁵⁵ the controversies around the Local Income Tax⁵⁶ – none of these could dent the

⁴⁷ Leader Comment, ‘All parties have much to ponder after election’ (3 May 2008), *The Scotsman*

⁴⁸ Tom Gordon, ‘Will Alex get his perfect storm?’ (4 May 2008), *The Sunday Times*

⁴⁹ Robbie Dinwoodie, ‘“Cavalier” Salmond rapped over Trump row’ (14 March 2008), *The Herald*; Hamish Macdonell, ‘Cavalier, poor judgment, no awareness – Salmond is slated over Trump resort’ (14 March 2008), *The Scotsman*

⁵⁰ Tom Gordon, ‘Salmond is accused of cronyism’ (2 March 2008), *The Sunday Times*; Hamish Macdonell, ‘Alexander delivers stinging attack on SNP’s “favoured friends” policy’ (23 April 2008), *The Scotsman*

⁵¹ Mark Howarth, ‘So how many new officers has the SNP placed on the beat? Just the one’ (24 February 2008), *The Mail on Sunday*; Douglas Fraser and Robbie Dinwoodie, ‘Alexander accuses SNP of being “one big let-down”’ (17 April 2008), *The Herald*

⁵² Angus Macleod, ‘SNP Budget won’t boost growth, says top adviser’ (19 January 2008), *The Times*; Alf Young, ‘Comforting words aside, SNP government is missing growth targets’, *The Herald*, 24 April 2008.

⁵³ Julia Horton, ‘Opening a concordat of worms?’ (3 April 2008), *The Herald*.

⁵⁴ Hamish Macdonell, ‘Halfway plans for alternative to PFI satisfy no-one’ (22 April 2008), *The Scotsman*

⁵⁵ Colin Donald, ‘STUC leader throws down gauntlet on SNP’s “right-wing” tax policy’, (20 April 2008), *Sunday Herald*,

⁵⁶ Eddie Barnes, ‘Salmond tax plan in tatters’ (2 March 2008), *Scotland on Sunday*; Iain Macwhirter, ‘Solution that may make a taxing problem worse’ (10 March 2008), *The Herald*; Angus Macleod, ‘Local

'buoyant mood'⁵⁷ and 'relentless cheerfulness'⁵⁸ at the SNP's Spring party conference in Aviemore. Even the strike at Grangemouth did not harm Salmond's popularity.

Salmond's conference call to win 20 seats at the next Westminster election in order to make Westminster 'dance to a Scottish jig', was judged an 'ambitious target', but was widely taken seriously.⁵⁹ But Kenneth Roy, in his new online *Scottish Review*, took issue with the tone and imagery used by Salmond:

There is something unpleasantly shrill and combative, as well as implicitly anti-English, about this imagery, particularly from a political leader who aspires to play an enlightened role in world affairs. I once called, perhaps misguidedly, for a gentle and civilised nationalism in Scotland. Some leaders of the SNP were sufficiently moved by the words 'gentle' and 'civilised' to write to me in agreement. Fuelled by the uncritical adoration of the Scottish media, Mr Salmond's populist leadership moves us further and further from concepts of gentle and civilised.⁶⁰

Yet, everything seems to pale in the face of the SNP's successes: getting the budget through Parliament,⁶¹ which was seen as John Swinney and Alex Salmond triumphantly outmanoeuvring and humiliating the opposition;⁶² feel good stories like the good burghers of Berwick wanting to rejoin an SNP-led Scotland;⁶³ and their commanding lead in the polls (although seemingly not replicated in the cause of independence).⁶⁴ Douglas Fraser put it in a nutshell: 'The honeymoon seems far from over' (*The Herald*, 1 May 2008).

income tax plan "fatally flawed" (11 March), *The Times*; John Robertson, 'Salmond tax plan left in tatters' (12 March 2008) *Scottish Daily Mail*; John Robertson, 'Families will be punished by SNP's tax plan' (14 April 2008), *Scottish Daily Mail*. See also Leader Comment, 'Still time for SNP to announce U-turn on LIT' (14 April 2008), *The Scotsman*

⁵⁷ Douglas Fraser, 'One year on: the SNP takes stock' (18 April 2008), *The Herald*

⁵⁸ Brian Taylor, 'SNP Conference Special' (20 April 2008), *BBC Two*

⁵⁹ Hamish Macdonell, 'Salmond wants Westminster to "dance to a Scottish jig" as he targets 20 seats' (21 April 2008), *The Scotsman*

⁶⁰ Kenneth Roy, 'Kenneth Roy's Week', *The Scottish Review* (online), (25 April 2008), www.scottishreview.net/KRView011.html

⁶¹ Hamish Macdonell, 'A total triumph and an utter defeat' (7 February 2008), *The Scotsman*

⁶² Leader Comment, 'Salmond's triumph' (7 February 2008), *The Herald*; Magnus Gardham, 'Victory for Alex Salmond as budget is passed' (7 February 2008), *Daily Record*

⁶³ Paul Vallely, 'The English town that wants to be Scottish' (13 February 2008), *The Independent*; 'TV poll backs Berwick border move' (17 February 2008), *BBC News* http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/england/tyne/7248529.stm

⁶⁴ Kenny Farquharson and Murdo MacLeod, 'Scots give Salmond the thumbs-up' (27 April 2008), *Scotland on Sunday*; David Maddox, 'Salmond's seduction wins over business' (2 May 2008), *The Scotsman*; Robbie Dinwoodie, 'Highest ratings for SNP after year in power' (3 May 2008), *The Herald*; Ian Swanson, 'Poll says support for Scots independence at all-time low' (30 April 2008), *Edinburgh Evening News*. See also Brian Taylor, 'Is Scottish opinion polls apart?' (2 May 2008), *BBC News* http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/scotland/7374072.stm

3.2 Wendy Alexander's Referendum U-turn

And all that, of course, before the astonishing 'shock U-turn'⁶⁵ of Wendy Alexander brought the independence referendum to the fore and Labour into renewed disarray, following on from the illegal donations row⁶⁶ which had already overshadowed Alexander's leadership. The usually Labour-supporting *Daily Record* commented: 'There is no doubt Salmond has been helped by the weakness of his opponents'.⁶⁷ A widely noticed leader by the same newspaper was scathing about Alexander's leadership of Scottish Labour.

These are very difficult times for Scots leader Wendy Alexander. [...] During her reign, she has so far failed to land a blow on First Minister Alex Salmond. [...] Labour's first year in opposition was always going to be tough. But no one could have predicted how far their fortunes would slump in just nine months.

And they have only themselves to blame. They have made too many mistakes. Alexander has attacked local government reforms supported by Labour councillors. She has backed greater powers for Holyrood, though many Labour MPs at Westminster fear she is playing into Salmond's hands. All the while, Salmond's popularity soars. He has broken election promises, become embroiled in a planning row and, as leader of a minority government, has one arm tied behind his back. But he's still making it look easy.⁶⁸

'Wendy is ready to make changes,' declared Campbell Gunn on the eve of Labour's spring conference at Aviemore.⁶⁹ After a 'low-key' conference, the comments were cautiously positive. Hamish MacDonell wrote in *The Scotsman*: 'The Scottish Labour Party landed itself in a pretty big hole last May. It's not out of it yet, but at least it has stopped digging.'⁷⁰ Wendy Alexander, Eddie Barnes commented, 'appears to have found a clearer message to sell to the party', and 'she has bought herself some time.'⁷¹

⁶⁵ Douglas Fraser, 'Alexander backs independence referendum in shock U-turn' (5 May 2008), *The Herald*

⁶⁶ Campbell Gunn, 'Wendy's woes are not going away' (13 January 2008), *The Sunday Post*; Leader Comment, 'Wendy's refusal to go has left Scottish politics in cold storage' (3 February 2008), *Sunday Herald*. Wendy Alexander was cleared of any intentional wrong-doing by the Electoral Commission's investigation into the illegal donations issue.

⁶⁷ Leader Comment, 'Big tests are yet to come' (2 May 2008), *Daily Record*

⁶⁸ Leader Comment, 'Alexander yet to score point' (28 January 2008), *Daily Record*

⁶⁹ Campbell Gunn, 'Wendy is ready to make changes' (23 March 2008), *The Sunday Post*

⁷⁰ Hamish Macdonell, 'Still in a hole, but they might have found a way out' (1 April 2008), *The Scotsman*

⁷¹ Eddie Barnes, 'It may sound cuckoo, but Labour thinks spring has sprung' (30 March 2008), *Scotland on Sunday*

The Calman Commission was, albeit with some caveats,⁷² widely welcomed as 'timely',⁷³ and Brown's support for the 'review' was noted,⁷⁴ particularly after Scotland Office minister David Cairns' dismissal of more tax powers for Holyrood as an issue that only interests the 'McChattering classes'.⁷⁵

'The honeymoon will end,' stated Brian Taylor in his BBC blog: 'Right now, though, the First Minister is able to mark the anniversary of his election victory with signs of continuing popular support.'⁷⁶

That was two days before Scottish politics took a 'surreal turn'⁷⁷ when Wendy Alexander went on the BBC's *Politics Show* to be interviewed by Glenn Campbell on Sunday, 4 May, apparently to not make an announcement about a policy change on the referendum question, then a minute later just doing that. According to John Knox, this was a 'Damascus road experience for Wendy Alexander' which may have happened 'during the programme itself.'⁷⁸ A week followed 'with the situation becoming more bizarre by the minute.'⁷⁹

Initially, *The Scotsman* – arguing that 'there has always been a good case for having a multi-option referendum, allowing the Scottish electorate to choose between independence, increased devolution or the status quo'⁸⁰ – treated the policy shift as Wendy Alexander seeking 'to gain the political initiative and steal the SNP's thunder, ... a bold and courageous move on her part.' That it had not gone down too well with Labour south of the Border 'may...be to her advantage.'⁸¹

Brian Taylor saw Labour's 'new-found support for a referendum' driven by 'calculation and fear': fear of electoral defeat, and calculation that being blamed for not letting the Scottish people have a say could become a burden in 2011 and that,

⁷² Hamish Macdonell, 'They want to save the Union but have they set a course for independence?' (26 March 2008), *The Scotsman*

⁷³ Leader Comment, 'Devolution revisited' (26 March 2008), *The Herald*

⁷⁴ Douglas Fraser, 'Brown promises extensive review of devolution' (25 March 2008), *The Herald*; Simon Johnson, 'Brown backs review on Scots taxation' (26 March 2008), *The Daily Telegraph*; Bill Mackintosh, 'Brown opens door to Holyrood tax powers' (17 February 2008), *Sunday Herald*

⁷⁵ Michael Settle, 'Minister dismisses more tax power for Holyrood' (12 February 2008), *The Herald*

⁷⁶ Brian Taylor, 'Making New Friends (Blether With Brian)' (2 May 2008), *BBC News* www.bbc.co.uk/blogs/thereporters/briantaylor/2008/05/making_new_friends.html

⁷⁷ Gordon Brewer, 6 May 2008, *BBC Newsnight Scotland*

⁷⁸ John Knox, 'Wendy brings it on and it kicks off' (9 May 2008), *BBC News* http://news.bbc.co.uk/2/hi/uk_news/scotland/7391475.stm

⁷⁹ David Perry, 'Wendy defiant in referendum row' (8 May 2008), *The Press and Journal*

⁸⁰ Leader Comment, 'Alexander is right about a referendum' (5 May 2008), *The Scotsman*

⁸¹ Leader Comment, 'Alexander seeking the initiative' (6 May 2008), *The Scotsman*

at least for the time being, the Scots would reject the independence option in a referendum.⁸²

The *Scottish Daily Mail* commented that:

Wendy Alexander's backing of an early referendum on independence is hugely significant. It signals the Labour Party's first signs of life in a year. And it presents Alex Salmond with a dilemma. How does he oppose a referendum without damaging the validity of his party's claims that increasing numbers of Scots favour wrecking the Union?⁸³

While the *Daily Mail* reminded its readers that it had been, since last May, an advocate of 'nail[ing] the separatist genie by calling for an early referendum,' it also questioned the sincerity of Alexander's move: 'Many will see Miss [sic] Alexander's apparent change of heart as an opportunist U-turn.' The *Daily Telegraph*, too, was prepared to give 'Miss [sic] Alexander' 'some credit' for her 'tacit acknowledgement that Labour has been wrong-footed,' but called her move 'bluffing for base political advantage' and 'dangerous tinkering with the constitutional settlement.'⁸⁴

'On the face of it,' Ian Bell commented, Wendy Alexander's call was 'reasonable'. Maybe, he contended in his 'Holyrood Sketch', Scottish Labour, 'the mangy old mystical beast, could yet be roused by the Eck's triumphalism.'⁸⁵ Labour's apparent change of heart on the referendum, Bell claimed, shifted the debate to the question: 'what does independence actually mean?' – and he saw 'the beginning of a beautiful constitutional argument'.

Wendy's new departure had, quite obviously, created a 'major headache for Brown'.⁸⁶ Coming in the immediate wake of the electoral disaster in England and Wales it looked as if Brown had 'apparently lost patience with Ms Alexander,' as he refused to give her call for a referendum his backing at Prime Minister's Question Time: 'Far from endorsing her standpoint, he went out of his way to dilute it.'⁸⁷ That Alexander stuck to her guns when appearing at First Minister's Question Time at Holyrood the following day, led *The Scotsman* to ask whether

⁸² Brian Taylor, 'Calculation and fear (Blether with Brian)' (5 May 2008) *BBC News*, www.bbc.co.uk/blogs/thereporters/briantaylor/2008/05/calculation_and_fear.html

⁸³ Leader Comment, 'Labour is alive again. But it may be too late' (7 May 2008), *Scottish Daily Mail*

⁸⁴ Leader Comment, 'Union put in peril by Labour's electoral games' (7 May 2008), *The Daily Telegraph*

⁸⁵ Ian Bell, 'Probably not the start of a beautiful friendship' (Holyrood Sketch) (9 May 2008), *The Herald*

⁸⁶ Bill Jamieson, 'Wendy's cry brings on major headache for Brown' (9 May 2008), *The Scotsman*

⁸⁷ Brian Taylor, 'Where's your referendum now? (Blether with Brian)' (7 May 2008), *BBC News*, www.bbc.co.uk/blogs/thereporters/briantaylor/2008/05/wheres_your_referendum_now.html

Brown was 'losing his grip on Scotland'.⁸⁸

The *Scottish Daily Mail*, under the headline 'No way back for Wendy', saw 'Wendy and Labour on the brink of ruin'.⁸⁹ The *Scottish Sun*, for its part, found Wendy Alexander, not for the first time, 'woefully underprepared' and commented: 'A total mess'.⁹⁰ The *Press and Journal* saw her coming 'within an inch of landing a blow, of sorts, on Salmond,' only to be 'pulled out of the ring by Gordon Brown'.⁹¹ The paper conceded, 'it might have been the master stroke,' but now 'it looks like Mr Salmond will come out of the fight better off, again, and continue with his policy of a referendum in 2010.'

Douglas Fraser had expected Alexander to 'explain her haphazard shift to gamble on the independence vote' in her press conference on 6 May, but after it found that 'we were not much the wiser. We asked questions. She didn't answer them.'⁹² For Alan Cochrane, Wendy's U-turn proved that Scottish Labour had 'as much faith in Gordon Brown defeating David Cameron as they have in pigs flying.' That, he argued, was the reason for the call for an early referendum. What most astonished him was 'the bare-faced way she decided to take this route without telling Mr Brown.' But he was not so sure whether this 'UDI' by Scottish Labour was a 'Unilateral Declaration of independence' – or rather a 'Unilateral Declaration of Ineptitude'.⁹³

Brian Taylor added: 'The manner of executing this plan, if such a description can be used, has been utterly abominable.'⁹⁴ For Ewan Crawford, Scottish Labour's call for a vote on independence was 'the biggest miscalculation in recent British politics'.⁹⁵

'Labour implodes over independence vote,' ran the front-page headline of the *Scotsman* (8 May 2008), while STV's Bernard Ponsonby questioned whether either Labour leader, north or south of the border, had the 'political nous' to recover from this calamitous week.⁹⁶ The *Scottish Daily Express* saw Labour in 'meltdown'⁹⁷ and

⁸⁸ David Maddox, 'Losing his grip on Scotland' (9 May 2008), *The Scotsman*

⁸⁹ Leader Comment (9 May 2008), *Scottish Daily Mail*

⁹⁰ Leader Comment (9 May 2008), *Scottish Sun*

⁹¹ Leader Comment, 'Referendum announcements' (8 May 2008), *The Press and Journal*.

⁹² Douglas Fraser, 'Wendy's high-wire act without a safety net is greeted with amazement' (Sketch) (7 May 2008), *The Herald*

⁹³ Alan Cochrane, 'UDI? Would that be Unilateral Declaration of Ineptitude?' (7 May 2008), *The Daily Telegraph*

⁹⁴ Brian Taylor, 'Not jut any referendum' (Blether with Brian), (8 May 2008) *BBC News* www.bbc.co.uk/blogs/thereporters/briantaylor/2008/05/not_jut_any_referendum.html

⁹⁵ Ewan Crawford, 'Bluff or Blunder' (7 May 2008), *The Guardian*

⁹⁶ Bernard Ponsonby on STV's 'Scotland Today' (9 May 2008)

contended: 'Mr Brown and Ms Alexander have lost so much confidence within their own party that they surely can have no future as leaders of their party.'⁹⁸

As Wendy Alexander's brother Douglas 'made clear he supported Gordon Brown and the UK Government's line on an early independence referendum,' the first calls by Labour MPs for Wendy Alexander to step down were reported...⁹⁹

Whoever thought that 2007 was an extraordinary year, and that Scottish politics would steer into calmer waters and settle down in 2008, has so far been proven spectacularly wrong. What next?

3.3 'Jockvision'

The BBC coverage of Scotland came under renewed attack. In January, it was accused of 'perpetrating a sham over the number of Scottish programmes it produces', with productions labelled Scottish in spite of 'tenuous' connections.¹⁰⁰

The second interim report of the Scottish Broadcasting Commission 'lambasted' Scotland's major TV channels for a 'dereliction of duty'. The report, based on evidence from more than a thousand people, accused the channels of 'ignoring Scottish culture and history.'¹⁰¹ In an opinion piece, the BBC's Mark Thompson defended the corporation, conceding that 'fair questions' were being asked, but also highlighted the BBC's investment in Scotland and reiterated his promise that the BBC would be 'commissioning at least 17 per cent of its TV network production' from Scotland, Wales and Northern Ireland, and that Scotland was 'to deliver a proportion at least as large as its proportion of the UK population.'¹⁰²

A report on the BBC by Professor Anthony King, University of Sussex, 'prompted renewed calls for a Scottish produced 6pm and 10pm news service'.¹⁰³ The study

⁹⁷ Kerry Gill and Paul Gilbride, 'Humiliation as Wendy is "hung out to dry" by PM' (8 May 2008), *Scottish Daily Express*

⁹⁸ Leader Comment, 'Dithering duo's days at the top are numbered' (8 May 2008) *Scottish Daily Express*

⁹⁹ Michael Settle and Robbie Dinwoodie, "'She has to go": Labour MPs call on Alexander to resign' (10 May 2008), *The Herald*,

¹⁰⁰ Martyn McLaughlin, 'Myth of BBC's "Made in Scotland"' (29 January 2008), *The Scotsman*

¹⁰¹ Mike Wade, 'Scottish broadcasters "failing the nation"' (27 March 2008), *The Times*; Phil Miller, 'Commission attacks Scots broadcasting' (27 March 2008), *The Herald*,

¹⁰² Mark Thompson, 'BBC needs regional creativity to survive as a public broadcaster' (7 March 2008), *The Scotsman*

¹⁰³ Gerry Braiden, 'Viewers get "second-class service" from network BBC news, study finds' (5 May 2008), *The Herald*

showed that the 'BBC network leaves audiences outside England poorly informed.'¹⁰⁴ Iain Macwhirter, a former presenter on BBC Scotland, put it more bluntly in an opinion piece for the *Sunday Herald*: 'BBC's second-rate Jockvision is not worth licence fee' (4 May 2008).

¹⁰⁴ Peter John Meildem, 'Study reignites debate over Scottish Six' (4 May 2008), *Sunday Herald*

4. Public Attitudes and Elections

John Curtice

4.1 Constitutional Preferences

Figure 4.1 Scottish constitutional preference data, 1997-2007

Scotland should ...	May 1997	Sept 1997									
	%	%	1999	2000	2001	2002	2003	2004	2005	2006	2007
be independent, separate from UK and EU or separate from UK but part of EU	28	37	28	30	27	30	26	32	35	30	24
remain part of UK with its own elected Parliament which has some taxation powers	44	32	50	47	54	44	48	40	38	47	54
remain part of the UK with its own elected Parliament which has no taxation powers	10	9	8	8	6	8	7	5	6	7	8
remain part of the UK without an elected parliament	18	17	10	12	9	12	13	17	14	9	9

The two independence options, one where Scotland remains within the European Union (EU), and one that it does not, were offered to respondents separately. The first row of the table shows the combined total choosing either option.

Sources: Scottish Election Study 1997; Scottish Referendum Study 1997; Scottish Social Attitudes Survey 1999-2007.

Figure 4.2: YouGov poll on support for independence, Jan 2007 and April 2008

Q: Do you support or oppose Scotland becoming a country independent from the rest of the United Kingdom?

	Jan-07 %	Apr-08 %
Support Scottish Independence	40	34
Oppose Scottish Independence	44	50

Source: YouGov poll, 2-4 April 2008

Figure 4.3: ICM/Progressive Scottish Opinion polls on support for independence, 2006-2008

Q: Would you approve or disapprove of Scotland becoming an independent country?

	ICM		Scottish Opinion	
	Nov-06 %	Jan-07 %	Aug-07 %	Apr-08 %
Approve	52	51	31	41
Disapprove	35	36	49	43

Source: Progressive Scottish Opinion/Mail: 2-8 April 2008

Figure 4.4: TNS System Three poll on support for independence, 2007-2008

Q: The SNP have recently outlined their plans for a possible referendum on Scottish independence in future. If such a referendum were to be held tomorrow, how would you vote?

	Aug-07	Nov/Dec-07	Mar/Apr-08
I agree that the Scottish Government should negotiate a settlement with the government of the United Kingdom so that Scotland becomes an independent state	35	40	41
I do not agree that the Scottish Government should negotiate a settlement with the government of the United Kingdom so that Scotland becomes an independent state	50	44	40

Source: TNS System Three/Sunday Herald; 26/3-4/4/08

Figure 4.5: MRUK Cello poll on Scottish constitutional preferences, Feb-March 2008

Q: Which option do you most support?

	%
Scotland should become independent	23
More powers for Holyrood, short of independence	45
Keep things as they are	22
Scottish Parliament should have fewer powers	3
Abolish the Scottish Parliament	6

Source: MRUK Cello/Sunday Times: 29/2-9/3/08

Figure 4.6: YouGov poll on Scottish constitutional preferences, 2003-2008

Q: If there were a referendum on whether to retain the Scottish Parliament and Executive in more or less their current form, or to establish Scotland as a completely separate state outside the United Kingdom but inside the European Union, how would you vote?

	Apr-03 %	Apr-05 %	Nov-06 %	Mar-07 %	Apr-07 %	Jan-08 %	Apr-08 %
In favour of retaining present Scottish Parliament	55	46	50	51	53	57	59
In favour of a completely separate state outside the UK	29	35	31	28	25	27	25

Source: YouGov/Express: 3-8/1/08; YouGov/Daily Telegraph: 24-28/4/08

Figure 4.7: YouGov poll on Scottish constitutional preferences, April 2008

Q: If there were a referendum and the following were the options, how would you vote?

	Apr-07 %	Apr-08 %
In favour of retaining the Scottish Parliament but giving it greater powers	38	38
In favour of retaining the Scottish Parliament with its existing powers	25	34
In favour of a completely separate state outside the UK	23	19

Source: YouGov/Daily Telegraph 24-28/4/08

The quarter has seen considerable polling on attitudes towards independence, and especially so towards the end of the quarter as the first anniversary of the SNP's election success last year came around. Interest centred on whether the SNP were proving to be successful in their aim of persuading people to back independence by providing a period of competent SNP-led government.

As previously reported¹⁰⁵, one of the ironies of the 2007 election campaign is that although the SNP came first in the election, support for independence fell away during the campaign. This was underlined by the results from the post-election Scottish Social Attitudes survey, provisional figures from which were reported last quarter and for which the final, little changed, figures are provided above (Figure 4.1). This meant that it was quite likely that some increase in support would occur during the SNP's first year, but that any such increase might represent no more than a return to the *status quo ante*. Certainly this was what happened after the 1999 election campaign, during which support for independence fell in much the same way that it did in 2007.

This point has not always been appreciated in newspaper reports of the most recent poll data. Two polls in particular, one by Scottish Opinion for the *Daily Mail* (Figure 4.3) and one by System Three for the *Sunday Herald* (Figure 4.4), were reported as evidence of a significant increase in support for independence. The latter, after all, even found a small majority in favour of independence. However, the report this result largely ignored the fact that the figures were little different from those reported by the same poll last autumn, and only represented a significant change from its findings the previous August, not long after the 2007 election. This hardly constituted clear evidence of a positive response to the experience of nationalist government.

¹⁰⁵ J. Curtice, *Where stands the Union now? Lessons from the 2007 Scottish Parliament Election*, London: Institute for Public Policy Research, 2008. Available at www.ippr.org.uk.

The *Daily Mail* poll was also compared with the findings of a similar exercise the previous August, and equally identified a pro-independence trend since that date. The paper failed, however, to point out that support for independence was still well below that obtained by an ICM poll conducted for the *Mail* itself in January 2007 (a result that itself replicated the findings of a poll by ICM for the *Sunday Telegraph* in November 2006). Indeed those two earlier polls are a reminder that it has been commonplace since the advent of devolution for polls that simply ask respondents whether they support or oppose independence to find a majority in favour. Further examples of such results can be found in previous Scotland Devolution Monitoring Reports in this series, including those for January and April 2007.

Moreover, further evidence that support for independence still seems to be below the level it was prior to the 2007 election is provided by a YouGov poll for *The Sun* (Figure 4.2), and also reported in *The Times*, that found support for independence to be six points lower than it was when the same company asked the same question in January 2007. Meanwhile, two further YouGov polls (Figures 4.6 and 4.7), both of which invited respondents to choose between a variety of options, failed to detect any recovery at all in support for independence since last spring. Indeed the latter of these found only around one in five backing independence when the options offered to respondents included a more powerful Scottish Parliament within the Union, a result largely echoed by a MRUK-Cello poll for *The Sunday Times* (Figure 4.5). Both polls suggested that the most popular option at present is to increase the powers of Holyrood while remaining within the Union.

Figure 4.8: YouGov poll on the effect of SNP government on support for independence, April 2008

Q: The SNP have been in government in Scotland for just over 11 months. Do their achievements in Scotland to date make you more likely or less likely to vote for independence?

	All %
Much more likely to vote for Scottish independence	17
A little more likely	15
No difference either way	35
A little less likely	8
A lot less likely to vote for Scottish independence	19
Don't Know	7

Source: YouGov/Sun: 2-4/08

Figure 4.9: YouGov poll on the effect of SNP government on support for independence, April 2008

Q: Which of these two views about the experience of the SNP Executive in Scotland so far comes closer to your own view?

	%
The experience so far suggests that Scotland's Executive has been able to operate effectively with the powers it has: it can have the best of both worlds by remaining part of the UK	58
The experience so far suggests Scotland is perfectly capable of governing itself and no longer needs to remain part of the UK: it ought in due course to become formally independent	29
Not sure	14

Source: YouGov/Telegraph: 24-28/4/08

The link between the perceived performance of the SNP government and people's willingness to support independence was assessed more directly by YouGov in two of its polls (Figures 4.8-4.9). In the first case, it seemed that for every respondent who stated that the performance of the government to date had made them more inclined to back independence, there was more or less another who stated that that performance had made them less likely to favour independence. In the second poll, it appears that people were twice as likely to draw the conclusion from the experience of having the SNP in power that Scotland could have the best of both worlds while remaining within the Union than they were to feel that that experience demonstrated that Scotland ought to become independent. In practice the answers to this question are strongly related to people's political preferences. Three-quarters or so of Conservative, Labour and Liberal Democrat supporters draw the former conclusion, three-quarters of SNP supporters the latter. It will not help the SNP achieve its objective of garnering support for independence if all that the experience of the party in power does is to reinforce people's existing views.

MRUK Cello also attempted to establish what might persuade opponents of independence to change their mind. Around three in ten (29 per cent) said that they might do so if Alex Salmond really impressed them as First Minister. But it seems what happens in London might be more important than what occurs at Holyrood. As many as 29 per cent also said they might change their mind if the UK government cuts Scotland's share of public expenditure. Equally, 24 per cent said the election of a Conservative government might make a difference. Note, though, that 20 per cent said the same about the election of another Labour government, suggesting that a Conservative victory at the next election may not colour how people vote in an independence referendum to the degree sometimes supposed.

Meanwhile, the YouGov/Telegraph poll suggested that so far the Scottish public has not reached any clear judgement about who is to blame for the periodic disagreements that have broken out between London and Edinburgh over the last twelve months. While 35 per cent support the SNP's claim that Gordon Brown has attempted to 'bully' the government in Edinburgh, 38 per cent disagree. Equally, while 35 per cent blame the government in London for the disagreements that have occurred, 38 per cent believe they have arisen because Alex Salmond has been looking for trouble. Evidently, so far at least, London is not widely judged to have dealt with the SNP government in Edinburgh in a manner that might increase antipathy towards 'London rule'.

Figure 4.10: YouGov poll on support for fiscal autonomy for the Scottish Parliament

Q: At the moment the Scottish Parliament depends for almost all of its income on an annual grant from the UK Government. Do you think the present arrangement is broadly satisfactory or do you think the Scottish Parliament should be required to levy taxes on the Scottish people in order to raise most of its own income?

	Westminster Vote				
	All %	Con %	Lab %	LD %	SNP %
Present arrangement satisfactory	54	71	68	58	36
Scottish Parliament levy taxes	20	14	14	19	36
Not sure	26	16	18	25	28

Source: YouGov/Telegraph: 24-28/4/08

One of the reforms of the current devolution settlement that has been widely proposed is to give the Scottish Parliament greater taxation powers and responsibilities. Indeed this forms one of the key items on the agenda of the Calman Commission. However, findings from previous Scottish Social Attitudes surveys that suggest there is popular support for giving the parliament greater taxation powers are contradicted by the results of the YouGov/Telegraph poll (Figure 4.10), which, when it asked people to choose between the current funding arrangement and asking the parliament to levy taxes, found only one in five in favour of the latter. It is possible that people interpreted this second option in the YouGov question as meaning that people in Scotland would have to pay extra taxes. If so, then given that the same poll also found 61 per cent opposed to any use of the existing tax-varying powers, this might have helped to depress support for giving the Scottish Parliament taxation powers. It might also be noted that one in four said they were unsure; the financing of devolution is a subject that can easily become too abstruse for many members of the general public.

Figure 4.11: YouGov poll on an independent Scotland, January 2008*Q: If Scotland does become independent which of the following options do you prefer?*

	Age				Holyrood List Vote			
	All %	18-34 %	35-54 %	55+ %	Con %	Lab %	LD %	SNP %
Scotland should become a republic	45	55	47	36	14	47	44	59
Scotland should be a monarchy with Queen Elizabeth II as head of state	39	26	36	51	73	46	37	34
Don't Know	16	20	17	12	13	16	11	8

Q: If Scotland does become independent which of the following options do you prefer?

	Holyrood List Vote				
	All %	Con %	Lab %	LD %	SNP %
Scotland should continue to use the pound sterling as its currency	52	76	57	56	42
Scotland should adopt the Euro as its currency	32	16	33	33	40
Scotland should have its own Scottish Currency	8	3	4	8	16
Don't Know	7	5	6	3	3

Q: If Scotland does become independent which of the following options do you prefer?

	Holyrood List Vote				
	All %	Con %	Lab %	LD %	SNP %
Scotland should be a member of the European Union	69	52	74	83	70
Scotland should be a country outside the European Union	19	37	13	11	23
Don't Know	12	11	13	6	7

Q: If Scotland does become independent which of the following options do you prefer?

	Holyrood List Vote				
	All %	Con %	Lab %	LD %	SNP %
Scotland should have its own armed forces separate from Britain's	34	20	26	24	55
Scottish troops should continue to belong to Britain's armed forces	54	75	64	66	38
Don't Know	13	5	10	11	8

Q: If Scotland does become independent which of the following options do you prefer?

	Holyrood List Vote				
	All %	Con %	Lab %	LD %	SNP %
Scotland should continue to pay for, and receive, BBC radio and television programmes	55	70	60	70	41
Scotland should have its own public broadcasting service and no longer receive BBC radio and television programmes	18	10	15	8	30
Scotland should pay extra and both continue to receive BBC programmes and have a Scottish broadcasting service	12	9	12	12	15
Don't Know	15	11	14	7	14

Q: If Scotland does become independent which of the following options do you prefer?

	Holyrood List Vote				
	All %	Con %	Lab %	LD %	SNP %
Scotland should generate electricity from a wide mixture of sources, including wind, coal, gas – and nuclear power	70	87	76	67	65
Scotland should ban the production of nuclear power in Scotland	21	7	15	29	30
Don't Know	9	7	9	5	6

Source: YouGov/Express: 3-8/1/08

The YouGov poll for the Express (Figure 4.11) included an extensive range of questions about what should happen if Scotland were to become independent. They provide an intriguing insight into attitudes in Scotland towards some of the existing institutions of the Union. It seems, for example, that there would be widespread reluctance to see the termination of BBC programming in Scotland. Even amongst SNP supporters only one in three would want to end Scotland's relationship with the BBC entirely, despite the criticism levelled at the BBC by Alex Salmond because of the low proportion of its content that is generated in Scotland. Meanwhile, over half would still like to see Scottish troops being part of Britain's armed forces, though here over half of SNP supporters (though not much more) would like Scotland to have its own troops. In contrast, more people would like an independent Scotland to become a republic than would prefer to retain the Queen. In wishing to remain a monarchy, while being critical of the BBC and preferring Scotland to have its own armed forces, the SNP seems to have misread the relative popularity of the existing institutions of the Union.

As is evident from other polling data – and in line with SNP policy – a clear majority of people in Scotland would wish an independent Scotland to be part of the European Union. While there is evidently some opposition to that view amongst the ranks of SNP supporters, it is not as marked as it is amongst Conservative supporters. Yet only one in three wish to adopt the Euro, while just over half would like to retain sterling. Both options, however, are far more popular than establishing a separate Scottish currency, including amongst SNP supporters. It seems that the SNP has been astute in stating that an independent Scotland should initially retain sterling before perhaps eventually switching to the Euro.

Although framed as a question about what should happen in the event of independence, it is doubtful whether this consideration had much impact on the pattern of responses to the final question on nuclear power. In any event, it suggests little support for stopping nuclear power generation north of the border entirely, contrary to the stated position of the current SNP government (see also previous monitoring report).

Figure 4.12: YouGov poll on the timing of an independence referendum, April 2008

Q: Scotland's richest man, Sir Tom Hunter, believes there should be a national referendum on Scottish independence as soon as possible. Which one of the following statements about a national referendum comes closest to how you feel?

	%
There should be an immediate referendum	11
There should be a referendum within the next year	28
There should be a referendum in 2010	26
There should not be a referendum	21
None of these	4
Don't Know	11

Source: YouGov/Sun: 2-4/4/08

Polls typically find that the idea of holding a referendum is popular, and the SNP government frequently cites in support of its policy position polling evidence that most people in Scotland want to have a vote on independence. The YouGov/Sun poll (Figure 4.12) found that the idea of holding a referendum remains popular, though it also found more people in support of holding a referendum within the next year or so than wanted to wait until 2010 as the SNP proposes.

Figure 4.13: YouGov poll on Scottish governmental nomenclature

Q: Since devolution was introduced after the 1997 general election Scotland has had a Parliament, an Executive and a First Minister. Do you think the Executive should continue to keep its name or be called a 'Government'?

	%
Government	43
Executive	39
Not sure	18

Q: Should Alex Salmond be called...

	%
Scotland's First Minister	61
Scotland's Prime Minister	28
Not sure	11

Source: YouGov/Express: 3-8/1/08

Last autumn the SNP changed the working name of the executive in Edinburgh from the Scottish Executive (which remains its legal title) to the Scottish Government, a title that was thought more fitting for the government of what the SNP believes should be a sovereign nation. The change only just has a plurality of popular support (Figures 4.13). Meanwhile, there appears to be little interest in aping another Westminster practice by calling the head of the Scottish Government the Prime Minister rather than First Minister.

4.2 National Identity

Figures 4.14 and 4.15 update the figures on national identity from the 2007 Scottish Social Attitudes Survey for which provisional figures were supplied in the January 2008 Scotland Devolution Monitoring Report. See that report for commentary.

Figure 4.14: Forced Choice National Identity preferences, 1974-2007

	1974	1979	1992	1997	1999	2000	2001	2002	2003	2004	2005	2006	2007
	%	%	%	%	%	%	%	%	%	%	%	%	%
Scottish	65	56	72	72	77	80	77	75	72	75	77	78	72
British	31	38	25	20	17	13	16	18	20	19	14	14	19

Sources: Scottish Election Studies 1974-1997; Scottish Social Attitudes Survey 1999-2007.

Figure 4.15: Moreno National Identity preferences, 1992-2007

	1992	1997	1999	2000	2001	2003	2005	2006	2007
	%	%	%	%	%	%	%	%	%
Scottish not British	19	23	32	37	36	31	32	33	27
More Scottish than British	40	38	35	31	30	34	32	32	30
Equally Scottish and British	33	27	22	21	24	22	22	21	28
More British than Scottish	3	4	3	3	3	4	4	4	5
British not Scottish	3	4	4	4	3	4	5	5	6

Sources: Scottish Election Studies 1992-7; Scottish Social Attitudes survey 1999-2007.

4.3 Other Issues

Figure 4.16: YouGov poll on free school meal provision, January 2008

Q: Do you agree or disagree with the following statement? Scotland's taxpayers should pay for all Scotland's children to have free school meals irrespective of income.

	%
Agree	35
Disagree	57
Don't Know	8

Source: YouGov/Express: 3-8/1/08

The provision of free school meals for all children in the first three years of primary school is currently being piloted in five parts of Scotland, following calls in the last parliament from the Scottish Socialist Party in particular for universal free school meals. The results of a question included in the YouGov/Express poll (Figure 4.16), however, suggest that such universal provision is not necessarily widely popular. A not dissimilar result was obtained by the 2003 Scottish Social Attitudes survey.¹⁰⁶

¹⁰⁶ J. Curtice, 'Is Holyrood Accountable and Representative?', in C. Bromley, J. Curtice, D. McCrone and A. Park (ed.), *Has Devolution Delivered?* (Edinburgh: Edinburgh University Press, 2006), p. 103.

Figure 4.17: TNS System Three poll on local taxation, April 2008

Q: Would you support or oppose the introduction of a local income tax to replace the Council Tax in Scotland?

	Holyrood Const Vote				
	All %	Con %	Lab %	LD %	SNP %
Support	46	42	40	51	58
Oppose	22	29	27	20	19
Don't Know	32	29	33	29	23

Source: TNS System Three/Herald: 23-29/4/08

The replacement of the council tax by a local income tax, a move supported by both the SNP and the Liberal Democrats, was one of the issues that aroused the greatest controversy in the 2007 election campaign. It has subsequently continued to be the focus of sharp debate as the SNP has attempted to pursue its policy. A System Three poll for *The Herald* (Figure 4.17) suggests that the policy is more popular than its critics appear to recognise, including not least amongst Conservative and Labour supporters (see also January's monitoring report).

Figure 4.18: YouGov poll on nuclear weapons, January 2008

Q: Thinking about nuclear weapons, do you agree or disagree with the following statements? Britain should continue to have nuclear weapons:

	Holyrood List Vote				
	All %	Con %	Lab %	LD %	SNP %
Agree	55	82	68	56	44
Disagree	31	10	24	30	47
Don't Know	15	8	9	15	9

Britain's Trident nuclear weapons submarines should continue to be based at Faslane in Scotland :

	Holyrood List Vote				
	All %	Con %	Lab %	LD %	SNP %
Agree	38	63	49	38	24
Disagree	41	19	32	41	59
Don't Know	22	18	19	22	17

Source: YouGov/Express: 3-8/1/08

It appears from the YouGov/Express poll (Figure 4.18) that a majority of people in Scotland support Britain's continued use of nuclear weapons, though they are less keen on them being based in Scotland. The former finding represents a higher level of support for nuclear weapons than that obtained by the 2007 Scottish Social Attitudes Survey when it asked about the renewal of Trident. It may well be the case that some people are prepared to accept retaining the current generation of nuclear

weapons, but are reluctant for Britain to arm itself with a successor. In any event, it seems that SNP supporters are not necessarily committed opponents of nuclear weapons, contrary to the stated position of their party. Rather, like a number of other Scots they simply dislike the fact that it is Scotland that provides their base

4.4 Party Fortunes

4.4.1 Holyrood Voting Intentions

Figure 4.19: YouGov poll on Holyrood voting intentions, Jan-April 2008

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Solidarity	Others
	%	%	%	%	%	%	%	%
3-8/1/08	14/13	29/27	14/12	38/30	-/-	-/-	-/-	6/18
2-4/4/08	12/13	32/30	13/12	40/33	-/6	-/3	-/1	4/2
24-28/4/08	13/13	31/28	15/13	36/37	-/-	-/-	-/-	4/9

Left and right-hand figures represent voting intention in constituencies and regional lists respectively, here and below.

Separate vote figures for Green, SSP or Solidarity not obtained, except for list vote in second poll.

Source: YouGov/Express; YouGov/Sun; YouGov/Telegraph

Figure 4.20: MRUK Cello poll on Holyrood voting intentions, Feb-March 2008

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Solidarity	Others
	%	%	%	%	%	%	%	%
29/2-9/3/08	15/13	31/30	12/11	39/40	-/-	-/-	-/-	3/5

Separate vote figures for Green, SSP or Solidarity not published.

Source: MRUK Cello/Sunday Times

Figure 4.21: TNS System Three poll on Holyrood voting intentions, April 2008

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Solidarity	Others
	%	%	%	%	%	%	%	%
23-29/4/08	12/12	31/29	11/12	45/41	-/4	-/1	-/*	2/1

Separate constituency vote figures for Green, SSP or Solidarity were not obtained.

Source: TNS System Three/Herald

Figure 4.22: Progressive Scottish Opinion poll on Holyrood voting intentions, Jan-April 2008

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Solidarity	Others
	%	%	%	%	%	%	%	%
3-8/1/08	13/14	37/38	12/11	36/34	-/2	-/-	-/-	2/2
15-22/4/08	13	33	10	40	3	1	-	2

No separate figure for SSP or Solidarity, or for Greens on constituency vote.

Second poll only asked constituency vote. No separate figure for Solidarity.

Source: Progressive Scottish Opinion/STV; Progressive Scottish Opinion/Daily Mail

With the exception of one apparently rogue poll by Scottish Opinion (Figure 4.22), the not inconsiderable number of polls conducted in this monitoring period have all put the SNP ahead of Labour (Figures 4.19-4.22) – and usually by considerably more than the one to two points by which the party actually led in 2007. A year in office has evidently done nothing to dent the popularity of the SNP – rather, the opposite seems to be true. This must be regarded as a significant achievement and suggests that so far the SNP is providing Scotland with what is perceived as a successful government, even if the data in section 4.1 cast doubt on how far this achievement is helping to increase support for independence. Meanwhile, not only have Labour been in the doldrums but so too have the Conservatives and the Liberal Democrats. The former usually polled less than the 17/14 per cent they secured in 2007, while the Liberal Democrats typically secured less than the 16 per cent they won on the constituency vote in 2007 and little more than the disappointing 11 per cent they won on the list vote that year.

4.4.2 Westminster Voting Intentions

Figure 4.23: YouGov poll on Westminster voting intentions, Jan-April 2008

Fieldwork	Con %	Lab %	Lib Dem %	SNP %	Others %
3-8/1/08	18	36	12	30	5
2-4/4/08	17	35	12	31	4
24-28/4/08	17	34	14	30	6

Source: YouGov/Express; YouGov/Sun; YouGov/Telegraph

Figure 4.24: MRUK Cello poll on Westminster voting intentions, Feb-March 2008

Fieldwork	Con %	Lab %	Lib Dem %	SNP %	Others %
29/2-9/3/08	18	34	9	34	4

Source: MRUK Cello/Herald

Figure 4.25: TNS System Three poll on Westminster voting intentions, April 2008

Fieldwork	Con %	Lab %	Lib Dem %	SNP %	Others %
23-29/4/08	17	39	10	31	2

Source: TNS System Three/Herald

Apart from the polls conducted by Scottish Opinion, all of the polls that ascertained voting intentions for Holyrood also asked respondents how they would behave in a Westminster election (Figures 4.23-4.25). In line with the evidence of all previous polling, voters revealed themselves somewhat less willing to vote for the SNP in a UK general election than in a Scottish Parliament election. As a result, four of the five polls put Labour ahead of the SNP, with the fifth putting the two parties neck and

neck. Nevertheless, the immediate prospects for the SNP at the next UK election, which must be held by the middle of 2010, are much brighter than they were in 2005 when the party polled only 18 per cent of the vote and came third. On the other hand, the party will still have to fight the next Westminster election under the single member plurality system, under which it suffers a severe disadvantage. It will start the next election less than 20 points behind Labour (or indeed any party) in just three constituencies. Even at the SNP's current level of popularity, Alex Salmond set his party an ambitious target when in his party conference speech in March he said he wanted to win 20 seats at the next Westminster election.

Labour's support in British polls was typically some four points or so down on its 2005 performance for much of the period – and by rather more towards the end. That decline has largely been reflected in the Scottish polls, in which the party has typically been some four to six points down on the 40 per cent it won in 2005.¹⁰⁷ The only exception was the poll by System Three. In contrast, however, there has been little sign of the Conservatives north of the border profiting from their increased popularity in the British polls. Those polls have typically put the party some seven points above their 2005 tally; all of the Scottish polls in this quarter put the increase in Conservative support at no more than one or two per cent. At present there is a serious prospect that if the Conservatives do manage to form the next UK government, they will do so on the back of minimal representation in Scotland, a scenario that could well increase the pressure on the devolution settlement.

The Liberal Democrats performed particularly well in Scotland in 2005, coming second with 23 per cent of the vote. That support appears to have fallen away badly, and to a far greater degree than the five point or so drop being suffered by the party during this period in the British polls. It is the party's good fortune that few of the seats that they hold are marginal and that most of those that are have Labour or the Conservatives rather than the SNP in second place.

¹⁰⁷ In calculating this figure the vote for the Speaker in 2005 has been included in Labour's tally.

4.4.3 Local government by-elections

Figure 4.26: Local government by-election results, Jan-Feb 2008

31/1/08 North Lanarks/Kilsyth	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	1.7	-3.2
Labour	63.4	-0.9
Liberal Democrat	0.6	I
SNP	30.4	+2.6
Green	2.3	I
SSP	1.6	-1.4

Turnout 32.1 (-26.6)

14/2/08 Moray/Elgin City South	% 1st preference vote	Change in % 1st preference vote since 2007
Conservative	9.9	-5.2
Labour	17.2	-11.6
Liberal Democrat	2.3	I
SNP	32.1	-0.9
Independent	24.6	+1.6
Independent	10.7	I
SSCUP	1.5	I
UKIP	1.0	I
Independent	0.8	I
Independent	0.0	I

Turnout 26.8 (-24.1)

21/2/08 Perth & Kinross/Highland	% 1st preference vote	Change in % 1st preference vote since 2007
Conservative	29.8	+4.2
Labour	3.0	I
Liberal Democrat	7.3	-6.2
SNP	59.9	+1.2
Independent	-	W

Turnout 43.6(-19.5)

28/2/08 Shetland/Lerwick South	% 1st preference vote	Change in % 1st preference vote since 2007
Conservative	12.8	+4.2
Labour	-	-
Liberal Democrat	-	-
SNP	-	-
Independents – 7 cands	87.2	+ 3.9 (7 cands)
SSP	-	W

Turnout 39.2 (-16.2)

6/3/08 South Lanarks./Cambuslang East	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	3.1	-5.8
Labour	27.9	-22.5
Liberal Democrat	22.4	+8.1
SNP	23.5	+0.9
Independent	19.6	I
Scottish Unionist Party	1.5	I
SSP	1.2	-1.7
Green	0.8	I

Turnout 24.9(-22.0)

1/5/08 Aberdeenshire/Troup	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	18.8	-5.5
Labour	-	-
Liberal Democrat	18.4	+11.2
SNP	62.8	+15.1
Independent	-	W

Turnout 36.3(-16.3)

1/5/08 Dumfries & Galloway/Abbey	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	40.8	+7.0
Labour	33.2	+5.1
Liberal Democrat	3.9	-1.0
SNP	18.0	+0.2
Independent	4.1	-11.3 (4 cand)

Turnout 45.0(-14.7)

Sources: www.alba.org.uk; www.gwydir.demon.co.uk/byelections

Local by-elections (Figure 4.26) are often an occasion for voters to cast a protest vote against the government. Labour often lost ground in local by-elections when in power at Holyrood. However, the SNP have consistently managed to maintain (at least) their share of the vote in some half dozen local by-elections held during this monitoring period. This suggests the continued popularity of the SNP as registered by the opinion polls is no artefact.

4.5 Attitudes towards Parties and Leaders

4.5.1 Parties

Nothing to report.

4.5.2 Leaders

Figure 4.27: MRUK Cello poll on the performance of Alex Salmond and Wendy Alexander, Feb-March 2008

Q: How is Alex Salmond doing as leader of the Scottish Government?

Q: How is Wendy Alexander doing as leader of the Scottish Labour Party?

	Salmond %	Alexander %
Very well	14	3
Fairly well	56	27
Fairly badly	12	32
Very badly	5	20
Don't Know	13	18

Source: MRUK Cello/Sunday Times: 29/2-9/3/08

Figure 4.28: YouGov poll on attitudes to party leaders, April 2008

Q: Which of the following do you think will make the best First Minister.

	Westminster Vote				
	All %	Con %	Lab %	LD %	SNP %
Alex Salmond	43	30	29	31	89
Wendy Alexander	11	4	30	8	1
Annabel Goldie	9	37	5	13	1
Nicol Stephen	5	4	3	21	1
Don't Know	31	25	34	28	8

Q: Are you satisfied or dissatisfied with Alex Salmond as First Minister?

	Westminster Vote				
	All %	Con %	Lab %	LD %	SNP %
Satisfied	53	45	38	43	93
Dissatisfied	33	44	47	39	2
Don't Know	14	11	16	17	5

Source: YouGov/Telegraph: 24-28/4/08

Q: Do you think Wendy Alexander is or is not proving a good leader of the Scottish Labour Party?

Q: Do you think Nicol Stephen is or is not proving a good leader of the Scottish Liberal Democrats?

Q: Do you think Annabel Goldie Stephen is or is not proving a good leader of the Scottish Conservatives?

	Alexander %	Stephen %	Goldie %
Yes, s/he is	21	27	41
No, s/he isn't	60	28	20
Don't Know	20	45	39

Source: YouGov/Telegraph: 24-28/4/08

In tandem with the popularity of the SNP in Scottish Parliament voting intentions, Alex Salmond's personality continues to dominate the Scottish political scene. The majority of people in Scotland think he is doing a good job and are satisfied with his performance as First Minister (Figures 4.27 and 4.28). The contrast between Mr Salmond's standing and that of Gordon Brown, who became UK Prime Minister just weeks after Mr Salmond became Scotland's First Minister, is truly remarkable. According to the YouGov/Telegraph poll at the end of April, just 26 per cent of people in Scotland are satisfied with Mr Brown's performance as Prime Minister, while 63 per cent are dissatisfied. Among Labour supporters, only 62 per cent declared themselves to be satisfied with the Prime Minister's performance. Meanwhile, no other Scottish party leader remotely comes close to Mr Salmond when asked who would make the best First Minister (Figure 4.28). Indeed, Labour leader Wendy Alexander's ratings in particular have been little short of disastrous (Figures 4.27 and 4.28). The row about her illegal leadership campaign donation and widespread criticism of her performance in the Holyrood chamber have evidently done nothing to endear her to the Scottish public.

It seems, however, that Mr Salmond is not the only SNP minister to have made a favourable impression on the public. The YouGov/Telegraph poll found that 34 per cent were satisfied with Mr Swinney's performance as Finance Secretary, while only 22 per cent were dissatisfied. While many have been unmoved by Mr Swinney either way – 44 per cent say they do not know how well he has performed – these figures represent something of a turnaround for a man who found it difficult to make any kind of favourable impression at all on the public when he was SNP leader between 2000 and 2004.

A more detailed picture of how Mr Salmond is regarded by the public was provided by a Scottish Opinion poll for *Scotland on Sunday* (Figure 4.29). His strongest attribute is evidently his willingness to stand up for his country, followed closely by his intelligence. On the other hand, the smugness of which he is sometimes accused is evidently also apparent to many Scots. But perhaps the most striking feature of this poll, taken after a year in office, is that the First Minister is not only still liked by many people in Scotland but is even widely regarded as honest.

Figure 4.29: Progressive Scottish Opinion poll on perceptions of Alex Salmond's character, April 2008

Statements associated with Alex Salmond...

	Yes %	No %	Unsure %
Stands up for Scotland	69	15	16
Intelligent	68	11	22
Likeable	53	26	21
Honest	43	28	29
Best ideas for improving people's lives	31	34	35
Trust him to look after my wallet	30	49	20
Conceited	49	24	27
Arrogant	44	32	23
Patronising	42	24	34
Out of touch with people's concerns	27	45	29
Weak	12	64	25
Sexist	7	63	30

Source: Progressive Scottish Opinion/Scotland on Sunday: 21-25/4/08 (N=757)

4.6 Retrospective Evaluations

Further confirmation of the widespread approval of the performance of the SNP government to date is provided by the YouGov/Telegraph poll (Figure 4.30). Over half say they approve of its record to date. In contrast, when an almost identically worded question was asked by YouGov on four occasions between 2003 and 2007, the level of approval for the Executive's record ranged between just 30 per cent and 35 per cent. Evidently, so far at least, the current Scottish government is much more popular than its predecessor.

Figure 4.30: YouGov poll on satisfaction with the record of the Scottish Executive

Q: Since roughly this time last year, the Scottish Executive has been a Scottish National (SNP) Executive, but one without an overall majority in the Scottish Parliament. Taking everything into account do you approve or disapprove of the Scottish Executive's record to date?

	All %
Approve	52
Disapprove	27
Don't Know	21

Source: YouGov/Telegraph: 24-28/4/08

5. Intergovernmental relations

Alan Trench

5.1. General

Many of the most interesting intergovernmental issues since January 2008 have concerned financial issues: in particular the Scottish Government's plans for a local income tax, and whether Scotland in fact receives its full share of payments from the block grant-and-formula system. Both these are discussed further in section 8 below. From a general point of view, both illustrate characteristics of the present devolution arrangements: entanglement of Scotland's and the UK's financial systems, leading to multiple potential sources of friction and dispute especially when the settlement is tight, an increasingly activist approach by the UK Government, driven largely by partisan considerations, and carried through in a relatively unsystematic and unstructured way. Another major issue over the last few months has been the emergent constitutional debate (discussed elsewhere in this report). This debate similarly reflects those characteristics.

Beyond this, there has been the stand-off over the UK Government's plans for expansion and renewal of nuclear power plants to support the nuclear generation of electricity. The Scottish Government's opposition to this was clear, and raised difficult issues because, while energy policy in general is reserved to the UK level, it interacts with devolved policy areas, notably planning. The Scottish Government made clear it would resist the development of nuclear power stations in Scotland on planning grounds. When the UK Government's white paper was published, on 19 January, it underlined that the need for such devolved approval for any new nuclear stations meant that the policy it espoused could only apply in England, Wales and Northern Ireland.¹⁰⁸ Nonetheless, it added, 'If there is a change in policy towards new nuclear power stations in Scotland we would seek to extend the provisions in the Energy Bill to Scotland at the earliest available opportunity'.¹⁰⁹ This acceptance of the Scottish Government's veto did not stop the UK Business, Enterprise and Regulatory Reform Secretary, John Hutton, describing its policy as 'a disaster'.¹¹⁰ This illustrates an ongoing, and important, aspect of the constitution of the devolved UK – the extent to

¹⁰⁸ Department for Business, Enterprise & Regulatory Reform *Meeting the Energy Challenge: A White Paper on Nuclear Power* Cm 7296 (London: The Stationery Office, 2008).

¹⁰⁹ Ibid, para. 3.54

¹¹⁰ 'Nationalist nuclear policy "a disaster"' (30 March 2008) *Scotland on Sunday*; John Hutton 'What effects will the SNP government's opposition to new nuclear plants have in Scotland?' (30 March 2008), *Scotland on Sunday*

which devolved and non-devolved functions intersect with each other. Governments need to cooperate with one another to exercise those functions, otherwise they can veto each other. The UK Government could perhaps, in theory, have sought to impose nuclear power on the Scottish Government – but that would have raised grave practical issues, as few private-sector operators of nuclear power stations would wish to invest the required large amounts of capital in such a hostile environment. From its perspective, the ability of the Scottish Government to stop this policy at the border has to be regarded as a significant success.

In other areas, there are signs of smaller problems and low-level tensions. One of the most interesting relates to a failure by the Home Office to consult the Scottish Government over the European Union anti-terror treaty, which led to delays in Parliamentary approval of that treaty and a general admonishment of Whitehall departments for their failures in this regard.¹¹¹ In addition, Whitehall has refused to allow the Scottish Parliament to conduct Scottish Parliamentary elections in future (despite support from a majority of MSPs, but not the Labour Party);¹¹² or to transfer responsibility for firearms.¹¹³ Other issues put on the table by the Scottish government, to which the UK government has yet to respond, are: an extension of the limits of Scottish territorial waters from 12 to 200 miles,¹¹⁴ opposition to the introduction of identity cards, which it views as ‘compulsory by stealth’,¹¹⁵ and a disagreement about the payment of policing costs to the Ministry of Defence Police for the 2005 G8 Gleneagles summit and 2006 British-Irish St Andrews meeting.¹¹⁶ Despite this, in a newspaper article early in the New Year, David Cairns (Minister of State in the Scotland Office in Whitehall) claimed that relations generally worked well, that ‘the devolution settlements are robust’ and that ‘The truth is that the business of government is built on daily, weekly, monthly co-operation, consultation and joint working’.¹¹⁷

¹¹¹ See ‘Europe’s anti-terror laws blocked “because Holyrood not consulted”’ (10 January 2008) *The Scotsman*; ‘Westminster defies warning to consult Holyrood on European laws’ (22 January 2008)

¹¹² ‘MSPs demand to run Holyrood elections: Transfer of power from Westminster would prevent repeat of 2007 chaos, claims Salmond’ (6 January 2008) *Scotland on Sunday*; Browne will veto Holyrood call to run its own elections’ (25 January 2008), *The Scotsman*.

¹¹³ ‘Salmond thwarted on guns and tax’ (3 March 2008), *The Scotsman*

¹¹⁴ ‘Scots ministers call to rule waves with 200-mile territorial claim’ (21 March 2008) *The Scotsman*

¹¹⁵ ‘Salmond moves to block new ID cards in Scotland’ (7 March 2008), *The Herald* (Glasgow)

¹¹⁶ ‘Scots police “should not pick up summits bill”’ (24 March 2008), *The Herald* (Glasgow)

¹¹⁷ D. Cairns ‘How Holyrood and Westminster make devolution work’ (11 January 2008) *The Herald* (Glasgow)

On an informal level, there have been reported meetings of Scottish, Welsh and Northern Ireland health ministers.¹¹⁸ The Northern Ireland First Minister and Deputy First Minister (Rev Ian Paisley and Martin McGuinness) visited Alex Salmond in the run-up to Mr Paisley's retirement.¹¹⁹

5.2. Formal meetings and revival of the Joint Ministerial Committee

A summit meeting of the British Irish Council took place in Dublin on 14 February 2008.¹²⁰ The Scottish Government was represented by the First Minister and Fergus Ewing MSP, Minister for Community Safety. Paul Murphy, the new Secretary of State for Wales, represented the UK Government. The meeting reviewed progress of its work to date and developed plans for further future work, including a summit to be held in Scotland in September.

There have been no meetings of the plenary Joint Ministerial Committee in this monitoring period, nor any publicised meetings of its functional committees.

However, this is likely to change shortly. The UK Government has decided to revive the JMC framework, and Paul Murphy (appointed as Secretary of State for Wales following the resignation of Peter Hain) has been tasked with setting up the revived committee.¹²¹ This is being approached in a slow, painstaking way, with Murphy undertaking a round of meetings with the devolved administrations about how the new framework would work, including a meeting with Alex Salmond on 16 April.¹²² However, UK sources have been keen to indicate that the role of the revived JMC would be limited to 'narrow technical issues' which were multilateral rather than bilateral in scope (i.e. they should affect Scotland, Wales and Northern Ireland, not just one devolved administration).¹²³ The suggestion made privately is that there will be two sets of meetings: the plenary JMC, and a functional version (dubbed 'JMC Domestic' by some) to deal with practical policy matters. At that point, a 'first' meeting was expected in the spring, and a plenary one by the autumn. As of the end of April no meetings had taken place, though one is now expected in the summer. Whether

¹¹⁸ 'Ministers meet with Sturgeon' (3 April 2008), *Edinburgh Evening News*

¹¹⁹ 'Stormont joint leaders hold Holyrood talks' (20 February 2008), *Edinburgh Evening News*

¹²⁰ The meeting's communiqué is available at www3.british-irishcouncil.org/documents/dublin_summit2.asp

¹²¹ See 'Salmond welcomes return of devolution roundtable' (5 March 2008), *The Herald* (Glasgow); 'Devolution forum revived as rows grow' *Western Mail* 6 March 2008; 'Salmond in talks on new political arena' (16 April 2008), *The Scotsman*

¹²² See Scottish Government News Release 16 April 2008, 'Inter-Governmental Committee'. Available at www.scotland.gov.uk/News/Releases/2008/04/17090411

¹²³ See e.g. J Hjul 'Devolution czar offers little to Salmond: Paul Murphy, head of the joint ministerial committee on devolution, is no fan of the SNP leader's ambitions' (20 April 2008), *Sunday Times*; See also 'Forum not for complaints, Alex Salmond told' (18 April 2008), *Daily Telegraph*

Gordon Brown would chair plenary meetings is unclear – the implication of press coverage is that this would fall to Jack Straw instead. If not chaired by the UK Prime Minister, a JMC Plenary stands to lose much of its symbolic value as a manifestation of ‘Britishness’, even if the risks of political embarrassment would also be reduced. The ‘domestic’ format was suggested by the Scottish Government back in the early autumn, and might itself take various forms (or have changing ministerial attendance) depending on the substantive issues under consideration.

5.3. The ‘National Conversation’ and the Scottish Constitutional Commission

The broader constitutional debate is discussed in several other sections of this report, and this section will limit itself to its intergovernmental dimensions – which in practice mean the Scottish Constitutional Commission. As far as the National Conversation is concerned, the UK Government and unionist parties continue to refuse to engage with it. At the launch of its second stage on 26 March, Alex Salmond sought to overcome this difficulty by engaging instead with representatives of Scottish civil society, suggesting that a referendum on independence could embrace other options such as strengthened forms of devolution.¹²⁴ Beyond rather ritualised denunciations of independence and its anticipated consequences from various parts of the Labour Party and the UK Government, there has been no direct response from London.

However, the Scottish Constitutional Commission can be seen as an indirect response. After its proposal by Wendy Alexander on 30 November 2007 and subsequent endorsement by Holyrood, much went quiet (although party leaders from Holyrood and Westminster met in London on 15 January). It appeared that there were considerable disagreements within London about whether to go down the path proposed by Alexander or not, with David Cairns denouncing the issue as one for ‘the McChattering classes’¹²⁵, and suggestions that it would be downgraded to some sort of ‘review’ conducted purely by London.¹²⁶ Eventually, in an interview with Brian Taylor for BBC TV Scotland’s ‘The Politics Show’ on 17 February, Gordon Brown announced his endorsement of the proposed review, and suggested it would address financial issues as well as the powers of the Scottish Parliament.¹²⁷ He also echoed

¹²⁴ See A. Salmond ‘National Conversation with Scotland’s institutions’, speech in Edinburgh, 26 March 2008. Available at www.scotland.gov.uk/News/This-Week/Speeches/First-Minister/nationalconversation

¹²⁵ ‘Minister says Holyrood powers are “McChattering classes issue”’ (12 February 2008) *The Scotsman*.

¹²⁶ See ‘Brown lays down the law to Wendy: ‘I’m in control of debate on Scotland’s future’. Exclusive: leak reveals split on Constitutional Commission’ (10 February 2008), *Sunday Herald*

¹²⁷ Reported at http://news.bbc.co.uk/1/hi/programmes/politics_show/7242422.stm. See also ‘Brown in U-turn on new tax power for Holyrood’ (17 February 2008), *Scotland on Sunday*,

Alexander's suggestion that it might involve 'un-devolving' powers as well as adding to the competence of the Scottish Parliament.

This appears to have provoked a range of views among the other parties, both Conservatives and Liberal Democrats being reluctant to take part in a Labour-controlled initiative. They secured adequate guarantees of the independence of both the Commission and its chair, and the appointment of Sir Kenneth Calman (Chancellor of Glasgow University, formerly vice-chancellor of Durham University and chief medical officer in both the (English) Department of Health and the Scottish Office) was announced on 25 March. Its full membership was announced and first meeting held on 28 April.¹²⁸

It remains unclear, however, who is actually running the Commission. Its secretariat and support appear to be officials in the Ministry of Justice. Moreover, the awkward conjunction of a commission set up by a legislature and a government in different orders of government remains un-addressed. This arises largely for practical reasons, but it suggests a profound failure to think through the fundamental differences between two branches of government.

5.4 Adjusting the devolution settlement

Only one order adjusting the devolution settlement has been made since January 2008. It is the Scotland Act 1998 (Agency Arrangements) (Specification) Order 2008, SI 2008 No. 1035, which appoints the Scottish Ministers on an agency basis to undertake ministerial functions in relation to a wide range of legislation relating to animals, their health and their movements.

In addition, however, the Secretary of State has made the Scottish Parliament (Elections etc.) (Amendment) Order 2008, SI 2008 No. 307 (S. 3) under powers set out in the Scotland Act 1998 (but relating to the reserved matter of Scottish Parliament elections). This order is concerned with changing the rules governing the identification of postal and proxy voters in Scottish Parliamentary elections.

¹²⁸ www.commissiononscottishdevolution.org.uk. See section 10.5 of this report for a list of its membership.

6. Europe and International Affairs

Peter Lynch

6.1 Scotland Week (Tartan Day/Tartan Week)

The biggest international event for the Scottish Government in this reporting period was the annual (and renamed) Scotland Week celebrations in the USA. The First Minister was involved in several engagements in the USA, including; the official opening of the new Scottish Development International Office and Business Reception in Boston; a speech at Harvard University, a meeting with a Scottish Development International-sponsored mission from Scottish higher education institutions; a speech on renewable energy to the National Geographic Society in Washington DC; the Tartan Day Congressional Dinner at the Library of Congress; and attending the Tartan Day Parade.¹²⁹ Salmond used a visit to Thomas Jefferson's home at Monticello to promote sovereignty and a referendum on Scottish independence,¹³⁰ and gave a presentation to the organisers of the US Professional Golf Association in order to promote golf tourism in Scotland – somewhat ironic following the Donald Trump furore.¹³¹

6.2 First Minister's Visits

Besides involvement in Scotland Week, the First Minister was involved in two overseas visits. In March, he visited the Irish Republic, giving a speech at Trinity College on economic development and social partnership.¹³² On 23 April, he was in Brussels as part of the second stage of the National Conversation on Scotland's constitutional future,¹³³ holding discussions at Scotland House with business organisations, pressure groups and think tanks.

6.3 Cooperation with Northern Ireland

The Scottish Government held a bilateral meeting with the Northern Ireland Executive on 29 February. The meeting discussed transport and energy policy, and resulted in commitments to examine the reinstatement the Campbeltown-Ballycastle ferry service and to explore the creation of an EU INTERREG programme for energy links between Scotland and Northern Ireland. The meeting was attended by First Ministers Salmond and Paisley, as well as Deputy FM McGuinness, and followed up

¹²⁹ Scottish Government news release, 30 March 2008.

¹³⁰ www.scotland.gov.uk/News/This-Week/Speeches/First-Minister/Virginia

¹³¹ Scottish Government new release, 3 April 2008.

¹³² www.scotland.gov.uk/News/This-Week/Speeches/First-Minister/dublin

¹³³ Scottish Government news release, 23 April 2008.

on work undertaken by ministers and officials in the period since the meetings in Belfast on 18-19 June 2007 as well as at the British-Irish Council on 16 July 2007.¹³⁴ Watching such relationships develop in the context of UK intergovernmental relations and the conduct of JMCs will be interesting.

6.4 China

Education Secretary Fiona Hyslop visited China from 6-12 April to sign a Memorandum of Understanding with the Chinese Education Ministry. The memorandum sought to promote Chinese language and culture in Scottish schools, with language immersion courses for Scottish teachers, the development of undergraduate summer schools, the provision of PhD scholarships and research cooperation in the areas of life sciences and clean energy.¹³⁵

6.5 Malawi

In February, the Scottish Government announced allocations of £677,775 for projects in Malawi. These included: support for nursing programmes; clinical health training in mental health, pathology and anaesthesia; HIV-AIDS care; schools improvement; vocational skills for former street children; microfinance; and aquatic resources. The announcement was accompanied by a visit by Linda Fabiani, Minister for Europe, External Affairs and Culture.¹³⁶

6.6 European and External Relations Committee

There were no committee reports in this reporting period. However, the committee was active in conducting two separate inquiries: an inquiry into the Scottish Government's International Development policy¹³⁷, and an inquiry into the transposition of EU directives into Scots law.¹³⁸ In addition, the committee has been gathering evidence from a range of interested parties as part of its review of the government's international and European strategies, the European Union's budget review process and the implications of the Lisbon Treaty.

¹³⁴ Scottish Government news release, 20 February 2008.

¹³⁵ Scottish Government news release, 7 April 2008.

¹³⁶ Scottish Government news release, 7 February 2008.

¹³⁷

www.scottish.parliament.uk/s3/committees/europe/inquiries/InternationalDevelopmentInquiry/InquiryIntolntDevHomePage.htm

¹³⁸ www.scottish.parliament.uk/s3/committees/europe/inquiries/euDirectives/eu-call-evidence.htm

7. Relations with Local Government

David Scott

7.1 Local Income Tax

In March, the Scottish Government published its consultation paper setting out proposals for a Local Income Tax (LIT).¹³⁹ The paper proposed a nationally-set 3 per cent rate of tax applied to income that is already subject to basic and higher rates of UK income tax; a tax-free personal allowance that matches the UK personal allowance levels; exemptions for savings and investment income and a tax for second homes, subject to local requirement and with flexibility for councils to determine the rate of tax.

According to a Scottish Government Press release quoting John Swinney, the Cabinet Secretary for Finance,¹⁴⁰ more than four out of five households would be better or no worse off as a result of the proposed tax. Those on lower and middle incomes would be better off by gaining an average of £350 to £535 a year.

The Convention of Scottish Local Authorities (COSLA), whose member authorities would be responsible for implementing the new tax, declined to make any immediate comment on the proposals, arguing that it would study the proposals and form a position in due course.¹⁴¹ Official responses to the paper are due to be submitted by 18 July but the immediate response has been largely critical, with the Conservatives claiming that the proposed LIT would penalise up to 200,000 students¹⁴² and Labour claiming a 3p rate would not be sufficient to raise the same amount as council tax and that the rate would need to be 5p.¹⁴³ The Liberal Democrats appeared prepared to enter into talks with the SNP about its alternative plan for a LIT set by each of the 32 councils rather than by the Scottish Parliament for the country as a whole.¹⁴⁴

¹³⁹ 'Consultation on abolishing the council tax and replacing it with a local income tax,' 11 March 2008 www.scotland.gov.uk/Publications/2008/03/11131725/0

¹⁴⁰ Scottish Government Press release, 11 March 2008. www.scotland.gov.uk/News/Releases/2008/03/11141717

¹⁴¹ COSLA Connections, March-April 2008 www.cosla.gov.uk/attachments/connections/connections40.pdf

¹⁴² Angus Macleod, Lorraine Davidson, 'SNP's local income tax would penalise up to 200,000 students' (18 April 2008), *The Times* m (Scotland), p.2

¹⁴³ Labour Party Press release, 'The Local Income Tax – the Truth of a 5p rate' www.scottishlabour.org.uk/the_local_income_tax_the_truth_of_a_5p_rate

¹⁴⁴ 'Swinney hints at SNP compromise on local income tax,' (10 March 2008) *The Scotsman*, p.2 www.scotsman.com

However, the main controversy has centred on the cooperation of the UK government. The financing of the LIT proposals depend on persuading the UK government to allow the Scottish Government to retain in its budget £400m currently paid in council tax benefit. It was claimed that this money is part of a 'black hole' amounting to more than £700m.¹⁴⁵

In addition, a dispute arose over whether the Scottish Government has the legal powers to implement a nationally-set tax for local government. Treasury sources claimed in media reports¹⁴⁶ that the proposal in the consultation paper for a 3p tax, set centrally and administered and collected nationally by Revenue & Customs, was not a devolved matter in terms of the Scotland Act. Scottish Ministers rejected the claim, describing the Treasury's intervention as 'arrant nonsense, constitutionally confused and politically inept'.¹⁴⁷ These intergovernmental disputes are discussed further in section 8.3 below.

7.2 Concordat

7.2.1 Council tax freeze

One of the key elements of the Concordat¹⁴⁸ signed by the Convention of Scottish Local Authorities (COSLA) and Scottish Government ministers was an agreement by local government to freeze council tax bills. When individual councils considered their budgets in February 2008,¹⁴⁹ 31 of the 32 councils held their council tax at the same figures that applied in the previous year (2007-08). One council (Stirling) reduced its council tax. The decision of councils to agree not to increase their taxes was hailed as a success for the Scottish Government.¹⁵⁰

John Swinney, Cabinet Secretary for Finance, described the tax freeze as being 'welcome news for taxpayers across Scotland who have borne unacceptable and punishing rises in council tax over recent years'.¹⁵¹ However, there was controversy

¹⁴⁵ Hamish Macdonell, 'Swinney tax plan's missing £700 million' (12 March 2008), *The Scotsman*.

¹⁴⁶ David Scott, 'Doubts cast over Scots' power to levy LIT', *Public Finance*, 4-10 April 2008.

¹⁴⁷ www.PublicFinance.co.uk; Hamish Macdonell, 'Treasury minister attacks SNP plans' (9 April 2008), *The Scotsman* <http://thescotisman.scotsman.com/latestnews/Treasury-blow-to-Salmond39s-tax.3960703.jp>

¹⁴⁸ Robbie Dinwoodie, 'Angry Sturgeon dismisses Treasury opinion that local tax is illegal', *The Herald*, 10 April 2008.

¹⁴⁹ 'Concordat between Scottish Government and local government', 14 November, 2008.

www.scotland.gov.uk/Publications/2007/11/13092240/concordat

¹⁵⁰ Angus Howarth, 'Council tax freeze solid across the whole of Scotland', *The Scotsman*, 6 March 2008. www.scotsman.com

¹⁵¹ Lindsay McIntosh 'Council tax freeze across Scotland counts as success for government,' *The Scotsman*, 15 February 2008 www.scotsman.com

¹⁵² Scottish Government Press release: Council tax freeze, 14 February 2008 www.scotland.gov.uk/News/Releases/2008/02/15082932

over budget cuts in a number of areas, including Aberdeen, Edinburgh and Glasgow.¹⁵² In Aberdeen, plans to reduce expenditure by £27m – cuts which affect charity organisations and school and leisure facilities – resulted in strong public protests.

The tax freeze was mainly made possible as a result of an extra £70m being allocated in the local government finance settlement.¹⁵³ The freeze was pledged by the SNP as a first step towards its plan to replace the council tax with a LIT.

7.2.2 Single Outcome Agreements

Single Outcome Agreements (SOAs) are another important feature of the Concordat. They will set out the outcomes which each local authority is seeking to achieve when planning spending priorities with its community planning partners. As COSLA pointed out in its guidance,¹⁵⁴ the SOAs are intended to reflect local needs, circumstances and priorities but should be related to the relevant national outcomes agreed in the Concordat. The Scottish Government developed a set of 45 'national indicators' to track progress towards outcomes, which include explicit targets.

The Scottish Government received draft SOAs from all 32 local authorities by the deadline of 31 March and the final agreements were due to be in place by the end of June. Local authorities have generally welcomed the SOAs since these have resulted in the ending of ring-fenced grants which councils regarded as bureaucratic and as a restriction of their freedom.

The President of COSLA, Councillor Pat Watters, said councils were willing to work with the Scottish Government to ensure that the correct outcomes are delivered.¹⁵⁵ However, some councillors have misgivings about the new system and are concerned that the arrangement might erode the freedom of councils. During a debate on SOAs at the annual COSLA conference at St Andrews on 5-7 March,¹⁵⁶ the leader of North Lanarkshire Council, Jim McCabe, said he was concerned that civil

¹⁵² Gerry Braiden, 'Council to slash 424 jobs as tax freeze bites,' (13 February) *The Herald*; Kevin Schofield, Gerry Braiden and Stewart Paterson, 'Axe falls on jobs as council bring in the tax freeze' (15 February 2008), *The Herald*; Julia Horton and Stewart Paterson, 'Jobs cuts fears as four more councils opt for tax freeze,' (22 February 2008), *The Herald*

¹⁵³ Scottish Government: 'Local government finance settlement 2008-11', Scottish Parliament, 13 December 2007.

¹⁵⁴ Improvement Service: Single Outcome Agreements guidance, format and indicators package issues www.improvementservice.org.uk/news/news-across-scotland/single-outcome-agreement---guidance-format-and-indicators-package-issued.html

¹⁵⁵ David Scott, 'History in the making', *Holyrood* magazine special report, February 2008

¹⁵⁶ 'Taking the Concordat forward', COSLA Connections, April 2008
www.cosla.gov.uk/index.asp?leftId=100019680-11001461&rightId=100019680-11000146

servants saw the Concordat as a contract rather than an agreement. Speaking at the annual conference of the Chartered Institute of Public Finance and Accountancy (CIPFA) at Aviemore on 13-14 March, Professor Arthur Midwinter, a leading commentator on public finance, said he believed SOAs were 'not outcome agreements at all: as there were major gaps in the framework.'¹⁵⁷

During the debate on SOAs at the COSLA conference, Rory Mair, chief executive of COSLA stressed that the whole process of the Concordat and Outcome Agreements was based on a new relationship that was about trust and understanding, which meant accepting joint responsibility and joint accountability.

7.3 Crerar Report

In January, the Scottish Government responded to the recommendations of a report by Professor Lorne Crerar which investigated the number of regulatory bodies scrutinising local government and other public services.¹⁵⁸ The report pointed out that there are currently 43 regulatory bodies involved in the inspection and scrutiny of public bodies. Eleven new regulatory bodies and commissioners responsible for functions like parliamentary standards, information, children and young people and public appointments, had been created since devolution in 1999.¹⁵⁹

In its response, the Scottish Government agreed that the scrutiny landscape in Scotland should be simplified and that complaints handling should be organised under a more consistent and understandable structure. This was consistent, the response stated, with the Government's broader approach towards achieving smaller and simplified government. The response noted that the Government, working in partnership with the Parliament, would set out clearly what it expected of scrutiny as part of a reform of public services. It also agreed to support 'robust self-assessment' within delivery organisations using an outcome-based approach.

Ministers accepted the majority of the Crerar recommendations but said some needed further work. This includes the Crerar recommendation that his report should

¹⁵⁷ 'Concordat worst settlement for ten years, says Midwinter', *Public Finance*, March 21-27.

www.cosla.gov.uk/index.asp?leftId=100019680-11001461&rightId=100019680-11000146

¹⁵⁸ Scottish Government: Independent Review of Regulation, Audit, Inspection and complaints handling of public services: Government response, 17 January 2008.

www.scotland.gov.uk/Topics/Government/PublicServiceReform/IndependentReviewofReg/latest-news/Response-to-Crerar

¹⁵⁹ The Crerar Review: the report of the independent review of regulation, audit, inspection and complaints handling of public services in Scotland, 25 September 2007, www.scotland.gov.uk/Publications/2007/09/25120506/0

lead to the creation of a single national scrutiny body in the longer term. While stating that the Government supported a simplification of the scrutiny system, it stressed the importance of developing a proportionate approach to complement any simplified framework, where functions and activities were grouped together, based on identifiable relationships between them.

The Government agreed with the Crerar proposal that the Accounts Commission should work with other scrutiny organisations to develop a corporate performance audit which absorbed other corporate level inspections to reduce the burden on local government. It also agreed to invite the Commission to coordinate local government scrutiny functions immediately until the longer-term changes were implemented fully.

In its response, the Government also stated that action groups would be appointed to cover five broad themes: policy and approach to scrutiny; accountability and governance of scrutiny bodies; complaints handling; user focus; and reducing the burdens of scrutiny. The action groups will be coordinated by Government, working alongside COSLA, Audit Scotland and the Scottish Parliament.

The Cabinet Secretary for Finance, John Swinney, said he wanted to see a slimmer and simplified system, radically refocusing the public sector to serve Scotland's people better.¹⁶⁰

7.4 Local government pension scheme

Local government workers accepted a new pension scheme agreed between the Scottish Government, local authorities and the trade unions.¹⁶¹ Members of Unison, which represents 150,000 council employees, voted in favour of the Local Government Pension Scheme (LGPS), which retains the normal retirement age of 65 and includes a final salary element.

The scheme was developed by the former Labour-Liberal Democrat Scottish Executive following a dispute over the abolition of what was known as the rule of 85. This allowed members over the age of 60, whose age and service added up to 85, to retire early with full pension rights.

¹⁶⁰ Scottish Government Press release: Moves to improve public service scrutiny, 17 January 2008 www.scotland.gov.uk/News/Release/2008/k01/17111601

¹⁶¹ Scottish Government Press release: 'Local government pension scheme,' 14 February 2008. www.scotland.gov.uk/News/Releases/2008/02/14104930

The rule was removed to comply with an EC directive on equality in the workplace. In Scotland, a deal was negotiated that produced a commitment to reinvest the savings from the removal of rule 85 into the new scheme. The turnout for the Unison ballot was just 25 per cent but members voted by over 20 to 1 to accept the new arrangements, which will come into force in April 2009. There were 25,008 members in favour of acceptance, with 1,121 against.

Apart from retaining the normal retirement age of 65, the LGPS, which will cover more than 220,000 staff across the public sector, gives employees over 65 the flexibility to work fewer hours while taking part pension. Employee contributions are increased to an average of 6.3 per cent in a tiered scheme that will allow low-paid staff to pay less.

The scheme will mirror other schemes in providing 1/60th of final salary for each year in service. There is a modernised arrangement for partners' pensions, with lump sum death in service grants increased from two to three times final pay. Cohabiting partners will now be able to receive benefits.

Announcing the ballot result, Unison's Scottish convener, Mike Kirby, said it was clear from the improvements achieved that it had been 'possible to maintain and improve a decent final salary scheme which was fair to both employers and employees, provided a decent level of pension and was sustainable in overall cost.'¹⁶²

7.5 Free personal care

The independent review group on free personal and nursing care in Scotland, chaired by Lord Sutherland of Houndwood, published its findings in April.¹⁶³ Lord Sutherland was appointed by the Scottish Government to investigate the operation of free personal care, which had been the subject of controversy over funding levels and the existence of waiting lists in some local authority areas.

The report set out its recommendations in a 12-point plan. These included the need to address a funding shortfall of £40m and the need to address an 'imbalance in funding streams'. The review group said the UK government should not have

¹⁶² Unison Press release: 'Unison members vote 25 to 1 for new pension scheme, 5 April 2008 www.unison-scotland.org.uk/news/2008/marapr/0504.htm

¹⁶³ Independent Review of free personal and nursing care in Scotland, 28 April 2008; www.scotland.gov.uk/Publications/2008/04/25105036/0

withdrawn Attendance Allowance funding in respect of self-funding clients in care homes, currently amounting to £30m a year.

It suggested that the funding should be reinstated in the short-term while longer-term work to reassess funding streams took place. Other recommendations included: the up-rating of fixed rate allowance; the standardisation of assessment and delivery; the establishment of clear national priorities and outcomes for older people; improved accountability; and the need to address cross-boundary issues. The group also called for a review in the next few years of all the sources of public funding for the long-term care of older people.

Media coverage focused on the funding shortfall of £40m and the recommendation that the Attendance Allowance funding should be reinstated.¹⁶⁴ The review group's estimate that the cost of the flagship policy was likely to increase more than threefold to £813m a year (or even higher) by 2031 was also highlighted.¹⁶⁵

Welcoming the outcome of the review, the Cabinet Secretary for Health and Wellbeing, Nicola Sturgeon, noted the review group's statement that the policy of free personal and nursing care both had widespread support and was delivering real benefits to tens of thousands of older people.¹⁶⁶

COSLA also welcomed the report.¹⁶⁷ Its health and well-being spokesperson, Councillor Ronnie McColl, said local government in Scotland was fully committed to the policy and would work in partnership with the Scottish Government to address some of the challenges facing the policy, including the long-term impact of demographic change.

¹⁶⁴ Angus Macleod, Melanie Reid 'Holyrood must find £40 m' for the elderly (29 April 2008), *The Times* (Scotland); Robbie Dinwoodie 'Call to restore £30m cut from elderly' (29 April 2008), *The Herald*

¹⁶⁵ Michael Howie 'Bill for free health care set to soar', 29 April 2008) *The Scotsman*; Severin Carrell, 'Free Scottish elderly care could cost £1bn' (29 April 2008), *Society Guardian*
www.guardian.co.uk/society/2008/apr/29/longtermcare.socialcare

¹⁶⁶ Scottish Government Press release: Review of free personal and nursing care, 28 April 2008.
www.scotland.gov.uk/News/Releases/2008/04/28120547

¹⁶⁷ COSLA Press release: 'COSLA welcomes publication of Sutherland report,' 28 April 2008.
www.cosla.gov.uk/news_story.asp?leftId=10001E4DF-10766761&rightId=10001E4DF-10771446&hybrid=false&storycode=10001AA34-16077436

8. Finance

Alan Trench

8.1 UK issues: the Westminster Budget and related matters

Chancellor of the Exchequer Alistair Darling delivered the UK Government's Budget for 2008-09 on 12 March. In its 'regional [sic] press notice' for Scotland, the Treasury noted that the Budget would produce an increase of £26m in spending for Scotland, as a consequential payment following increases in spending on comparable functions in England.¹⁶⁸ Budget proposals included higher duty on alcohol (a reported 59p a bottle on Scotch whisky), attempts to minimise tax avoidance (which might affect some North Sea oil companies), and an increase in spending to tackle child poverty. John Swinney, Cabinet Secretary for Finance and Sustainable Growth in the Scottish Government, attacked the UK Budget for its failure to deal adequately with Scottish concerns and its adverse impact on the Scottish economy, notably over oil and the taxation of Scotch whisky.¹⁶⁹

A further issue has been calls for Scotland to receive consequential payments under the Barnett formula, notably for a payment of £1.2bn from the UK Reserve to the Ministry of Justice to support investment in prisons in England and Wales, following a review by Lord Carter.¹⁷⁰ The normal consequential from this payment would be a little over £12m for Scotland. However, as it was a payment from the UK Reserve rather than mainstream spending, the matter was at the discretion of the Treasury, and the Treasury took the view that the problem in England and Wales was a crisis which Scotland did not face, so it would not pay a consequential (despite the fact that overcrowding is also an issue in Scottish prisons and led to a substantial increase in prison spending in the 2008-09 budget; the fact that extra spending had been allocated in the Scottish budget was considered by the Treasury to show that Scotland had no need of extra funding for this.) John Swinney sought a meeting with Yvette Cooper, Chief Secretary to the Treasury, to discuss this among other matters, but without changing the Treasury's mind – leaving him with a determination to take

¹⁶⁸ HM Treasury *Regional Press Notice: Budget 2008 in Scotland*. Available at www.hm-treasury.gov.uk/media/2/3/budget2008_pn_scotland.pdf

¹⁶⁹ See 'Darling's hangover cure angers whisky industry' *The Herald* (Glasgow) 13 March 2008.

¹⁷⁰ See Lord Carter's Review of Prisons *Securing the Future: Proposals for the efficient and sustainable use of custody in England and Wales December 2007* (London: Ministry of Justice). Available at www.justice.gov.uk/docs/securing-the-future.pdf

the matter to the Joint Ministerial Committee when it is revived.¹⁷¹ Regarding financial matters generally, it appears that the UK Government has taken the view that it will not be generous or helpful to the Scottish Government, whether for reasons of party politics or because of a private view that Scotland is already generously funded under the Barnett arrangements. Its strategy therefore appears to be to take a hard line.¹⁷²

8.2 The Scottish Government's budget

The early part of the New Year saw interesting problems for the Scottish Government in getting its budget through the Parliament, given its lack of a majority, as discussed in section 2.1 above. Unsurprisingly, compromises were made to secure support. In the case of the Greens, an extra £4m in grants for supporting bus travel at the last minute, as well as £4.3m for the climate change fund, were insufficient to persuade them to support it, although the SNP had been seeking such support for some time. Margo MacDonald secured extra money for Edinburgh, to compensate it for the 'extra costs' of being the capital, and a commitment to look at the extra health costs incurred by Edinburgh.¹⁷³ For the Conservatives, the compromises were greater. Funding was provided for an extra 500 police officers over 3 years, thus enabling the SNP to deliver on its manifesto commitment of 1000 extra officers. (The SNP scaled back its manifesto commitment during the summer of 2007.) This was reported to cost £10m in the first year, £13m in the second year and £17m in the third.¹⁷⁴ The scheme to relieve non-domestic rates on small businesses is to be accelerated, at a reported cost of £12m per year in 2008-09 and 2009-10. This was substantial, but more so was the new policy for treating drug addicts (funded from existing resources). This involves a re-orientation of policy away from methadone treatment and support, toward abstinence and rehabilitation. Whatever the merits of the two approaches (which are the subject of considerable controversy, politically and among experts), the shift in policy both constitutes a significant victory for the Conservatives and indicates the flexibility of the SNP. It also suggests that the Tories have understood what is possible when the government has a minority, in a way that has

¹⁷¹ See Swinney prepares for Whitehall battle after attack on local tax' *The Herald*, 1 April 2008;

'Swinney's bid for more cash is fanciful, insists Brown' *The Herald*, 2 April 2008.

¹⁷² For an anti-SNP discussion, see A Cochrane 'How SNP stopped running rings around Labour' *Daily Telegraph*, 2 April 2008.

¹⁷³ 'MacDonald wants more for Budget vote' (2 February 2008), *The Herald*

¹⁷⁴ See 'SNP pledges 1000 extra police after £10m Budget revamp' (1 February 2008), *The Herald*

eluded the other opposition parties.¹⁷⁵ The budget as passed, according to the main portfolio heads, is shown below:

Figure 8.1: Scottish Budget 2008-09 as passed

Portfolio	Budget as per budget bill (£m)	Amendment (£m)	Revised Budget (£m)
First Minister	255.4	0.0	255.4
Finance and Sustainable Growth	3,476.3	-7.3	3,469.0
Health and Wellbeing	9,843.2	-5.0	9,838.2
Education and Lifelong Learning	2,550.6	0.0	2,550.6
Justice	1,707.3	8.0	1,715.3
Rural Affairs and the Environment	516.5	4.3	520.8
Administration	245.7	0.0	245.7
Crown Office and Procurator Fiscal	110.2	0.0	110.2
Local Government	9,728.8	0.0	9,728.8
General Register Office for Scotland	11.6	0.0	11.6
National Archives of Scotland	10.3	0.0	10.3
Forestry Commission	90.3	0.0	90.3
Food Standards Agency	10.6	0.0	10.6
Teachers' and NHS Pensions	2,647.9	0.0	2,647.9
Office of the Scottish Charity Regulator	3.6	0.0	3.6
The Scottish Government	31,208.3	0.0	31,208.3
Scottish Parliament and Audit Scotland	108.3	0.0	108.3
Total Managed Expenditure	31,316.6	0.0	31,316.6

Source: Scottish Government, *Scotland's Budget Documents 2008-09: Budget (Scotland) Bill Supporting Document for the year ending 31 March 2009: Amendments to Supporting Documents for the year ending 31 March 2009*. Available at www.scotland.gov.uk/Publications/2008/02/21153821/20

Part of the key to funding the budget package was securing considerable savings from existing programmes, including an overall 2 per cent efficiency saving. The cuts include the redirection of staff in various agencies including the Police to more front-line duties, and a reduction in housing subsidies.¹⁷⁶

8.3 The local income tax and intergovernmental finance

One area of much activity has been the Government's attempts to make progress in introducing its proposed local income tax (LIT). The principle of an LIT appears to command broad public support; according to a recent TNS System 3 opinion poll, it is supported by 46 per cent of the population, opposed by only 22 per cent, with 32 per cent undecided.¹⁷⁷ What the SNP have proposed is only local in the object it funds; it would be set (at a rate of 3 per cent) and collected centrally, and then distributed by

¹⁷⁵ On the politics, see D Fraser 'Analysis: Expect Swinney to do what it takes to win Budget poker game' (1 February 2008), *The Herald*; 'Analysis: How Swinney passed the Budget test' (7 February 2008) *The Herald*; Leader column 'Salmond's triumph' (7 February 2008), *The Herald*; and 'Concessions won by Tories become new campaign' (9 February 2008) *The Herald*

¹⁷⁶ See 'Cuts to create Swinney's £1.6bn savings' (16 April 2008), *The Herald*

¹⁷⁷ See e.g. '46% of Scots support SNP local income tax, says poll' (6 May 2008), *The Herald*

the Scottish Government to local authorities. This proposal has failed to attract adequate support from other parties, with both Conservatives and Labour opposed and only equivocal support from the Liberal Democrats, whose preference is for a local income tax with a locally-set rate. While the proposal survived an attempt to block it in an opposition (Labour-called) debate on 17 April,¹⁷⁸ and remains formally alive, it faces serious difficulties in securing sufficient support at Holyrood.

As noted in section 7.1 above, it also faces serious challenge from the UK Government. This started with the issue of council tax benefit (CTB), which is funded by a Treasury grant to the Scottish Government and worth £400m in 2007-08. The Treasury has taken the view that this money does not form part of the Scottish block grant, as it is Annually Managed Expenditure (AME) (as other social security benefits are), and not part of the Government's Departmental Expenditure Limit (DEL) grant. (AME elements of the grant are set directly by the Treasury, DEL ones are calculated using the Barnett formula in relation to increases in spending on comparable functions in England.) Only administrative costs relating to CTB are included in the DEL. The UK Government's position is that abolition of council tax would imply abolition of the need for, and entitlement to, the benefit for claimants in Scotland – so payments would cease. The current edition of the Statement of Funding Policy nonetheless makes it clear that the costs of CTB are part of the overall Scottish block, although also provides for 'balancing adjustments' to be made if, as a result of decisions made by the Scottish Executive, the costs of CTB were to change at a 'disproportionate rate'¹⁷⁹ (as with all such matters, the Statement of Funding Policy makes the Treasury the sole arbiter of whether a change is disproportionate and how much such a balancing adjustment might be). To this was added broader criticism of the Scottish Government's plan by the UK Chief Secretary to the Treasury, Yvette Cooper. She suggested that the proposed LIT would raise £750m a year less than the council tax does, and expressed her concern about the impact of such a loss on public services.¹⁸⁰

Then serious doubts started to be aired about the lawfulness of the principle of an LIT within the Scotland Act, and whether this trespassed on a matter (taxation)

¹⁷⁸ See 'Opposition fails to scupper Swinney's plan for local taxation' (18 April 2008), *The Herald*

¹⁷⁹ See HM Treasury *Funding the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly: A statement of funding policy* 5th edition October 2007 (London; HM Treasury), Annex A: A statement of principles, especially para. 7, and also para. 6.3.

¹⁸⁰ See 'Treasury minister Yvette Cooper attacks SNP tax plans' (31 March 2008), *The Scotsman*

reserved to Westminster.¹⁸¹ This was spurred by the desire of the Scottish Government to use HM Revenue & Customs to collect the tax (rather than any other agency), as well as by the fact that the plan is for a single rate of tax set and collected centrally – the latter led the Treasury to take the view that it is not, in fact, a local tax (which would be devolved). Unsurprisingly, this prompted a hostile response from SNP Ministers, including Nicola Sturgeon and Kenny MacAskill, as well as John Swinney.¹⁸² Beyond that, however, this debate has yet to reach any sort of conclusion.

8.4. The Scottish Futures Trust

The Scottish Futures Trust is the Scottish Government's means of securing extra funding for public services from the private sector, in the light of its own opposition to using Private Finance Initiative schemes or Public Private Partnerships, and its lack of proper borrowing powers under the Scotland Act 1998. Consultation, responding to the consultation document issued in December 2007, has closed and the responses have now been published.¹⁸³ The overall tenor of responses is critical, with criticism focused on the sketchy nature of the plans and doubts about their financial practicality more than their constitutionality or legality (though that is also an issue).¹⁸⁴ At time of writing, the Government had yet to outline its proposed action following the consultation.

8.5 Replacing the Barnett formula

On one level, the debates about replacing the Barnett formula and the related issue of fiscal autonomy are on hold. This is clearly going to be an area of interest for the Calman Commission, and HM Treasury is at work on a 'factual paper' on the formula for publication this summer. The Treasury has used this to justify not discussing issues relating to a replacement, pending the outcome of those processes.

However, there continues to be considerable political debate about these issues in other quarters. In evidence to the Commons Justice Committee (which is carrying out an inquiry into 'Devolution: A Decade On'), Lord Barnett repeated his long-standing criticisms of the formula that bears his name.¹⁸⁵ In an interview with the *Western Mail*,

¹⁸¹ See 'Treasury blow to Salmond's tax plan' (9 April 2008), *The Scotsman*. The reservation relates to 'Fiscal, economic and monetary policy'; Scotland Act 1998, Schedule 5, Head A1.

¹⁸² See 'SNP rejects Whitehall claims on local income tax' (9 April 2008), *The Herald*; 'Angry Sturgeon dismisses Treasury opinion that local tax is illegal' *The Herald*, 10 April 2008.

¹⁸³ The responses are published at www.scotland.gov.uk/Publications/2008/04/18161301/0

¹⁸⁴ See 'Experts say scheme to replace PPP badly thought out' *The Herald*, 19 April 2008

¹⁸⁵ House of Commons Minutes of Evidence taken before Justice Committee, 1 April 2008. Lord Barnett. To be published as HC 75 – vi.

George Osborne (Shadow Chancellor of the Exchequer) suggested that, while he was 'open-minded' about retaining the Barnett formula, he was concerned to establish true levels of need as part of deciding whether and how to change it. He said:

If we're going to have a debate about Barnett, let's start with the facts. Nobody has done a needs-based assessment of how much each part of the UK would get if there were changes. I don't think we can have a debate about Barnett without that.¹⁸⁶

What the position of the Conservative Party at UK level will be about these matters remains to be seen.

¹⁸⁶ 'Tories keep "open mind" on future of the Barnett formula' (28 April 2008), *Western Mail*

9. Disputes and litigation

Alan Trench

There have been no decisions of the Judicial Committee of the Privy Council in devolution issue cases since 1 January 2008, nor do there appear to be any substantial devolution issues in the pipeline.

The case of *Spiers v. Ruddy* was discussed in the last monitoring report.¹⁸⁷ Further discussion of this case and the 'dual apex' issue it presented can be found in *Scots Law News*, no. 789.¹⁸⁸

¹⁸⁷ [2007] UKPC D2. Available from www.privacy-council.org.uk/output/Page535.asp

¹⁸⁸ See www.law.ed.ac.uk/sln/index.aspx?page=791

10. Political Parties

Peter Lynch

10.1 The Scottish National Party

The SNP minority government passed one of its major tests of survival in early February this year with the successful passage of its first budget. Details of the budget and the parliamentary process surrounding it have been discussed elsewhere in this report. Clearly, key to the deal were discussions with the Conservatives in the Parliament's Finance Committee which helped the budget bill to pass. Ahead of the chamber vote, Salmond had ramped up the pressure on the other parties by stating that he would resign if the budget was rejected¹⁸⁹ – which would have caused problems for the other parties as the SNP has been on the up and could see an election as a mechanism to improve the party's electoral position considerably. However, when it came to voting in the chamber, the budget sailed through as Labour and the Lib Dems abstained, with Labour not even supporting its own amendments to the bill.

The SNP's National Conversation on Scotland's constitutional future entered a second phase in 2008, with the government taking the consultation phase out to pressure groups and civic Scotland. In addition, Alex Salmond used the coincidence with the establishment of the Scottish Constitutional Commission to contrast the mechanisms to be used to measure public support for the two sets of proposals – one for independence and one for more devolution. Salmond's suggestion – derided by some opposition parties – was to hold a multi-option referendum on constitutional change, using STV, so that voters could rank their constitutional preferences and a consensual majority position could emerge. Opponents such as the Conservatives picked up on the fact that the initial second choice option might well triumph, with Annabel Goldie criticising the proposal by stating that 'you do not decide the destiny of a country on the basis of the second-best or least-worst option'.¹⁹⁰ Salmond's position is an interesting one. Although his party's stated preference is for a simple yes/no referendum question, Salmond has at various times since 1990 also promoted a multi-option referendum as a mechanism to test opinion on the main constitutional options including independence. Moreover, inviting the parties involved in the Scottish Constitutional Commission to present their preferred constitutional

¹⁸⁹ *BBC News* (5 February 2008)

¹⁹⁰ *The Scotsman* (27 March 2008)

solution alongside independence in a multi-option poll puts them in a difficult position – how will they otherwise test public opinion on their proposals? Will they hold separate referendum? And this is not an isolated question given the precedence of referendums on constitutional issues, as well as the ongoing constitutional debate in Wales.

Finally, there was considerable discussion of the SNP's progress at any forthcoming Westminster election and how this would affect post-election politics in the Commons. Salmond – again – charged his party with the task of picking up 20 seats at the next Westminster election. In the event of a hung parliament, the SNP would be in a position to influence government formation in exchange for policy concessions. Whilst this eventuality is some way off, one can envisage a confidence and supply deal between the SNP and either the Conservatives or Labour – to sustain them in office in exchange for fiscal powers or other issues/powers associated with a devo-max position.¹⁹¹

10.2 Scottish Labour Party

Wendy Alexander's short term as Scottish Labour leader has not been without incident. Many of her trials and tribulations revolved around the issue of illegal donations to her leadership election fund the previous year. As discussed in the last monitoring report, this issue was subject to separate inquiries by the Electoral Commission, Standards Commissioner and the police. However, all came to nought. The Electoral Commission announced it was not going to charge Wendy Alexander with intentionally breaking the law over the acceptance of a £950 donation from a businessman from Jersey (i.e. not a registered UK voter). As the Commission made no report to the Crown Office, no charges were made and the police inquiry ended.¹⁹² Shortly afterwards, the Standards Commissioner in Edinburgh announced that Wendy Alexander would not face charges over failing to register donations to her leadership campaign on the register of member's interests at Holyrood.¹⁹³ However, whilst prosecutions were not forthcoming – which meant a huge sigh of relief for Labour in Scotland and at Westminster – the issue of illegal donations had dominated Alexander's leadership for five months, damaging both her and the party considerably.

¹⁹¹ *The Herald* (21 April 2008)

¹⁹² *BBC News 7* (February 2008)

¹⁹³ *BBC News*, (March 2008)

In advance of Scottish Labour's conference in March, Wendy Alexander published a pamphlet on Labour's future in Scotland, which focused on the constitutional debate in particular. Entitled '*Change is what we do*',¹⁹⁴ it sought to present Labour as the progressive party in Scotland since its formation, focusing on what Labour had done to change Scotland. However, besides this packaging/repackaging, the pamphlet was notable for putting flesh on the bones of Labour's constitutional position. Scottish Labour had fought the 2007 Scottish election as the party of 'no change' to the Parliament's powers. The resulting narrow SNP victory focused Labour minds on the issue to some extent, with the establishment of a Scottish Constitutional Commission with the cooperation of the Conservatives and Liberal Democrats in Scotland and at the UK-level.

However, what Scottish Labour actually thought about more powers for the Scottish Parliament was vague and complicated by Prime Minister Brown's references to the Commission as a 'review', which seemed to downgrade its importance, as well as the Scotland Office Minister David Cairns denigrating the debate – especially that over fiscal powers – as one for the 'McChattering classes'¹⁹⁵ rather than of genuine interest to Scottish voters. Mention of the possibility of the review process leading to powers being returned to Westminster also came as something of a shock to the other parties involved as well as observers. The Alexander pamphlet was clear in proposing some issues that the Constitutional Commission should look at. It stated that:

There are areas from welfare-to-work to road transport where there is merit in considering greater powers for the Scottish Parliament. Likewise the Commission could consider the operation of the Parliament itself, public holidays, marine issues, animal health and so on. By implication the Commission should also consider any reasoned arguments for the boundary moving in the opposite direction, for example in national security related matters such as counter terrorism and contingency planning.¹⁹⁶

Furthermore, the pamphlet discussed the prospect of fiscal powers for the Parliament, as well as some need to tackle the Barnett problem at Westminster:

The financing of the Parliament almost wholly through grant funding does not provide the proper incentives to make the right decisions. Hence strengthening the financial accountability of the Scottish

¹⁹⁴ Wendy Alexander (2008), *Change is what we do*, Scottish Labour, viewable at www.scottishlabour.org.uk/images/uploads/200052/c438ff36-8adf-97e4-c517-ef4490b56df7.pdf

¹⁹⁵ *The Herald* (12 February 2008)

¹⁹⁶ Wendy Alexander (2008), *Change is what we do*, Scottish Labour, p.18

Parliament by moving to a mixture of assigned and devolved taxes and grant is something the Commission must consider. Variation within a state also raises issues of compliance with EU rules as well as problems of economic distortion through transfer pricing. But even with these kinds of constraints there is still plenty of valuable work to be done.

A beneficial by-product of strengthening the accountability of the Parliament through greater autonomy would be to address some of the concerns elsewhere in the UK around relative spending levels. Inevitably a larger assigned or devolved element means the grant element would be smaller and so potentially less contentious.¹⁹⁷

However, before seeing this as an open door to more fiscal powers, the Alexander pamphlet was also quite clear about the constraints on transferring fiscal powers, suggesting what a difficult issue it could prove for Labour in both practical and political terms:

I believe it is for the Commission to consider the proper balance of devolved, reserved, and assigned taxes if the accountability of the Parliament is to be strengthened and relative need still respected. We should approach this with an open mind, but there are some constraints here. Some suggest VAT might be devolved, but EU rules appear to preclude VAT variation within a state. So it could not be a candidate for devolution, although it could be considered for partial assignation. Likewise, the issue of Corporation Tax variation within a state also raises issues of compliance with EU rules as well as problems of economic distortion through transfer pricing. But even with these kinds of constraints there is still plenty of valuable work to be done.¹⁹⁸

Devolution wasn't the only issue put on the agenda at the Scottish Labour conference. Surprisingly, in an appeal to Labour's political base, Alexander introduced an unusual topic into her party conference speech: socialism. And, as pointed out in *The Herald*, an appeal to Labour traditionalists on issues such as housing, fairness, and the NHS was an odd approach for a well-known New Labour moderniser, especially given the types of things the SNP had been doing since taking office in 2007.¹⁹⁹

¹⁹⁷ *Ibid.*

¹⁹⁸ *Ibid.*

¹⁹⁹ *The Herald* (25 March 2008)

Whilst Wendy Alexander has not been setting the heather alight with her performances at First Minister's Questions and has turned in some poor performances against Salmond, her strategy at this event seemed to be issue-based as opposed to looking for big hits. Alexander has criticised SNP policy delivery and budget issues, care for the disabled, local council cutbacks and a host of other bread and butter issues. The intention is to give Labour – and Alexander – credibility as an issue-focused opposition, seeking to take on the SNP government on day-to-day issues. Moreover, Alexander was involved in something of a re-launch of her leadership, and of Scottish Labour, with the intention to focus more on children's and family issues,²⁰⁰ promoting skills training, with the introduction of a Skills bill in the Scottish Parliament.

10.3 Scottish Conservatives

There were two notable events in this reporting period involving the Conservatives. First, the party was instrumental in passing the SNP budget. In exchange for policy concessions over policing and drugs policy,²⁰¹ the party agreed to support the SNP budget in committee and in the chamber. As three other parties abstained at the final budget vote, the Conservative guarantee of parliamentary support was not essential. That, however, is being wise after the event.

Second, in an evidence session on devolution to the House of Commons Justice Committee, Kenneth Clarke, the chair of the party's taskforce on the constitution, made short work of Malcolm Rifkind's proposal for an English Grand Committee to resolve the West Lothian question.²⁰² Clarke pointed to the difficulties of designating any legislation as English-only at Westminster, with the problems of making an English Grand Committee watertight as an institution. How this feeds in to the wider devolution debate and to the Scottish Constitutional Commission remains to be seen. It might make the Conservative's UK contribution to the process more realistic.

10.4 Scottish Liberal Democrats

The Liberal Democrats have been in a more assertive mood since the turn of the year, evident in party attitudes towards the SNP as well as towards Labour in relation to the Scottish Constitutional Commission. The party has been active in attacking the SNP administration on issues such as transport, education and health, while appearing willing to seek cooperation with the SNP over issues such the replacement

²⁰⁰ 'A Positive Start for Every Child' (3 March 2008), *The Herald*

²⁰¹ *BBC News* (5 February 2008)

²⁰² Clarke rejects 'East Lothian Answer' (20 February 2008), *The Herald*

of the council tax with a local income tax.²⁰³ However, party leader Nicol Stephen was also active in challenging Labour over its devolution policy and attitudes to the Scottish Constitutional Commission. Stephen attacked Prime Minister Gordon Brown over his suggestion that the Commission was merely a review as well as over the notion that the process might lead to a return of devolved powers to Westminster, stating that the party would oppose any such move.²⁰⁴ Moreover, at the party's Spring conference in March, Stephen pledged to reconvene the Steel Commission on devolution (which reported in 2006) to produce the party's submission to the Scottish Constitutional Commission making the case for more powers for the parliament, including fiscal powers.²⁰⁵

10.5 The Scottish Constitutional Commission

Following November's announcement of the creation of the Constitutional Commission, there was a range of meetings to determine its composition and work programme. Its Chair, Sir Kenneth Calman, was announced on 25 March. Calman was formerly Chief Medical Officer of both Scotland and England and is currently Chancellor of Glasgow University. The remaining members of the Commission were announced on 28 April, following newspaper coverage of its composition the day before. It was suggested that the appointment of former SNP MSP and Presiding Officer of the Scottish Parliament, George Reid, had been vetoed by Downing Street, even though Wendy Alexander had been supportive.²⁰⁶ There was concern that Reid was 'too nationalist', though his nomination would have caused some difficulty for the SNP and its parallel National Conversation. The Commission membership is as follows:

Rani Dhir, director of Drumchapel Housing Co-operative.

Lord James Douglas Hamilton (Conservative), former Scottish Office Minister, MP, MSP and a Conservative peer.

Professor Sir David Edward, retired Judge of the European Court.

Lord Murray Elder (Labour), former Scottish Labour General Secretary and Chief of Staff for John Smith, peer.

Audrey Findlay (Liberal Democrat), former Leader of Aberdeenshire Council, now convener of the Scottish Liberal Democrats.

Lord Jamie Lindsay (Conservative), former Scottish Office Minister,

²⁰³ *Sunday Herald* (3 March 2008)

²⁰⁴ *BBC News* (29 February 2008)

²⁰⁵ www.scotlibdems.org.uk/news/2008/03/nicol-stephen-msp-spring-conference

²⁰⁶ *Sunday Herald* (27 April 2008)

chairman of Scottish Agricultural College and Conservative peer.

John Loughton, President of the Scottish Youth Parliament (serving in a personal capacity).

Murdoch MacLennan, Chief Executive, Telegraph Media Group.

Shonaig Macpherson, Chairwoman of the National Trust for Scotland and Scottish Council Development and Industry.

Iain McMillan, Director, CBI Scotland.

Mona Siddiqui, Professor of Islamic Studies, Glasgow University.

Matt Smith, Scottish Secretary, Unison.

Lord Jim Wallace (Liberal Democrats), former Deputy First Minister, MP and MSP and former leader of the Scottish Liberal Democrats, now a peer.²⁰⁷

The Commission intends to produce an interim report on extending the powers of the Scottish Parliament within six months, with a full report at a later date. Notwithstanding a sprinkling of both politicians and representatives of civic Scotland, the commission's membership is notable for its lack of finance and taxation expertise. This in spite of the likelihood that some form of fiscal autonomy will be a central focus of its deliberations.

10.6 Another Sheridan Charged With Perjury

Former SSP MSP Tommy Sheridan was charged with perjury on 17 December 2007, in connection with his libel trial against the *News of the World*.²⁰⁸ On 15 February, three of Sheridan's colleagues from the SSP and then Solidarity – former MSP Rosemary Byrne, Jock Penman and Graham McIver – were also arrested and charged with perjury.²⁰⁹ Later, on 19 February, Gail Sheridan and her father, Angus Healy, were similarly charged.²¹⁰ In addition, Gail Sheridan was suspended from her job with British Airways following an investigation of theft of alcohol miniatures on 23 February, though this issue was subsequently dropped as a criminal investigation by Lothian and Borders police.²¹¹

²⁰⁷ *The Herald* (29 April 2008)

²⁰⁸ See: Jeffery, C (ed), Scotland Devolution Monitoring Report: January 2008, at: www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Scotland_Jan08.pdf

²⁰⁹ *The Herald* (16 February 2008), p.1

²¹⁰ *BBC News* (19 February 2008)

²¹¹ *BBC News* (23 February 2008)

11. Public Policies

Paul Cairney

11.1 Governing Competence or Innocence by Association?

Few marriages can boast a honeymoon that lasts beyond the first anniversary. Yet, the SNP government and its leader still seem to be enjoying a prolonged period of popularity (or at least a distinct lack of the type of media criticism that we would normally expect). Indeed, the term 'honeymoon' has been used so much that it has become a cliché worthy of a column in *Private Eye*.²¹² Some of this can be explained by the 'second order' nature of Scottish Politics and the SNP's ability to exploit public and media attention to the crises faced by the UK government (such as the collapse of Northern Rock and the fallout from the 10p income tax issue) as well as the crisis within the Labour Party itself (from the issue of party donations to the more recent U-turns by Wendy Alexander on an independence referendum).²¹³ Further, a range of crises within Scotland – such as the terrorist attempt on Glasgow Airport, the outbreak of foot-and-mouth disease, and the strike at the Grangemouth oil refinery – have not only deflected attention from the SNP's manifesto commitments, but have also helped the SNP's aim of demonstrating a high degree of governing competence before holding a referendum on independence.²¹⁴ This is topped off by an unusual ability (for a Scottish government) to lay blame on the UK Government or opposition parties for the lack of development in areas such as the local income tax (reserved constraints combined with Treasury inflexibility, as discussed above), and student debt (a tighter than anticipated financial settlement), while being forced to accept policies (during the negotiations with other parties on the budget) largely consistent with SNP policy aims (see section 2.1).²¹⁵ In this light, the frozen council tax, abolition

²¹² T. Gordon 'Will Alex Salmond get his perfect storm?' (4 May 2008) *Sunday Times* www.timesonline.co.uk/tol/news/uk/scotland/article3868138.ece; D. Fraser 'The honeymoon is far from over as Salmond's stock keeps rising' (13 March 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2123885.0.0.php?act=complaint&cid=1280648; A. Black 'Is the SNP honeymoon at an end?' (18 March), *BBC News* <http://news.bbc.co.uk/1/hi/scotland/7343235.stm>; J. Hjul 'Alex Salmond's dream of independence may be his downfall' (4 May 2008), *Sunday Times* www.timesonline.co.uk/tol/comment/article3868136.ece
²¹³ SNP (2008) 'Chancellor Must Come Clean on Northern Rock Costs' www.snp.org/node/7271; SNP (2008) 'Wendy challenged over tax-grab on poor' www.snp.org/node/13649; SNP (2008) 'Alexander's Position Increasingly Untenable' www.snp.org/node/7381; SNP (2008) 'PM fails to back Alexander's referendum u-turn' www.snp.org/node/13784

²¹⁴ D. Lister 'Grangemouth: Ministers fear panic at pumps as oil workers strike' (25 April 2008), *The Times* www.timesonline.co.uk/tol/news/uk/scotland/article3812010.ece; D. Fraser 'SNP plays long game on independence' (13 August 2007), *The Herald* www.theherald.co.uk/politics/news/display.var.1612731.0.0.php

²¹⁵ McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), p.192; E. Barnes 'Browne savages 'shoddy' SNP for hoodwinking Scots' (6 April 2008), *Scotland on Sunday* <http://scotlandonsunday.scotsman.com/latestnews/Browne-savages-39shoddy39-SNP-for.3952534.jp>

of student fees, abolition of road tolls, reduced prescription charges, and reduced business rates seem like good work for a year in office.²¹⁶ The bulk of these issues were negotiated and progressed by Finance Secretary John Swinney (and, to a lesser extent, Health Secretary Nicola Sturgeon), reinforcing the idea that Salmond exercises a 'light touch over departments'.²¹⁷

11.2 Health

As with the focus on quangos (see section 1.2), health policy remains a peculiar numbers game in which parties compete to say how much they would increase spending (rather than, say, efficiency). Since the election of the SNP, this process has a new angle, with Labour and the Liberal Democrats comparing their average annual increases (from 6 per cent to 8.7 per cent) to the SNP's announcement of an increase of 3.3 per cent despite knowing that NHS Scotland's budget of £10.65bn is higher than it has ever been.²¹⁸ Much of the debate therefore rests on the 'real' rise in funding – when we take into account the level of inflation *within* the NHS²¹⁹ – that no party seems able to engage with. In lieu of discussions of efficiency, the debate focuses on waiting lists and waiting times (suggesting that the Scottish administration is still following an English agenda).²²⁰ The new development (in Scotland) is to set an 18-week maximum waiting target (by 2011) from the day that a GP refers a patient to hospital (previously, the target was more closely related to the first hospital appointment). This raises the stakes yet further (since it may effectively cut maximum waiting times by half), and subjects the Scottish NHS to the same challenges faced in England – of redirecting resources from other services with a lower political priority but not necessarily a lower clinically defined need (although there is no evidence in Scotland of a punitive regime for authorities that miss the targets).²²¹ It also raises further the prospect of health authority 'gaming', or manipulating waiting lists to meet targets. One such example centred on a consultant in Dundee informing a patient

²¹⁶ I. MacWhirter '1 year of the SNP government' (27 April 2008), *Sunday Herald* www.sundayherald.com/news/heraldnews/display.var.2228412.0.1_year_of_the_snp_government.php ; see also R. Dinwoodie 'Councils may get power on rates for business' (18 February 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2051246.0.Councils_may_get_power_on_rates_for_business.php

²¹⁷ McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), p.118.

²¹⁸ R. Dinwoodie 'Sturgeon unveils £10bn health spending' (9 February 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2032100.0.Sturgeon_unveils_10bn_health_spending.php

²¹⁹ McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), p.189.

²²⁰ 'Waiting times at all-time low says Government' (26 February 2008)

www.holyrood.com/content/view/2146/10552/

²²¹ H. Puttick 'Sturgeon makes £270m pledge to cut NHS waiting times by 50%' (6 February 2008) *The Herald* www.theherald.co.uk/politics/news/display.var.2021474.0.Sturgeon_makes_270m_pledge_to_cut_NHS_waiting_times_by_50.php ; L. Moss 'Sturgeon vows to halve NHS waiting times' (7 February 2008), *The Scotsman* <http://news.scotsman.com/politics/Sturgeon-vows-to-halve-NHS.3752316.jp> ; 'New "whole journey" waiting time target set' (6 February 2008), www.holyrood.com/content/view/2051/10051/

that she had been removed from his waiting list in order to meet a target (despite Nicola Sturgeon's plea to abolish 'hidden' waiting lists). Yet, following the consultant's public apology, the extent to which this decision was related to government rules became very unclear.²²²

This theme of (following or reacting to) UK-led policy agendas continues with most health policy developments. For example, while the devolved territories are cooperating together to establish core NHS values,²²³ Scotland is quietly following the UK line on GP contracts. The GP contract seems at odds with the 'Scottish Policy Style' discussed in past Devolution Monitoring Reports.²²⁴ The background to the contract amendment is the widespread criticism of the UK Government's handling of the previous process, with GPs offered a very generous deal in relation to evening and weekend work (which allowed them to forego this work in exchange for a very small pay cut).²²⁵ The outcry surrounding soaring GP wages in England put pressure on the government to react, and it subsequently took a relatively hard line on out-of-hours care, with the BMA complaining that it was offered a Hobson's choice.²²⁶ In this light, it is difficult to see why the *Scottish* Government would feel the need to take a similarly tough line and risk alienating the profession, when close consultation arrangements have been the mainstay of Scottish policy making.²²⁷

As part of a move to abolish prescription charges by 2011, the cost of a prescription was cut (25 per cent) from £6.85 to £5 in April (the charge in England is rising to £7.10). Most of the Scottish Government's justification for the move focused on the fact that '63 per cent of all paid-for prescriptions are for cancer and long-term

²²² H. MacDonell 'Patients taken off waiting lists' (1 February 2008), *The Scotsman* www.scotsman.com/video-archive/Patients-taken-off-waiting-lists.3734479.jp; 'Patient 'removed' over target' (1 February 2008), *BBC News* http://news.bbc.co.uk/player/nol/newsid_7200000/newsid_7208600/7208684.stm?bw=bb&mp=wm&news=1&bbcws=1; R. Dinwoodie 'Surgeon 'sorry' for claiming waiting list cut to meet targets' (1 February 2008), *The Herald* www.theherald.co.uk/search/display.var.2010859.0.surgeon_sorry_for_claiming_waiting_list_cut_to_meet_targets.php

²²³ 'Health ministers sign historic agreement' (3 April 2008) www.holyrood.com/content/view/2307/10051/; Scottish Government News Release, 3 April 2008 'Joint statement on NHS values' www.scotland.gov.uk/News/Releases/2008/04/03120546

²²⁴ See also McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), p129

²²⁵ 'BMA team 'stunned by GP contract' (31 January 2008), *BBC News* <http://news.bbc.co.uk/1/hi/health/6314301.stm>; 'GP contract 'a bad deal for NHS' (28 February 2008), *BBC News* <http://news.bbc.co.uk/1/hi/health/7266691.stm>

²²⁶ C. Brown, 'GPs agree to longer hours after government 'threats' (7 March 2008), *The Independent* www.independent.co.uk/news/uk/politics/gps-agree-to-longer-hours-after-government-threats-792755.html

²²⁷ H. Puttick, '£19,000 each for surgeries if GPs back longer hours' (20 May 2008), *The Herald*, www.theherald.co.uk/news/news/display.var.2057471.0.19_000_each_for_surgeries_if_GPs_back_longer_hours.php; 'GPs accept out-of-hours proposal' (6 March 2008), *BBC News* <http://news.bbc.co.uk/1/hi/scotland/7280427.stm>

conditions'.²²⁸ The Government has also waived the fees for entrants to the new Aberdeen Dental School.²²⁹

11.3 Public Health

One of the bones thrown to the Conservatives in the run up to the SNP's first budget (see section 2.1) was the promise to review Scotland's policy on the treatment of drug users. However, despite the tone of some newspapers, this does not signal the end of 'harm reduction' and a new era of abstinence.²³⁰ The philosophy of harm reduction is controversial, in part because of the order of priorities: first, keep the patient alive; second, treat the underlying psychological problems related to addiction; and, third, encourage a long term transition from substitute prescribing (methadone) to abstinence (if appropriate). Yet there is no evidence from ministerial statements that the Scottish Government is likely to depart radically from this (largely medical) model (although 'recovery', a buzzword in mental health, is gaining more currency).²³¹ Rather, the review may simply provide the opportunity to assess previous Scottish Executive measures to pilot abstinence-based approaches, billed as giving choice to the drug users who reject maintenance/harm reduction programmes.²³²

A much stronger public health message (again based on harm reduction rather than abstinence) can be found in the Scottish Government's attitude to Scotland's 'bevvie culture', with various plans mooted – including taxing supermarkets, pubs and off-licenses to pay for alcohol treatment – to keep the health message high on the agenda and put pressure on alcohol vendors to act more responsibly.²³³

²²⁸ Scottish Government News Release, 1 April 2008, 'Prescription charges cut to £5' www.scotland.gov.uk/News/Releases/2008/04/01120447

²²⁹ 'Dental school fees waived' (19 February), *The Scotsman* <http://news.scotsman.com/scotland/Dental-school-fees-waived.3794168.jp>

²³⁰ E. Barnes 'Cold turkey to replace methadone for addicts' (10 February 2008), *Scotland on Sunday* <http://news.scotsman.com/politics/Cold-turkey-to-replace-methadone.3762513.jp>; 'Methadone: 'Too many use it as part of their drugs routine'' (13 March 2008), *Evening News* <http://news.scotsman.com/politics/Methadone-39Too-many-use-it.3884277.jp>; K. Schofield 'Watchdog to look into effect of drugs policies' (11 February), *The Herald* www.theherald.co.uk/politics/news/display.var.2033552.0.Watchdog_to_look_into_effect_of_drugs_policies.php; 'MSPs agree on drugs policy revamp' (5 February 2008), *BBC News* <http://news.bbc.co.uk/1/hi/scotland/7229164.stm>

²³¹ Scottish Government News Release, 26 March 2008, 'Recovery will be key in new drugs strategy' www.scotland.gov.uk/News/Releases/2008/03/26101431

²³² Scottish Executive News Release, 19 October 2008, 'Funding for drugs projects' www.scotland.gov.uk/News/Releases/2006/10/18152439; 'GBP1.7m funding for anti-drug projects' (19 October 2008), *The Herald*, p6; L. Moss 'Pilot project to help addicts go 'cold turkey' as alternative to methadone' (19 October 2008), *The Scotsman* <http://news.scotsman.com/health.cfm?id=1546342006>

²³³ K. Schofield 'MacAskill: pub owners should pay towards help for alcoholics' (12 February 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2036353.0.MacAskill_pub_owners_should_pay_towards_help_for_alcoholics.php; M. Howie and A. Jamieson, 'SNP threatens to tax supermarkets in war on

In February, Lord Mackay of Drumadoon reversed a decision (taken in 2006) not to hold a fatal accident inquiry into the deaths of two people infected with hepatitis C through infected NHS blood products. While this has furthered the case for a public inquiry (pledged in the SNP manifesto), this will struggle to stay within devolved boundaries (since the issue of NHS compensation is a reserved power guarded by the UK government).²³⁴ The Scottish Government's plan to strengthen legislation on asbestosis should be less fraught (even though it effectively overturns a House of Lords ruling on the ability of people with pleural plaques, asymptomatic asbestosis or pleural thickening to claim compensation) because the measures have strong cross-party support.²³⁵ Even less controversial is the promise of £64m to immunise teenage girls from cervical cancer.²³⁶

11.4 Mental Health

Although there may not be much to choose from between the Scottish and UK Government policies on depression – the same basic problem (a shortage of counsellors) exists, and there is a high level of policy learning between the two (interview, Scottish Executive mental health division, 2006) – their attitudes to implementation (or at least the publicity of policy) appear to be significantly different. While the UK government has announced grand plans to treat 900,000 patients (and cure half of them) with psychological therapies, the Scottish Government continues a long-term and relatively low key approach, funding a range of pilots and allowing health boards the discretion to act on the evidence.²³⁷ More significant differences can be found in their respective attitudes to the reform of mental health legislation, and it is only now that the UK government is trying to correct the stigmatising effect of

booze culture' (12 February 2008), *The Scotsman* <http://news.scotsman.com/politics/SNP-threatens-to-tax-supermarkets.3766548.jp>; Scottish Government News Release 6.5.08 "'Sobering' costs of alcohol" www.scotland.gov.uk/News/Releases/2008/05/06104213

²³⁴ 'Hep C patients' rights 'breached' (5 February 2008) *BBC News* <http://news.bbc.co.uk/1/hi/scotland/7228235.stm>; Scottish Government News Release 23 April 2008 'Hepatitis C and HIV inquiry' www.scotland.gov.uk/News/Releases/2008/04/23125938; P. Cairney (2006) 'Venue Shift Following Devolution: When Reserved Meets Devolved in Scotland', *Regional and Federal Studies*, 16(4): 429–45.

²³⁵ D. Henderson 'Asbestos ruling will pave way for claims by victims' (6 February 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2021471.0.Asbestos_ruling_will_pave_way_for_claims_by_victims.php; 'Pleural plaques action being taken' (6 February 2008) www.holyrood.com/content/view/2048/10552/; Scottish Government News Release, 6 February 2008, 'Steps to strengthen asbestos claims bill' www.scotland.gov.uk/News/Releases/2008/02/06095939; D. McNulty SPOR, 1 May 2008, c.8273 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0501-02.htm

²³⁶ 'Cervical cancer immunisation programme launched' (8 April 2008) www.holyrood.com/content/view/2325/10552/

²³⁷ S. Bosely 'Army of therapists to push aside pills for depression' (27 February 2008) *The Guardian* www.guardian.co.uk/society/2008/feb/27/mentalhealth.health; Scottish Government News release 21 April 2008, 'Support for dementia sufferers' www.scotland.gov.uk/News/Releases/2008/04/21132915 (final three paragraphs)

its approach.²³⁸ The Scottish Government is facing different problems associated with the more sincere aim (enshrined in the 2003 Act) of matching the level of security to the risk of the patient. In practical terms, this means that the Government is now more vulnerable to legal redress if it cannot find sufficient levels of medium secure beds for patients currently housed in the Carstairs state hospital. While media coverage of this process has been minimal, the tone hints at how easy it could be in Scotland to set the agenda and define a policy image in terms of public safety rather than health or civil liberties (particularly in the wake of fears about cuts in mental health services).²³⁹

11.5 Free Personal Care

Free personal care demonstrates well the 'implementation gap', or the gap between expectations and perceived policy results.²⁴⁰ Most of the problems can be explained by a lack of awareness about the likely cost of the policy (linked to 'hidden need' and demographic change) when it was introduced.²⁴¹ This issue of funding is in a sense toxic, with most participants keen not to be blamed for the lack of services in particular areas (for example, care homes may blame the local authority settlement, local authorities may point to an inadequate funding block, the Scottish Government may blame the UK Government for withholding the Attendance Allowance previously enjoyed by older people in Scotland). Without a further injection of funds, the likely outcome is the continuance of a range of practices criticised by the new Sutherland report: restrictions in the coverage of the policy by eligibility and/or the services covered by the term 'free'; waiting lists; a fall in real terms of care payments; and capital allowances.²⁴² While the obvious headline from this report related to its criticism of the UK Government for withdrawing Attendance Allowance,²⁴³ perhaps

²³⁸ McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), pp206-7; D. Batty "Law 'reinforced mental health stereotypes'" (18 February 2008), *The Guardian* www.guardian.co.uk/society/2008/feb/18/mentalhealth

²³⁹ 'State hospital places to be cut' (6 March 2008), *BBC News* http://news.bbc.co.uk/1/hi/scotland/glasgow_and_west/7281026.stm; 'Carstairs patients transfer move' (21 February 2008), *BBC News* <http://news.bbc.co.uk/1/hi/scotland/7256369.stm>; see also Scottish Government News release 7 April 2008, 'Opening of new mental health hospital' www.scotland.gov.uk/News/Releases/2008/04/07145812

²⁴⁰ McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), pp214-5.

²⁴¹ Audit Scotland (2008) A Review of Free Personal and Nursing Care www.audit-scotland.gov.uk/docs/health/2007/nr_080201_free_personal_care.pdf; 1.2.08 'Watchdog warns of funding shortfall for FPC' www.holyrood.com/content/view/2033/10051/

²⁴² Scottish Government (2008) *Independent Review of Free Personal and Nursing Care in Scotland* www.scotland.gov.uk/Publications/2008/04/25105036/16; E. Barnes 2.3.08 'Free care for elderly on brink of collapse' Scotland on Sunday <http://news.scotsman.com/politics/Free-care-for-elderly-on-3834286.jp>

²⁴³ Scottish Government News Release 7 May 2008, 'Funding for care' www.scotland.gov.uk/News/Releases/2008/05/07143856; R. Dinwoodie 'Alexander's dilemma after report on personal care for elderly' (13 May 2008), *The Herald*

the trickier point is how to persuade local authorities as a whole to accept a standardised assessment and funding system so soon after the moves towards outcome agreements.

11.6 Justice

The most high-profile policy development followed a budget deal with the Conservatives to fund an extra 500 police officers (see section 2.1).²⁴⁴ Justice Secretary Kenny MacAskill was more concerned with a crisis in prison numbers, signalling an intention to extend measures introduced by the previous Scottish Executive on home detention (this policy was undermined in Parliament) and suggesting that the new prison commission would attach greater priority to community sentencing (while the private financing of prisons or custody services is still off limits).²⁴⁵ This is supplemented by moves to assess the risk of re-offending, extend pilots on deferred sentencing, collect fines more efficiently (resulting in fewer being jailed for non-payment) and, perhaps, the decision to focus police resources on cannabis dealers rather than consumers (despite its likely reclassification).²⁴⁶ MacAskill also announced a 'hard hitting' campaign to influence public attitudes to rape, the reform of legal aid payments, the reform of evidence disclosure and the repeal of a law exempting spouses/civil partners from giving evidence against their partners, while Public Health Minister Shona Robison announced £22m for services related to violence against women.²⁴⁷ The Scottish Government plans to 'go it alone'

www.theherald.co.uk/politics/news/display.var.2265893.0.Alexanders_dilemma_after_report_on_person_al_care_for_elderly.php

²⁴⁴ H. MacDonell '500 more police for front line' (1 February 2008), *The Scotsman* <http://news.scotsman.com/politics/500-more-police-for-front.3734465.jp>; M. Howie 'Fresh doubt over '1,000 more police' pledge by SNP' (25 January 2008), *The Scotsman* <http://news.scotsman.com/politics/Fresh-doubt-over-391000-3710614.jp>

²⁴⁵ Scottish Government News Release 8 May 2008, 'Government responds to prisons report' www.scotland.gov.uk/News/Releases/2008/05/07113713; M. Howie 'Overcrowded prisons at breaking point, says justice secretary' (12 February 2008), *The Scotsman* <http://news.scotsman.com/scotland/Overcrowded-prisons-at-breaking-point.3766565.jp>; 'Home detention extension planned' (3 March 2008) www.holyrood.com/content/view/2169/10051/; Scottish Government News Release 9 March 2008, 'Easing pressure on prisons' www.scotland.gov.uk/News/Releases/2008/03/07120805; 'Government defeated on Home Detention Curfew extension' (4 March 2008) www.holyrood.com/content/view/2175/10051/; 'Police custody will not go private' (8 April 2008) www.holyrood.com/content/view/2327/10552/

²⁴⁶ 'Risk management tool gets approval', 14 February 2008, www.holyrood.com/content/view/2092/10051/; Scottish Government News Release 15 April 2008, 'Deferred sentence scheme extended' www.scotland.gov.uk/News/Releases/2008/04/15102026; B. Donnelly 'New team to make more fine dodgers pay up' (8 March 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2103693.0.New_team_to_make_more_fine_dodgers_pay_up.php; 'Cannabis re-classification won't change Scottish police attitudes', 5 May 2008, www.holyrood.com/content/view/2441/10051/

²⁴⁷ 'Hard-hitting anti-rape campaign launched', 4 March 2008 www.stv.tv/news/Hardhitting_antirape_campaign_launched_20080304; Scottish Government News Release, 4 March 2008, 'Challenging attitudes to rape' www.scotland.gov.uk/News/Releases/2008/03/04084500; 'Revised legal aid reforms published', 8 April 2008, www.holyrood.com/content/view/2331/10552/; Scottish Government News Release 5 May 2008, 'Law 'loophole' to be changed' www.scotland.gov.uk/News/Releases/2008/05/02150833; 'Disclosure of

by protecting the pension rights of fire-fighters injured in the line of duty, but places current responsibility to reduce the drink-driving limit at the UK Government's door.²⁴⁸

11.7 Education

Although the details of the Scottish Government's new model of finance are still unclear, it is sticking to its pledge to match the previous Scottish Executive's school building programme 'brick for brick'.²⁴⁹ The biggest numbers game in education relates to class sizes. In February, Schools minister Maureen Watt announced a fall in the average class size (which in part relates to falling school rolls as well as the number of teachers) and signalled moves to further reduce class sizes in primaries 1-3.²⁵⁰ Developments in England and Scotland perhaps signal fewer divergences than many perceive – highlighted by the (albeit minimal) movement away from the testing regime in England, and the restrictions on entry to a school in East Renfrewshire, which call into question the myths of equal access and equality of school provision in Scotland.²⁵¹

In a bid to regain the initiative on higher education funding and address Scottish University concerns about the effects of top-up fee income in England, Education Secretary Fiona Hyslop announced extra funding of £10m in January and £20m in March (plus £1.5m for lifelong learning). Hyslop also signalled the prospect (consistent with the new approach to local authorities) of greater University 'freedom'.²⁵²

evidence' 29 April 2008, www.scotland.gov.uk/News/Releases/2008/04/29140738 ; 'Tackling violence against women' 15 April 2008, www.scotland.gov.uk/News/Releases/2008/04/15140544

²⁴⁸ K. Schofield 'Holyrood moves to protect pensions of injured firefighters' (11 February 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2033525.0.Holyrood_moves_to_protect_pensions_of_injured_firefighters.php ; Scottish Government News Release 12 March 2008, 'Calls to reduce drink driving limit' www.scotland.gov.uk/News/Releases/2008/03/12101510

²⁴⁹ D. Fraser 'Leaders clash over plan for new schools' (8 February 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2028911.0.Leaders_clash_over_plan_for_new_schools.php

²⁵⁰ Scottish Government News Release 26 February 2008, 'Smaller class sizes for early years' www.scotland.gov.uk/News/Releases/2008/02/26104110 ; 'Classes sizes fall', 26 February 2008, www.holyrood.com/content/view/2147/10552 ; Scottish Government News Release 20 November 2007, 'Measures to support lower school class sizes' www.scotland.gov.uk/News/Releases/2007/11/20123238

²⁵¹ J. Russell 'The folly of our test fixation is plain to all. Except ministers' (7 February 2008), *The Guardian Online* www.guardian.co.uk/commentisfree/story/0,2253718.00.html ;

²⁵² A. Denholm 'Increase in freedom will be more welcome than short-term cash' (28 January 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.1997845.0.Increase_in_freedom_will_be_more_welcome_than_shortterm_cash.php ; F. MacLeod 'Education secretary who is willing to learn' (8 February 2008), *The Scotsman* <http://news.scotsman.com/politics/Education-secretary-who-is-willing.3757957.jp> ; 'Universities and colleges to share an extra £20m' (9 March 2008), *The Scotsman* <http://news.scotsman.com/scotland/Universities-and-colleges-to-share.3859365.jp> ; S. Carrell 'Scots reply to England's university challenge' (16 November 2008), *The Guardian* www.guardian.co.uk/uk/2007/nov/16/universityfunding.scotland ; Scottish Government News Release 4 May 2008, 'Support for lifelong learning' www.scotland.gov.uk/News/Releases/2008/05/06081626

11.8 Transport and Environment

The Scottish Government has chosen the company Interlink (the only bidder) to build the M74 extension at a cost of £445m.²⁵³ Although the extension has raised significant environmental opposition, the SNP does not need to negotiate with the Greens, since this is a policy inherited from the Scottish Executive and supported by the major parties.²⁵⁴ The cost of the M74 gives us one measure of the relative significance of financial support for other forms of transport, such as the £250,000 to take freight off the roads between Irvine and Rannoch.²⁵⁵

Cabinet Secretary for Rural Affairs and the Environment, Richard Lochhead, has outlined plans to support more waste incineration plants (but not 'large, inefficient, "white elephant" incinerators') as part of a target to reduce the proportion of household waste to landfill to 5 per cent by 2025. The issue of incineration has always been controversial, with the Scottish Government's predecessors facing significant opposition for more modest plans (however, again, this suggests that party opposition will not be a big factor). This perhaps explains the different emphasis in the Scottish Government and press descriptions of policy.²⁵⁶ Lochhead has also: claimed victory in the issue of ship-to-ship oil transfers (following the decision of Forth Ports not to proceed with an application and the UK Government to revisit the regulations); called for more devolved marine powers; signalled a potential change to the common fisheries policy; begun to develop a 'national food policy' following consultation with Scottish businesses and the major supermarkets; set up a task force to 'alleviate the plight of Scotland's pig meat sector'; and re-launched the Whole Farm Review Scheme.²⁵⁷ The Gordonbush wind farm in Sutherland was approved by ministers in April.²⁵⁸

²⁵³ Scottish Government News Release 14 February 2008, 'Green light for M74 completion project' www.scotland.gov.uk/News/Releases/2008/02/14094902; 'Review of controversial M74 extension ordered' (7 February 2008), *The Scotsman* <http://news.scotsman.com/politics/Review-of-controversial-M74-extension.3757976.jp>

²⁵⁴ P. Harvie 'M74 Court Case' (28 June 2006) www.patrickharviemsp.com/?p=58; 'Sustainable Transport Initiative – Ministers apparently oblivious to irony' (17 March 2008) www.patrickharviemsp.com/?p=290

²⁵⁵ 'Government grant to take freight off roads', 30 April 2008, www.holyrood.com/content/view/2424/10051/

²⁵⁶ Scottish Government News Release 24 January 2008, 'New vision for waste' www.scotland.gov.uk/News/Releases/2008/01/24145725; 'Funding for zero waste technology' (15 April 2008) www.scotland.gov.uk/News/Releases/2008/04/15102743; I. Johnston 'Controversial incinerators plan to help Scotland hit green targets' (25 January 2008), *The Scotsman* <http://news.scotsman.com/scotland/Controversial-incinerators-plan-to.3710634.jp>; L. Gray 'Anger at scheme to incinerate more of Scotland's rubbish' (15 March 2008), *The Scotsman* <http://news.scotsman.com/latestnews/Anger-at-scheme-to-incinerate.3354620.jp>; F. Urquhart 'Health concerns hit incinerator plans' (12 February 2008), *The Scotsman* <http://news.scotsman.com/latestnews/Health-concerns-hit-incinerator-plans.2502904.jp>

²⁵⁷ 'Ship-to-ship plans stymied by Forth Ports' (1 February 2008) www.holyrood.com/content/view/2031/10552/; Scottish Government News Release 1 February 2008,

11.9 Housing

Given the Thatcherite legacy in Scotland, few public policies could match the symbolism of a return to council house building. In April, Nicola Sturgeon announced £7.5m of funding to enable West Lothian council to build 240 houses for rent (accompanied by a promise to block right-to-buy for new builds) and arguably signals a further shift from subsidising housing association projects.²⁵⁹ It has also rejected UK Government plans to link social housing contracts to job seeking.²⁶⁰ In February, the Scottish Government promised £7m to cut the waiting list associated with free central heating for older people.²⁶¹ However, it had grander plans for wider fuel poverty issues, arguing that it can only make a real difference following constitutional change.²⁶²

'Ship to ship oil transfer' www.scotland.gov.uk/News/Releases/2008/02/01095507 ; Scottish Government News Release 3 April 2008 'More marine powers required' www.scotland.gov.uk/News/Releases/2008/04/02162546 ; The Scotsman 'Scotland 'shaking itself free' of EU fishing quota policy' (3 March 2008), *The Scotsman* <http://news.scotsman.com/politics/Scotland--39shaking-itself-.3838332.jp> 'National food policy meeting', 8 April 2008, www.holyrood.com/content/view/2332/10552/ ; Scottish Government (2008) *National Discussion on Food* www.scotland.gov.uk/Topics/Business-Industry/Food-Industry/Discussion ; B. Ferguson "£60m 'world's finest' drive for Scots food" (18 March 2008), *The Scotsman* <http://news.scotsman.com/politics/60m-39world39s-finest39-drive-for.3887092.jp> ; Scottish Government News Release 16 April 2008 'Action to support the pig sector' www.scotland.gov.uk/News/Releases/2008/04/16152003 ; Scottish Government News Release 7 May 2008, 'Scheme to improve business' www.scotland.gov.uk/News/Releases/2008/05/07115228

²⁵⁸ Scottish Government News Release 9 April 2008, 'Approval granted for wind farm'

www.scotland.gov.uk/News/Releases/2008/04/09143312

²⁵⁹ B. Donnelly 'New era of the council house is launched by Sturgeon' (26 April 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2227553.0.New_era_of_the_council_house_is_launched_by_Sturgeon.php

²⁶⁰ R. Dinwoodie 'Maxwell rejects 'get a job' threat' (6 February 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2021422.0.Maxwell_rejects_get_a_job_threat.php ; see also UK plans for subsidised housing – R. Jones 'Key worker home scheme gets revamped' (27 February 2008), *The Guardian* www.guardian.co.uk/business/2008/feb/27/housingmarket.houseprices

²⁶¹ G. Braiden 'Councils help battle backlog of free central heating project' (5 February 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2018102.0.Councils_help_battle_backlog_of_free_central_heating_project.php ; Scottish Government News Release 21 April 2008, 'Central Heating Programme' www.scotland.gov.uk/News/Releases/2008/04/21104014

²⁶² Scottish Government News Release 23 April 2008, 'Tackling fuel poverty' www.scotland.gov.uk/News/Releases/2008/04/23095001