

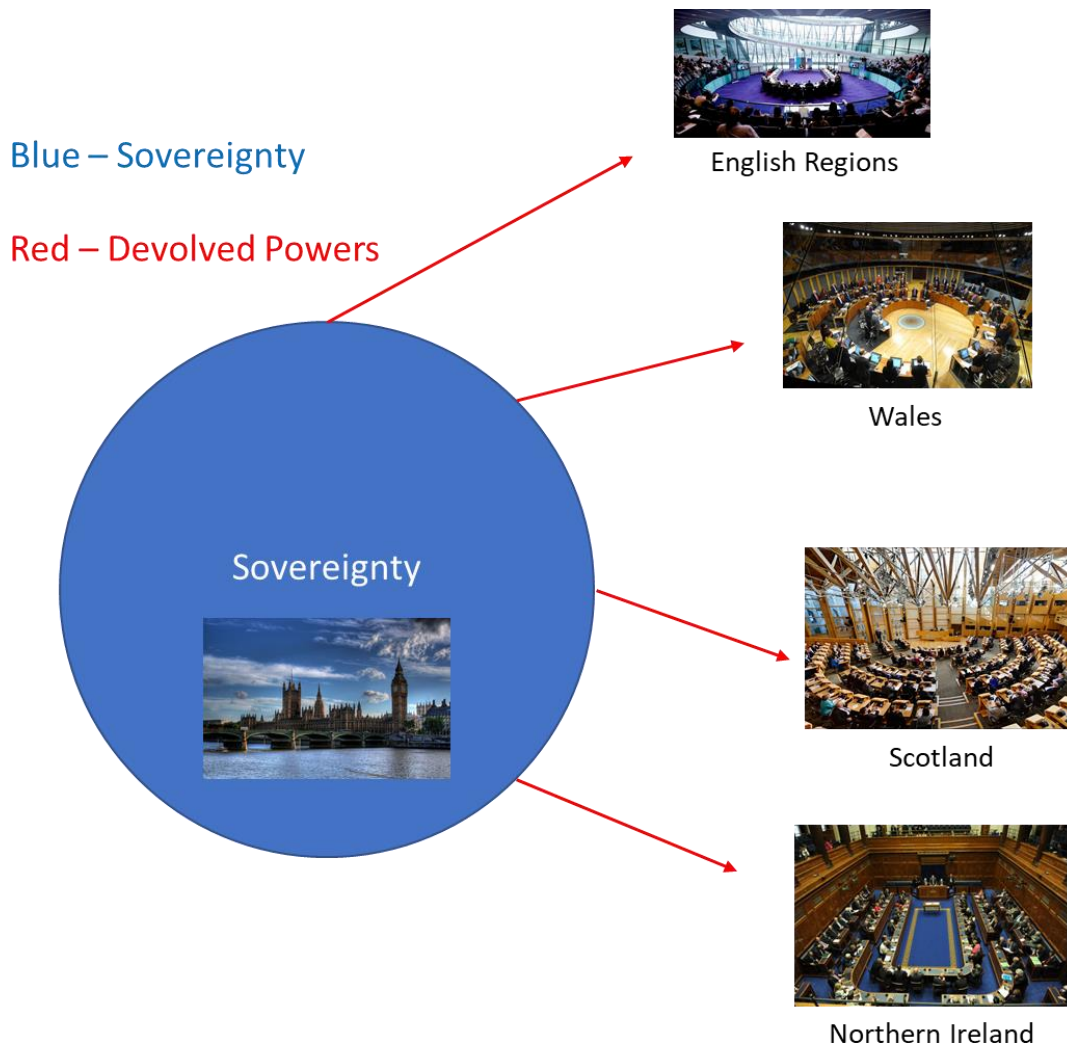
## What is devolution and how did it come about?

Devolution refers to the process whereby power is delegated (given) to specific regions of a country. Importantly, however, sovereignty does not change. The ultimate power remains with the central power who had in the first place.

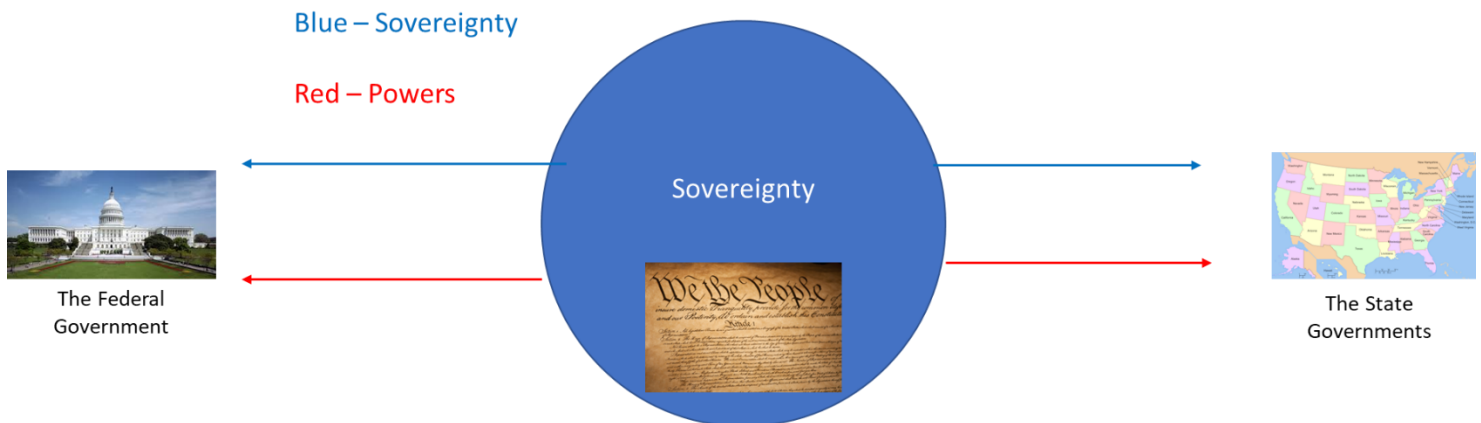
Devolution is different from **Federalism**. In a Federal System, sovereignty is divided. Ultimate power is split between different areas and has not merely been delegated, as it has in the UK.

In Britain, devolution has developed since 1997. It has seen greater powers being given to various areas of the United Kingdom. Parliamentary Sovereignty means that ultimately all power belongs to the Westminster Parliament. However, Parliament has taken the decision to delegate some of its power to the different regions of the United Kingdom.

Devolution in the UK, where Parliament is Sovereign:



In the US, for example, there is constitutional sovereignty. Powers are divided directly between the Federal Government and the State Governments by the Constitution:



Devolution in the United Kingdom was first pushed by the Labour Party with the support of the Liberals in the 1970s. Referendums took place in 1979 in both Scotland and Wales to decide whether or not devolution should be enacted:

**Scottish Devolution Referendum (1979)** - In Scotland 51% voted for devolution in 1979. However, an amendment to the bill stipulated that 40% of Scotland's total electorate had to vote in favour, however only 32.9% did.

**Welsh Devolution Referendum (1979)** - In Wales 79% voted against devolution in 1979. There was a turnout of only 35.6%.

It was not considered to be possible to offer devolution to Northern Ireland at this time because they were going through **The Troubles**. This was a period of violence between Unionist and Republican communities in Northern Ireland that lasted from 1968 to 1998.

In 1979 Margaret Thatcher became Prime Minister and the Conservatives remained in power until 1997. Traditionally, the Conservatives have been less keen on devolution and it was not part of the political agenda during their period in power, so devolution did not develop during this period.

However, when **New Labour** came to power in 1997, devolution was offered to Wales, Scotland, Northern Ireland and London. A number of referendums took place to confirm whether the population of these areas wanted devolution.

**Scottish Devolution Referendum 1997** – 74% to 26% in favour of Scottish Devolution.

**Welsh Devolution Referendum 1997** – 50.3% to 49.7% in favour of Welsh Devolution.

**Northern Irish Good Friday Agreement Referendum 1998** – 71% to 29% in favour of the Good Friday Agreement and Northern Irish Devolution.

**Greater London Authority Referendum 1998** – 72% to 28% in favour of greater devolution to London, including a directly elected Mayor of London.

The wishes of the electorate in these areas was confirmed by a number of Acts of Parliament:

- Northern Ireland Act (1998)**
- Scotland Act (1998)**
- Government of Wales Act (1998)**
- Greater London Authority Act (1999)**

This resulted in a number of devolved Parliaments being set up in the devolved regions:

- Welsh Assembly** (As of 2020, a Labour and Liberal Coalition formed a majority in the Welsh Parliament).
- Scottish Parliament ('Holyrood')** (As of 2020, the SNP lead a **minority government**).
- Northern Ireland Assembly ('Stormont')** (The DUP, Sinn Fein, UUP, SDLP and Alliance share power as part of the power sharing arrangements in Northern Ireland).
- London Assembly** (Currently, Labour are the biggest party in the Assembly, but do not have a majority).

Each region has a devolved Executive (Government) with powers passed to it from Westminster.

- Welsh Government** – Headed by the First Minister, currently Carwyn Jones (Labour).
- Northern Ireland Executive** - Until March 2017, headed by the First Minister Arlene Foster (DUP) and Deputy First Minister Michelle O'Neill (Sinn Fein).
- Scottish Government** – Headed by the First Minister, Nicola Sturgeon (SNP).
- Greater London Authority** – Headed by the Mayor of London, Sadiq Khan (Labour).

Each area has powers that are given to it by the Westminster Parliament. These are known as **devolved powers**.

#### Examples of Devolved Powers

- Scotland – Health, Education and Housing
- Wales – Health, Education and Agriculture
- Northern Ireland – Policing, Prisons and Housing
- London – Transport, Policing and Housing

As examples of how this works, in England the NHS is under the control of Theresa May's Conservative Government. However, in Wales, it is under the control of Carwyn Jones' Welsh Government.

In England a student pays over £40,000 in university tuition fees. In Scotland, Scottish students only pay £1,820 per year.

In England, medical prescriptions cost £8.60 each. In Wales and Scotland they are free.

Other powers, however, are **reserved powers**. These powers are generally those which affect the whole of the United Kingdom and are not suited to being handled separately.

### Examples of Reserved Powers

Constitutional Matters  
 Defence Policy  
 Foreign Policy

Unlike in a Federal System, Devolution means that power is decentralised by the choice of the Central Authority. In the case of the U.K, this means that the Westminster Parliament has voluntarily chosen through Acts of Parliament to give power to devolved areas. Importantly, it could be withdrawn. Indeed, constitutionally, there is nothing to stop the Westminster Parliament legislating on devolved issues. Until 2016 it was only by a convention, known as the **Sewel Convention**, that this did not happen. However, in the Sewell Convention was codified into law in the **Scotland Act (2016)** and the **Wales Act (2017)**.

### Brexit and Devolution

Brexit is a major constitutional change that is going to fundamentally change the way Britain works. Although 52% of voters chose to leave the European Union in 2016, this was not uniform across the United Kingdom. The results in various areas were:

**Scotland** - 38% voted to leave  
**Wales** - 52.5% voted to leave  
**London** - 40% voted to leave  
**Northern Ireland** - 44% voted to leave

This means that only in Wales and England did a majority of voters chose Brexit.

This causes problems, as Scotland, London and Northern Ireland are going to have to accept major constitutional changes which their voters did not mandate.

This could lead to greater calls for devolution, of even independence, to stop these areas suffering the perceived problems that leaving the European Union would bring.

### Sewel Convention

The Sewel Convention was established to deal with potential conflicts between the Westminster Parliament and the Scottish Parliament. It was announced in 1998 when devolution was established. The convention states that the Westminster Parliament will not legislate on areas of devolved power, unless they are expressly given permission by the devolved assemblies.

This convention has now also been codified into law. The Scotland Act (2016) stated that “it is recognised that the parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the Scottish Parliament”.

Ultimately, since 2009, it has been the role of the Supreme Court to arbitrate on any disagreement between the political regions of the UK.

**Example of the Supreme Court arbitrating on the political process**

In 2014 the UK Government believed that the Welsh Government had acted beyond its devolved powers by passing a bill to regulate agricultural wages. The Westminster Government believed this fell into the realm of industrial policy and not agricultural policy. Although agricultural policy was a devolved power to Wales, industrial policy was not. In the case Agricultural Sector (Wales) Bill the Supreme Court judged that the Welsh Government was allowed to make policy in this area.

**What are the fundamental problems with Devolution?**

**Funding**

Funding for the devolved areas is given via a **Block Grant** from the Westminster Government. The formula to work this out is known as the **Barnett Formula**.

**How does the Barnett Formula work?**

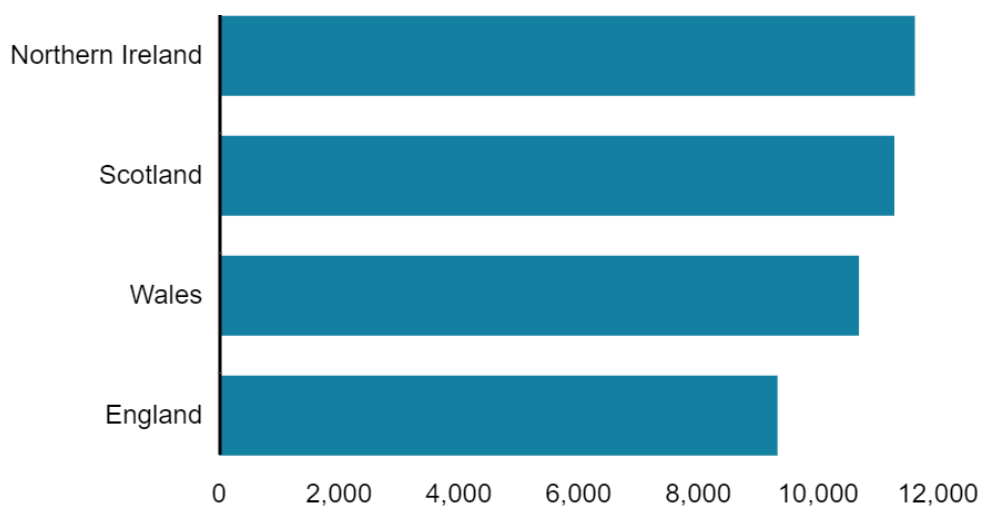
1. It considers any changes made each year the Departmental Budgets of the Westminster Government
2. It multiplies this by a comparability percentage. This is the amount of devolution that has happened in this sector
3. It multiplies this by the proportion of population that the devolved area has of the UK.

The total amount is then given to the devolved areas as a block grant.

The Barnett Formula has been seen to be unfair because it allocates different amounts of money per person across the UK.

As of 2018/2019 spending per person across the UK was:

**England** - £9,296  
**Scotland** - £11,247  
**Wales** - £10,656  
**Northern Ireland** - £11,590



There are a number of justifications as to why Northern Ireland, Scotland and Wales have higher levels of spending per person than the UK:

- Populations are sparser. This makes providing public services costlier. For example, the cost of providing train services in the Scottish Highlands will inevitably be higher than that in Surrey.
- The size of the public sector differs between different areas. For example, in Scotland, water and some Airports are owned and run by the Government, whereas in England they are privatised.
- Money that is spent on devolved areas comes from the Barnett Formula and from **direct spending**. Therefore, relative amounts spent can be misleading.

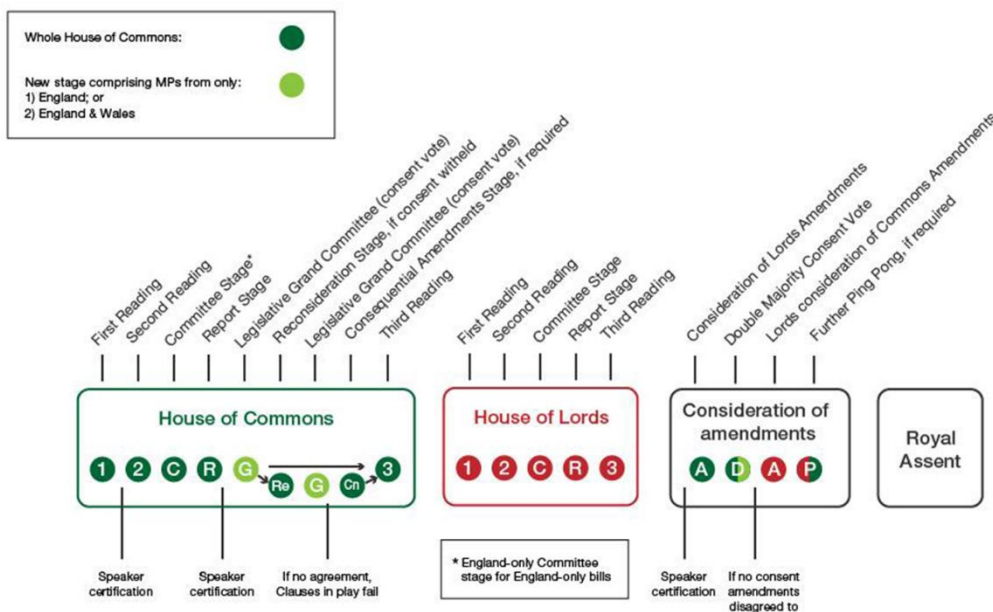
However, despite these justifications, the sense that more is being spent on citizens outside of England leads to resentment from some. This is especially the case when provisions are offered in Scotland, for example, that are not offered in England. The best examples of these provisions are free higher education and free prescription charges. These means that there is **asymmetrical devolution**.

### The West Lothian Question

A major complication of the way that Devolution works is what is known as the **West Lothian Question**. Despite the Sewell Convention meaning that English MPs do not make laws that will affect Scotland, Wales and Northern Ireland, the same cannot be said about Scottish MPs on English matters. This is because England does not have its own Parliament and all English matters are legislated for in Westminster, MPs from devolved areas can vote on issues that will not affect their own constituents but will effect constituencies in England. This has become known as the West Lothian Question, after Tam Dalyell the MP for West Lothian raised it in 1977, when Devolution was being considered.

This has become a big focus in British Politics, particularly after the promise of ‘**Devo-Max**’ to Scotland during the Scottish Referendum debate. It has led to an emphasis on the ‘**The English Question**’. David Cameron’s Conservative Government claimed to have solved this by adding an additional Committee Stage to the legislative process. This stage is called the **Grand Committee** stage. In this Committee Stage, Scottish, Welsh and Northern Irish MPs would not be able to have the ultimate say on matters only effecting England:

Outline of model - Bill starting in the House of Commons



However, although progress has been made, this has not completely solved the ‘English Question’. The final version of a bill will still be voted on by all MPs. This means that MPs of areas that have devolved powers can still vote on legislative changes that will not affect their own constituents. In addition, the issue as to whether it is an ‘English Only’ matter is solely that of the Speaker of the House of Commons

### Post-2015 Examples of the West Lothian Question

**9th March 2016** – The Conservative Government proposed to relax Sunday Trading Rules in England and Wales. The Government’s motion was defeated by 317 to 286 votes. Had 59 SNP MPs not voted against the change, the government would have won by 21 votes. The SNP did this despite the issue not directly affecting Scotland.

**14<sup>th</sup> March 2018** - 8 DUP MPs voted with the Conservative Government to remove thousands of Free School Meals in England. Their decision would not impact their constituents in Northern Ireland, as this is a devolved issue.

### Unstable System

As soon as the process of devolution has begun, it is almost inevitable that devolved areas will want more power and become increasingly unhappy with the powers they have. This spiral, some would argue, inevitably leads to a demand for full independence. Although there was a Scottish Independence Referendum in 2014 in which Scots voted to remain in the UK, there is a seeming growing desire for what has been dubbed ‘[IndyRef2](#)’.

### Expense

It is sometimes argued that Devolution is a more expensive way to deliver services across the United Kingdom as a whole. New institutions have been built which cost hundreds of millions of pounds and there is a danger that there is duplication between the central government and devolved areas, particularly if the responsibility for a certain issue is not clear cut. On the other hand, it could be argued that local areas know how to support their services than a central government.

### Requirement for Inter-Governmental Relationships

Before Devolution there was only one government and although there were government departments for Scotland, Wales and Northern Ireland, they were all from the government and party, relationships were inter-departmental.

Now, to deal with issues, the central government must deal with a whole different government. This was not so big a deal between 1999 and 2007 when the Labour Party led the governments of Scotland and Wales. However, since 2007 the SNP have been in Government in the Scottish Parliament.