



What are the Main Options for Constitutional Change for Scotland?

Is there a Scottish Constitution?

Constitutions are sets of rules and principles that guide how a country is governed and how powers are shared between the government, the parliament and the people. Although there is not a single written Scottish constitution, there are two main constitutional documents that underpin Scotland's place in the UK. First, the Treaty of Union of 1706, following by the Acts of Union, paved the way for Scotland and England to unite in a political union in 1707. Second, the Scotland Act 1998 set out the powers and responsibilities of the Scottish Parliament and the Scottish Government.

Is there a UK Constitution?

Many countries have a single document that includes all of the rules and principles that make up that country's constitution. The UK does not have such a document, but it does have a constitution. The UK constitution is made up of important Acts of Parliament, key judgments made by the UK courts, and practices, known as constitutional conventions, that, although not written down in law, are considered to be rules for the working of parliament and government.

What are the Main Constitutional Options?

There are five main constitutional options:

1. The status quo option

This would keep the powers of the Scottish Parliament as they are. It would mean that the areas that are currently decided only by the UK parliament and the areas where the Scottish Parliament has the power to pass its own laws would stay the same. However, it does not mean that there wouldn't be any change. The UK's exit from the EU (Brexit) is likely to affect the powers and responsibilities of the Scottish Parliament even if there are no changes to the balance of reserved and devolved powers.

3. More shared powers

It is common for the powers and responsibilities of one government to have an impact on the responsibilities of the other. This is especially the case with policy areas that are reserved to the UK Parliament, many of which can affect matters that are devolved to the Scottish Parliament.

For example, foreign policy is a reserved matter. This means that the UK Government has responsibility for representing the whole of the UK in the European Union and in international forums. But this sometimes involves reaching agreements with international partners in policy areas that are devolved to the Scottish Parliament.

Similarly, under current arrangements, the UK Parliament passes laws on pensions and most benefits for citizens in need across Scotland, England and Wales (social security is devolved in Northern Ireland). These laws might have an indirect impact on some of the responsibilities of the Scottish Parliament and Government, for example, relating to social care, health care or social housing.

2. More (or less) devolution

This could involve increasing the policy areas that are reserved to the UK Parliament under the Scotland Act 1998 (and so giving the Scottish Parliament less power). Or, more commonly, it is associated with proposals to reduce the policy areas that are reserved to the UK Parliament to give the Scottish Parliament more powers. This 'option' is in fact a range of different options, as the powers of the Scottish Parliament can be changed a little or a lot.

The UK Government and the governments of Scotland and Wales (along with the Northern Ireland Executive when there is one) sometimes come together to discuss issues that can arise when their policy responsibilities connect. However, these forums can be quite irregular, and are for discussion only. The governments do not make decisions together. Some have argued that there should be more opportunity the governments to share power and decision making on issues of common or overlapping concern. This might involve the Scottish Government having the opportunity to influence and agree some matters that are currently reserved to the UK Parliament (e.g. the negotiation of international agreements or trade deals). It could also involve the UK Government having a say over some matters that are devolved to the Scottish Parliament (e.g. agricultural support, environmental standards, etc.).

4. Federalism

This would involve changing the UK constitution into a federal constitution, with an arrangement that divided decision-making power and authority between a federal parliament (making decisions for the whole of the UK) and parliaments representing the nations and/or regions of the UK. This would involve significant changes to the UK Parliament, the UK Government and would require the setting up of a separate system of government for England (either one parliament for the whole of England or separate ones for each English region). This may or may not involve increasing or decreasing the powers the Scottish Parliament.

5. Independence

Scottish independence would mean that the UK Government and Parliament would no longer make decisions for Scotland. This would mean all laws and policies would be made in Scotland, and all taxes would be raised and spent in Scotland. It would involve negotiations between the Scottish and UK Governments to agree the terms of independence as well as the future relationship between Scotland and the rest of the UK. An independent Scotland would also have to negotiate its relationship with its European neighbours and the international community. If an independent Scotland was a member of the European Union, laws made in Scotland would have to be in line with EU laws. In this scenario, the people of Scotland would be represented in the EU institutions by the Scottish Government and Scottish Members of the European Parliament.

What about Local Government?

The powers and responsibilities of local government (councils) are decided by the Scottish Parliament. The budget that each local government has to spend on local services mostly comes from the Scottish Government, with some money coming from local taxes, mostly the council tax. The laws on council tax are decided by the Scottish Parliament. Some people have argued for councils to be given more powers, including more tax powers to allow them to raise more money locally.