



Constitution Unit



ISBN: 1 903903 30 1

First Published May 2004

Copyright © The Constitution Unit

Published by The Constitution Unit
School of Public Policy, UCL
29–30 Tavistock Square
London
WC1H 9QU


Phone: 020 7679 4977

Fax: 020 7679 4978

constitution@ucl.ac.uk

www.ucl.ac.uk/constitution-unit/

This report is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, hired out or otherwise circulated without the publisher's prior consent in any form of binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.





Contents

Executive summary	5
Coalition Governance in Scotland and Wales	7
The focus of the study	7
Overview of coalition government in Scotland and Wales	8
Coalition government and electoral choice	9
Government formation and termination: The constitutional rules	12
Negotiating a coalition	13
The coalition agreement	15
Managing coalitions	16
Coalitions in a devolved polity	20
Conclusion: Themes and lessons	21
Annex 1: Chronology of the coalitions	25
Annex 2: Coalition ministries in Scotland and Wales	26
Annex 3: Details of study visits	27



This study was generously funded by the Nuffield Foundation.

The Nuffield Foundation is a charitable trust established by Lord Nuffield. Its widest charitable object is 'the advancement of social well-being'. The Foundation has long had an interest in social welfare and has supported this project to stimulate public discussion and policy development. The views expressed are however those of the authors and not necessarily those of the Foundation.

Executive summary

This Briefing analyses the initial experience of coalition government in Scotland and Wales. Scotland has been ruled by a coalition administration since the first devolution elections in 1999; Wales experienced a coalition for over half the first term of the National Assembly. It is thus a good time to review the early experience of power-sharing government: to explore how the coalition arrangements worked, what adaptations have been made to these arrangements, and what further reforms might be necessary in future.

Elections

Coalition government has not greatly altered the conduct of elections. The parties in Scotland and Wales have not reduced their room for manoeuvre in any post-election bargaining by signing up for one coalition or another prior to the poll. Surveys conducted in Scotland and Wales suggest members of the public would like the parties to provide this information. But the parties have limited their pre-election 'signals' to ruling out certain parties, rather than ruling others in. Nor did the two coalitions campaign in 2003 as a government, but rather as separate parties (although some preparations were made for the possibility of coalition re-formation after the election).

Constitutional rules on government formation and termination

The constitutional rules in Scotland covering the way governments form and terminate are, in the main, well designed. However, a question remains about the timescale for government formation. After an election, the Scottish Parliament must reconvene within seven days, and an investiture vote on the First Minister must be held after fourteen days (although he or she need not be voted into office until twenty eight days after the election). These requirements might serve to rush the process of coalition formation. Coalition formation took just five days in 1999, and eight days in 2003, comfortably within the period before the first investiture vote. However, should coalition bargaining involve parties that are new to government, the negotiating period might be longer, potentially running up against the investiture vote deadline.

The constitutional rules in Wales are even tighter than those in Scotland, since a First Minister must actually be chosen within fourteen days of an election, not merely an initial investiture vote be held. More seriously in Wales, the constitutional rules make no provision for the Assembly to be dissolved in the event that no secure government can be formed. In such a situation—by no means unlikely—this absence risks entrenching deadlock.

The period immediately prior to the elections in May 2003 was relatively smooth for the coalitions in Scotland and Wales, with no evidence of any major departure from collective responsibility. Policy makers in Scotland made some provision for potential coalition sensitivities before and after the election. Prior to the poll, it was agreed that major policy announcements be cleared with both coalition leaders. It was also agreed that, in the event of a coalition defeat at the election, it would continue in office *pro tem* as a 'caretaker', but would take no major policy decisions that would bind its successor.

Negotiating a coalition

The most noteworthy feature of the coalition negotiations in Scotland in 2003 were the support arrangements introduced by civil servants. Each negotiating party was offered the support of two officials attached to the parties, with a wider pool of officials responsible for policy advice and document drafting. This ensured that the parties had good access to official information and advice, and also that this was provided on an equal basis. The parties themselves also introduced different arrangements in 2003, with more input to the negotiating process from the parliamentary and wider party arms.



The agreement

The coalition agreement signed in Scotland in 2003 is three times as long as that signed by the same parties in 1999. This reflects the greater understanding of coalition government by both parties, and the role that an initial agreement can play in effective coalition management. The greater detail of the agreement second time around does not appear to threaten the capacity for government flexibility. However, officials would be more concerned about highly prescriptive agreements reached by parties with little experience of government.

Coalition management

The coalitions in Scotland and, to a lesser extent, in Wales operated quite well during their first terms. Both administrations introduced a set of internal procedures to reflect the fact of coalition. These procedures included: information sharing, informal ministerial meetings, close relations among the special advisers and liaison arrangements between the executive and legislature. Coalition management within the executive has tended to be fairly centralised, around the key figures of the First Minister and Deputy First Minister. At the executive level, relations between the coalition partners

and thus to allocate reward or blame when they cast their ballot?

Government formation

3. What constitutional rules are appropriate in a situation of power sharing governments?
4. In the period between the election and the formation of a new government, what role should the 'caretaker' administration play?

Negotiating a coalition

5. What processes and timescales are appropriate to the negotiation of an effective coalition?

The coalition agreement

6. What kind of agreement best underpins an effective coalition, in particular its degree of policy detail?

Coalition management

7. How can coalitions be managed to ensure a co-ordinated approach to policy making between the constituent parties? What specific mechanisms are effective in ensuring co-ordination?

Coalitions in a devolved polity

9. How are the dynamics of coalition government shaped by a devolved political system?

These issues were given some initial treatment in an earlier Constitution Unit report which set the scene for the coalitions in Scotland and Wales.³ The purpose of this Briefing is to revisit the earlier analysis, to explore how the coalitions performed during the first term of the new assemblies, and to identify what changes were made to their operation. The research draws primarily on two study visits to Edinburgh and Cardiff in autumn 2003, during which interviews were conducted with some of the key personnel involved in the coalition administrations. A list of those interviewed is at Annex 3. The Briefing also explores some public reactions to coalitions in Scotland and Wales, in particular people's attitudes towards the role of elections in a multi-

party situation. The data I review draws on the British Social Attitudes Surveys for 1999 and 2003.

Overview of coalition government in Scotland and Wales

Scotland has been governed by a coalition since the first devolution elections in May 1999 (see Annex 1 for a brief chronology). It was always anticipated that the proportional voting system used in Scotland would deny any one party an overall majority in the Scottish Parliament. This is indeed what happened in both 1999 and 2003, with Labour gaining a clear plurality of seats the Toc mechanism

by are the To 52% A the T 11% S, 7 22% D, 0 008 B, 10 6 57% K



In fact, the parties have largely ignored voters' wishes here. At most, they have ruled out certain coalitions rather than binding themselves to potential partners. In Scotland, in 1999 and 2003, the Conservatives ruled out a coalition with the Scottish National Party (SNP), a position reciprocated by the SNP. In formal terms, the Liberal Democrats indicated in 1999 that they would deal with whichever party gained the most seats, a stance they repeated in 2003. On both occasions, however, they clarified this position by stating they did not believe the SNP would meet this test, thus effectively ruling out a deal with the nationalists. For its part, Labour made no public indication of its preferred coalition partner in either 1999 or 2003.

In Wales, the first devolved election in 1999 was expected to produce a Labour majority, so little attention was paid to coalition options. Prior to the second Assembly election in 2003, the Conservatives expressed reservations about entering a coalition with the Liberal Democrats; the Liberal Democrats reciprocated. Plaid Cymru indicated they would not go into coalition with the Conservatives. Labour indicated that it would be unlikely to form a coalition with the Conservatives or Plaid Cymru, without explicitly ruling out these options.

So the parties are hardly providing the conditions in which all voters can confer mandates on potential future governments. How do people in Scotland and Wales respond? The two post-

election surveys explicitly canvassed the public's views on this issue, by asking for responses to statements that elections should provide either for a mandate or for a representative outcome. There is clearer support for the mandate role of elections in Wales; in Scotland, roughly equal proportions believe elections should provide a mandate or a fair outcome (Table 3). Moreover, the relative popularity of the two options has not changed between the two devolved elections. We can infer that, the more the public is reconciled to coalition arrangements—as in Scotland—the less likely they are to believe that elections should allow for the direct selection of a government.

But what if people are concerned less with using their vote to confer a mandate on a government, than to reward or sanction a government already in office? This requires 'clarity of responsibility', with voters being clear which party is responsible for which policy outputs.⁴ Such clarity is difficult to provide when more than one party holds office, since coalitions involve concessions between the partners, which muddies, rather than clarifies, responsibility. Yet coalitions can provide voters with at least some clarity, provided two conditions are met. The first is that a particular party habitually controls a particular portfolio, so that voters can identify that party with outputs from that portfolio. The second is that the coalition partners control ministries by themselves, so that any decisions in a particular


Table 4: Public views on elections as 'sanctions'

	1999	2003	1999	2003
It is better to have just one party in government so that it is very clear who should be blamed if things go wrong	31%	41%	41%	37%
It is better to have two or more parties in government so that more responsibility is spread	69%	59%	59%	63%

field can be allocated to either one partner or the other.⁵

The coalition in Scotland has gone some way in helping voters to clarify responsibility. Until after the 2003 election, each ministry had remained in the same party's hands over three different governments (Annex 2). Thus, for example, the junior partner—the Liberal Democrats—held the Rural Affairs and Justice ministries throughout

Finally, what impact has coalition had on the parties' behaviour at elections? As already mentioned, the governing parties in Scotland and Wales did not campaign as a coalition, but as separate parties. I noted above that this strategy arguably hinders voters' ability to treat elections as opportunities to confer a mandate on a government. A second potential pitfall in the parties' approach is that separate campaigns—emphasising different issues or policy options—




to ten people. The numbers allowed for small groups—of two to three people from each party—to convene and discuss individual policy areas. Agreements reached in these smaller groups were then discussed and approved by the full party groups meeting together. Any outstanding issues—and there were about ten such areas of disagreement in 2003—were then resolved through meetings of the party leaders, chief advisers and relevant ministers (the party leaders were not directly involved in the negotiations, but kept back to tackle unresolved issues).

Decisions on portfolios tend to be taken by the party leaders. The major decision in Scotland in 2003 was Labour's removal of the Justice portfolio from the Liberal Democrat leader, Jim Wallace. This reflected Labour's belief that the Liberal Democrats had already achieved




policies when its ministries are divided between two or more parties. I have already noted the role



ministers, up from two of each prior to 2003 (see Annex 2). This eases the burden on the junior party's ministers, by enabling them to share more widely the workload, notably the papers copied to their offices and the cabinet sub-committees on which the party is represented. The party has also gained a presence in a key cross-cutting department, Finance, where the party holds a junior minister post. Since the coalition partners have agreed that special adviser posts be allocated in proportion to each party's share of seats (as with ministerships), the Liberal Democrats now enjoy the support of three special advisers, when, after the first devolution election in 1999, they were supported by a single adviser.¹⁶ The easing of the administrative burden highlights a point made in the previous Unit report on coalition government, namely the need to ensure adequate resourcing and staffing for the junior coalition partner.¹⁷

The most noticeable shift in the way the Scottish coalition is managed concerns the relations between the executive (ministers) and the legislature (backbenchers of the coalition parties). Since the Scottish Parliament's first term, ministers—particularly Deputy Ministers—have had a responsibility to liaise with backbenchers, to keep them informed of ministerial decisions and provide a forum for backbench views to be conveyed back to the Executive. During the first term, however, this liaison was patchy. Since Jack McConnell took





Labour as the senior partner. However, the demands of consultation and information placed a considerable burden on Liberal Democrat spokespeople, who were granted no additional resources to help them in their liaison function.²⁰

In spite of these efforts, the attitude of many backbenchers was suspicious of the coalition. Many Liberal Democrat backbenchers felt they were inadequately consulted on the executive's

mitigate the ructions that reserved issues could cause by trying to reach an agreed position that, at best, offered a united approach or, at worst, avoided the perception of division.

On very high profile issues such as membership of the European Single Currency or the war with Iraq, the coalition partners often adopted the line of their 'national' arms at Westminster. The inclination to support a national line seems to have been particularly acute within Labour, which is a more centralised party than the Liberal Democrats, whose internal structure is federal. However, in both areas, as the coalitions' term progressed—and the devolution arrangements became more familiar—Labour apparently became more willing to adopt a distinctive line from London.²⁴ Such distinctiveness is made difficult if the central arm of the party wishes to impose a single line on an issue. But my interviews in Scotland suggested this was the exception rather than the norm, with the Labour government in London rarely exerting pressure on Labour ministers in Edinburgh to toe the central line (except on high profile issues such as the funding arrangements for long term care of the elderly).

Nor was pressure exerted on Labour and the Liberal Democrats in Scotland or Wales by their central party arms when it came to negotiating the coalitions. At the time of the first coalition negotiations in Scotland in 1999, the Labour government in London had been concerned about policy compromises on issues such as student fees. Four years later, there was less concern about what compromises the Scottish party might make to secure a government. The central arms of the parties may have been kept informed of progress in the coalition negotiations in Scotland and Wales, but not to the extent of influencing their policy terms.

The other feature of coalition politics in a devolved polity that requires some examination is the interaction between the devolved and central governments themselves. Inter-governmental relations are far simpler when the parties represented in the two tiers are 'congruent' (ie, the governments in the two tiers comprise the same party) than when they are 'non congruent' (ie, comprising different parties). The situation with the coalitions in Scotland and Wales—

whose membership was 'semi-congruent' with that at the centre—can thus be expected to fall midway between these two poles. In practice, however, contact between Labour controlled departments in London and Liberal Democrat ministries in Edinburgh or Cardiff does not appear to have been difficult. Much of this contact occurs via civil servants, and is thus largely non-partisan. Even when ministers do get involved, the line taken by Liberal Democrat ministers in the devolved administrations is almost always subject to prior agreement with their Labour partner. Any major difficulties in the dynamic of inter-governmental relations rest with the unwillingness of Whitehall ministers and officials to consult with the devolved administrations, not with the different partisan composition of those administrations.

Conclusion: Themes and lessons

Having reviewed the operation of the first coalitions in Scotland and Wales, what conclusions arise? How far have the coalitions changed over time, adapting to the demands of multi-party rule? In turn, what wider lessons can be drawn about coalition governance in a political system long used to single party rule?

The devolved coalitions have undergone rather little change since their inception. As such, the arrangements introduced to help underpin power sharing governments appear to have stood the test of time. This report has questioned the time limits on the coalition negotiation process (pages 12–13). This concern would become particularly acute when the negotiating parties are unused to government, and have little tradition of co-operation with one another. In such a situation, the constitutional rules risk allowing too little time for the parties to gain official advice on their programme for government, and to engage the wider party in the deliberations. The coalition negotiations in Scotland in 2003 were very well supported by dedicated teams of civil servants in what was a well planned and executed process. It would be desirable to see similar arrangements underpinning any future negotiations. Yet this may not be possible under current rules which limit the length of the bargaining process.

However, aside from this concern—and, in relation to Wales, the desirability of a formal



been introduced. Coalitions in small territories can rely far more on personal contacts and informal processes than those in larger countries. To this extent, the coalitions in Edinburgh and Cardiff set a basic framework for any coalition in London, although making it work at Whitehall and Westminster would be considerably harder.



Annex 1: Chronology of the coalitions

Scotland

1999	6 May	Election
	9 May	Coalition negotiations between Lab-Lib Dems
	12 May	Election of Speaker of Parliament
	13 May	Negotiations conclude. Donald Dewar elected as First Minister.

593762 -18.329 ref156.602 624.155 100.261 -18.329

Wales

1999	6 May	Election
2000	Feb	No confidence motion passed in Alun Michael. Rhodri Morgan elected First Secretary.
	Spring	Private negotiations between Lab-Lib Dems.
	6 Oct	Partnership Agreement signed.
	15 Oct	Agreement ratified by Lib Dem conference
	16 Oct	Mike German (Lib Dem) appointed as Deputy First Minister
2003	2 Apr	Assembly adjourns.
	1 May	Election.
	7 May	Rhodri Morgan elected First Minister

Annex 3: Details of study visits

The interviews on which this study is based were as follows:

)))

Very helpful follow up information on various constitutional issues relating to government formation and termination in Wales was provided by Steve Pomeroy, Head of the Cabinet and Constitution Unit, Welsh Assembly Government. Feedback on a draft of the report was kindly provided by Barry Winetrobe (Department of Law, Glasgow University).

Note that the conclusions contained in this Briefing are those of the author alone, and do not necessarily represent the views of any of the people listed here.

