

What are Devolved Inquiries?

Many of you will have been wondering how the devolved Inquiry system will fit in with the UK Inquiry. To answer this, we first need to look at the devolution structure, which you can see below:

What is devolved?

The current Scottish and Welsh devolution settlements do not specify which matters are devolved to the respective legislatures, rather they specify those matters that are reserved to the UK Parliament. These legislatures have primary legislative powers over all other policy areas. The Northern Ireland Assembly can in principle also legislate in respect of 'reserved' category matters subject to various consents, but has not yet done so to any significant degree.



	Northern Ireland, Scotland and Wales	Also devolved in Northern Ireland	Also devolved in Scotland	Also devolved in Wales
Devolved Known as 'transferred' powers in Northern Ireland	Health and social services	Justice and policing	Justice and policing	Welsh language
	Education, training and skills	Charity law	Charity law	Some income tax
	Local government	Energy	Drink-drive limit	Stamp duty
	Housing	Employment law	Stamp duty	Landfill tax
	Economic development	Social security, child support, pensions	Licensing of onshore oil and gas extraction	Road signs and speed limits
	Agriculture, forestry and fisheries	NI Civil Service	Some income tax (incl. ability to set rates and thresholds)	Equal Opportunities in relation to public bodies in Wales
	Environment and planning	Equal opportunities	Management of Crown Estate assets in Scotland	Licensing of onshore oil and gas extraction
	Transport	Time	Equal Opportunities in relation to public bodies in Scotland	Assembly and local government elections
	Tourism, sport, culture and heritage	Long haul Air Passenger Duty	Tax on carriage of passengers by air (Air Passenger Duty due 2018)	
	Fire and rescue services		Regulate air weapons	
	Water and flood defence		Abortion	
			Landfill tax	
			Some social security elements	
			Consumer advocacy and advice	
		Scottish Parliament and local government elections		
		Policing of railways in Scotland		
		Road signs and speed limits		

Find out more by emailing devolution@cabinetoffice.gov.uk or at twitter.com/CSDevoTeam

Devolution and You

As will be seen each territory has its own devolved powers, and those reserved powers vary for each territory. In this context it is interesting to see the Scottish focus in the Inquiry on care homes, education and the economy, all to some extent within the scope of devolved powers (for the economy, economic development is a devolved power). There may well be other devolved issues which could usefully be covered in the Scottish Inquiry, like housing and transport, for example.

The next issue is the legal power to set up a devolved Inquiry.

What is reserved?

This is a high level summary of which powers are devolved and reserved in each part of the UK. Remember that the devolution settlements are unique and can sometimes be complex. For example, elements of one policy area can be reserved while others are devolved or a policy area may be reserved, but aspects of how it is delivered are devolved.



Reserved

Known as 'excepted' powers in Northern Ireland

Northern Ireland, Scotland and Wales	Also reserved in Northern Ireland	Also reserved in Scotland	Also reserved in Wales
The constitution	Nuclear energy	Employment law	Employment law
Foreign affairs	Firearms and explosives	Cross-border rail	Cross-border rail
Defence and national security		Energy	Energy
Nationality, immigration and asylum		Social security*	Social security
Macroeconomic and fiscal matters		Genetics, surrogacy, medicines, embryology	Abortion, genetics, surrogacy, medicines, embryology
Financial services and pensions regulation		Equal opportunities*	Equal opportunities*
International trade and financial markets		The Civil Service	The Civil Service
International development		Postal services	Postal services
Elections to UK and European Parliaments			Justice and policing
National Minimum Wage			Charity law
Competition			
Intellectual property			
Honours			
Regulation of air services and international shipping			
Broadcasting			
Telecommunications and wireless services		*except elements devolved by Scotland Act 2016	*except elements devolved by Wales Act 2017
Foreshore and seabed			

Find out more by emailing devolution@cabinetoffice.gov.uk or at twitter.com/CSDevoTeam

Devolution and You

Section 27 of the Act deals with the limits on a UK Inquiry:

A UK Inquiry can include matters within its Terms of Reference which are under the devolved powers of the 3 territories, but only if the Minister has first consulted the relevant departments. Note that the (UK) Minister only needs to consult, permission is not needed. Sections 32-34 allow for the establishment of joint Inquiries which can include more than one administration. The explanatory note says:

"It is envisaged that UK Ministers will not usually set up Inquiries into devolved matters without the agreement of the relevant devolved administration and that Ministers will consider whether a joint Inquiry between the two administrations would be appropriate instead."

If a Joint Inquiry were set up the relevant administrations would share responsibility for setting the Terms of Reference, appointing the Chair etc. The explanatory notes also say that "Even if the Terms of Reference mention only reserved areas the panel might consider it necessary to take evidence on certain devolved matters in order to fulfil them." In other words, a UK Inquiry might, even if it only dealt with UK matters, hear evidence on (say) Scottish devolved issues