

A UNION OF EQUALS

A Blueprint for a new and equitable Union between England
and Scotland

(Interim Summary)

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*Blueprint – a high level plan of action;
a plan for doing something new*

THE UNION BETWEEN ENGLAND AND SCOTLAND IS NOT FIT FOR PURPOSE

In July 1705 the Earl of Mar proposed to the Scottish Parliament an act for a treaty of Union with England (Fry, 2006). In presenting this draft treaty Mar stressed that the negotiation would be between equals, the two independent kingdoms of England and Scotland. Sadly, the Union treaty that resulted in 1707 was far from being a union of equals; it was a very inequitable agreement that saw all power and authority move to England. As Herman (2001) commented, *“by signing the treaty of Union, Scotland’s political class was committing suicide ... yet this was exactly what London and the Scottish commissioners expected them to do”*. The Acts of Union were passed much to the dismay and ire of the majority of the population of Scotland and many Scots considered it to be a heinous act of treachery.

Like most marriages, the Union between England and Scotland has had its ups and downs. There have been successes and there have also been failures, but today the marriage faces, in the form of an impending referendum on Scottish independence, one of its greatest challenges and divorce is a very possible outcome. One of the root causes for this situation is the inequitable nature of the Union. Today, Scotland appears to be in decline and despite the efforts of the Scottish Government, United Kingdom (UK) Government policies appear to be doing more damage than good. Some would even argue that the UK Government appears to be turning a blind eye to the damage that its policies are doing to the development and prosperity of Scotland. This situation was commented on recently by William Rees-Mogg in the Times (Rees-Mogg, 2012) who observed *“the City of London has already overtaken Scotland as a force to be reckoned with in the UK ... Scotland is on the way down, while London is on the way up”*. The simple conclusion that emerges from this assessment is that the Union between England and Scotland is no longer fit for purpose.

For some, the solution to this problem is quite straight forward, it is independence; Scotland should take full control of its own affairs and destiny. For others, however, the solution is not so clear cut. Many Scots would prefer to maintain a Union with England but with many of the inequities of the current Union being removed. In the debate that is currently taking place on Scottish independence many politicians are attempting to drive the conclusion towards a straight yes or no decision. This could be a grave mistake. Many of the Scots who wish to see the Union change, not disappear, could well select the yes to independence option if there is no likelihood of significant improvement being made to the current Union agreement.

This presents a real dilemma for those who support the unionist cause. How can unionists persuade the people of Scotland that they should vote to retain the current Union when it is clearly not fit for purpose and is dragging Scotland down a road to ruin? For Unionists the most sensible course of action would be to propose a new Union, a Union fit for the twenty first century and beyond, a Union that enables both partners to develop and thrive, but most importantly the union of equals that Mar envisaged in 1705.

This blueprint provides the basis for such a Union, it proposes a Confederated Union. It is built on principles and practices of government that are already tried and tested; it proposes radical change but not revolution. Above all else this blueprint proposes an equitable union between England and Scotland that will endure; it proposes a Union of Equals.

A NEW UNION FOR THE FUTURE IS REQUIRED - A UNION OF EQUALS

If the present Union is no longer fit for purpose, and is damaging Scotland's development, where does this leave Scots who are ambitious for their country, people who believe that Scotland can be a prosperous and dynamic nation? Urgent, radical change is what these Scots are looking for. For nationalists the required change is quite simple, it is independence. Scotland will take full control of its own development and prosperity. For unionists, however, the challenge is much more difficult, how can the necessary radical changes be made but still maintain the Union? The proposals in this blueprint may help answer this question.

The alternative radical change, instead of full independence, is a new Union, a Confederated Union. It is a new Union that is designed for the twenty first century and beyond, a new Union that above all else is a Union of Equals. Both partners in this new Confederated Union will have equal rights and equal power; the size and wealth of one nation will not be considered to be a right to more power or authority over the other. It will be a Union in which both parties have clear and distinct ownership over agreed internal matters of state and where there is clear agreement over unified powers. It will be a Union where both partners are in agreement over unified policy and unified legislation. Neither partner will be able to impose its national preferences on the other partner.

This new Union will be created by a new treaty between England and Scotland. The starting point for the development of this new Union treaty will not be a discussion on the powers that can be devolved by Westminster to Scotland. The starting point for this discussion will start from where the discussion should have started in 1706, a discussion between equals, the two nations of England and Scotland. The new Union treaty will be developed jointly between the UK government, representing England and the other nations of the British Isles, and the Scottish Government. Once agreed and enacted the new Union treaty will replace the existing Acts of Union.

The foundation for this new Union treaty between England and Scotland will be built on the same type of frameworks used to establish the European Union (EU) treaties. All of the frameworks required to establish this foundation are in use today in existing EU treaties and as such they are all tried and tested. Most importantly, as all of these frameworks have already been agreed at some point in the recent past by the UK government there can be no legitimate argument that they will not be appropriate or conducive to the establishment of a new Union between England and Scotland.

Being a Union involving two equal partners will mean that regardless of the size of population or wealth of the nation both parties shall have an equal voice. There will also be an equitable distribution of power and offices of state. Power will not be centralised in one location, the offices of state will be located in both nations, and the leadership of these unified departments of state will be shared equally between the two nations. Leadership of the new United Kingdom confederation will also be equitable with each nation providing a new United Kingdom Prime Minister at regular and appointed times.

The new Union will be built upon established principles of government

This is not a blueprint for untried and untested methods of government; the new Union will be built upon established principles of government. The principal foundations for this blueprint are the frameworks of government already underpinning the European Union (EU). This is a critical element of this blueprint; the rights and responsibilities of government, already established by EU treaties, form the basis of this framework. In particular, the European Council, and its methods of operation, are at the heart of this proposal and form the basis for the proposed Cabinet of the United Kingdom. The roles of the European Council and the Council of Ministers provide key elements for the structures of government proposed in this blueprint for a new Union between England and Scotland.

- The European Council - The Lisbon Treaty refers to the European Council as being an official institution which "*shall provide the Union with the necessary impetus for its development*". Essentially it defines the EU's policy agenda and it achieves this without any formal powers, only the influence it has being composed of national leaders;
- The Council of Ministers – This is the EU's main decision-making body. According to the Treaties, the Council has to take its decisions either by a simple majority vote, a qualified majority vote, or unanimously, depending on the subject to be decided. The Council has to agree unanimously on important questions such as amending the Treaties, launching a new common policy, or allowing a new country to join the Union (Europa, 2012a).

It is the combination of power held by these two EU institutions that provides a critical element of the template for government proposed in this blueprint.

The principle of unanimity, established for all decisions on important matters in the EU, will be critical for the success of the new Union between England and Scotland. Although qualified majority voting has gradually been introduced into EU treaties, this system will not be implemented as part of any new Union treaty between England and Scotland. All joint decision making in the new Union will be based on unanimity. The importance of unanimous voting was powerfully demonstrated by David Cameron when he refused to provide UK support for fiscal union in the EU. By doing this he effectively vetoed this idea as formal EU policy. Unanimous voting will ensure that neither nation, England nor Scotland, can be forced into policies that are not in its national interest; this is a fundamental element of an equitable union.

Power and decision making will be shared equally in the new Union

First and foremost within the new Union there will be two parliaments of equal standing. It is presumed that one will be located in London, and for the scope of this proposal it is assumed that this parliament will represent England and the other nations of the British Isles. This parliament is referred to as the British parliament in the discussion that follows. The second parliament will be the Scottish parliament located in Edinburgh. As this will be a Confederated Union the parliament of the United Kingdom of Great Britain and Northern Ireland will no longer exist. As figure 1 illustrates, both the parliament of Britain and the

parliament of Scotland will have a First Minister and a Cabinet of Ministers formed by the ruling party.

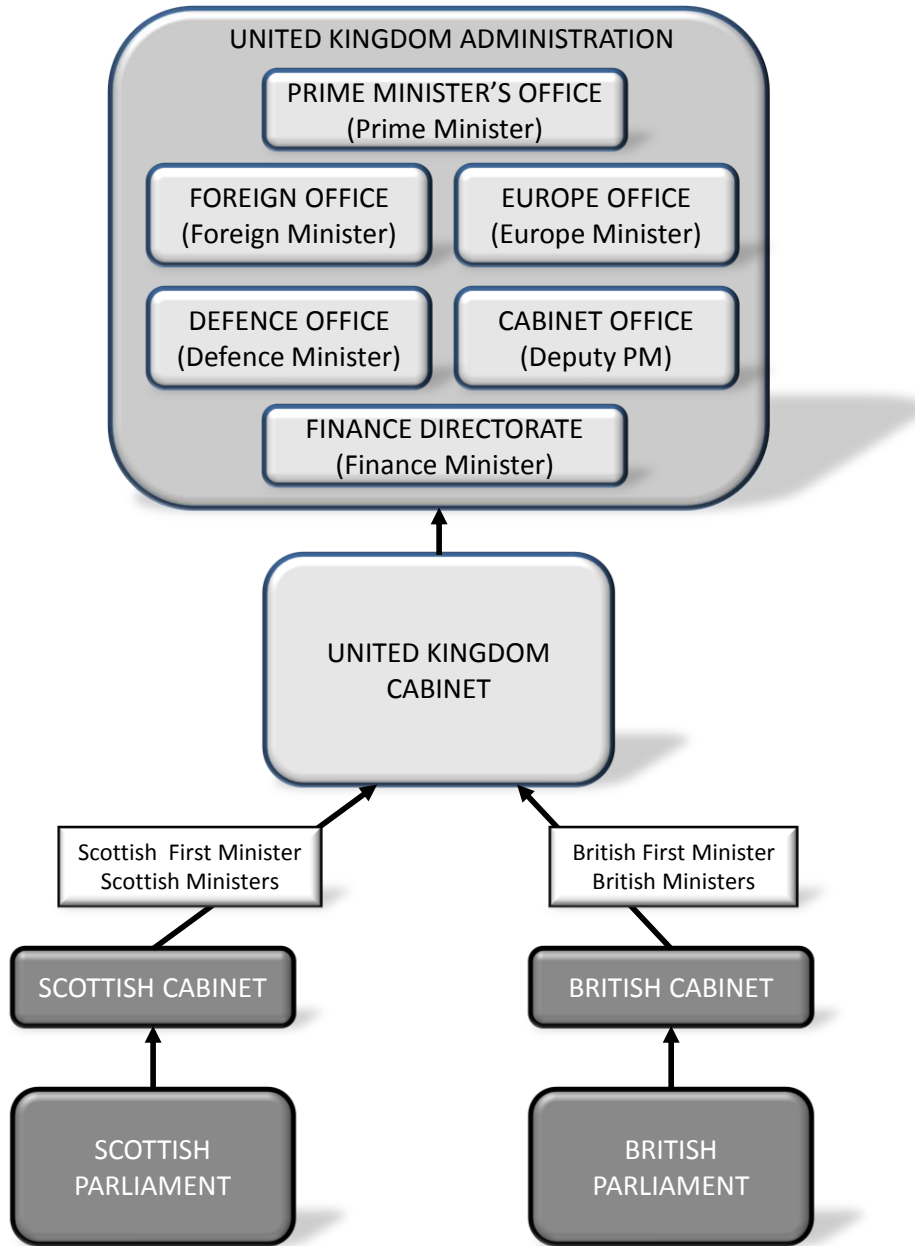


Figure 1 – A Union of Equals - The new United Kingdom Structure of Government (Simplified View)

Each national government will have full power and control over all matters not covered by the new Union treaty. These national powers are likely to include all fiscal matters, the environment, transport, health, education, and most importantly, economic development. Discussion on the powers to be unified will commence from a position where all power is considered to have been devolved to the national governments. From this starting point the discussions will identify and agree the power to be unified within the Union.

From the cabinet of each national government a small sub-set of ministers will be appointed to the new United Kingdom Cabinet. The new United Kingdom Cabinet will perform the type of roles performed by both the EU European Council and the Council of Ministers, but the United Kingdom Cabinet, as with the European Council, will have no legislative power. All policy and legislation drafted by the United Kingdom Cabinet will be submitted to each national parliament for approval and enactment. No new United Kingdom law will come into force until approved by both national parliaments; this reflects the situation with most EU legislation being created today.

The ministers appointed to the new United Kingdom Cabinet will take on the United Kingdom ministerial roles on an equitable basis. For instance, the posts of Foreign Minister and Finance Minister might be held by Scottish ministers with the Europe Minister and Defence Minister roles being held by British Ministers. The key positions of United Kingdom Prime Minister and United Kingdom Deputy Prime Minister will be held by the First Ministers of England and Scotland and will rotate between them at the end of each Cabinet term. This procedure will be very similar to the procedure that was adopted for managing the rotation of the Presidency of the Council of the European Union until 2009.

The term of the new United Kingdom Cabinet will be an important element in the future governance of the United Kingdom. The formation of this body will not be directly linked to any electoral process. Its term will have a fixed duration at the end of which all the ministerial roles will rotate between the ministers of both nations. Any timespan could be set for the term of the United Kingdom Cabinet but a term of three years appears appropriate. This will mean that a change of English or Scottish First Minister could result in the change of United Kingdom Prime Minister if the United Kingdom role is held by the outgoing First Minister. It could also result in a United Kingdom Prime Minister holding this role for only a short period of time if the United Kingdom Cabinet rotation takes place shortly after a new national First Minister is elected. However, a Cabinet term of three years will increase the likelihood that every national First Minister has the opportunity to take on the role of United Kingdom Prime Minister.

One of the main challenges to this proposed structure of government will be the impact of the democratic process in each national parliament. Parliamentary democracy thrives on the ability of the members of the parliament to challenge and amend proposed legislation. Under this proposed framework of government either parliament could modify legislation proposed by the United Kingdom Cabinet. The result could be that proposed unified legislation could emerge quite differently from each parliament. However, this is a situation that already exists today within the EU where there is the possibility that twenty-seven different parliaments can challenge and alter proposed EU legislation. This challenge is effectively managed by every EU government and unified EU legislation is successfully created on a regular basis. If it is possible to manage this challenge across twenty-seven nations then managing the challenge between two nations should be quite possible (but not necessarily easy!). If significant differences of opinion were ever to emerge between the two national parliaments then the solution to this has again been devised within the EU framework of government; the opt-out. Currently five EU members have negotiated opt-outs from EU legislation and treaties. If common ground on any proposed unified legislation cannot be found between the

two national parliaments then the negotiation of an opt-out will be an obvious course of action.

This proposed structure for the new United Kingdom government has focused solely on the Union between England and Scotland. However, this structure could easily be adapted to incorporate other nations of the UK as equals, each with their own parliament and ministers in the new United Kingdom Cabinet. It is expected that the relationship these other UK nations will have with England and the new United Kingdom will be given serious consideration during the development of the new Union between England and Scotland.

A new structure of government will be established in the new United Kingdom

The parliamentary process of government in each nation will operate much as it does today. Parliamentary elections will elect members of parliament and the party that gains enough seats to form a government, or can create a coalition to form a government, will take power. The leader of the ruling party will become First Minister and the First Minister will form a Cabinet. The government in each parliament will manage the legislative programme and conduct parliamentary business in the normal manner. Each national parliament will have full control over the portfolio of powers that are reserved for each nation.

Beyond this, however, the governance of the United Kingdom will be built on the new frameworks of government envisaged in this blueprint. As figure 1 illustrates, each national Cabinet will select a team of ministers to join the new United Kingdom Cabinet. As the United Kingdom Cabinet will operate within its own pre-defined lifecycle, divorced from the lifecycle of the national parliaments, it is quite likely that when a new government is elected for a nation the ministers selected to participate in the United Kingdom Cabinet will be joining a cabinet that is in mid-term. These new ministers will be replacing the previous team of national ministers, which of course may have been themselves! Each new minister will be appointed to one of the vacant roles in the United Kingdom Cabinet; they will simply replace the previous incumbent. The new First Minister joining the United Kingdom Cabinet will take on the role of United Kingdom Prime Minister or Deputy Prime Minister depending on which role is vacant. These allocated roles will continue within the United Kingdom Cabinet until the time is reached when the members of the United Kingdom Cabinet are required to rotate roles.

The creation of this new Union will result in the continuation of a number of unified departments of state. The actual departments of state that exist will be subject to negotiation and agreement but the unified departments are likely to be:

- Cabinet Office - Just as the Cabinet Office today is responsible for supporting the Prime Minister and the Cabinet of the UK, the proposed new Cabinet Office will perform the same function. It will co-ordinate the delivery of unified government objectives and policies across the other unified departments. However, it will also be responsible for coordinating these activities across the two national governments by liaising closely with Cabinet Offices in Britain and Scotland;
- Foreign Office - this department will operate much as it does today being responsible for promoting the interests of the United Kingdom as a whole overseas. Although

this department will be responsible for representing the United Kingdom as a whole it will need to achieve this by ensuring that the national policies of each nation are being fully taken into account;

- Defence Office - the defence of the United Kingdom will continue as it does today with a unified defence force and unified defence administration. Very little will change in the way this office is run and administered. There will be a number of important implications resulting from unified defence including the acceptance by many Scots opposed to a nuclear military presence on Scottish soil that this presence will still need to be maintained. This will be one of many concessions that will be necessary to cement the new Union;
- Europe Office - the management of affairs in Europe on behalf of two governments will be a significant undertaking and the creation of a new department of state for undertaking this activity is envisaged. Although the United Kingdom minister for Europe will be responsible for most of the interaction with Europe there will also be a need for the national governments to participate. This situation already exists today with UK and devolved ministers meeting at regular intervals through the Joint Ministerial Committee (Europe), chaired by the Foreign Secretary, to "*discuss matters bearing on devolved responsibilities that are under discussion within the European Union*" (Cabinet Office, 2010). Additionally, as is also the practice today, national ministers will attend relevant international negotiations when these negotiations are likely to have a direct impact on national interests e.g. EU fisheries negotiations. It is expected that the protocols that exist today can be adapted to meet the proposed new structure of new United Kingdom government.

In addition to these four principal departments of state it is envisaged that a Finance Directorate will be required to manage the funds of the United Kingdom administration. It is also envisaged that a Prime Minister's Office will be required to perform the role undertaken today by Ten Downing Street.

There will be equitable funding for the new United Kingdom government

Today, one of the most common criticisms of the current Union is the perceived disproportionate funding received by Scotland. In the new Union this situation will not exist simply because the governance of Scotland will not be funded by a UK government. In the new Union both nations will fund both themselves and the new United Kingdom administration in an appropriate and equitable manner. The funding of the United Kingdom administration will be based on the funding mechanisms that are already used to fund the EU. The EU obtains its funding from a number of sources but the principal source, estimated at 70% of total revenue in 2007, is the collection of revenue based on the gross national income (GNI) of each member state. At present the uniform percentage rate that is applied to the GNI of each nation is 0.73% (Europa, 2012b),

This will be the primary mechanism used to fund the new United Kingdom administration. An appropriate uniform percentage rate will be agreed to establish the contribution to be made by both Britain and Scotland to maintain the new United Kingdom administration.

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