

UK governance post-Brexit: summary of evidence

May 2018



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About the Committee

The committee was established on 15 June 2016 to carry out the functions of the responsible committee set out in Standing Order 21 and to consider any other constitutional, legislative or governmental matter within or relating to the competence of the Assembly or the Welsh Ministers, including the quality of legislation.

Committee Chair:



Mick Antoniw AM
Welsh Labour
Pontypridd

Current Committee membership:



Mandy Jones AM
UKIP Wales
North Wales



Dai Lloyd AM
Plaid Cymru
South Wales West



David Melding AM
Welsh Conservative
South Wales Central

The following Members were also members of the Committee during this inquiry:



Dafydd Elis-Thomas AM
Independent
Dwyfor Meirionnydd



Nathan Gill AM
UKIP Wales
North Wales



Huw Irranca-Davies AM
Welsh Labour
Ogmore

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1. Introduction

The Committee's remit

- 1.** We have a wide-ranging remit relating to the scrutiny of new legislative proposals and constitutional matters.
- 2.** We scrutinise the quality of the primary legislation made in Wales – the Welsh Bills that are (in most cases) proposed by the Welsh Government and become Acts if passed by the National Assembly. We also scrutinise secondary legislation made in Wales by the Welsh Ministers, which adds more detailed laws in specific areas.
- 3.** We examine Welsh constitutional issues that impact on the role and functions of the National Assembly including any legislation and policies proposed by the Welsh Government or UK Government.

This report

- 4.** On 2 February 2018 we published our report *UK governance post-Brexit*. Its aim was to focus attention on recommendations that we feel are necessary in light of the UK's withdrawal from the European Union and to address its impact on the constitutional future of the UK.
- 5.** This report is a summary of the evidence we collected from consultees, witnesses and our Citizen Panel that informed our work. We have published it as a separate document because we wanted to ensure that the *UK governance post-Brexit* report was focused on the key issues. However, at the same time, we want to highlight the valuable evidence we received. It provides a fascinating insight on how devolution has been and is perceived, how it has grown and developed, and, as we believe our main report demonstrates, where the future challenges lie.

2. How should governments work together?

Effective relationships between Ministers

6. In our first evidence session The Rt Hon Lord Murphy¹ told us that everything in the game of politics is about individual personal relationships.² The importance of these inter-personal relationships between senior members of government in Westminster and Wales – especially between the First Minister of Wales and the Secretary of State for Wales – subsequently emerged as a strong theme throughout our evidence sessions.

7. We received numerous examples of how these inter-personal relationships had impacted on the day-to-day work of government. We heard how regular, frank engagement – informal as well as through more formal meetings – could help ease difficulties and avoid unnecessary public confrontations. However, we also heard that there are occasions when public confrontations between governments and office-holders are unavoidable, and perhaps even politically staged or desirable for the benefit of one or other party.

8. Ieuan Wyn Jones³ felt that it was easier to do business where strong personal relationships existed between Ministers or civil servants.⁴ He recounted his experience with two different Ministers:

“I did get the impression that some officials in the Department for Transport had no interest at all in devolution—they couldn’t see why Wales needed the powers in certain areas. But where you had a Minister who was willing to speak to you, then the attitude changed entirely within the Department for Transport ... When I first became Minister, I tried, on a number of occasions, to get a meeting with the first transport Minister, Ruth Kelly, and got no answer whatsoever, but when Andrew Adonis came to office, then the situation was transformed. He was interested in the new devolution system. He understood what we were trying to do. He, for example, was very supportive of the electrification of the railway to Swansea. Without him,

¹ The Rt Hon Lord Murphy was Secretary of State for Wales from July 1999-October 2002 and January 2008-June 2009

² Constitutional and Legislative Affairs (CLA) Committee, 6 February 2017, RoP [35]

³ Ieuan Wyn Jones was Deputy First Minister for Wales from July 2007-May 2011

⁴ CLA Committee, 27 March 2017, RoP [7]

I don't think that would have even been on the political agenda. So, he changed attitudes.”⁵

9. Ieuan Wyn Jones described how the change in the attitude of the Minister brought about a change of attitude among the civil servants⁶ and noted the difficulties that arose where devolution wasn't clearly understood.⁷ This highlighted to us the importance of effective and professional engagement between political leaders, a point also made by Sir Derek Jones.⁸ Speaking in the context of the mechanics that support the development of inter-governmental relations, he said:

“I like to see a good bit of Government administration and machinery for it, but, fundamentally, what drives and manages these situations is the interaction between political leadership.”⁹

10. Individual personalities can – for good or bad – also affect inter-governmental working. The Rt Hon Rhodri Morgan¹⁰ recalled a very abrupt sea change in inter-governmental relations (in 2007) when Alex Salmond became First Minister in Scotland. He explained how a change in the political leadership and approach in one devolved nation could have negative consequences in another, because of the way it affects the UK government's approach to relationships with the devolved nations overall. He said:

“Two months after the election of Alex Salmond as First Minister in Scotland, Gordon Brown was Prime Minister, and that animosity between them did have an impact, even upon us. That feeling of warmth and affection that had existed in terms of the Labour family, with coalitions, with the Liberal Democrats, ceased—virtually overnight. Because Gordon Brown almost couldn't accept that someone else, particularly Alex Salmond, had taken over in Scotland. And many of those relationships that happened automatically, and the invitations to important meetings in London, almost came to a complete halt after the election of Alex Salmond.”¹¹

⁵ CLA Committee, 27 March 2017, RoP [43]

⁶ CLA Committee, 27 March 2017, RoP [43-44]

⁷ CLA Committee, 27 March 2017, RoP [7-8]

⁸ Sir Derek Jones was Permanent Secretary in the Welsh Government from 2012-2017

⁹ CLA Committee, 15 May 2017, RoP [14]

¹⁰ The Rt. Hon Rhodri Morgan was First Minister of Wales from February 2000-December 2009

¹¹ CLA Committee, 8 May 2017, RoP [155]

11. The Rt Hon Lord Hain¹² felt that relationships between Whitehall Ministers and their counterparts in the Welsh Government “are everything”.¹³ He said:

“You don’t always have to agree, but it’s important to be able to work things through.”¹⁴

12. The Rt Hon Lord Hain suggested that personal relationships may have affected decisions on references to the Supreme Court in respect of laws made by the National Assembly, saying:

“... I don’t think the Supreme Court references and things like that would necessarily have happened under a different Secretary of State, even a Conservative one.”¹⁵

13. We heard that these experiences hold true for other ministerial levels than simply First Minister and Secretary of State for Wales. Comparing her experience of inter-governmental relations as a Minister in the Welsh Government and also in the Wales Office, Baroness Randerson¹⁶ told us:

“... it works when the personal relationships are good and it stutters badly when the relationships are not as good.”¹⁷

14. We learned that informal discussions played a vital role in the smooth operation of government, allowing less public or formal engagement on difficult issues. The Secretary of State for Wales, The Rt Hon Alun Cairns MP (the Secretary of State) spoke of informal text messages and phone calls from Welsh Ministers,¹⁸ while The Rt Hon Lord Murphy also drew attention to informal ways of resolving problems:

“I would say that, 80 per cent of the time—perhaps even more—you could resolve problems like that by simply having one-to-ones, and also

¹² The Rt Hon Lord Hain was Secretary of State for Wales from October 2002-January 2008 and June 2009-May 2010.

¹³ CLA Committee, 8 May 2017, RoP [47]

¹⁴ CLA Committee, 8 May 2017, RoP [47]

¹⁵ CLA Committee, 8 May 2017, RoP [59]

¹⁶ Baroness Randerson was the Welsh Minister for Culture, Welsh Language and Sport, 2000-2003; Acting Deputy First Minister 2001-2002; Parliamentary Under-secretary, Wales Office, September 2012-May 2015

¹⁷ CLA Committee, 13 March 2017, RoP [6]

¹⁸ CLA Committee, 25 September 2017, RoP [18]

the Parliamentary Under-Secretary doing the same with the other Ministers in Government.”¹⁹

15. While political differences exist between different political parties in government at UK and devolved levels, effective inter-personal relationships can help resolve potential problems. When asked about his role and whether being part of a different political party to the head of the Welsh Government was a help or a hindrance, the Secretary of State said:

“... essentially, all Governments want the same thing. I mean, we want to improve wealth and prosperity, and social justice, and so on. We often have different ways of getting there. Devolution provides an added complexity, and the role of the Secretary of State to influence that outcome across Whitehall, I think, is extremely important.”²⁰

16. This mirrored the views we heard from the Citizen Panel; their expectation was that elected representatives are there to represent the people and therefore party politics should not interfere:

“Parties don’t have to agree necessarily, but they have to work together as there is a job to do and things have to move forward.”

17. More generally, the view of the Citizen Panel was that meetings can take place in any format, formal or informal, as long as they are happening and that the lines of communication are open. The Panel told us that meetings between Ministers of different governments could happen informally at first, away from the public eye, and that this may help pave the way to a successful working relationship.

18. Ieuan Wyn Jones told us that inter-governmental relationships:

“... shouldn’t have to rely on a personal relationship. The structures should be in place to allow those discussions and negotiations to happen ...

So, if structures are in place that allow you to have meaningful discussion, then that, of course, can happen whatever the personal relationships involved are.”²¹

¹⁹ CLA Committee, 6 February 2017, RoP [23]

²⁰ CLA Committee, 25 September 2017, RoP [21]

²¹ CLA Committee, 27 March 2017, RoP [20]

Working collaboratively and with mutual respect

19. We heard from our Citizen Panel about the importance of working collaboratively between governments when dealing with matters in which there is mutual interest. The Panel felt that this collaborative working should take place routinely. The Panel's expectation was that Wales should be able to have its voice heard and that a robust but respectful relationship must be upheld. The Panel voiced concerns about the perception of Wales when disagreements between governments are made public:

“There is a bigger picture which requires a robust and respectful relationship.”

20. We heard repeated evidence on the need for the Welsh Government, National Assembly and local government to be treated with greater respect by the UK Government, and with equal regard as given to other nations.

21. The Rt Hon Elwyn Llwyd²² spoke about the current levels of respect between institutions. He said:

“It's nothing like equality of respect, and that's what it should be. After all's said and done, it's a form of partnership. Devolution is a form of partnership, isn't it? But it's not peculiar to Wales, I have to say. I referred in passing to the Channel Islands and I'm sure there are considerable misgivings in the Isle of Man as well. So, the conclusion that I come to is that you may get some individuals in Westminster who might buy into the idea of being helpful, but you'll get many more who will not. I regret saying that, but I think it's true. From my experience, I have seen it. I wouldn't say that people were intentionally putting the brake on matters, but they certainly weren't trying to move matters forward in good time, as it were.”²³

22. The Rt Hon Lord Hain expressed concern that Wales continues to be behind Scotland in terms of UK Government priorities:

“That was a deep source of frustration to me, to the point—and this is in a Labour Government where I was on very good terms with the Prime Minister and my fellow Secretaries of State, but Scotland would just get

²² The Rt. Hon Elwyn Llwyd was MP for Dwyfor Meirionydd from 1992-2015 and Leader of the Plaid Cymru Parliamentary Group from June 2010-March 2015

²³ CLA Committee, 13 March 2017, RoP [130]

the crown every time and Wales was always as the back of the queue and it was very difficult.”²⁴

23. This view was echoed by The Rt Hon Rhodri Morgan:

“It goes very deep in British psychology that Scotland has got a kind of special status in which people in England regard it with a strange mixture of respect and loathing and what have you. Wales has neither the respect nor the loathing—one is a bad thing, one is a good thing—but we’re trying to make sure that we get listened to. Scotland will get listened to, because of this status that it has always had in British society. Northern Ireland, again, has a totally special status because it’s almost got far more devolution even than in Scotland.”²⁵

24. The Learned Society of Wales suggested that “the public statements of some Ministers in London show scant regard or knowledge of the UK’s constitutional arrangements”.²⁶ They added that devolution has increased the requirement for better functioning of inter-governmental relations but noted that:

“the process of consultation and coordination has been patchy. The lack of a coherent strategic approach to devolution hampered progress from the beginning.”²⁷

Are the current inter-governmental arrangements working?²⁸

Setting the scene

25. Getting the inter-governmental arrangements right is vital to ensure efficiency in the delivery of services where: there are mutual interests between governments; where disputes need to be resolved or, in the specific case of Wales and England, where there are benefits to working together on cross-border issues, for example.

26. Sir Derek Jones highlighted that a great deal of inter-governmental interaction happens successfully, across a range of policy areas such as security,

²⁴ CLA Committee, 8 May 2017, RoP [50]

²⁵ CLA Committee, 8 May 2017, RoP [199]

²⁶ Letter from the Learned Society of Wales, *Constitutional and Legislative Affairs Committee Consultation – A Stronger Voice for Wales*, September 2017

²⁷ Letter from the Learned Society of Wales, *Constitutional and Legislative Affairs Committee Consultation – A Stronger Voice for Wales*, September 2017

²⁸ A description of the current arrangements is contained in the main report, *UK governance post-Brexit*

civil-contingencies and between professional services in government, but goes largely unnoticed. He explained that “it’s when it’s politics and high policy that you do tend to hear about it”.²⁹

27. Our inquiry heard that the powerful engagement of governments and parliaments will sometimes and inevitably throw up political flash-points, either by accident or by deliberate intent. However, the machinery of government – the mechanisms which enable governmental and inter-governmental work to proceed in the interests of the public – needs to be sufficiently robust to withstand the buffeting from such events.

28. We heard differing views on whether the right systems had evolved to cope with constitutional changes within the UK, and with the new challenges including withdrawal from the EU. In this context, Sir Derek Jones spoke of the constitutional change that has occurred since 2012 and the impact it has had on the intensity of inter-government relationships³⁰ and commented that:

“I don’t think the inter-governmental relations or the machinery for it has transformed out of all recognition, whereas, arguably, the circumstances might have demanded greater adaptation, and that is probably yet to come.”³¹

29. The Rt Hon Lord Hain warned that:

“I think we’ve reached a point in our history where, unless you have a major radical change, there is deep trouble along the way ... if you don’t reform your governance arrangements, there’s a lot of dissatisfaction out there amongst the average citizen, with their politicians, with their Government structures, and they express that time and time again ...

So, I think unless you stay ahead of that constitutionally and governmentally, it catches up with you and could bite you quite hard.”³²

30. We heard evidence about the importance of inter-governmental relations to organisations in Wales and the potential impact they can have. For example, Universities Wales saw efficient inter-governmental relations as crucial for the Higher Education sector. They said:

²⁹ CLA Committee, 15 May 2017, RoP [7]

³⁰ CLA Committee, 15 May 2017, RoP [9-11]

³¹ CLA Committee, 15 May 2017, RoP [12]

³² CLA Committee, 8 May 2017, RoP [99]

“Whilst each nation may have a different approach, governments should work together to increase understanding of the differences and what each of the policy contexts mean in practice to different groups. UK nations must be able to successfully compete in the global market.”³³

31. The Open University argued that “announcements should not be made that impact on devolved areas without prior discussion with the relevant administrations and a full consideration of the exact scope of any policy decision”.³⁴ It cited recent examples such as the Apprenticeship Levy and the UK Government’s industrial strategy:

“... as areas where better inter-governmental liaison and discussion before a policy is announced would have ensured that the policy better reflected the devolution settlement and the implications could be more easily understood by those who have an interest in its implementation.”³⁵

32. The Country Land and Business Association said that “Brexit presents challenges in inter-governmental relationships between Wales and the UK” and:

“The Welsh Government’s document, *Securing Wales’ Future* does refer to ‘current inter-governmental machinery which will no longer be fit-for-purpose,’ and, it says, ‘new ways of working’ will need to be forged. We would support the view that the current devolutionary settlement will require appropriate attention in order that the devolved government does have [a] meaningful practical role.”³⁶

33. The evidence we received from the Learned Society of Wales (see Box) highlights the importance of inter-governmental relations, particularly in the context of the UK’s withdrawal from the EU.³⁷

34. We heard from the Citizen Panel that meetings between governments need a sense of priority and that they should not take place for the sake of it. The Panel were of the view that formal meetings between government Ministers should be recorded and supported by a full complement of officials to ensure the

³³ Written evidence, IGP005, Universities Wales

³⁴ Written evidence, IGP007, The Open University in Wales

³⁵ Written evidence, IGP007, The Open University in Wales

³⁶ Written evidence, IGP004, The Country Land and business Association

³⁷ Letter from the Learned Society of Wales, *Constitutional and Legislative Affairs Committee Consultation – A Stronger Voice for Wales*, September 2017

conversation is informed. There was also an expectation that regular meetings are held between the UK Government and the Welsh Government to understand clearly the situation and aspirations in Wales. The Panel felt this was especially important if the Ministers were from different political parties.

The overall effectiveness of the JMC

35. The First Minister, The Rt Hon Carwyn Jones AM, explained how inter-governmental relationships are governed by the workings of the MoU and JMC.³⁸ He felt the system had worked well to an extent³⁹ but that the picture was mixed, reflecting the varying levels of understanding of devolution in Whitehall.⁴⁰

36. The Rt Hon Lord Hain described his experience of the JMC as “underwhelming”⁴¹ He said that in the current political situation “especially post Brexit—the JMC has either got to work properly or you scrap it and start again”.⁴²

37. When asked whether it needs to be made to work properly or requires a complete overhaul, Ieuan Wyn Jones said:

“I think it needs an overhaul, in my view ...

But certainly, in the Joint Ministerial Council, for it to be meaningful, I think it has to be a body that regards each party as a partner, not as a subsidiary.”⁴³

38. This sense of the UK Government being in control was also reflected in observations by Sir Paul Silk.⁴⁴ He noted how in relation to the JMC:

“... the agenda is very much driven by London, ... the meetings have been short, ... they haven’t been as productive as they might have been.”⁴⁵

³⁸ CLA Committee, 20 March 2017, RoP [20]

³⁹ CLA Committee, 20 March 2017, RoP [20]

⁴⁰ CLA Committee, 20 March 2017, RoP [22]

⁴¹ CLA Committee, 8 May 2017, RoP [27]

⁴² CLA Committee, 8 May 2017, RoP [27]

⁴³ CLA Committee, 27 March 2017, RoP [52]

⁴⁴ Sir Paul Silk was Clerk of the National Assembly for Wales from March 2001-January 2007 and Chair of the Silk Commission on Devolution from 2011-2014

⁴⁵ CLA Committee, 6 March 2017, RoP [182]

Evidence from the Learned Society of Wales

A functioning system of intergovernmental relations is urgently needed. The present constitutional arrangements within the United Kingdom are complex and difficult to navigate. Moreover they are becoming increasingly sensitive as provision is made for the UK's exit from the EU. That departure raises very substantial issues as to how laws applying within the UK are to be made in areas currently within EU competence. There will be a need to preserve an internal market within the UK when we have left the EU internal market. But this will have to be ensured with due regard for the distribution of powers between the four governments and legislatures. Real economic and political interests are involved and will need to be factors considered in the formulation of policy and legal solutions.

Best practice will be relevant but more important is the recognition that putting in place policies to substitute for current EU policies and obligations will impose a substantial burden on the technical capacities in the four capitals. As an example, the Common Agricultural Policy will be replaced by new support arrangements in the four nations. This will be a huge task and immediately raises questions of commonalities and differences and how the arrangements in Wales will reflect Welsh interests, be part of a UK internal market, be financially sustainable, and meet the UK's evolving international obligations in new trade agreements. This example, one of many, underlines why consultation will be essential, and should extend into areas reserved for the British Government such as international trade.

Any mechanism for inter-governmental cooperation must be based on mutual respect and understanding and involve a real commitment by the parties to discuss challenges and seek outcomes as acceptable as possible to the parties involved. As a minimum interest should be set out, representations heard, and every effort made to find solutions. This requires a mix of the formal and informal, and at different levels. The JMC arrangements have a particular role, either to endorse policy or set strategic goals. Meetings should be more frequent and focussed to make a reality of the British Governments avowed intention, amplified in the last Queen's Speech, to have real consultations with the devolved administrations.

39. Sir Paul Silk also noted that the Public Administration and Constitutional Affairs Committee (PACAC) had found⁴⁶ that the Scottish Government were happier with the way in which the JMC operated than Ministers were in Wales.⁴⁷ He noted that PACAC had suggested that that might be because more attention is paid to Scottish issues by Ministers in London than is paid to Welsh issues.⁴⁸ He imagined that this resulted in our being “the poor relations inside the JMC”, suggesting perhaps that this is the case in “other manifestations of inter-governmental working”.⁴⁹

40. We also heard positive comments about the role of the JMC. The Rt Hon Rhodri Morgan commented that “the great advantage of the Joint Ministerial Committee was the compare-and-contrast possibilities that it had,”⁵⁰ while the Country Land and Business Association acknowledged that the JMC could provide “a focus for development” and provide a “helpful forum for creating and carrying out strategy”.⁵¹

41. While expressing the view that “Wales is seen as being equal to Scotland and Northern Ireland”⁵² in the JMC, the Secretary of State went on to make a very interesting observation:

“Well, the JMC is a very important forum, but the truth is that meetings are held occasionally, and... the role of governance and delivery is far more dynamic than that. So, that isn’t the main forum, because, of course, decisions do have to be taken as policies are developed and outlined.”⁵³

42. Philip Rycroft⁵⁴ highlighted the flexibility of the JMC in the context of adapting to the UK’s exit from the EU.⁵⁵

⁴⁶ House of Commons, Public Administration and Constitutional Affairs Committee, *The Future of the Union, part two: Inter-institutional relations in the UK*, Sixth Report of Session 2016-17, HC 839, December 2016, paragraphs 19-26

⁴⁷ CLA Committee, 6 March 2017, RoP [182]

⁴⁸ CLA Committee, 6 March 2017, RoP [182]

⁴⁹ CLA Committee, 6 March 2017, RoP [183]

⁵⁰ CLA Committee, 8 May 2017, RoP [169]

⁵¹ Written evidence, IGP004, The Country Land and Business Association

⁵² CLA Committee, 25 September, RoP [82]

⁵³ CLA Committee, 25 September, RoP [81]

⁵⁴ Philip Rycroft CB is Permanent Secretary, Department for Exiting the European Union and Second Permanent Secretary, Head of UK Governance Group in the Cabinet Office

⁵⁵ CLA Committee, 25 September, RoP [296]

Resolving disputes in the JMC

43. The First Minister told us that in the past, the JMC provided an opportunity for the devolved governments to express strong views on certain issues that were raised, but nothing would actually happen as a result of that.⁵⁶ He added that if:

“... there was disagreement, there is a system of dealing with that disagreement, but at the end of the day it’s the UK Government that makes the ultimate decision, so there’s no independent system to deal with any kind of dispute that arises between Governments.”⁵⁷

44. The Rt Hon Rhodri Morgan also highlighted the issue of dispute resolution, saying that the problem with the JMC was that the Prime Minister was the final arbiter. He said:

“What I think you’ve got to try and solve is the missing parts of the original devolution settlement, namely the absence of an independent dispute resolution mechanism; an independent resource allocation mechanism; and, in particular, an independent mechanism for solving a dispute over resource allocation.”⁵⁸

45. The issue of arbitration was also highlighted by Ieuan Wyn Jones in the context of funding.⁵⁹

46. Professor Cairney⁶⁰ felt that disputes in relation to inter-governmental issues:

“... have traditionally been resolved rather informally, and behind closed doors, particularly but not exclusively when both governments were led by the same party. Formal dispute resolution is far less common in the UK than in most comparator countries.”⁶¹

47. He expanded on these views, offering a slightly different take on the JMC:

“It’s been a while since I looked, but my impression of the JMC has generally been that it was set up as a way to be a potential route for dispute resolution between Governments. So, I think, when they were setting up these mechanisms, they anticipated more need for a formal

⁵⁶ CLA Committee, 20 March, RoP [62]

⁵⁷ CLA Committee, 20 March, RoP [62]

⁵⁸ CLA Committee, 8 May 2017, RoP [171]

⁵⁹ CLA Committee, 27 March 2017, RoP [20]

⁶⁰ Professor Paul Cairney, Professor of Politics and Public Policy, University of Stirling

⁶¹ Written evidence, IGPO10, Professor Paul Cairney

dispute resolution, and found that, really, the UK and devolved Governments were far more inclined, for whatever reason, to deal with things informally. And, you know, if you compare it with, say, federal Governments with constitutions, there's nothing like the recourse to the law to formal procedures."⁶²

48. When we asked the Secretary of State about concerns that the UK Government has the final say on dispute resolution issues and whether there was a danger as a result that Wales's voice will be marginalised, he said:

"Well, I don't see that the voice of Wales will be marginalised in any way. It will be given fair consideration, as everyone would expect."⁶³

adding:

"... every Government must take into account that if something is seen as being unfair, then there is always a cost in political terms and there are other implications too, of course. But from my experience, when there is a dispute where that can be taken forward in the joint committee, then certainly that would be considered, as it has been on a number of occasions in the past."⁶⁴

The adequacy of the MoU and Devolution Guidance Notes (DGNs)

49. Commenting on the importance of the MoU and DGNs in shaping inter-governmental relations, The Rt Hon Rhodri Morgan said:

"I don't think we made a huge amount of use of them to be honest ... So, it was more how you played it in this relationship with Westminster and Whitehall that had greater impact, probably, than the wording of the memorandum of understanding about how the relationship should work. Now, I don't say that my civil servants wouldn't have made a lot more study of the memorandum of understanding than I did."⁶⁵

50. Ieuan Wyn Jones said the major problem with the MoU and DGNs "is that they're all drafted in Whitehall and then considered by the devolved bodies, and Whitehall says, 'Well, we're willing to go this far but no further', and there is no

⁶² CLA Committee, 22 May 2017, RoP [36]

⁶³ CLA Committee, 25 September, RoP [90-91]

⁶⁴ CLA Committee, 25 September, RoP [93]

⁶⁵ CLA Committee, 8 May 2107, RoP [148]

discussion between partners on common ground”.⁶⁶ He added that discussions “should happen between partners, rather than between the Westminster Government that consider itself to be the mother body and the devolved”.⁶⁷

51. When asked about the effectiveness of the MoU and DGNs in inter-governmental relations The Rt Hon Lord Hain said:

“They don’t play much of a part in it. They’re only really, sort of, pulled out of the drawer, as it were, if there’s a problem and tension and there’s a genuine stand-off in terms of interpreting the settlement or the way it’s working. In the end, personal relationships are more important than memoranda.”⁶⁸

52. When asked about the effectiveness of the MoU and Devolution Guidance Notes, the Secretary of State said:

“... you’ll be aware that there was a commitment in the Joint Ministerial Committee by David Cameron in 2015 to review those. There’s an awful lot of work that’s gone on. They came forward to the last two Joint Ministerial Committees for consideration, and there was broad agreement—but there was also agreement for more work to be done in other areas in light of the referendum, for example, to leave the European Union. I would also say that there will be a need for further ongoing reviews because of the Wales Act 2017. The constitutional make-up of the UK has changed so much. Simply having one document that is fixed is not necessarily a workable, practical model.”⁶⁹

53. A Wales Office official told us that “the thing to remember about DGNs is that they are internal guidance notes for Whitehall departments, and I know Whitehall departments rely on them heavily”.⁷⁰

Reforming the machinery of inter-governmental relations

What needs to change?

54. Most witnesses agreed that the JMC will have to change in light of the UK leaving the EU.

⁶⁶ CLA Committee, 27 March 2017, RoP [22]

⁶⁷ CLA Committee, 27 March 2017, RoP [23]

⁶⁸ CLA Committee, 8 May 2107, RoP [54]

⁶⁹ CLA Committee, 25 September 2017, RoP [71]

⁷⁰ CLA Committee, 25 September 2017, RoP [72]

55. Baroness Randerson told us what would make a good JMC:

“I think it should be one where you are not just following a predetermined formula, when it’s not just being used to push a point of view, but it’s being used to achieve an agreement. Also, of course, remember that the whole point of JMC is that you’ve got the four leaders meeting together, or representatives of the four Governments meeting together, and it’s an opportunity to do a great deal more than just have a confrontation with the UK Government ... And I think a good JMC is an important opportunity to present to the UK Government the fact that there are three differing views in the rest of the UK about these things. There may not always be differing views, but they are coming at it from a different perspective.”⁷¹

56. The Rt Hon Lord Murphy told us that the JMC has:

“... got to be a lot more significant to deal with the Brexit situation. It’s too formal, it’s too infrequent, and it’s too bulky, unwieldy, an institution to deal with it. Simply to turn up on a day in Cardiff, issuing a communiqué that you’ve all agreed on this or disagreed on that, that’s not the way to do it. You’ve got to do it a much more detailed, negotiating way. It will test it considerably.”⁷²

57. The Rt Hon Lord Murphy also felt there was a strong case for making the JMC more meaningful by having more committees to identify important issues, particularly in the context of Brexit.⁷³ He also made the case for more informal working committees at both political and official level.⁷⁴

58. Sir Derek Jones told us that in his view the existing JMC “won’t be sufficient by way of machinery of Government for what lies ahead in the UK”.⁷⁵

59. The Learned Society of Wales made the following observations in the context of the EU (Withdrawal) Bill (as introduced):

“... over matters which are devolved, the UK government is also acting as the government of England and therefore suffers from a possible conflict of interest. At times the interests of England and the rest of the

⁷¹ CLA Committee, 13 March 2017, RoP [19]

⁷² CLA Committee, 6 February 2017, RoP [83]

⁷³ CLA Committee, 6 February 2017, RoP [32]

⁷⁴ CLA Committee, 6 February 2017, RoP [30]

⁷⁵ CLA Committee, 15 May 2107, RoP [72]

UK will not necessarily coincide. There is no recognition of this in the Bill, and it marks therefore another missed opportunity to show a strategic approach to, and some respect for, the rights of the democratically-elected legislatures of the devolved nations and their respective governments. It threatens to be a further example of the sort of ad hoc constitutional intervention that has marred the progress of devolution and harmed relations between the nations of the UK.”⁷⁶

60. The First Minister noted what needed to change, particularly as a consequence of exiting the EU:

“... a lot of work will need to be done, not just in terms of finalising the UK’s relationship with the EU—we know that—but also in terms of finalising the relationship between the nations of the UK. In the absence of the European Union as the single market, in the absence of the European Court of Justice as the trade court, something has to replace that. It can be done. To my mind, it can be done fairly easily, but it does involve quite a substantial change of mindset at Whitehall and in Westminster, because, ultimately, the driving force of the constitution for many centuries has been parliamentary sovereignty. I don’t subscribe to that anymore; I think sovereignty is best shared. Canada does it well. You have stability, you have prosperity. It doesn’t lead to chaos. For there to be a JMC, of course, there would have to be an acceptance that parliamentary sovereignty is, at the very least, diluted, and that the devolved administrations are seen as partners rather than subordinates.”⁷⁷

61. In an evidence session on the EU (Withdrawal) Bill, Robin Walker MP⁷⁸ told us that:

“... it’s important to recognise there is the JMC process, which is in place to discuss the powers that are returning, where we need to preserve common frameworks, and, crucially, also where we will not need to.”⁷⁹

62. He noted that the intention to use the JMC was written into the UK Government’s White Paper⁸⁰ and that Orders in Council⁸¹ contained in Clause 11 of

⁷⁶ Written Evidence, EUWB10, The Learned Society of Wales

⁷⁷ CLA Committee, 20 March 2017, RoP [89]

⁷⁸ Robin Walker MP is Parliamentary Under Secretary of State at the Department for Exiting the European Union

⁷⁹ External Affairs and Additional Legislation Committee and CLA Committee, 6 November 2017, RoP [68]

the European Union (Withdrawal) Bill would be used substantially to release powers to the devolved bodies.⁸²

63. When questioned about whether there would be a joint approach to agree common UK frameworks, in a similar way to which agreements are reached on EU frameworks, Robin Walker MP said:

“I think we would say that UK frameworks after we leave the European Union will continue to show respect to the position of the devolved administrations and legislatures.”⁸³

64. We asked Philip Rycroft if the process of the UK exiting the EU has highlighted any weaknesses with the JMC as an inter-governmental mechanism. He replied that the creation of this “new manifestation around JMC(EN) ... demonstrates the flexibility of the JMC machinery”.⁸⁴ In so doing, he noted that:

“... the JMC itself is a valuable vehicle for the expression of those views, demonstrated by the fact that we have faced a lot of calls through the summer from the Welsh Government and the Scottish Government for the JMC(EN) to be reconstituted and to be held on a regular basis—and indeed, it will meet again next month.”⁸⁵

65. Philip Rycroft indicated that officials had presented a set of proposals to the JMC(P) in 2016 to revise the MoU and JMC that “unfortunately, could not be agreed by all the administrations round the table”.⁸⁶ He added that officials are “formally charged to keep that process moving forward ... to make sure that the JMC works to the best possible effect as a construct for inter-governmental relations within the UK”.⁸⁷

66. In a report produced by the Constitution Society, Professor Richard Rawlings suggested possible reforms to the JMC:

⁸⁰ External Affairs and Additional Legislation Committee and CLA Committee, 6 November 2017, RoP [68]

⁸¹ A type of subordinate or secondary legislation.

⁸² External Affairs and Additional Legislation Committee and CLA Committee, 6 November 2017, RoP [152]

⁸³ External Affairs and Additional Legislation Committee and CLA Committee, 6 November 2017, RoP [68]

⁸⁴ CLA Committee, 25 September 2017, RoP [296]

⁸⁵ CLA Committee, 25 September 2017, RoP [296]

⁸⁶ CLA Committee, 25 September 2017, RoP [303]

⁸⁷ CLA Committee, 25 September 2017, RoP [303]

“Sitting comfortably with the Prime Minister’s declared policy lines, reform could sensibly include the establishment of a new and more highly-g geared intergovernmental forum, called say ‘JMC (Domestic Single Market)’. As a determinedly multilateral arrangement, designed in part as a vehicle for building trust and confidence, such a body would help to fill an emergent institutional gap in the UK’s territorial constitution. Indeed, without this type of forum how can the four constituent nations collectively and individually make the best of the many market challenges and opportunities in a post-Brexit world? Further referencing the ‘Global Britain’ approach, ‘JMC (DSM)’ could go in tandem with a new ‘JMC (International Trade).”⁸⁸

67. Professor Rawlings considered that JMC(DSM) could cover the development of common frameworks.⁸⁹

68. In repeating his comment that the MoU had worked well, generally speaking, the First Minister said that:

“... occasions have arisen where it wasn’t possible to come to agreement, therefore the Supreme Court then became involved in issues and had to deal with issues relating to devolution. Now, for me, the memoranda have worked to date, but I don’t think that the model of memoranda is an appropriate model for the future. For me, it’s a model of having a joint council or a joint committee of Ministers, and I think that is the way ahead once we leave the European Union.”⁹⁰

69. Chapter 7 of the Welsh Government’s *Brexit and Devolution: Securing Wales Future* sets out how a UK Council of Ministers would work.⁹¹ It includes views on how decisions should be made and implemented, how disputes should be resolved and how such a Council should be supported.

70. The First Minister elaborated on this idea by drawing on his experience as Rural Affairs Minister and his preparations with UK counterparts for meetings of

⁸⁸ The Constitution Society, *Brexit and the Territorial Constitution: Devolution, Reregulation and Inter-governmental Relations*, Professor Richard Rawlings, 2017, page 31. In this report, the JMC (International Trade) is cited as a forum suggested in light of the Canadian experience by the Institute for Government, *Taking back control of trade policy* (May 2017).

⁸⁹ The Constitution Society, *Brexit and the Territorial Constitution: Devolution, Reregulation and Inter-governmental Relations*, Professor Richard Rawlings, 2017, page 31

⁹⁰ CLA Committee, 20 March 2017, RoP [57]

⁹¹ Welsh Government, *Brexit and Devolution: Securing Wales’ Future*, June 2017

the EU Council of Ministers in Brussels.⁹² He suggested that a UK Council of Ministers would need to be in place “by the time the UK leaves the EU”⁹³ and summarised his position when he said:

“If we could move the JMC to a position where it was a proper council of Ministers, where there was a decision-making process, where there was a dispute-resolution process that was independent of one of the Governments, which it isn’t at the moment, then we have the makings of something that I think would work very, very well. We need then to look at those areas of policy that will return from the EU. We’ve mentioned agriculture; we’ve mentioned fisheries, which is probably the most complicated of all. We then look at how the internal single market of the UK operates, but do it collaboratively rather than the UK Government seeing itself as the sole arbiter and constructor of the internal single market of the UK.”⁹⁴

71. In correspondence with the Committee, the First Minister re-iterated his view that the JMC’s role and working arrangements are inadequate for the future and that a new UK Council of Ministers is needed. He explained that, in the meantime, he wanted to see a step change in the way in which JMC operates and acknowledged that a JMC(EN) meeting in October was more positive in tone than has hitherto been the case.⁹⁵ Subsequently, the Cabinet Secretary for Finance, Mark Drakeford AM, indicated that since the Autumn of 2017 experience of the JMC(EN) was considerably better than before then.⁹⁶

72. Sir Derek Jones acknowledged that a Council of Ministers is sometimes used to “describe something more like a ministerial level decision-making body, rather than an exchange-of-views body”, adding that “the business would be done at portfolio Minister level, and by official groups supporting them as decision-making bodies”.⁹⁷ He thought that this should happen.⁹⁸

73. He also explained how it might work in practice:

“You could draw up terms of reference for a council of Ministers that said things not just about rotation of geography, but rotation of the

⁹² CLA Committee, 20 March 2017, RoP [80]

⁹³ CLA Committee, 20 March 2017, RoP [80]

⁹⁴ CLA Committee, 20 March 2017, RoP [95]

⁹⁵ Letter from the First Minister, 20 November 2017

⁹⁶ External Affairs and Additional Legislation Committee, 8 January 2018, RoP [39-41]

⁹⁷ CLA Committee, 15 May 2017, RoP [79]

⁹⁸ CLA Committee, 20 March 2017, RoP [79]

chair, that would describe what the decision-making processes would be and that could prescribe a timetable of meetings. All of those things would be administratively possible, but the absolutely crucial, inescapable thing is that there needs to be common political will for that to happen. And if there is, then I think it would be perfectly possible to pick what were thought to be the best of a range of possibilities for how Ministers would get together to address the need for these UK frameworks, and how groups of officials from the Governments would come together to support them.”⁹⁹

74. The Llywydd, Elin Jones AM, highlighted the issue of transparency; reflecting on her time in government as agriculture Minister where she was part of the EU Council of Ministers, she described how there “was very little transparency to it”.¹⁰⁰

75. Speaking of the First Minister’s proposals for a UK Council of Ministers, the Secretary of State said:

“I’ve seen that proposal. But, again, every individual interpretation would be different, in terms of how that would look—what kind of work it would carry out. Would the hype surrounding it still be there, and the disappointment experienced by some that there isn’t a huge shift in policy as a result of a single meeting. So, on a practical level, there is a job of work to be done in Westminster in terms of developing policy and a job of work to be done by the Welsh Government in those devolved policy areas too, and I do think that there is a role for the JMC to take into account the various elements in order to ensure that the policies work across the board.”¹⁰¹

He added:

“... I think, sometimes, people’s expectations are very different to what would ever be practically delivered, because of the policy work that needs to be done to grant or to recognise a shift in policy in any one particular direction. I therefore think that a particular focus on one meeting or one body is impractical and unrealistic.”¹⁰²

⁹⁹ CLA Committee, 20 March 2017, RoP [84]

¹⁰⁰ CLA Committee, 3 July 2017, RoP [23]

¹⁰¹ CLA Committee, 25 September 2017, RoP [102]

¹⁰² CLA Committee, 25 September 2017, RoP [104]

Reform advocated by other parliamentary committees

76. The House of Lords Constitution Committee noted in its 2015 report that “while some parts of the JMC structure work better than others, in the eyes of the devolved administrations at least the way the JMC system works at present is not satisfactory”.¹⁰³

77. It called for “a revitalised JMC to create a more coherent structure and to improve accountability”¹⁰⁴ and highlighted the importance of greater transparency around the operation of the JMC.¹⁰⁵ Both PACAC¹⁰⁶ and the Devolution (Further Powers) Committee of the Scottish Parliament¹⁰⁷ also raised transparency as an issue that needs to be addressed.

78. The House of Lords Constitution Committee also considered a statutory basis for underpinning inter-governmental relations and concluded:

“The Government should consider whether the framework of inter-governmental relations should be set out in statute. Such a statute could set out the existence and membership of the Joint Ministerial Committee and its core sub-committees, along with the core principles governing relations between administrations. This legislation could provide a basic framework, within which the Memorandum of Understanding and departmental concordats would continue to detail how inter-governmental interactions would function in practice.”¹⁰⁸

79. It also highlighted arbitration as a concern and while not believing that “any form of external arbitration or mediation would be feasible”, recommended that

¹⁰³ House of Lords, Select Committee on the Constitution, *Inter-governmental relations in the United Kingdom*, 11th Report of Session 2014-15, HL Paper 146, March 2015, paragraph 50

¹⁰⁴ House of Lords, Select Committee on the Constitution, *Inter-governmental relations in the United Kingdom*, 11th Report of Session 2014-15, HL Paper 146, March 2015, Summary

¹⁰⁵ House of Lords, Select Committee on the Constitution, *Inter-governmental relations in the United Kingdom*, 11th Report of Session 2014-15, HL Paper 146, March 2015, paragraph 76

¹⁰⁶ House of Commons, Public Administration and Constitutional Affairs Committee, *The Future of the Union, part two: Inter-institutional relations in the UK*, Sixth Report of Session 2016-17, HC 839, December 2016, paragraphs 68-78

¹⁰⁷ The Scottish Parliament, Devolution (Further Powers) Committee (Session 4), *Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations*, 8th Report, 2015, SP Paper 809, October 2015, paragraph 60

¹⁰⁸ House of Lords, Select Committee on the Constitution, *Intergovernmental relations in the United Kingdom*, 11th Report of Session 2014-15, HL Paper 146, March 2015, paragraph 86

the Cabinet Office consider how the JMC's dispute resolution process might be made more independent of the UK Government.¹⁰⁹

80. PACAC have recently supported placing the UK's inter-governmental machinery on a statutory footing. It noted a consensus in the evidence it received for the desirability of this approach and said:

“This would mark a very important step forward as it would help generate the trust that has been hitherto lacking in inter-governmental relations in the UK.”¹¹⁰

81. PACAC's predecessor Committee had previously noted in its 2016 report that with increases in devolved powers and the outcome of the EU referendum, “it is clear that the JMC, while not without its merits, is not, as it is currently organised, set up to cope with this increasingly significant responsibility”.¹¹¹ It added that “to be fully effective, the JMC needs to enjoy the confidence of all four Governments” and “it is crucial that a multilateral forum such as the JMC engages with, and treats, the three devolved administrations with respect and as valued partners”.¹¹²

82. It went on to recommend that:

“... the ongoing review into the MoU should examine the idea of evolving the JMC (P) into an annual Heads of Government Summit, analogous to meetings of the Council of the European Union. Under this model, responsibility for hosting the JMC would rotate among the four administrations, with the host Government given the responsibility for setting the agenda for the plenaries. The four Heads of Government would meet in this consultative body and the communiqué should, wherever possible, be agreed unanimously. This would provide the

¹⁰⁹ House of Lords, Select Committee on the Constitution, *Inter-governmental relations in the United Kingdom*, 11th Report of Session 2014-15, HL Paper 146, March 2015, paragraph 76

¹¹⁰ House of Commons, Public Administration and Constitutional Affairs Committee, *Devolution and Exiting the EU and Clause 11 of the European Union (Withdrawal) Bill: Issues for Consideration*, First Report of Session 2017-19, HC 484, November 2017, paragraph 38

¹¹¹ House of Commons, Public Administration and Constitutional Affairs Committee, *The Future of the Union, part two: Inter-institutional relations in the UK*, Sixth Report of Session 2016-17, HC 839, December 2016, paragraph 25

¹¹² House of Commons, Public Administration and Constitutional Affairs Committee, *The Future of the Union, part two: Inter-institutional relations in the UK*, Sixth Report of Session 2016-17, HC 839, December 2016, paragraph 26

devolved administrations with greater opportunity for involvement, and responsibility, in the JMC.”¹¹³

83. More recent parliamentary reports have also highlighted the impact of the UK’s withdrawal from the EU on inter-institutional relationships. A report by the House of Lords European Union Committee, *Brexit: devolution*,¹¹⁴ reflects and encapsulates many of the concerns we have heard.¹¹⁵

84. As we have already noted, last November, PACAC published its report *Devolution and Exiting the EU and Clause 11 of the European Union (Withdrawal) Bill: Issues for Consideration*. Its conclusions resonate with us:

“Our witnesses noted that there was a clear lack of understanding of the territorial aspects of the UK’s constitution, both in the design of, and debate around Clause 11. However, the main source of disquiet and disagreement between central and devolved Government, derives from the lack of communication and established mechanisms for both proper consultation and shared decision making between governments.

The predecessor Committee’s report *Future of the Union, part two: Inter-institutional relations in the UK*, highlighted the importance of investing in stronger inter-institutional relations. The Committee recommended several achievable first steps in resuscitating these relations, which would have aided these relations in the year following the publication of that report. An effective system of inter-governmental relations is the missing aspect of the current UK constitutional arrangements and the dispute around Clause 11 brings this issue into sharp focus. A set of effective relationships based on mutual trust and effective communication and consultation are

¹¹³ House of Commons, Public Administration and Constitutional Affairs Committee, *The Future of the Union, part two: Inter-institutional relations in the UK*, Sixth Report of Session 2016-17, HC 839 December 2016, paragraph 50

¹¹⁴ House of Lords European Union Committee, *Brexit: Devolution*, 4th Report of Session 2017-19, HL Paper 9, July 2017

¹¹⁵ House of Lords European Union Committee, *Brexit: Devolution*, 4th Report of Session 2017-19, HL Paper 9, July 2017, paragraphs 142, 236, 271 and 272

essential for the internal governance of the UK, following its departure from the European Union.”¹¹⁶

Office of the Secretary of State for Wales

85. The Secretary of State explained his role and how it has changed:

“... the role was one of probably lesser influence in the very early days, I suspect. That would have grown to considerable executive powers pre devolution ... And as every Government of Wales Act will have passed, the role of the Secretary of State will have changed. But I would say that, whereas there’s a strong role for individual Whitehall departments to have a good working relationship with the Welsh Government and, I would say, with the Assembly as a whole from time to time, those departments will often consider issues in isolation, whereas there’s very often a much wider context that needs to be taken into account. One of the roles of the Secretary of State for Wales is to maintain the awareness of that wider context.”¹¹⁷

86. He added that another role:

“... as it stands is to influence Government policy with consideration of devolution, with consideration that a decision in England will have an effect and, even in a devolved area, will have a material influence, because of the scale of the different nations. And the role of the Secretary of State, sitting at the Cabinet table, is to ensure that any Cabinet colleague who is pursuing an area of policy is fully aware of the consequences, and to influence that in a positive way to suit the Welsh context or to take into account the Welsh consequence that would come out of a policy.”¹¹⁸

87. He also elaborated further on his Cabinet role with regard to the UK exiting the EU:

“I sit on six Cabinet committees—clearly, the Cabinet itself, but also six Cabinet committees and sub-committees. I could provide that list to the committee if that would be of assistance. But, anything happening

¹¹⁶ House of Commons, Public Administration and Constitutional Affairs Committee, *Devolution and Exiting the European Union (Withdrawal) Bill: Issues for Consideration, First Report of Session 2017-19*, HC 484, 29 November 2017, paragraphs 42-43.

¹¹⁷ CLA Committee, 25 September 2017, RoP [10]

¹¹⁸ CLA Committee, 25 September 2017, RoP [11]

in terms of Brexit, then I am a member of the relevant committee and very early in the discussion the Prime Minister will turn to me, and to the Secretaries of State for Scotland and Northern Ireland, in order to ask for our response in order to see what the constitutional and political response may be in the various constituent parts of the United Kingdom. Therefore, I obviously bring influence to bear for the benefit of Wales. Some may agree with the direction of travel and others may disagree, but certainly I will always act for the benefit of Wales in any committee or sub-committee.”¹¹⁹

88. There were differing views on the importance of the role of the Secretary of State for Wales.

89. The Rt Hon Lord Murphy told us:

“The role of Secretary of State for Wales is hugely important. English newspapers, London-based newspapers, usually say, ‘Let’s do away with it’, and I can understand the superficial logic of that, but I do think there’s a need for this linkage between somebody in Whitehall—perhaps it’s not the Secretary of State for Wales ... —but nevertheless that someone is there centrally to keep on reminding other Government Ministers and departments that there are 11 million people in the United Kingdom who do not live under the domestic regime of England, and I think that’s a hugely significant role of the Secretary of State and the Ministers, but it’s always a difficult one, it seems to me.”¹²⁰

90. The Rt Hon Lord Murphy also remembered how as Secretary of State for Wales:

“Time and time again I had to remind, around the Cabinet table when they were talking about X, Y and Z, that this didn’t apply in Wales and it’s different. They had to be reminded. That was my job. I’m not saying I resented doing that because I was paid to do that, and I’m assuming that all my successors in the role of Secretary of State for Wales have to do that...”¹²¹

¹¹⁹ CLA Committee, 25 September 2017, RoP [46], and Response from Geth Williams, Deputy Director, Constitution, Wales Office on behalf of Philip Rycroft, Permanent Secretary at the Department for Exiting the European Union, 26 October 2017

¹²⁰ CLA Committee, 6 February 2017, RoP [11]

¹²¹ CLA Committee, 6 February 2017, RoP [21]

91. Both Baroness Randerson¹²² and The Rt Lord Hain¹²³ said the strength of the Secretary of State role and Wales Office depends on the incumbent. In making these remarks Baroness Randerson said it was “no secret that it’s not a very powerful voice around the Cabinet table as a regular thing”¹²⁴ but cited examples of where she felt influence was stronger than would be expected.¹²⁵ She also felt that there was an unfamiliarity with the National Assembly:

“When I was in the Wales Office, my role was specifically to liaise with Welsh Government and with the Assembly, because of my background. And officials did say to me that they felt the difference once there was someone in the Wales Office who understood how the Assembly worked and who already had established relationships with Assembly Members.”¹²⁶

92. As a previous Assembly Member, the Secretary of State agreed with this view. He said that his “understanding of how this place operates in undoubtedly a help”.¹²⁷

93. The Rt Hon Lord Hain was of the view that the “First Minister-Secretary of State relationship ... is terribly important in making devolution work as it should do”.¹²⁸ He said that he used to have Monday morning regular meetings with the First Minister.¹²⁹

94. The Rt Hon Rhodri Morgan said:

“... if you take Wales and Scotland, I think the survival of the Secretary of State’s Office for Wales and Scotland, 18 years after a devolution—nobody would have anticipated that. There were times, of course, when it was thought that you should merge the three offices, so that you had a kind of office for the Celtic fringe or something with a voice in the Cabinet.”¹³⁰

¹²² CLA Committee, 13 March 2017, RoP [28]

¹²³ CLA Committee, 8 May 2017, RoP [47]

¹²⁴ CLA Committee, 13 March 2017, RoP [28]

¹²⁵ CLA Committee, 13 March 2017, RoP [28]

¹²⁶ CLA Committee, 13 March 2017, RoP [7]

¹²⁷ CLA Committee, 25 September 2017, RoP [18]

¹²⁸ CLA Committee, 8 May 2017, RoP [9]

¹²⁹ CLA Committee, 8 May 2017, RoP [47]

¹³⁰ CLA Committee, 25 September 2017, RoP [162]

95. The First Minister was more sceptical about the role of the Secretary of State for Wales, stating that the post had “very little power and almost no budget”.¹³¹ He did not consider that the Secretary of State for Wales was the link with the Prime Minister and Cabinet, saying it would be wrong to suggest that the Welsh Government always went through the Secretary of State for Wales:

“The Secretary of State is copied in, but he’s not the filter for the relationship that we have with the UK Government; it tends to be a direct link with the appropriate department or Secretary of State, and, from my perspective, a direct link with the Prime Minister, and that works pretty well ... With the Wales Bill, or the Wales Act, as it is now, in place, the Secretary of State’s role is not as it was when that Bill was going through.”¹³²

96. The First Minister’s experience was echoed by Sir Derek Jones. He said:

“The Wales Office has got a difficult job, actually, so it’s seen sometimes by Whitehall, and invited to be, the link with the devolved Government in Wales, but, actually, the Welsh Government also has many, many bilateral relationships with Whitehall departments.”¹³³

97. The Secretary of State agreed that “you’ll often have a situation where a Whitehall department will rightly engage with the Welsh Government in a particular policy area, and that is right and sensitive, and it takes place on a daily, a weekly and an ongoing basis”.¹³⁴ However, the Secretary of State explained he did have a role in this process:

“... at certain points, the Whitehall department will turn to the Wales Office to seek advice, to conduct its engagement in a context that we will effectively bring to their attention. Sometimes, something might seem inconsequential to a Whitehall department but could have a significant consequence in Wales, to the politics, to the outlook and to how Wales is seen, or to how Whitehall is seen in Wales.”¹³⁵

¹³¹ CLA Committee, 20 March 2017, RoP [97]

¹³² CLA Committee, 20 March 2017, RoP [99]

¹³³ CLA Committee, 15 May 2017, RoP [36]

¹³⁴ CLA Committee, 25 September 2017, RoP [15]

¹³⁵ CLA Committee, 25 September 2017, RoP [15]

98. The Secretary of State stated that he was “completely relaxed about that engagement between the Welsh Government and the Whitehall department”.¹³⁶

99. Nevertheless, the Secretary of State also alluded to the kind of influence he would expect to exert on Whitehall departments:

“I will always be sighted in terms of what’s happening and what’s going on and if I see that I have no objection or don’t need to add support because it’s progressing in a way that I’m content with, then that will happen. Officials will occasionally communicate my views, which, sometimes, will be in support of the Welsh Government, sometimes will be questioning or pressing for further evidence, or whatever the case might be.”¹³⁷

He added:

“Some departments, again, are better than others at doing that, but the approach I take is that I want Whitehall departments to engage with the devolved administrations, but in the context of the advice that comes from the territorial office.”¹³⁸

The handling of the Wales Bill

100. On 24 February 2015 the UK Government published a Command Paper *Powers for a Purpose: Towards a Lasting Devolution Settlement for Wales*¹³⁹ which set out its proposals for a new devolution settlement in Wales. The paper emerged following cross-party talks which took place in the wake of the Scottish referendum on independence.¹⁴⁰ The Secretary of State for Wales held so-called “St David’s Day discussions” with the four main political parties in Wales, focusing on the recommendations made by the Silk Commission in its second report,¹⁴¹ published in March 2014. A draft Wales Bill was published by the UK Government on 20 October 2015 and our predecessor Committee reported on it in December

¹³⁶ CLA Committee, 25 September 2017, RoP [24]

¹³⁷ CLA Committee, 25 September 2017, RoP [24]

¹³⁸ CLA Committee, 25 September 2017, RoP [24]

¹³⁹ UK Government, *Powers for a purpose: Towards a lasting devolution settlement for Wales*, February 2015

¹⁴⁰ The vote was held on 18 September 2014

¹⁴¹ Commission on Devolution in Wales, *Empowerment and Responsibility: Legislative Powers to Strengthen Wales*, March 2014

2015.¹⁴² We reported on the Wales Bill following its formal introduction in the UK Parliament.¹⁴³ The National Assembly approved a Legislative Consent Motion on the Bill on the 17 January 2017.¹⁴⁴ The Wales Act 2017 received Royal Assent on 31 January 2017.

101. When asked about their views on the handling of the Wales Bill witnesses were largely unimpressed.

102. As regards the St David's Day process, Sir Paul Silk said that anybody was able to veto recommendations made by the Commission, so the end result was not very coherent.¹⁴⁵

103. The First Minister denied that the St David's Day process was an agreement and suggested that it was Westminster-based and there was not enough involvement from the parties in Wales.¹⁴⁶ He was critical of the process, saying that part of the problem with the Wales Bill was that the original Bill was "so dire that literally nobody supported it".¹⁴⁷ He added:

"It was an example of what happens if you write around to Whitehall departments and ask them what they think should be devolved. Inevitably, we had the situation then where the whole ethos behind the original Bill was that, because of the single jurisdiction, as much limitation as possible should be put on the Assembly's ability to legislate, which went right across the 2011 referendum result."¹⁴⁸

104. The Rt Hon Lord Murphy was quite stark in his assessment:

"... one of the weaknesses, it seems to me, of the Wales Bill is that there were so many Government departments who wanted to retain various functions. Some of them were piffling, to be perfectly honest, which eventually, I think, were transferred, but it showed dramatically, as an exercise, how individual Whitehall departments looked at and dealt

¹⁴² Constitutional and Legislative Affairs Committee, *Report on the UK Government's Draft Wales Bill*, December 2015

¹⁴³ CLA Committee, *Report on the UK Government's Wales Bill*, October 2016

¹⁴⁴ The legislative consent motion agreed that provisions in the Wales Bill, in so far as they fall within or modify the legislative competence of the National Assembly for Wales, should continue to be considered by the UK Parliament.

¹⁴⁵ CLA Committee, 25 September 2017, RoP [190]

¹⁴⁶ CLA Committee, 20 March 2017, RoP [118]

¹⁴⁷ CLA Committee, 20 March 2017, RoP [139]

¹⁴⁸ CLA Committee, 20 March 2017, RoP [139]

with devolution. ‘Jealousy’ is not the word, really, but it’s a situation where they wanted to retain power, sometimes just for the sake of it...

And that was a good illustration of how, in 2017, Whitehall departments in London still don’t quite get it with regard to devolution.”¹⁴⁹

105. The Rt Hon Lord Hain made some observations on how the Wales Bill would have been dealt with in Whitehall:

“... with the recent Wales Bill, especially in the first draft, but, frankly, even in the second draft—the second actual Bill and Act—what was meant to be a revolutionary change moving from a conferred to a reserved-powers model actually ended up with, frankly, a bit of a dog’s breakfast. I know how it happens. What happens is the Wales Office will circulate and the First Minister, maybe directly, will circulate and there’ll be a Cabinet committee saying, ‘This is a new issue.’ It will go around to every official in every Whitehall department, from the Home Office to DEFRA, and somebody will say, ‘Hang on, we want to keep a bit of that’ ... It’s almost like a repatriation exercise, not for malevolent reasons, but because that’s the way that bureaucracy works...”¹⁵⁰

106. He went on to emphasise “that there’s nothing malevolent going on here”,¹⁵¹ rather it is a “a natural human instinct to keep what you’ve got”¹⁵² and:

“... not to let things go. And all sorts of good reasons may be advanced in that respect, but it is not recognising the nature of devolution.”¹⁵³

107. Baroness Randerson also acknowledged that it’s “very difficult to persuade people to give up powers”.¹⁵⁴

108. The First Minister acknowledged the support he had received from the Wales Office, saying “they did a fair bit of work in looking to advocate what we had said”,¹⁵⁵ noting some of the successes achieved but adding:

¹⁴⁹ CLA Committee, 6 February 2017, RoP [19]

¹⁵⁰ CLA Committee, 8 May 2017, RoP [35]

¹⁵¹ CLA Committee, 8 May 2017, RoP [37]

¹⁵² CLA Committee, 8 May 2017, RoP [37]

¹⁵³ CLA Committee, 8 May 2017, RoP [37]

¹⁵⁴ CLA Committee, 13 March 2017, RoP [45]

¹⁵⁵ CLA Committee, 20 March 2017, RoP [131]

“On other occasions, the response would be, ‘We’ve tried, but we can’t get the Whitehall department to shift.’”¹⁵⁶

109. Philip Rycroft reflected on the handling of the Wales Bill. He acknowledged some difficulties saying:

“I think we probably underestimated at the off just how much work it would involve ... There’s a lot of learning that we can draw from that process in terms of the amount of consultation with the Welsh Government, with other interests.”¹⁵⁷

110. Philip Rycroft added:

“I think we were appreciative of all the inputs we had from many diverse sources, which I think all added up to making the Act a better one at the end of the day. The team had a huge challenge in putting this Bill together and in creating a worthwhile and a sustainable piece of legislation. It was worth the effort, I think ... Could we have done it better? Of course, every legislative process could be improved, but I would hope that you’d accept that the end result in terms of achieving the reserved-powers model was worth the work that was put into it.”¹⁵⁸

111. A Wales Office official added:

“I think there’s a question to reflect on about when it’s appropriate to consult in the context of a draft Bill. So, the UK Government took the decision of preparing its proposals, publishing them in a draft Bill, and then consulting on the contents of that draft Bill. Now, in hindsight—and hindsight’s a wonderful thing—perhaps we should have consulted a bit more before publishing our draft proposals, and then things like the necessity test might not have slipped through, which, frankly, it did. So, it’s something to reflect on: when is it appropriate to consult, and when should one publish a draft Bill?”¹⁵⁹

112. Sir Paul Silk noted that consulting on the draft Bill itself was a commendable step:

¹⁵⁶ CLA Committee, 20 March 2017, RoP [131]

¹⁵⁷ CLA Committee, 25 September 2017, RoP [253]

¹⁵⁸ CLA Committee, 25 September 2017, RoP [259]

¹⁵⁹ CLA Committee, 25 September 2017, RoP [260]

“I do think that the fact that the Bill was published in draft for pre-legislative scrutiny was excellent, and was a very good example of the benefits of pre-legislative scrutiny. The Bill that eventually became the Act, when it was first introduced, was much better than the Bill that was published for pre-legislative scrutiny, but there are still many things that are going to be problems ... in the future.”¹⁶⁰

The future role of the British-Irish Council

113. The British-Irish Council¹⁶¹ (BIC) is an intergovernmental organisation, formed as part of the Good Friday Agreement reached in 1998, which aims to improve collaboration between its members in a number of areas including transport, the environment, and energy. Its membership comprises Ireland, the United Kingdom, the devolved governments of Northern Ireland, Scotland and Wales, and the governments of the Crown dependencies of the UK: Guernsey, Jersey and the Isle of Man. England does not have a devolved administration, and as a result is not individually represented on the Council.

114. Whilst views on the BIC were diverse, some common themes emerged, which included: the perception that whilst the plenary sessions could be somewhat formulaic and staid with little room for genuine interaction, there was real value in the informal exchanges which took place outside of the plenary sessions and that with leadership and some reform, the BIC has potential to contribute much more as a forum of meaningful engagement, especially as we move towards withdrawal from the European Union.

115. Ieuan Wyn Jones said that what he found interesting was the discussions with Ministers from other administrations:

“You could share experiences, you could share good practice and you could share ideas.”¹⁶²

Although, he added:

“I remember one particular occasion where the communiqué had been written before the meeting had taken place. It didn’t actually reflect the discussion. There was an attempt, I think it was by Alex Salmond, to have a sentence included in the communiqué that better reflected the

¹⁶⁰ CLA Committee, 6 March 2017, RoP [192]

¹⁶¹ More information about the work of the Council is available at:

www.britishirishcouncil.org/about-council

¹⁶² CLA Committee, 27 March 2017, RoP [56]

discussion and it was refused point blank because the communiqué had already gone. It was that kind of situation. Frankly, so far as the Plenary was concerned, it was just formulaic and agenda driven and reports and nothing was really agreed.”¹⁶³

116. The Rt Hon Lord Murphy viewed the BIC as “a vital instrument”.¹⁶⁴ While it could be formal “it’s more significant because of the personal relationships that can be built up”.¹⁶⁵

117. The Rt Hon Lord Hain saw the BIC as “never really, in my experience, a body that ever fulfilled its true potential”.¹⁶⁶ He added:

“... post Brexit, the British-Irish Council has either got to be given a real, substantial role, or it will remain largely ceremonial, largely a talking shop, but valuable in terms of social interaction.”¹⁶⁷

The understanding of devolution by civil servants in Whitehall

118. As part of our evidence gathering we considered the understanding of devolution by civil servants in Whitehall.

119. Numerous witnesses pointed out the poor knowledge and understanding of devolution that exists in parts of Whitehall, despite some laudable efforts to remedy the situation by successive administrations. Based on the extensive evidence we heard, we believe that it is simply unacceptable that the level of understanding of devolution across Whitehall is often poor; that understanding of Welsh devolution is particularly poor in certain key departments, and that attempts to remedy this have been inadequate as judged by current outcomes.

120. The evidence we heard reflects the view expressed in a 2016 PACAC report, which concluded that:

“It is unacceptable that 17 years after the advent of devolution Whitehall departments, when considering the effect of UK policy decisions, are not better at involving and consulting the devolved administrations, so that their views and interests are positively engaged at the outset, rather than as an afterthought. While Sir Derek Jones and Ms Evans

¹⁶³ CLA Committee, 27 March 2017, RoP [55]

¹⁶⁴ CLA Committee, 6 February 2017, RoP [52]

¹⁶⁵ CLA Committee, 6 February 2017, RoP [52]

¹⁶⁶ CLA Committee, 8 May 2017, RoP [18]

¹⁶⁷ CLA Committee, 8 May 2017, RoP [18]

both emphasized the good collaborative relationships that they have with many Whitehall Departments and with the leadership of the Home Civil Service, it is nonetheless disappointing that it has taken 16 years for sustained efforts to be made at boosting awareness of devolution issues and capabilities across Whitehall. Nonetheless, these efforts are better late than never and PACAC welcomes the work undertaken by the UK Governance Group, including the development of the Devolution Toolkit.”¹⁶⁸

121. The Rt Hon Rhodri Morgan told us that in the early days of devolution “there were times when you did feel that they [Whitehall] somehow assumed that we were a new kind of junior Minister or a new kind of Minister in the Blair Government, which we clearly weren’t, but the civil service often, I think, assumed we were”.¹⁶⁹

122. The Rt Hon Lord Murphy felt that it has taken “Whitehall much longer to get used to the idea of devolution than the devolved Parliament and Government in Wales”.¹⁷⁰ As referred to earlier, he explained that this is why the role of Secretary of State for Wales or a formal linkage to the civil service was so important.¹⁷¹

123. We heard repeatedly how relationships with Whitehall departments and the understanding of devolution by different departments could vary.

124. The First Minister thought the picture was “mixed”, adding:

“Some of the Whitehall departments understand devolution, and they understand the need to consult and the need to work with us. Others find it more difficult. So, there’s a variation in terms of the way things have operated in the past.”¹⁷²

125. He said that relationships between the Welsh Government and Whitehall departments varied and downplayed the importance of individual Ministers. He explained:

¹⁶⁸ House of Commons, Public Administration and Constitutional Affairs Committee, The Future of the Union, part two: Inter-institutional relations in the UK, Sixth Report of Session 2016-17, HC 839, December 2016, paragraph 111

¹⁶⁹ CLA Committee, 8 May 2017, RoP [115]

¹⁷⁰ CLA Committee, 6 February 2017, RoP [9]

¹⁷¹ CLA Committee, 6 February 2017, RoP [11]

¹⁷² CLA Committee, 20 March 2017, RoP [22]

“For example, with the Home Office, the relationship has always been more difficult, because they’re not used to dealing with us in terms of a devolved context. With the Department for Environment, Food and Rural Affairs, the relationship was always better. It doesn’t tend to depend on the person occupying the Secretary of State role or the Cabinet Secretary role in Government. We’ve tended to find the same issues have arisen regardless of who the ministerial team are who are place.”¹⁷³

126. By comparison, Ieuan Wyn Jones felt that political leadership can make a difference.¹⁷⁴ However, he also agreed with the First Minister, saying that “it’s a mixed view”, and added:

“I think those who have good relations or, at least, have a good view, if you like, of devolution, tend to be those who’ve got the greatest exposure, if you like, to it. I think the greatest the exposure to it, the better the relationships are. Where there is very little exposure, if you like, to the way devolution works, then I think there’s a reluctance to actually engage with it. But I think it has to change.”¹⁷⁵

127. During our roundtable session, the Welsh Local Government Association also highlighted the variation in approach. They said that officers working on migration and refugees “have a strained and difficult time at the Home Office”.¹⁷⁶ However, in another policy area, welfare reform, they said they had “a really good working relationship with the Department for Work and Pensions—very, very good engagement”.¹⁷⁷

128. Sir Derek Jones described the impressions he had formed over a long civil service career:

“Within all the Whitehall departments there’ll be a devolution liaison officer or team that will also be well informed...

At the same time, there are large numbers of officials in Whitehall that have very little understanding and sometimes no experience of devolution ... either because it’s been their only experience of it or it’s been their main experience, or it is an experience and feels like a bad

¹⁷³ CLA Committee, 20 March 2017, RoP [24]

¹⁷⁴ CLA Committee, 27 March 2017, RoP [8]

¹⁷⁵ CLA Committee, 27 March 2017, RoP [72]

¹⁷⁶ CLA Committee, 19 June 2017, RoP [89]

¹⁷⁷ CLA Committee, 19 June 2017, RoP [89]

one, and so that's prominent. But it is a very, very mixed picture in reality. I think it's important to understand that. But having said that, and taking account of all of that, on balance, my view—and I'm pretty much on the record already about this—is that knowledge and understanding of devolution in Whitehall departments is not good enough, and is not good enough after 17 years of experience. Now, in their defence, the sort of people that I might criticise would say that they've got enough knowledge and understanding of devolution to do 90 per cent of their job 90 per cent of the time. But my argument—as Permanent Secretary in particular—around Whitehall was that we call it devolution, but it's actually the constitution of the United Kingdom that we're talking about. So, what place could there be for an ambitious civil servant aiming to reach the senior civil service of the civil service of the United Kingdom if they didn't have a good knowledge and understanding of the constitution of the United Kingdom and, preferably, some hands on experience of its operation in all of its variety, rather than just in one area?"¹⁷⁸

129. Sir Derek also pointed out that the Cabinet Office and the Treasury had “very high levels of knowledge and understanding of devolved issues”¹⁷⁹ and highlighted the difficult job the Wales Office has to do:

“... there's a whole warp and weft of intergovernmental relations that go on that are not channelled in that way, so that's quite challenging for the Wales Office. Sometimes they're asked to project a UK Government view, as it were, to the Welsh Government; other times they're seeking to influence UK Government or individual Whitehall departments, influence their thinking on a devolved issue—not easy when you're dealing with some of the major departments of state. So, it's not an easy job, nor an easy relationship always, particularly at political level.”¹⁸⁰

130. PACAC have expressed similar views.¹⁸¹

131. Professor Cairney felt that Whitehall's understanding of devolution could be characterised as follows:

¹⁷⁸ CLA Committee, 15 May 2017, RoP [31-32]

¹⁷⁹ CLA Committee, 15 May 2017, RoP [31]

¹⁸⁰ CLA Committee, 15 May 2017, RoP [36]

¹⁸¹ House of Commons, Public Administration and Constitutional Affairs Committee, *The Future of the Union, part two: Inter-institutional relations in the UK*, Sixth Report of Session 2016-17, HC 839, December 2016, paragraph 111

“The usual story is that: (a) London-based policy people tend to know very little about policy in Edinburgh or Cardiff (it’s also told about UK interest groups with devolved arms), (b) devolved-facing UK government units tend to have heroically small numbers of staff, and (c) there are few ‘standard operating procedures’ to ensure that devolved governments are consulted on relevant UK policies routinely. I can’t think of an academic text that tells a different story about the UK-devolved relationship.”¹⁸²

132. He subsequently clarified that the small number of staff equated to “something like four people” (although he wasn’t sure whether this remained the case). He then commented that if specialist units for devolved contact existed, Government departments “need not develop their own relationships – they can rely on an intermediary”.¹⁸³

133. However, he also observed that traditionally, the civil servants with the most knowledge of the devolved territories worked on European issues and warned that if Government departments no longer had to speak with the devolved territories on its routine European involvement, there was a possibility that routine contact would be lost in the future and would need to be replaced by other means.¹⁸⁴

134. He clarified his remarks with a comment that captures some of the other evidence we heard:

“I should say that I’ve never thought that there was a sort of malevolent reason to ignore Scotland and Wales. I think it was just more of a benign neglect.”¹⁸⁵

135. While Baroness Randerson agreed that understanding of devolution in Whitehall is “very patchy” with some departments better than others,¹⁸⁶ she also argued that as the civil service in Whitehall is enormous and spread across various departments, there is “little opportunity for informal cross-fertilisation of ideas”.¹⁸⁷ She also recognised that the devolution settlement is complex to understand in Wales and that in addition civil servants need to understand how devolution

¹⁸² Written evidence, IGP010, Professor Paul Cairney

¹⁸³ CLA Committee, 22 May 2017, RoP [24]

¹⁸⁴ CLA Committee, 22 May 2017, RoP [25]

¹⁸⁵ CLA Committee, 22 May 2017, RoP [27]

¹⁸⁶ CLA Committee, 13 March 2017, RoP [24]

¹⁸⁷ CLA Committee, 13 March 2017, RoP [24]

settlements differ between each administration.¹⁸⁸ Philip Rycroft made similar points.¹⁸⁹

136. Baroness Randerson also noted that the Wales Office spends a lot of time and effort building up relationships to develop knowledge and understanding but often has to deal with staff moving on and the general turnover of staff in the civil service,¹⁹⁰ a point also alluded to by the Secretary of State himself.¹⁹¹

137. The Secretary of State told us he believed the understanding of devolution by Whitehall officials to be an ongoing learning process. He said:

“... you have to remember there’s also a churn of Whitehall officials, which is natural in any large organisation. So, the role of the Secretary of State, and of the Wales Office, with their official team, to constantly keep on oiling the wheels of Government to understand the implications on devolved administrations, or the role of devolved administrations, is ongoing.”¹⁹²

138. We asked the Secretary of State if he agreed that devolution was seen as an afterthought by some Whitehall departments, a comment made previously to PACAC by Sir Derek Jones.¹⁹³ He replied:

“Well, I don’t see that. I disagree with that, because I see very early on—and Whitehall departments often will raise issues with us early on: what are the consequences that we would see, or what we think should be their consideration to it. So, I would disagree with that, but I always say there is always work to do, because it’s a dynamic that is constantly evolving.”¹⁹⁴

139. A Wales Office official added:

“Nothing helped raise the awareness of Wales more in Whitehall than the Wales Bill. It involved two years of very intensive work with all departments across Whitehall—policy teams, legal teams, Ministers.

¹⁸⁸ CLA Committee, 13 March 2017, RoP [26]

¹⁸⁹ CLA Committee, 25 September 2017, RoP [217]

¹⁹⁰ CLA Committee, 13 March 2017, RoP [25]

¹⁹¹ CLA Committee, 25 September 2017, RoP [61]

¹⁹² CLA Committee, 25 September 2017, RoP [22]

¹⁹³ House of Commons Public Administration and Constitutional Affairs Committee, oral evidence: Inter-institutional relations in the UK, HC 525, Monday 7 December 2015, Q139

¹⁹⁴ CLA Committee, 25 September 2017, RoP [67]

They all became very well aware of what the new reserved powers settlement looks like. We're about to embark on an intensive training programme with departments across Whitehall in anticipation of the new reserved-powers model coming into force next spring. We need to ensure that the new reserved-powers model is ingrained in the Whitehall psyche. And as the Secretary of State said, the departments come to us if they're uncertain about any aspect of it."¹⁹⁵

140. News reports in October 2017 suggested that the views of a former Secretary of State for Wales are at odds with those of the current Secretary of State. Stephen Crabb MP is quoted as saying devolution was “still an afterthought in too many Whitehall departments” and:

“... 20 years into devolution, and we still have to get the cabinet secretary to put pressure on departmental permanent secretaries to take devolution seriously ...

I think they don't take devolution seriously enough at a deep level within Whitehall.”¹⁹⁶

141. Philip Rycroft explained the internal machinery of the civil service in Whitehall.¹⁹⁷ He told us that the UK Governance Group, which was created in May 2015 and that he led, brought together the constitution group in the Cabinet Office, the Wales Office, the Scotland Office and the Office of the Advocate General for Scotland in order to oversee constitution and devolution issues.¹⁹⁸ Philip Rycroft's role gave him:

“the right to attend regular meetings of permanent secretaries across Whitehall, which means that, on a very, very regular basis, I can remind them, as they present their various proposals to the collective of permanent secretaries, that they should be taking into account matters pertaining to Wales, Scotland...”¹⁹⁹

¹⁹⁵ CLA Committee, 25 September 2017, RoP [68]

¹⁹⁶ BBC, Wales Politics, 3 October 2017 www.bbc.co.uk/news/uk-wales-politics-41484583

¹⁹⁷ CLA Committee, 25 September 2017, RoP [180-308]

¹⁹⁸ CLA Committee, 25 September 2017, RoP [180]

¹⁹⁹ CLA Committee, 25 September 2017, RoP [200]

142. He explained that the core purpose of the UK Governance Group “is about maintaining the integrity of the union and about sustaining a flourishing democracy”.²⁰⁰ He felt that:

“this bringing together of the UK Governance Group in the Cabinet Office, with the support of the territorial departments—obviously the Wales Office, also the Scotland Office, working very closely with the Northern Ireland Office as well—creates a real centre of expertise on constitutional and devolution issues, which gives us the ability to look at what’s going on across Government, to ensure that Ministers are well advised on what this means for the devolution settlements and for the constitutional future of the country.”²⁰¹

143. Philip Rycroft explained that he was also due to take up a role as Permanent Secretary of the Department for Exiting the EU, but in so doing would retain his role as head of the UK Governance Group. As a consequence a new role had been created—Director General of the UK Governance Group—who reported to him. The aim of the role was to “take some of the strain” and deal with the day-to-day business and support his role.²⁰² Philip Rycroft added that the heads of the Wales Office, Scotland Office and Office of the Advocate General for Scotland report to the Director General of the UK Governance Group and through that person, to him.²⁰³

144. Philip Rycroft explained that:

“So, what we’ve tried to do is to make sure that there is a knitting together, if you like, of understanding the civil service end, to ensure that there is the best possible support for the Secretary of State for Wales, as well as for the First Secretary of State and other Ministers. So, as a consequence of that, I and my colleagues across the rest of the group work very, very closely with the Secretary of State for Wales, the Secretary of State for Scotland, and the Advocate General for Scotland as well. I will meet the Secretary of State for Wales on a regular basis to swap notes on where things are at, and he will ask things of us, as well

²⁰⁰ CLA Committee, 25 September 2017, RoP [185]

²⁰¹ CLA Committee, 25 September 2017, RoP [185]

²⁰² CLA Committee, 25 September 2017, RoP [202-203]

²⁰³ CLA Committee, 25 September 2017, RoP [205-206]

as of Wales Office colleagues, in order to advance the agenda of the Wales Office across Government.”²⁰⁴

145. Referring to the work of the UK Governance Group, Philip Rycroft told us that mechanisms to try and ensure that all Whitehall departments understand their devolution responsibilities and understand the nature of the devolution settlements are being put in place,²⁰⁵ although he admitted that there is still work to be done:

“... the devolution settlements themselves have changed over that time; we’ve had two Wales Acts. So, Whitehall needs to keep on keeping up, if you like. I think there is still a distance to travel before I would be content that all of the Whitehall civil servants who need to understand this business have a clear understanding of the way in which power is now held in different parts of the UK, and how you get business done across the UK, given the very great powers that are held here in Cardiff, in Edinburgh and in Belfast. It’s our contention that you cannot in very, very many policy areas advance your policy agenda without a very good understanding of the devolution settlements and ... that is the challenge that we’ve got: to take Whitehall on that learning journey. We’ve put a lot of effort into that. I think it is showing the results, but I’d be the last person to sit back and think we’ve cracked it, because there is a way to go.”²⁰⁶

146. Philip Rycroft did not think there is a reluctance amongst some Whitehall departments to engage, adding:

“... I think devolution does pose challenges. It makes things more complicated ... The devolution settlements are a fact of life, have been for 20 years, and people need to get on with it.”²⁰⁷

147. We also asked how the performance of Whitehall departments is monitored in their understanding of the devolution settlement. Philip Rycroft explained that departments own capability plans setting out how they would fulfil their devolution responsibilities; his job includes advising the Cabinet Secretary on performance against those plans.²⁰⁸ He also appears on a biannual basis before

²⁰⁴ CLA Committee, 25 September 2017, RoP [198]

²⁰⁵ CLA Committee, 25 September 2017, RoP [187]

²⁰⁶ CLA Committee, 25 September 2017, RoP [215]

²⁰⁷ CLA Committee, 25 September 2017, RoP [68]

²⁰⁸ CLA Committee, 25 September 2017, RoP [224]

the civil service board to explain progress and seek “endorsement” for the next steps of activity.²⁰⁹ He said the approach adopted is:

“... by and large ... what bureaucratic organisations respond to—to be given a clear set of objectives, to have a plan to manage those objectives and to be held accountable for them.”²¹⁰

148. Philip Rycroft outlined the steps being taken to improve the understanding of devolution by Whitehall civil servants. He said:

“A particular area where we started off on a relatively low base but where we have ramped it up considerably is on learning. So, for example, now, we have devolution wrapped into the core curriculum for all civil servants. We’ve got it as part of the learning experience for the fast stream and the other high potential schemes in Government. It is a process of making sure that this is just integral to the jobs that the majority of civil servants in Whitehall do.”²¹¹

149. He reported that:

“What we don’t encounter is a resistance to this message—‘It’s nothing to do with us; go away’—it’s more about, ‘Look, we’ve got extremely busy agendas. Help us to understand how we can incorporate this in our business and in running the departments in a way that gets us what we want and helps you to get what you want’.”²¹²

150. Re-enforcing a point made when supporting the Secretary of State (see paragraph 142) a Wales Office official added:

“... we’ll be ramping up training and learning a lot within Whitehall over the next six months in anticipation of the new reserved-powers model coming on-stream next April.”²¹³

Improving understanding of devolution in Whitehall

151. The Secretary of State suggested that “it’s very helpful when Whitehall officials come on secondment or even come and work in the Assembly, in the

²⁰⁹ CLA Committee, 25 September 2017, RoP [224]

²¹⁰ CLA Committee, 25 September 2017, RoP [224]

²¹¹ CLA Committee, 25 September 2017, RoP [227]

²¹² CLA Committee, 25 September 2017, RoP [233]

²¹³ CLA Committee, 25 September 2017, RoP [236]

Welsh Government, and vice versa”.²¹⁴ Referring to the Whitehall experience of the previous Chair of this Committee, he added:

“The same applies to politicians. Politicians, such as your good self, with understanding of how Whitehall operates and how the Assembly works, and myself, who went the other way—I think it’s a good added benefit in order to help educate the machinery of government at both ends of the M4.”²¹⁵

152. The Rt Hon Elfyn Llwyd said that he believed “insufficient training has been provided to civil servants and Westminster Government Ministers to ensure the smooth running of the settlement”.²¹⁶ He added:

“I’m sorry to say, but it is clear to me that these people show very little interest in the whole issue of devolution.”²¹⁷

153. In our evidence session, we asked The Rt Hon Elfyn Llwyd what improvements could be made. He told us:

“... I would have thought that it would be very positive to have joint seminars between civil servants in the Welsh Government and the Assembly and civil servants in London, and that there were regular discussions between individuals so that they understand each other, and that appropriate time is given to these kinds of initiatives, bringing in people who are learned in this area.”²¹⁸

154. The Rt Hon Elfyn Llwyd highlighted an approach to training civil servants in France:

“The Ecole Nationale d'Administration in Paris is a world renowned institution and has existed for centuries. This, perhaps, would be the greatest ambition.”²¹⁹

²¹⁴ CLA Committee, 25 September 2017, RoP [61]

²¹⁵ CLA Committee, 25 September 2017, RoP [61]

²¹⁶ Written evidence, IGP008, The Rt Hon Elfyn Llwyd. Submitted in Welsh only – courtesy translation provided by the National Assembly’s Translation and Reporting Service

²¹⁷ Written evidence, IGP008, The Rt Hon Elfyn Llwyd. Submitted in Welsh only – courtesy translation provided by the National Assembly’s Translation and Reporting Service

²¹⁸ CLA Committee, 13 March 2017, RoP [115]

²¹⁹ Written evidence, IGP008, The Rt Hon Elfyn Llwyd. Submitted in Welsh only – courtesy translation provided by the National Assembly’s Translation and Reporting Service

155. He also suggested a bespoke training course for Whitehall civil servants produced by Welsh universities.²²⁰

156. We wrote²²¹ to three Welsh universities to ask their views on how best to address the challenge of changing mind-sets in Whitehall where that needs to happen, and the role education can play.

157. Professor Jonathan Bradbury²²² suggested that “Welsh Universities could play much more of a role in helping to improve knowledge and understanding of Welsh devolution across the UK”.²²³ He outlined the work already undertaken in Swansea University on Parliamentary Studies and suggested there are two areas where he believes Welsh universities can “channel their expertise in a collaborative way”.²²⁴ He said:

“First, at the UK level, and specifically aiming at UK civil servants there is the Institute for Government. The IFG was established to provide training and advice for UK civil servants and policy makers, which could incorporate officials and policy makers from across the UK. It is likely that a greater Welsh university input into the IFG would improve knowledge and understanding of Welsh devolution at the UK centre.”²²⁵

158. He added:

“Secondly, a key arena through which greater collaboration might be stimulated is the Learned Society for Wales. This has the ambition to promote knowledge and understanding of Wales generally, and has a track record specifically of holding conferences and initiating reports in the areas of social science research in Wales and devolution, including in conjunction with the British Academy. An imaginative vision might include the LSFW taking the initiative to bring together university expertise to produce publications, briefing reports and events, perhaps even held on an annual basis, to promote awareness of the Assembly.”²²⁶

²²⁰ Written evidence, IGPO08, The Rt Hon Elfyn Llwyd. Submitted in Welsh only – courtesy translation provided by the National Assembly’s Translation and Reporting Service

²²¹ Letters to Swansea University, Cardiff University and Aberystwyth University, 12 June 2017

²²² Professor Jonathan Bradbury, Department of Political and Cultural Studies, Swansea University

²²³ Letter from Professor Jonathan Bradbury, 4 July 2017

²²⁴ Letter from Professor Jonathan Bradbury, 4 July 2017

²²⁵ Letter from Professor Jonathan Bradbury, 4 July 2017

²²⁶ Letter from Professor Jonathan Bradbury, 4 July 2017

The impact of inter-governmental relationships on stakeholders

159. The effectiveness and outcomes of inter-governmental relations in relation to specific policy areas will have implications for stakeholders who operate in those areas. We therefore sought views from stakeholders in a round table session²²⁷ about these issues (and matters related to inter-parliamentary co-operation).

160. Given the comparative sizes of Wales and England, it was perhaps not surprising to hear that stakeholders in Wales have overwhelmingly closer relationships with civil servants in Wales than in Whitehall,²²⁸ with NFU Cymru stating that:

“... devolution has brought our Ministers, our politicians and civil servants much closer to us, and they are far, far more accessible in terms of geography and in terms of time as well.”²²⁹

161. RSPB Cymru said that it was easier to build relationships with civil servants in Wales not only because of access but because of the natural churn of civil service staff in Whitehall, which meant “you have to build the relationship usually every couple of years and re-explain everything”.²³⁰ There was however an acknowledgement that Brexit has changed the approach of the UK Government.²³¹ NFU Cymru observed that:

“... getting hold of UK Government Ministers can perhaps be a bit more challenging, although recognising as well that, since Brexit, they have been far more willing to engage and take soundings from us...”²³²

162. Stakeholders also expressed concerns about the existing inter-governmental machinery. The Federation of Small Business highlighted the need for greater transparency to help them engage:

“... particularly with regard to Brexit, there is a need for maybe some clarity as to the ministerial connectivity between Welsh Government and UK Government. For instance, we now have the joint ministerial forum, which obviously provides some assurance, I guess, that something’s going on, but the clarity and the mechanism for that

²²⁷ CLA Committee, 19 June 2017, RoP

²²⁸ CLA Committee, 19 June 2017, RoP [21, 27 and 36]

²²⁹ CLA Committee, 19 June 2017, RoP [43]

²³⁰ CLA Committee, 19 June 2017, RoP [36]

²³¹ CLA Committee, 19 June 2017, RoP [27,33, 36 and 40]

²³² CLA Committee, 19 June 2017, RoP [44]

activity is far from certain. So, in terms of the way in which we would engage different Governments to contribute to that, that's yet to pan out."²³³

163. Universities Wales noted that effective inter-governmental (and inter-parliamentary) relations were “crucial for good legislative practice” in their sector and highlighted why the development of UK wide relationships is important:

“... higher education is a devolved subject, however, many constitutional and policy arrangements relating to higher education remain UK wide and the reality is that universities compete within an international higher education market with policy influenced by both decisions in Westminster and factors outside the UK. The success of universities in Wales and across the UK, is dependent, not only the successful development of devolved policy but our ability to work with our colleagues across the UK and beyond to rise to the challenges of rapid global expansion of higher education, seen as a key driver of many competing economies.”²³⁴

164. When questioned they added that:

“... personalities and culture ... are extremely important, but ... a lot of these problems can be addressed further by more structured formal arrangements. That's an area we would look to improve on, perhaps.

... the traditional method of working with Wales doesn't match the current state of devolution, which is UK policy consultation with everybody and Wales falling in alongside that. That's not strong enough to protect, I don't think, the Welsh interests in some of these areas.”²³⁵

165. Another theme that emerged is that there is much to be gained from joint-learning between governments, a point noted by the Citizen Panel. They felt that the Welsh public should be proud that Wales is able to make laws the other countries are choosing to adopt. The Panel considered:

“Institutions should always look outwards. Whilst respect should be shown to the country working to the lead the way; informal information gathering should be allowed to happen.”

²³³ CLA Committee, 19 June 2017, RoP [46]

²³⁴ Written evidence, IGPO05, Universities Wales

²³⁵ CLA Committee, 19 June 2017, RoP [102]

166. Sir Derek Jones highlighted initiatives where there was a willingness for everybody to learn from everyone else and noted that “the devolved Governments actually have some of the best stories to tell in terms of policy innovation – everything from a children’s commissioner to 5p for a single-use plastic bag”.²³⁶

167. However, we also heard that sometimes the UK Government is unwilling to engage. In previous research with colleagues in 2012, Professor Cairney found that the UK Government was generally uninterested in learning from devolved policy.²³⁷

168. The Welsh NHS Confederation,²³⁸ RSPB Cymru²³⁹ and Farmers Union of Wales²⁴⁰ all highlighted concerns where, based on their experiences, the boundaries or consequences of devolution were not understood. While perhaps symptomatic of changes to, and the underlying complexity of, the devolution settlement, these points nevertheless highlight the impact the lack of knowledge of devolution in Westminster and Whitehall can have on effective policy-making.

169. Many stakeholders noted that Brexit had brought about a change in approach to the way they interacted and operated within the UK.²⁴¹ RSPB Cymru felt that the advent of Brexit had broken barriers down and “raised the fact that we’ve maybe been too comfortable in some of our own silos”.²⁴²

170. RSPB Cymru added:

“We’re getting lots of access and there are lots of workshops and lots of working groups happening here in Wales about Brexit, and we know that people have come down from Scotland and said, ‘Wow, this is amazing’, but what influence and what impact is that having then in terms of what’s happening in Whitehall and Westminster?”²⁴³

171. The Farmers’ Union for Wales noted the impact of moving away from European co-ordination towards an approach focused more on British governance, saying:

²³⁶ CLA Committee, 15 May 2017, RoP [62]

²³⁷ Written evidence, IGP010, Professor Paul Cairney

²³⁸ CLA Committee, 19 June 2017, RoP [72]

²³⁹ CLA Committee, 19 June 2017, RoP [78]

²⁴⁰ CLA Committee, 19 June 2017, RoP [91]

²⁴¹ CLA Committee, 15 May 2017, RoP [33, 42, 46, 50, 51, 53 and 72]

²⁴² CLA Committee, 19 June 2017, RoP [36]

²⁴³ CLA Committee, 19 June 2017, RoP [40]

“... it’s a cause of great concern in some respects in that, superficially, we are a very, very small voice at an EU level, but we have many kindred spirits across the EU in terms of Governments that recognise rural communities—you know, because mainland Europe is far more rural than England is, and we are aware of that. So ... even though our voice is superficially less dilute within the UK, we’re actually up against a far more urban-dominated viewpoint. So, maybe that’s right from a democratic point of view, but it’s certainly very concerning for an area such as Wales, where rural communities are so dominant.”²⁴⁴

²⁴⁴ CLA Committee, 19 June 2017, RoP [61]

3. How should parliaments work together?

Introduction

172. Chapter 13 of the Silk Commission's report, *Empowerment and Responsibility: Legislative Powers to Strengthen Wales*²⁴⁵ highlighted the importance and benefits of strong inter-parliamentary relations and co-operation. We support the recommendation that said of the relationship between the National Assembly and UK Parliament:

“there should be improved inter-parliamentary cooperation to increase mutual understanding of the work of the National Assembly and both Houses of Parliament, especially in terms of committee-to-committee cooperation (including attendance by Ministers from each administration at Committees of the other legislature); information-sharing should be improved...”²⁴⁶

173. Our predecessor Committee looked at inter-parliamentary working as part of its Fourth Assembly legacy considerations.²⁴⁷

174. In October 2016, we met with the Constitution Committee of the House of Lords to discuss and exchange views on the Wales Bill.

Joint working between parliaments

The big picture

175. Many of our witnesses emphasised that relationships between parliaments were just as important as those between governments,²⁴⁸ and also that they are crucial to the effective scrutiny of government.²⁴⁹ This point was highlighted by the RSPB:

“I think there is a challenge around centralisation as we go through this Brexit process, but also there's a great threat that Brexit leads to an

²⁴⁵ Commission on Devolution in Wales, *Empowerment and Responsibility: Legislative Powers to Strengthen Wales*, March 2014

²⁴⁶ Commission on Devolution in Wales, *Empowerment and Responsibility: Legislative Powers to Strengthen Wales*, March 2014, Recommendation 54a

²⁴⁷ Constitutional and Legislative Affairs Committee, *Fourth Assembly Legacy Report*, March 2016, page 38

²⁴⁸ For example, CLA Committee, 13 March 2017, RoP [72]; CLA Committee, 27 March 2017, RoP [74]

²⁴⁹ For example, CLA Committee, 6 March 2017, RoP [155]; CLA Committee, 3 July 2017, RoP [13]

emergence of a governance gap and a transfer of power from democratic institutions, including Parliaments across the UK and executive Governments, whether that's either in London or, to be honest, Governments in the countries as well. And if you look at the practice at EU level, where the European Parliament does have co-legislative power, where there is quite a commitment from the Commission around stakeholder engagement and lots of processes and technical committees around that—if you look at something like the repeal Bill, where basically all those powers may just go straight to a Minister either in London or in Wales, then I think that's a real concern of ours.”²⁵⁰

176. Ieuan Wyn Jones said that after the UK leaves the EU “greater effort has to be made to bring people together”.²⁵¹ He continued:

“... one tends to think of these terms in terms of inter-governmental relations whereas the reality is that inter-parliamentary relations are just as important ... Therefore, we need to find ways in which that can be strengthened as well. Because, even if you have all the will in the world at governmental level, if there's still this reluctance at parliamentary level for the thing to work, then you've still got problems.”²⁵²

177. We considered the role of Speakers and Presiding Officers in inter-parliamentary relations. Elin Jones AM, the Presiding Officer, or Llywydd, of the National Assembly told us:

“You will be aware, of course, of the quadrilaterals between the Speakers and Presiding Officers of the various Parliaments and Assemblies, and we can use that forum to discuss issues and learn lessons from each other.”²⁵³

178. She reported that:

“There has only been one of those quadrilaterals since my election as Presiding Officer, and that perhaps is a reflection of the fact that there has been a UK general election recently, and also that there is no Assembly sitting currently in Northern Ireland ... generally speaking, the meeting is relatively informal and we are learning lessons from each

²⁵⁰ CLA Committee, 19 June 2017, RoP [64]

²⁵¹ CLA Committee, 27 March 2017, RoP [74]

²⁵² CLA Committee, 27 March 2017, RoP [74]

²⁵³ CLA Committee, 3 July 2017, RoP [5]

other, rather than contributing, perhaps, to the development of a more structured relationship. That's the nature of the meeting that I attended at least."²⁵⁴

179. She felt there was “room for improvement” in the context of links between Speakers and Presiding Officers, suggesting that:

“Brexit gives us an opportunity to look at whether it is time for us to formalise that relationship between our Parliaments.”²⁵⁵

180. Adrian Crompton²⁵⁶ noted that for such arrangements to begin there needed to be “political will” and “a common purpose and a focus rather than just being a structure in its own right”.²⁵⁷ He added:

“With those two things in place, people like me can then iron out the sort of boring but important stuff about the practicalities of getting Members together, the rules of engagement, the rules of procedure and so on. But it needs those first two things in order to get it off the ground.”²⁵⁸

181. In looking to see how this need for greater, formalised co-operation could be taken forward, we asked whether a device like a Speakers’ conference²⁵⁹ could be useful as a first step. The Llywydd agreed:

“I think if fellow Speakers feel that their Parliaments are up for looking finally at how we can make inter-parliamentary work—how we can formalise it—whether there are opportunities to do that in the context of what’s likely to happen in possibly the creation of a council of Ministers at a UK level, intergovernmental co-operation and co-decision-making—that needs to have a parallel process.”²⁶⁰

182. She did however highlight a challenge that would arise in this context:

²⁵⁴ CLA Committee, 3 July 2017, RoP [9]

²⁵⁵ CLA Committee, 3 July 2017, RoP [15]

²⁵⁶ Adrian Crompton is the Director of Assembly Business in the National Assembly for Wales Commission

²⁵⁷ CLA Committee, 3 July 2017, RoP [15]

²⁵⁸ CLA Committee, 3 July 2017, RoP [15]

²⁵⁹ In the House of Commons, a Speaker’s Conference has been used to reach all-party agreement on major constitutional issues. See House of Commons Library, *Speaker’s Conferences*, Standard Note: SN/PC/04426

²⁶⁰ CLA Committee, 3 July 2017, RoP [21]

“... if there is to be any move towards formalising inter-parliamentary work, whether that is scrutiny or some kind of oversight of policy— ... the challenge will be that the four Parliaments do that equally and see it as something that they sign up to doing properly, that it adds value and doesn’t detract from the proper accountability to the home Parliaments. I don’t think there’s a perfect model out there at this point, but I think it’s a conversation that does need to be had ... But I certainly wouldn’t want it to duplicate effort by creating joint committees when altogether separate committees would work just as well, and I wouldn’t want it to be a talking shop of the kind that we may have already in some contexts. So, I think it’s right to investigate ... whether there is an appetite from all Parliaments for it.”²⁶¹

183. During our stakeholder session, the RSPB highlighted why closer co-operation between parliaments would be so important, particularly as inter-governmental relations developed:

“If you have a UK council of Ministers that’s potentially taking decisions behind closed doors with no parliamentary scrutiny, either at Westminster or devolved level, and then those Ministers come back to their countries and effectively deliver a *fait accompli*, then I think that’s very bad for (a) good policy making, but (b) public trust in our democracy and our decision-making institutions. So, I do fundamentally believe that, in the context of Brexit, we do need to reinvent our democracy and the way that parliaments work together.”²⁶²

184. The Llywydd also spoke about improving the process of how the outcomes of votes in the National Assembly on Legislative Consent Motions²⁶³ are dealt with in the UK Parliament.²⁶⁴ Adrian Crompton explained what may be needed:

“At the Westminster end, our consenting, or not consenting, as the Llywydd said, triggers a formal notification process, but nothing else procedurally, in parliamentary terms. It is left to the Governments to sort that out. So, I think that’s the element that needs addressing. But also, at the earlier stage in the process, by and large, it is left to the

²⁶¹ CLA Committee, 3 July 2017, RoP [75]

²⁶² CLA Committee, 19 June 2017, RoP [179]

²⁶³ When the UK Parliament wishes to legislate on a subject matter that has been devolved to the National Assembly for Wales, or on changing the powers of the Assembly, convention requires the consent of the Assembly to be given before the UK Parliament may pass the legislation in question. Such consent is given by the National Assembly through Legislative Consent Motions.

²⁶⁴ CLA Committee, 3 July 2017, RoP [62-4]

Governments to negotiate what we're asked to consent for, and so that process can take time, that eats up the time available to the Assembly to examine and come to its conclusion. So, the process ideally should not be the presentation of an LCM that's simply voted through rapidly; it should be a more thorough and long process."²⁶⁵

185. During our evidence sessions, we heard Lord Hain call for a new, more federal constitutional settlement for the whole of the UK,²⁶⁶ while The Rt Hon Rhodri Morgan spoke of his support for a written constitution for the UK.²⁶⁷

Working between Committees

186. On 17 January 2017, we wrote²⁶⁸ to the chairs of other National Assembly committees to ask about their experiences of inter-parliamentary relations. In response, the Health, Social Care and Sport Committee told us:

"It is our view that strong inter-parliamentary working and liaison between Parliamentary Committees is essential for effective scrutiny and can enable the free exchange of ideas and improved policy learning ... this is particularly the case for example in respect of cross-border health and social care issues."²⁶⁹

187. The External Affairs and Additional Legislation Committee said:

"In terms of inter-parliamentary relations, we are engaged in a range of activity with colleagues in other legislatures. This includes participation in a conference of the 'Brexit' committees in the devolved legislature and the London Assembly and through my membership of the EC-UK Forum."²⁷⁰

188. The Llywydd expressed her support for joint working. She said:

"I am responsible for ensuring that the Assembly's business is done in an effective manner and that this place has the capacity to do its work effectively and efficiently. Therefore, allowing officials from this place, be they the clerks of various committees, to be discussing the work of this place with representatives of other Parliaments and officials and clerks

²⁶⁵ CLA Committee, 3 July 2017, RoP [89]

²⁶⁶ CLA Committee, 8 May 2017, RoP [22]

²⁶⁷ CLA Committee, 8 May 2017, RoP [108]

²⁶⁸ Letters are available on the CLA Committee website

²⁶⁹ Written evidence, Health, Social Care and Sport Committee, IGP002

²⁷⁰ Written evidence, External Affairs and Additional Legislation Committee, IGP003

in other Parliaments in an informal setting, and also allowing the committees of this place and the politicians who are members of those committees to be, where appropriate, doing joint work, carrying out joint scrutiny, joint policy development, if that is appropriate and if that is how they wish to work.”²⁷¹

189. Adrian Crompton outlined the current position:

“Amongst committees, we have seen varying degrees of joint committee work, usually, again, at a relatively informal level, but that is becoming more prevalent and more necessary in the context of Brexit ... an important thing to note too is that we and Westminster are the only pairing of the various Parliaments of the UK that have a formal, procedural basis for our engagement as well ... and, I think, is potentially something to build on if we wanted to formalise these relationships a little more.”²⁷²

190. Support also came from public organisations, such as Universities Wales, who advocated the use of joint committees to scrutinise matters related to the legislative consent process.²⁷³

191. In the Fourth Assembly, our predecessor Committee held a concurrent meeting with the House of Commons Welsh Affairs Select Committee²⁷⁴ (WAC) in Cardiff as part of each committee’s scrutiny of the draft Wales Bill. This session was very successful, with positive feedback from both committees. As a consequence, our predecessor Committee wrote to the Chair of the Welsh Affairs Select Committee supporting his desire to explore further how the procedures at Westminster can be amended to facilitate more joint working between the two legislatures.²⁷⁵

192. The House of Commons PACAC report in 2016 on inter-institutional relations in the UK made the following recommendation:

“... the provisions of Standing Order No. 137A(3) (henceforth referred to as 137A(3)), which enables the Welsh Affairs Committee to hold joint evidence sessions with committees of the National Assembly for Wales,

²⁷¹ CLA Committee, 3 July 2017, RoP [5]

²⁷² CLA Committee, 3 July 2017, RoP [11]

²⁷³ CLA Committee, 19 June 2017, RoP [145-147]

²⁷⁴ 9 November 2015

²⁷⁵ Letter from Chair, Constitutional and Legislative Affairs Committee, Fourth Assembly to David Davies MP, Chair of Welsh Affairs Select Committee, House of Commons, 18 December 2015

should be extended to enable all committees of the House of Commons to meet jointly with any specified committee of any of the three devolved legislatures. It makes little sense, given the increasing number of concurrent responsibilities, for 137A(3) to continue to be limited to the Welsh Affairs Committee. Amending 137A(3) will provide for inter-parliamentary collaboration ‘on demand’, allowing Committees of the House that wish to undertake joint evidence sessions with the Committees of the other legislatures to do so at a time of their (and, of course, the relevant Committee of the other legislature) choosing. However, for such a reform to be meaningful, PACAC calls upon the other three UK legislatures to examine where their Standing Orders, or relevant statutory provisions, inhibit greater inter-parliamentary collaboration and, where possible, to eliminate these barriers. This collaboration would not undermine the right of the devolved legislatures to form legislation independently of UK Parliament influence.”^{276 277}

193. Many of our witnesses noted that relationships between parliaments were just as important as those between governments.

194. As part of our work, we considered whether there is a need for a forum akin to the EC-UK Forum, focused on the constitution. The Rt Hon Elwyn Llwyd remarked on the need for a pan-UK constitutional committee.²⁷⁸ He said that “a strong, powerful, constitutional committee drawn from the various legislatures would be a very positive step forward”.²⁷⁹

195. Sir Paul Silk suggested that we start a “process going with sister committees in Scotland, Northern Ireland and the two Chambers in London”.²⁸⁰ He explained:

“... the model that I’ve been thinking in my mind about a little since has been something like the COSAC process, in the way in which the different countries of the European Union have got their European scrutiny committees together and do something to hold the European Union to account to member state Parliaments. Perhaps something

²⁷⁶ House of Commons, Public Administration and Constitutional Affairs Committee, *The Future of the Union, part two: Inter-institutional relations in the UK, Sixth Report of Session 2016-17*, HC 839, December 2016, paragraph 96

²⁷⁷ Standing Order 17.54 permits committees of the National Assembly to meet concurrently with any committee or joint committee of any legislature in the UK.

²⁷⁸ CLA Committee, 13 March 2017, RoP [186]

²⁷⁹ CLA Committee, 13 March 2017, RoP [186]

²⁸⁰ CLA Committee, 6 March 2017, RoP [155]

like that, with some sort of central secretariat, would be something that could be developed.”²⁸¹

196. Sir Paul Silk emphasised that:

“... committee is the place where the real work is done. So, it is that inter-committee work that I would see as something that could be developed in the future.”²⁸²

197. The Llywydd envisaged the creation of a Committee for the UK’s Parliaments and Assemblies.²⁸³

198. Ieuan Wyn Jones endorsed the need for joint working at the inter-parliamentary level²⁸⁴ and urged this work to begin. He said:

“... the way these things work is that if you're expecting structures to be put into place, you could be waiting and waiting and waiting, but if you can put something together that would allow, for example, joint discussions, it's crucial now that they happen.”²⁸⁵

199. Universities Wales had concerns around the level of scrutiny undertaken by Assembly committees for legislation made by the UK Parliament that relates to Wales:

“I’d query whether we’ve still quite got the right mechanisms when it comes to UK legislation that is about Wales and devolved issues, because that requires a legislative consent memorandum and I wonder whether there’s sufficient scrutiny ... for legislation coming out of Parliament on that.”²⁸⁶

200. Universities Wales felt that a possible solution that merits consideration is joint committees.²⁸⁷

²⁸¹ CLA Committee, 6 March 2017, RoP [155]

²⁸² CLA Committee, 6 March 2017, RoP [157]

²⁸³ CLA Committee, 3 July 2017, RoP [13 and 18]; Press release, *Brexit could provide the catalyst to finally create a Committee for the UK’s Parliaments and Assemblies – Llywydd, Elin Jones AM, 3 July 2017*

²⁸⁴ CLA Committee, 27 March 2017, RoP [74]

²⁸⁵ CLA Committee, 27 March 2017, RoP [77]

²⁸⁶ CLA Committee, 19 June 2017, RoP [145]

²⁸⁷ CLA Committee, 19 June 2017, RoP [147]

201. An interesting recommendation of the Silk Commission was that the National Audit Office and Wales Audit Office should jointly audit inter-governmental relations. The House of Lords Constitution Committee supported proposals for an independent annual audit of inter-governmental relations.²⁸⁸ In evidence, Sir Derek Jones suggested that such an audit might be more appropriate for parliamentary committees to consider. He said:

“I would have thought, that this committee, for example, would want to keep a very close watch on the developments in these areas and be able to satisfy itself and not just this committee. I would have thought, actually, there would be similar considerations in committees in Parliament. So, given what you’re talking about is inter-governmental relations moving through an unprecedented period in the UK’s history, that might be a basis for collaborative work between parliamentary committees in all of the Parliaments, or at least in some of them, depending if there was agreement.”²⁸⁹

Ministers appearing before Committees of the UK’s parliaments

202. Our Citizen Panel had a clear expectation that mutual respect should exist between institutions: not only between governments but also between parliaments.

203. The principle which this committee sought to examine here is not that of direct parliamentary accountability, as that democratic imperative is satisfied by Ministers appearing before committees (and parliaments) of their own legislature. The principle here, in a changed UK constitution still adapting to devolution, is that of the willingness of Ministers to appear before committees in other legislatures, and face scrutiny on decisions which may have wider implications on other parts of the UK. Proposed changes to constitutional policy, such as the *Wales Act 2017*, or the current EU (Withdrawal) Bill are obvious examples, though thematic policy issues may also carry implications which go wider than the boundaries of a single devolved nation and administration.

204. Alluding to Welsh Ministers appearing before Westminster committees and vice-versa, the First Minister said:

“It’s been fairly common practice for Welsh Government Ministers to give evidence to committees of both the Commons and the Lords. I’ve

²⁸⁸ House of Lords, Select Committee on the Constitution, *Inter-governmental relations in the United Kingdom*, 11th Report of Session 2014-15, HL Paper 146, March 2015, paragraph 203

²⁸⁹ CLA Committee, 15 May 2017. RoP [106]

done it myself. It's not an issue, as long as it is understood, of course, that those Ministers are not answerable or accountable to the Westminster committees."²⁹⁰

205. There is only one instance that the Committee is aware of where a Welsh Minister refused to go to Westminster to give evidence.²⁹¹

206. While there are examples of UK Government Ministers readily appearing before Assembly Committees, most recently in respect of scrutiny of the EU (Withdrawal) Bill,²⁹² our evidence highlighted that this is not always the case.

207. Reflecting on the UK Government Ministers' readiness to appear before the National Assembly, Ieuan Wyn Jones said:

"... when we were discussing the future financing of Wales in the light of discussion around the Barnett formula, there was a massive reluctance by Treasury Ministers to even countenance coming to give evidence to Assembly committees."²⁹³

208. The Health, Social Care and Sport Committee of the National Assembly felt there was scope for improvement in the way UK Government Departments co-operate with Assembly Committees in scrutinising policy matters that overlap in devolved and non-devolved areas. They added:

"It appears that such co-operation is often at the discretion of individual Ministers or civil servants rather than an accepted understanding that such co-operation is essential and has the potential to benefit all those involved.

We understand, for example, that there were challenges experienced by our predecessor Committee in engaging the relevant Home Office Minister and officials in its inquiry into new psychoactive substances in respect of some non-devolved policy areas of direct relevance to the inquiry. Whilst the issue was eventually resolved, and oral and written evidence was received, this was only following repeated efforts by

²⁹⁰ CLA Committee, 20 March 2017. RoP [154]

²⁹¹ *Wales Online, New Wales-Westminster row breaks out after Edwina Hart snubs Commons committee*, 22 June 2011

²⁹² External Affairs and Additional Legislation Committee and CLA Committee, 6 November 2017, RoP [1-163]

²⁹³ CLA Committee, 27 March 2017. RoP [62]

Committee staff and correspondence from the then Committee Chair.”²⁹⁴

209. Our predecessor Committee experienced difficulties when seeking evidence from a senior Whitehall officials on the draft Wales Bill.²⁹⁵

210. During our consideration of the UK Government’s Wales Bill, the Secretary of State declined an invitation to give evidence to us about the Bill.²⁹⁶ We therefore asked him how he believes he should engage with our committee on constitutional matters affecting Wales. He said:

“I strongly believe that the Secretary of State for Wales is there to be scrutinised by Parliament and by the Welsh Affairs Select Committee, and I think that the crossover between Assembly committees scrutinising Ministers in Parliament—it can happen, and will happen, but I don’t think it should necessarily be the norm. And likewise for, say, the Welsh Affairs Select Committee, or any other committee, to scrutinise a Government Minister from here in Wales, because, obviously, it’s the role of the Assembly Members to scrutinise Welsh Ministers, and it’s the role of Parliament to scrutinise the Secretaries of State. But I would add to that, there are exceptions that take place, so it shouldn’t necessarily be the rule.”²⁹⁷

The effectiveness of the British-Irish Parliamentary Association

211. The British-Irish Parliamentary Association (BIPA) is a deliberative body consisting of members elected to the parliaments of the United Kingdom, Ireland, Scotland, Wales, Northern Ireland and the British crown dependencies. It meets twice a year to provide co-operation between political representatives in Britain and Ireland and to build on the close relationships established in recent years.

212. The Rt Hon Lord Hain said that engagement with BIPA was very important to dissolving an historic hostility:

²⁹⁴ Written evidence. Health, Social Care and Sport Committee, ICP002

²⁹⁵ Fourth Assembly, Constitutional and Legislative Affairs Committee, *Report of the UK Government’s Draft Wales Bill*, December 2015, paragraph 24.

²⁹⁶ CLA Committee, **Committee’s “serious concern” at Secretary of State no-show**, 1 July 2016

²⁹⁷ CLA Committee, 25 September 2017. RoP [118]

“I had conversations with Irish MPs, in which they would freely admit they would have never talked so convivially or consensually with me, as a British MP, in years gone by. So, that was crucial.”²⁹⁸

213. However, The Rt. Hon Elfyn Llwyd believed a more structured and regular dialogue was needed.²⁹⁹ He recalled his time as a member of the meeting, telling us:

“The British-Irish Inter-parliamentary Body was a fine body to be a part of, but it hasn’t left a great deal for us to build on, to be honest. There are some important debates, obviously, in every sitting, but it doesn’t leave a lasting, huge amount of—how can I put it? It doesn’t actually assist in terms of any sort of leadership or anything else, I don’t think.”³⁰⁰

²⁹⁸ CLA Committee, 8 May 2017. RoP [75]

²⁹⁹ CLA Committee, 13 March 2017. RoP [115]

³⁰⁰ CLA Committee, 13 March 2017. RoP [138]

4. Holding the Welsh Government to account

214. Whatever intergovernmental changes or adaptation emerge in the future it will be important for the National Assembly to hold the Welsh Government to account.

215. In Scotland, the Devolution (Further Powers) Committee³⁰¹ made a number of recommendations about inter-governmental relationships in its report, *Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations*³⁰²:

- Two guiding principles will improve scrutiny in Inter-Governmental Relations (IGR). Firstly, that the revised structure of IGR must be transparent. This will involve ensuring that there is information about policy objectives and decision making in the public domain. Secondly, accountability must be built into the revised structure of IGR. These principles of transparency and accountability should be placed in statute in the Scotland Bill.
- There should be a new Written Agreement on Parliamentary Oversight of IGR between the Scottish Government and the Scottish Parliament with regard to the provision of information and how the views of the Scottish Parliament will be incorporated into IGR agreements. They note that other legislatures in the UK may wish to consider similar arrangements as appropriate.
- The Scottish Parliament should give careful consideration to establishing a specific parliamentary committee or by providing a role or revised remit for an existing Committee which would be tasked to scrutinise IGR and constitutional matters.
- The Scottish Parliament should be taken account of before any inter-governmental agreement is entered into by the Scottish Government.

216. As part of our inquiry, we wrote to Bruce Crawford MSP, Convenor, Finance and Constitution Committee at the Scottish Parliament seeking his Committee's

³⁰¹ *Scottish Parliament's Devolution (Further Powers) Committee (Session 4)*

³⁰² *Scottish Parliament's Devolution (Further Powers) Committee (Session 4): 8th Report, 2015 (Session 4): Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations*

views on inter-parliamentary working and experience of building and maintaining relations in the UK.³⁰³

217. In response, Mr Crawford shared with us the recently established inter-governmental relations written agreement³⁰⁴ between the Scottish Parliament and Scottish Government. This Written Agreement, forged as a result of the Devolution (Further Powers) Committee's report, now represents the agreed position on the information the Scottish Government will, where appropriate, provide the Scottish Parliament.

218. The agreement aims to establish the principles suggested by the report. The scope of the agreement "applies to the participation of Scottish Ministers in formal, inter-governmental structures"³⁰⁵ and is "intended to support the Scottish Parliament's capacity to scrutinise Scottish Government activity and to hold the Scottish Ministers to account".³⁰⁶

219. In summary, the agreement includes:

- Advance written notice of relevant meetings to enable the relevant parliamentary committee to express a view in advance of that meeting. This notice will include agenda items and key issues to be discussed.
- A written summary of the issues discussed as soon as is practicable after the meeting.
- The text of any inter-governmental agreements, MOUs or other resolutions made on a multilateral or bilateral basis by the Government.
- A commitment by the Scottish Government to record all relevant formal agreements the Scottish Government has entered into and publish these to the Government's website.

220. The agreement also includes the publication of an annual report on inter-governmental relations by the Scottish Government, to summarise key outputs from activity subject to this agreement, and any work undertaken including

³⁰³ Letter to Bruce Crawford MSP, Convenor, Scottish Parliament's Finance and Constitution Committee, 6 April 2017

³⁰⁴ *Inter-governmental relations written agreement between the Scottish Parliament and Scottish Government*

³⁰⁵ *Inter-governmental relations written agreement between the Scottish Parliament and Scottish Government*, paragraph 9

³⁰⁶ *Inter-governmental relations written agreement between the Scottish Parliament and Scottish Government*, paragraph 10

dispute resolutions.³⁰⁷ The report for the period April 2016-March 2017 has been published.³⁰⁸

221. The Devolution (Further Powers) Committee commented in its report that there was no ideal model to adopt from internal comparators to facilitate parliamentary scrutiny of inter-governmental relations.³⁰⁹ However it “agrees with the view of the House of Lords Constitution Committee that “effective scrutiny of inter-governmental relations requires both greater transparency than currently exists, and the necessary structures and desire in Parliament and the devolved legislatures to scrutinise those relationships”.³¹⁰

222. In Wales, the First Minister has either issued a written or oral statement after a meeting of the JMC.

223. In correspondence with us noting a positive JMC(EN) in October, the First Minister said:

“We now expect to see this progress maintained with regular JMC (EN) meetings which are genuinely collaborative in nature, and we also need a further meeting of JMC(P), as we approach the anniversary of the last meeting which we hosted in Cardiff. As matters go forward, I anticipate that there will be regular reporting to the Assembly and/or its Committees on the outcomes of JMC(EN) and JMC(P) meetings.”³¹¹

³⁰⁷ *Inter-governmental relations written agreement between the Scottish Parliament and Scottish Government*, paragraph 16

³⁰⁸ *Scottish Government’s Inter-governmental relations: annual report (April 2016-March 2017)*

³⁰⁹ Scottish Parliament’s Devolution (Further Powers) Committee (Session 4): *8th Report, 2015 (Session 4): Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations*, paragraph 50

³¹⁰ Scottish Parliament’s Devolution (Further Powers) Committee (Session 4): *8th Report, 2015 (Session 4): Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations*, paragraph 50

³¹¹ Letter from the First Minister, 20 November 2017

Annex 1 – Terms of reference and the inquiry process

Terms of reference

Strand I: Constitutional matters

The first strand looked specifically at inter-institutional relations as they relate to constitutional matters. To review how inter-institutional relations have influenced development of Welsh devolution since 1998. This included looking at:

- How inter-governmental mechanisms have impacted on the development of the devolution settlement.
- How inter-governmental relations have developed and evolved, what worked well and the impact these relations have had on the devolution settlement.
- How inter-parliamentary relations have evolved, the current state of these relations and how they could be further developed in relation to the development and scrutiny of constitutional legislation.

Strand II: Policy matters

The second strand considered how inter-institutional relations impact on policy development, and how the effectiveness of these relationships and mechanisms impact in relation to policy. By building on the work previously undertaken across the UK to explore within the Welsh context this strand focussed on:

- The nature of relationships between the Welsh and UK Government, how these relationships function and how they can be improved.
- Improving opportunities for improved policy learning between Governments and Parliaments.
- Best practice in inter-institutional relations from across the UK which could be imported into the Welsh context.
- The nature of the relationship between the Welsh and UK legislatures and to identify opportunities for effective inter-parliamentary working.

- Any other matters that relate to inter-institutional relationships, including relevant implications of the UK leaving the European Union (EU).

The inquiry process

In October 2016, we agreed to undertake an inquiry into inter-government and inter-parliamentary working.

We engaged two experts in the field: Professor Michael Keating, University of Aberdeen and Dr Bettina Petersohn, Swansea University to support the Committee in developing the terms of reference.

From the outset we were clear that the objectives for the inquiry were:

- To produce best practice principles for inter-institutional working for constitutional legislation.
- To reflect and build on the work of other legislatures on inter-institutional working as it relates to broader policy areas.
- To seek, establish and promote opportunities for inter-parliamentary working, including promotion of citizen engagement.

We issued a call for written evidence on 15 December 2016. A list of those who responded to the consultation exercise is available at Annex 2. Further details of the consultation and responses can be found on our Committee page within the National Assembly webpages.

We held 13 oral evidence sessions over the course of the inquiry. Details are available at Annex 3.

In February 2017, we hosted the first Citizen Panel. The purpose of this reference group was to test early in the inquiry process participants' perceptions and expectations of inter-institutional working and relationships, and discover their thoughts on learning from other institutions. We held a second session with the panel on 11 December 2017.

In June 2017, we held a roundtable session with stakeholders from a cross section of organisations representative from a number of devolved policy areas to consider how the UK is working together internally and are public bodies having to consider the wider UK context in light of the UK withdrawing from the EU.

Following the evidence gathering process, we shared our initial findings with an expert panel:

- Professor Richard Rawlings, on research leave from University College London;
- Dr Betina Petersohn, Swansea University; and
- Professor Laura McAllister, Cardiff University.

The panel considered our draft recommendations and reflected on the evidence received using their expert knowledge and experience in the field. Their invaluable insight has informed the preparation of the final version of the Committee's report.

We are very grateful to all those who have contributed to our work.

Annex 2 – List of written evidence

The following people and organisations provided written evidence to the Committee. All written evidence and related correspondence can be viewed in full on the [**Committee's webpage**](#).

Organisation	Reference
Anonymous	IGP001
Health, Social Care and Sport Committee	IGP002
External Affairs and Additional Legislation Committee	IGP003
The Country Land and Business Association	IGP004
Universities Wales	IGP005
Children, Young People and Education Committee	IGP006
The Open University in Wales	IGP007
Elfyn Llwyd (Submitted in Welsh only)	IGP008
The Legal and Constitutional Affairs Committee, The Senate, Australia	IGP009
Professor Paul Cairney	IGP010
Professor Thomas Glyn Watkin	IGP011

Annex 3 – List of oral evidence sessions

The following witnesses provided oral evidence to the Committee on the dates noted below. Transcripts of all oral evidence sessions can be found on the [Committee's webpage](#).

Date	Witness
6 February 2017	The Rt Hon Lord Murphy of Torfaen, Secretary of State for Wales, July 1999-October 2002 and January 2008-June 2009
6 March 2017	Sir Paul Silk, Clerk of the National Assembly for Wales from March 2001-January 2007; Chair of the Silk Commission on Devolution from 2011-2014
13 March 2017	Baroness Randerson The Rt Hon Elfyn Llwyd, MP for Dwyfor Meirionydd from 1992-2015; Leader of the Plaid Cymru Parliamentary Group from June 2010-March 2015
20 March 2017	The Rt Hon Carwyn Jones AM, First Minister of Wales Desmond Clifford, Welsh Government Hugh Rawlings, Welsh Government
27 March 2017	Ieuan Wyn Jones, Deputy First Minister for Wales from July 2007-May 2011
8 May 2017	The Rt Hon Lord Hain, Secretary of State for Wales, October 2002-January 2008 and June 2009-2010 The Rt Hon Rhodri Morgan, First Minister of Wales, February 2000-December 2009
15 May 2017	Sir Derek Jones, Permanent Secretary, Welsh Government from 2012-2017
22 May 2017	Professor Paul Cairney, Professor of Politics and Public Policy, University of Stirling
19 June 2017 <i>Stakeholder session</i>	Ben Arnold, Universities Wales Ben Cottam, Federation of Small Businesses Dr Nick Fenwick, Farmers Union of Wales Stephen Hinchley, RSPB Nesta Lloyd-Jones, Welsh NHS Confederation Jon Rae, Welsh Local Government Association

Huw Thomas, National Farmers Union of Wales
Sharon Thompson, RSPB Cymru Wales

3 July 2017

Elin Jones AM, Llywydd
Adrian Crompton, Assembly Commission

**25 September
2017**

The Rt Hon Alun Cairns MP, Secretary of State for Wales
Geth Williams, Wales Office
Michael Dynan-Oakley, Wales Office
Sophie Traherne, Special Adviser
Philip Rycroft CB, Permanent Secretary, Department for Exiting
the European Union and Second Permanent Secretary, Head
of UK Governance Group in the Cabinet Office
Geth Williams, Wales Office