

Fiscal Intergovernmental Relations

October 2024



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Fiscal Intergovernmental Relations

October 2024



About the Committee

The Committee was established on 23 June 2021. Its remit can be found at:
www.senedd.wales/SeneddFinance

Current Committee membership:



Committee Chair:
Peredur Owen Griffiths MS
Plaid Cymru



Peter Fox MS
Welsh Conservatives



Mike Hedges MS
Welsh Labour



Rhianon Passmore MS
Welsh Labour

The following Members attended as substitutes during this inquiry:



Alun Davies MS
Welsh Labour



Altaf Hussain MS
Welsh Conservatives

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Chair's foreword

The nature of devolution in the UK, which is underpinned by a plethora of laws, rules and conventions, relies heavily on effective intergovernmental relations (IGR). This is particularly acute in relation to fiscal matters, where the nature of such relations have a direct bearing on devolved funding decisions and disputes.

During our budget scrutiny work in the Sixth Senedd to date, we found time and again that the ability of the Welsh Government to make spending decisions is often hampered by structures, attitudes and processes that are outdated and not reflective of the territorial realities of the UK.

This is why we have chosen to look in depth at this topic: To shine a light on areas where improvements can be made and to set out some practical steps around how this can be achieved, with the aim of strengthening the Welsh Government's hand in fiscal discussions.

Taken together, the report's conclusions and recommendations provide a set of principles and examples of good practice on how IGR on fiscal matters can be improved, based on evidence received from within the UK and internationally. Our overriding view is that IGR fiscal arrangements in the UK should be underpinned by clear principles, and not the whims or personalities of Treasury Ministers.

We have found that strong and robust intergovernmental structures are essential for governments to work constructively and collaboratively, and that pockets of good practice already exists in this area.

But having the right structures in place is only part of the solution. It needs to be supplemented by a robust culture between governments in the UK, based on mutual respect and parity of esteem. Too often, this report highlights instances where those have been lacking, and that this has resulted in processes that don't work to their potential, leading to disappointing outcomes.

We have also been continually frustrated with the lack of engagement from the Treasury to appear before the Committee, despite repeated efforts, and we hope

to cultivate more constructive relationships with the new Treasury Ministers from now on.

As a Committee, we are also keen to explore ways in which interparliamentary working can be developed, particularly in relation to financial matters. This is why we, along with counterparts in the Scottish Parliament and the Northern Ireland Assembly, have established the Interparliamentary Finance Committee Forum (IFCF) which has proved an effective vehicle for bringing together the common concerns of the devolved parliaments relating to fiscal matters.

Since the Committee started this inquiry, the context in which IGR takes place has shifted considerably: A UK General Election has taken place, resulting in a change of government at Westminster and significant changes in personnel have also occurred within the Welsh Government. We believe therefore that this is a timely opportunity to reset relationships and we hope this report will inform and strengthen IGR in the UK.

While it is too early to assess the impact of the incoming UK Government's new approach in this area, we believe that our recommendations and conclusions should be taken into account so that the structures and mechanisms underpinning IGR are developed, improved and made more effective.

A handwritten signature in black ink, appearing to read 'Peredur Owen Griffiths', with a stylized flourish at the end.

**Peredur Owen Griffiths MS,
Committee Chair**

Recommendations

Recommendation 1. The Committee recommends that the Treasury should, as a matter of principle, differentiate between devolved governments and UK Government departments when making funding allocations and in sharing fiscal information ahead of announcements, as a way of respecting the constitutional realities of the UK that would strengthen intergovernmental relations and make processes more effective and transparent.....Page 24

Recommendation 2. The Committee recommends that the Welsh Government should press the UK Government to develop legislative proposals, in consultation with the devolved governments and parliaments, to place intergovernmental relations on a statutory basis, in accordance with the recommendation of the Independent Commission on the Constitutional Future of Wales.....Page 24

Recommendation 3. The Committee recommends that the Cabinet Secretary pursues the following changes so that:

- the Finance Interministerial Standing Committee becomes the most appropriate platform for the Treasury to share financial information to the devolved governments, in confidence if necessary, in advance of fiscal announcements;
- the rules and processes of the Finance Interministerial Standing Committee are developed to ensure that they are sufficiently robust and to reduce the discretion currently afforded to the Chief Secretary to the Treasury in its ways of working;
- the dates of Finance Interministerial Standing Committee meetings for the year ahead are agreed with finance ministers from the devolved governments in a timely manner; and
- updates are provided to the Committee on progress in these areas.

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Recommendation 4. The Committee recommends that the Cabinet Secretary continues to engage with the UK Government to advocate for a needs-based funding mechanism to ensure fairer funding for Wales and provides an update to the Committee on progress..... Page 48

Recommendation 5. The Committee recommends that the Cabinet Secretary presses the UK Government for action to ensure that:

- the dates for UK fiscal events are published well in advance to enable the Welsh Government to plan its budget more effectively; and
- more consideration is given by the UK Government to the Senedd's budgetary timetable when planning UK fiscal events, and when making announcements at short-notice outside of planned UK fiscal events; and provides an update to the Committee on progress in these areas.....Page 48

Recommendation 6. The Committee recommends that the Cabinet Secretary presses the UK Government for action so that:

- the Welsh Government has greater engagement with and influence on UK Spending Reviews; and
- multi-year spending reviews are delivered as a matter of course to provide greater funding certainty to the Welsh Government at an earlier stage; and provides an update to the Committee on progress in these areas.....Page 49

Recommendation 7. The Committee recommends that the Cabinet Secretary calls for annual and in-year Treasury funding announcements to be:

- less ad hoc; and that information impacting on Welsh Government tax and budgetary policy is shared prior to UK fiscal events on a confidential basis;
- more transparent in terms of whether they are funded with new money or through savings or reprioritisation exercises undertaken by UK Government departments to enable Barnett consequentials to be calculated; and
- provides an update to the Committee on progress in these areas.....Page 49

Recommendation 8. The Committee recommends that the Cabinet Secretary takes action to ensure that the Welsh Government is engaged in the development of future Statement of Funding Policy documents to mitigate project categorisation issues.....Page 49

Recommendation 9. The Committee recommends that the Cabinet Secretary calls on the Treasury to publish detailed workings alongside its funding

announcements to improve transparency around devolved funding and project categorisation, to ensure that such decisions are taken on the basis of clear principles, and provides an update to the Committee on progress.....Page 49

Recommendation 10. The Committee recommends that the Cabinet Secretary presses the Treasury to provide credible evidence for using the Central Reserve when this results in funding outcomes that circumvent the Barnett formula, and provides an update to the Committee on progress.....Page 50

Recommendation 11. The Committee recommends that the Cabinet Secretary calls on the UK Government to implement a funding guarantee similar to the Barnett guarantee introduced during the Covid pandemic to provide a degree of certainty regarding devolved funding available and provides an update to the Committee on progress.Page 57

Recommendation 12. The Committee recommends that the Cabinet Secretary continues to press the UK Government so that the Welsh Government has the ability to switch capital funding to resource and provides an update to the Committee on progress.Page 57

Recommendation 13. The Committee recommends that the Cabinet Secretary continues to press the UK Government for flexibility for the Welsh Government to manage funding increases confirmed after an autumn fiscal event across financial years and provides an update to the Committee on progress.
.....Page 57

Recommendation 14. The Committee recommends that the Cabinet Secretary calls on the UK Government to extend the scope for devolved governments to raise a funding dispute, given that such disputes may only be raised if a principle of the Statement of Funding Policy has been breached. and provides an update to the Committee on progress.....Page 68

Recommendation 15. The Committee recommends that the Cabinet Secretary continues to pursue with the UK Government that a review is undertaken on the Welsh fiscal framework and that the framework should be amended in line with the Scottish fiscal framework, including:

- linking index borrowing and overall reserve limits to inflation;

- abolishing reserve draw-down limits;
- increasing capital borrowing limits; and
- that the Committee is updated on the outcome of those discussions.....Page 68

Recommendation 16. The Committee recommends that the Cabinet Secretary pursues with the UK Government a review of the process for agreeing new devolved tax powers, as outlined in Section 116C of the Government of Wales Act 2006 (as amended) and provides an update to the Committee on progress.
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Recommendation 17. Subject to recommendation 16, if the UK Government is unwilling to review the process for agreeing new devolved tax powers, the Committee recommends that the Welsh Government utilises the dispute resolution mechanism to progress the vacant land tax, updates the Committee on any progress made, and provides an explanation if it is not pursued.
.....Page 71

Recommendation 18. The Committee recommends that the Treasury improves its engagement with the finance committees of the devolved legislatures, both individually and through the Interparliamentary Finance Committee Forum, with a view of increasing formal and informal dialogue on fiscal matters relating to devolution.....Page 78

Conclusions

Conclusion 1. The Committee believes that the Welsh Government continues to participate and engage fully with the Prime Minister and Heads of Devolved Government Council, and other intergovernmental forums, and that such structures should be underpinned by the principles of mutual respect and parity of esteem.Page 24

Conclusion 2. The Committee welcomes the positive steps taken to improve the Finance Interministerial Standing Committee, including the rotation of the chair and locations; the establishment of an independent secretariat, which places all governments on an equal footing..... Page 31

Conclusion 3. The Committee welcomes the regular engagement that has developed between the finance ministers of the devolved governments to discuss common areas of concern relating to devolved funding outside of the Finance Interministerial Standing Committee structures, as a firm basis to collectively influence the Treasury in these areas. Page 31

Conclusion 4. The Committee welcomes recent changes to the dispute resolution mechanism which prevents the UK Government denying the existence of a dispute and applies independent chairing and secretariat arrangements.....Page 68

Conclusion 5. There is scope for the Committee to conduct more detailed scrutiny of intergovernmental relations on fiscal matters, in addition to the work of the Interparliamentary Finance Committee Forum, and we welcome the regular updates provided by the Welsh Government before and after Finance Interministerial Standing Committee meetings as basis for our work.....Page 78

List of acronyms

| | |
|-------|--|
| BSL | Building Safety Levy |
| CST | Chief Secretary to the Treasury |
| F:ISC | Finance Interministerial Standing Committee |
| FST | Financial Secretary to the Treasury |
| HS2 | High Speed 2 |
| IFCF | Interparliamentary Finance Committee Forum |
| IGR | Intergovernmental Relations |
| IPR | Interparliamentary Relations |
| JEC | Joint Exchequer Committee |
| JMC | Joint Ministerial Committee |
| NAO | National Audit Office |
| OECD | Organisation for Economic Co-operation and Development |
| SDLT | Stamp Duty Land Tax |

1. Introduction

1. On 13 December 2023, the Finance Committee (the Committee) agreed to undertake an inquiry into Fiscal Intergovernmental Relations. The terms of reference focused on the following areas:

- to consider the effectiveness of the new Intergovernmental Relations structures in addressing the principles for collaborative working relating to fiscal matters;
- to explore the strengths and weaknesses of the Finance Interministerial Standing Committee (F:ISC);
- to understand how the UK Government communicates with devolved administrations around fiscal events, in particular, how Barnett consequentialia could be communicated in a transparent and timely manner;
- to explore what processes could be implemented to improve the influence of the Committee, as part of the legislature, in scrutinising Intergovernmental Relations structures;
- to investigate the dispute resolution mechanisms and whether they are fit for purpose, in particular, the dispute resolution process relating to the fiscal framework and the implementation of new devolved taxes;
- to examine international examples of Intergovernmental Relations structures and identify areas of good practice relating to collaborative working on fiscal matters.

2. The Committee undertook a public consultation between 21 December 2023 to Friday, 1 March 2024, to inform its work.¹

3. The Committee invited the then Chief Secretary to the Treasury (CST), the Rt Hon Laura Trott MBE MP and the then Financial Secretary to the Treasury (FST), Nigel Huddleston MP to attend a meeting.² Both the CST and FST declined the invitation. A further letter³ was sent asking them to provide written information to assist the inquiry. Following the announcement of the UK General Election a

¹ Finance Committee's consultation on Fiscal Intergovernmental Relations

² Letter to the Chief Secretary to the Treasury, 5 February 2024

³ Letter to the Chief Secretary to the Treasury, 22 May 2024

response was received from their office to say that given the timing, the CST and FST were not able to consider the letter before the pre-election period commenced.

4. The Committee also wrote⁴ to other parliaments internationally who have experience of IGR structures relating to fiscal matters, with a view to identifying areas of good practice and collaborative working. Responses were received from the Council of the Federation, Canada⁵, and the Council for Fiscal and Financial Policy of the Autonomous Communities, Spain.⁶ We are very grateful to them for taking the time to respond.

5. Since the Committee has undertaken this inquiry, a UK General Election has taken place, resulting in a change of government at Westminster. Significant changes in personnel have also occurred within the Welsh Government, with three First Ministers taking office within that time. The context in which IGR takes place has therefore shifted considerably. While it is too early to assess the impact of the incoming UK Government's new approach to IGR, we believe that our recommendations and conclusions should be taken into account so that the structures and mechanisms underpinning IGR are developed, improved and made more effective.

6. During our inquiry we took evidence from the then Cabinet Secretary for Finance, Constitution and Cabinet Office, Rebecca Evans MS. On 11 September, the First Minister, Eluned Morgan MS announced her new Cabinet with Mark Drakeford MS appointed as Cabinet Secretary for Finance and Welsh Language.⁷ The recommendations and conclusions in this report are therefore addressed to the new Cabinet Secretary for Finance and Welsh Language.

7. The Committee would like to thank all those who have contributed to this inquiry.

⁴ Letter from the Finance Committee, 29 May 2024

⁵ This paper was prepared by the Council of the Federation, Canada for background information purposes only, and not for publication

⁶ Response from the Council for Fiscal and Financial Policy of the Autonomous Communities, Spain

⁷ Welsh Government: Written Statement A new Government delivering for Wales

2. Background

8. Intergovernmental relations (IGR) refers to engagement between ministers and officials from the UK government, Welsh Government, Scottish Government and Northern Ireland Executive.⁸ It covers multilateral and bilateral channels, including both formal and informal engagement.

9. From 1999, the main forum for intergovernmental discussion in the UK was the Joint Ministerial Committee (JMC)⁹, which was designed to facilitate communication and cooperation between the UK Government and devolved governments.

10. IGR mechanisms were widely criticised for their ad hoc nature, lack of transparency, and ineffective dispute resolution process.¹⁰ Such criticisms led to a review of IGR structures with a new framework being implemented in January 2022.¹¹

⁸ Institute for Government: Intergovernmental relations

⁹ UK Government: The Review of Intergovernmental Relations

¹⁰ Evidence for the House of Commons Scottish Affairs Committee

¹¹ Institute for Government: Intergovernmental relations

3. Intergovernmental Structures

11. On 13 January 2022, the UK Government published its report¹² on the ‘Review of Intergovernmental Relations’. This set out “new structures and ways of working” alongside a new set of principles¹³ for collaborative working, which include:

- maintaining positive and constructive relations, based on mutual respect for the responsibilities of the governments and their shared role in the governance of the UK;
- building and maintaining trust, based on effective communication;
- sharing information and respecting confidentiality;
- promoting understanding of, and accountability for, their intergovernmental activity;
- resolving disputes according to a clear and agreed process.

12. The then Cabinet Secretary for Finance, Constitution and Cabinet Office, Rebecca Evans MS (the then Cabinet Secretary), felt the structures and principles underpinning IGR were positive, saying:

“... the structures, I think, are pretty sound. The principles that are supposed to run through all of our engagement, I think, are sound, in the sense that they're very much focused on building trust, effective communication, sharing information, respecting confidentiality, all of those kinds of principles about resolving disputes, or, ideally, avoiding coming to the point of having a dispute, and then maintaining those constructive relationships.”¹⁴

13. However, she added that to what extent those principles have “been given effect yet is probably not where we would wish it to be”.¹⁵

¹² UK Government, The Review of Intergovernmental Relations

¹³ UK Government, The Review of Intergovernmental Relations, Annex D.

¹⁴ Finance Committee, RoP, 3 July 2024, paragraph 14

¹⁵ Finance Committee, RoP, 3 July 2024, paragraph 14

14. Dr Paul Anderson, Liverpool John Moores University, felt the IGR structures implemented from the review are an improvement:

“The reform to IGR structures since January 2022 are certainly a significant move forward in enhancing the effectiveness of intergovernmental interaction in the UK. Sensibly, the new structures are less hierarchical and the commitment to more regular interaction is a welcome development to facilitate more constructive intergovernmental engagement.”¹⁶

15. Philip Rycroft, Constitutional Future of Wales, agreed that the IGR structures were an improvement, saying:

“There's no doubt that in those structures, the changed structures, there are improvements: the more developed structure of ministerial meetings across a wide range of policy domains; the formal establishment of the Prime Minister and heads of devolved Government meeting.”¹⁷

16. He added:

“... the key words in there are actually 'Prime Minister', the commitment that the Prime Minister will be part of those meetings, which I think is important; the changes to the dispute resolution mechanism, whereby it is no longer in the gift of the UK Government to say, 'We don't care what you guys think, we don't think that's a dispute, so we're not going to allow it to come in to the dispute resolution system'; impartial secretariat and so on.”¹⁸

17. Paul Evans CBE, a former Clerk of Committees in the House of Commons, thought “the new structures are clearly a step forward and have promised much better IGR in principle”.¹⁹ However, he noted the structures haven’t been tested:

¹⁶ Written evidence 01, Dr Anderson, Liverpool John Moores University

¹⁷ Finance Committee, RoP, 13 March 2024, paragraph 13

¹⁸ Finance Committee, RoP, 13 March 2024, paragraph 13

¹⁹ Finance Committee, RoP, 22 May 2024, paragraph 84

“Of course, the proof of the pudding is in the eating and the real problem is that, since they were introduced, there has been so much churn in the Government, and it's been distracted by many other issues, that I don't think they've been really tested consistently.”²⁰

Prime Minister and Heads of Devolved Governments Council

18. At the highest level there is a Prime Minister and Heads of Devolved Governments Council (the Council), which effectively replaces the previous Joint Ministerial Committee (JMC), and is expected to meet annually.²¹

19. The then Cabinet Secretary mentioned in her evidence to the House of Lords' Constitution Committee that “it is quite telling that the Heads of Devolved Governments Council and the Prime Minister have never met as originally envisaged in the agreement”, she went on to say it had met only once, in November 2022.²²

20. Dr Paul Anderson, highlighted the lack of engagement between the Council, saying “Disappointingly, despite regular interaction in other forums, the Council, the top-tier forum to bring together the Prime Minister and First Ministers has not met since November 2022, despite its terms of reference requiring one meeting per year”.²³

21. Professor Michael Kenny, University of Cambridge, noted his disappointment in the Prime Minister and the Council not meeting since 2022, saying:

“... I think, striking and a bit disappointing that it has not met since late 2022, though it should be noted that the current Prime Minister did actually move to hold one of these meetings early on, I think, in contrast to his predecessor.”²⁴

²⁰ Finance Committee, RoP, 22 May 2024, paragraph 84

²¹ Institute of Government: Prime Minister and Heads of Devolved Governments Council

²² House of Lords, Constitution Committee, Transcript, 22 May 2024.

²³ Written evidence 01, Dr Anderson, Liverpool John Moores University

²⁴ Finance Committee, RoP, 1 May 2024, paragraph 16

22. The Spanish State-Autonomous Communities have implemented a similar structure with the Conference of Presidents. It states:

*“The Conference of Presidents is located at the apex of the system of cooperation bodies ... This body of the highest political level was ...created, with an open scope of action, made up of the President of the Government (who presides) and the Presidents of the 17 Autonomous Communities and the Cities of Ceuta and Melilla ...”*²⁵

23. It continues:

*“Its purpose is to debate and adopt agreements on matters of special relevance to the autonomous system and its agreements and recommendations are considered political commitments and are public in nature.”*²⁶

24. Professor Michael Kenny, highlighted the need for the Prime Minister to show intergovernmental relations is a priority for the UK Government. He noted:

*“The reason that's important is because this is a very symbolic part of the machinery; it's where the Prime Minister can and should send signals to their devolved counterparts at that level that this is a priority for Government. It's also, I think, important in signalling to the Whitehall machine that these new bodies matter.”*²⁷

25. Below that there is a new ‘middle tier’, which is the ‘Interministerial Standing Committee’, to be attended by ministers with responsibility for intergovernmental relationships and will meet every two months.²⁸

26. At the bottom there are numerous portfolio forums, established to regularise meetings of ministers from each government with equivalent policy

²⁵ Response from the Council for Fiscal and Financial Policy of the Autonomous Communities, Spain

²⁶ Response from the Council for Fiscal and Financial Policy of the Autonomous Communities, Spain

²⁷ Finance Committee, RoP, 1 May 2024, paragraph 16

²⁸ UK Government, The Review of Intergovernmental Relations

responsibilities. These range across areas that are primarily devolved, such as education, and those that are reserved to the UK level, such as trade and the UK-EU relationship.²⁹

UK Government attitudes towards devolution

27. In her evidence to the House of Lord's Constitution Committee, the then Cabinet Secretary highlighted the nature of the relationship between the Welsh Government and Treasury saying "In my time in the finance portfolio since 2018, I have observed that the UK Government often see the Welsh Government as just another department. We certainly feel that on the finance side".³⁰

28. She explained:

*"Rather than understanding that we are a devolved Government with responsibilities to our Senedd and with a greater level of public and media scrutiny here in Wales, the sense is that we are treated as just another department. For example, they simply do not factor in the time we need to consult or the protocol that we have with our Finance Committee for laying the budget. Those practical considerations are not on Whitehall's radar. Areas can definitely improve."*³¹

29. Dr Anderson said "one of the main challenges to more meaningful IGR in the UK relates to political culture".³² He noted:

"Despite 25 years of devolution, very little has changed in Westminster and Whitehall where a unitary attitude often prevails (evident in recent years in the repeated disregard for the Sewel Convention and muscular unionism strategy). A political culture, predicated on important principles and values

²⁹ UK Government, The Review of Intergovernmental Relations

³⁰ House of Lords, Constitution Committee, Transcript, 22 May 2024.

³¹ House of Lords, Constitution Committee, Transcript, 22 May 2024.

³² Written evidence 01, Dr Anderson, Liverpool John Moores University

such as, mutual respect, partnership, recognition and trust is often lacking.”³³

30. He suggested what is required is “a more federal political culture” in which IGR are based on parity of esteem and meetings/negotiations are conducted in a spirit of cooperation and compromise, emphasising “Institutions, structures, and processes matter, but so too does willingness to want to make them work”.³⁴

31. This was supported by Philip Rycroft who said:

“... structures on their own don't necessarily make good inter-governmental relations. They are necessary, but, of course, beyond that, you need the spirit— on the part of all participants— to make those structures work and to bring them to life. And critical to that, to my mind, is respect, parity of esteem, that all parties in these arrangements are coming to the table in a genuine spirit of collaboration and co-operation to try and move forward mutual issues.”³⁵

Putting Intergovernmental Relations on a statutory footing

32. The Independent Commission on the Constitutional Future of Wales (‘the Commission’) published its final report in January 2024.³⁶ As part of its remit, the Commission explored intergovernmental relations, recommending:

“The Welsh Government should propose to the governments of the UK, Scotland and Northern Ireland that the Westminster Parliament should legislate for intergovernmental mechanisms so as to secure a duty of co-operation and parity of esteem between the governments of the UK.”³⁷

33. The possibility of IGR being placed on a statutory footing was highlighted by witnesses when giving oral evidence to the Committee. On the point of ensuring

³³ Written evidence 01, Dr Anderson, Liverpool John Moores University

³⁴ Written evidence 01, Dr Anderson, Liverpool John Moores University

³⁵ Finance Committee, RoP, 13 March 2024, paragraph 13

³⁶ The Independent Commission on the Constitutional Future of Wales: Final Report January 2024

³⁷ The Independent Commission on the Constitutional Future of Wales: Final Report January 2024

meetings are taking place between the UK Government and devolved governments, Professor Nicola McEwen, University of Glasgow noted:

*"I suppose the difference that you could envisage is if you have some sort of statutory underpinning, so there's a statutory duty to meet. We do see that in some other countries. That is not the system here."*³⁸

34. Sir Paul Silk KCB, former Clerk at both the House of Commons and Senedd Cymru, highlighted the possibility of legislating for intergovernmental relations to mitigate the risks involved with an unwritten constitution and conventions as "conventions can be broken by people if they're not firmly established in law".³⁹

35. He added:

*"And I guess that was why the Rowan Williams and Laura McAllister commission's report recommended that inter-governmental relations should be legislated for, so that it would be much more difficult for people to say, 'Well, I simply don't fancy going to the FISC, so I'm not going to bother to go'— a putative future Chief Secretary might say."*⁴⁰

36. Philip Rycroft, noted the possible benefits of placing intergovernmental relations on a statutory footing. In his additional written evidence to the Committee, he said:

*"Part of the problem with the practice of intergovernmental relations since devolution has been ensuring sufficient and sustained attention in Whitehall. Putting intergovernmental mechanisms on a statutory footing would heighten their salience and importance; Whitehall is more likely to pay attention to something that is underpinned by a statutory duty."*⁴¹

³⁸ Finance Committee, RoP, 1 May 2024, paragraph 22

³⁹ Finance Committee, RoP, 22 May 2024, paragraph 109

⁴⁰ Finance Committee, RoP, 22 May 2024, paragraph 109

⁴¹ Letter from Philip Rycroft in response to additional questions from the Committee, 11 April 2024

37. Dr Poole said in “most [IGR] systems internationally, you will have the process of the committees embedded in statute”.⁴² However, he did question the effectiveness of this, saying:

“That, I think, goes to the question of what are intergovernmental relations for, rather than whether putting it in statute that there should be meetings is the way forward. I think it probably can't hurt, but the question is whether that's going to lead to greater effectiveness.”⁴³

Committee View

38. The Committee welcomes the IGR structures that have been implemented from the UK Government's review in 2022 and we believe they are a significant improvement. We heard that the new structures and principles underpinning IGR are positive and focused on building trust, effective communication, sharing information and respecting confidentiality. We also welcome the view that the new structures are less hierarchical, as well as the commitment for IGR forums to meet more regularly which we hope will facilitate more constructive engagement. However, whilst the new structures promise better IGR in principle, the churn in Ministers in the previous UK Government meant that the structures have yet to be tested.

39. The establishment of the Prime Minister and Heads of Devolved Governments Council is a significant development that will bring together the top-tier forum. It was also interesting to hear that this mirrors arrangements used elsewhere, namely by the Spanish State-Autonomous Communities. However, it is disappointing that the Prime Minister and Heads of Devolved Governments Council has only met once since November 2022, despite its terms of reference requiring it to meet annually. The evidence also suggests that the Treasury continues to undermine IGR relations by treating the Welsh Government as another UK Government department rather than a devolved government, accountable to a devolved legislature. We hope the incumbent Prime Minister will make IGR relations a priority for the UK Government. The Committee welcomes the recent change in tone from the UK Government on

⁴² Finance Committee, RoP, 26 June 2024, paragraph 34

⁴³ Finance Committee, RoP, 26 June 2024, paragraph 34

these issues⁴⁴ and notes the recent statement made to the Senedd by the First Minister on IGR⁴⁵, but it is clear that having the right structures in place are not enough. To be effective, structures need to be supplemented by a culture of mutual respect and collaboration between all participants. Features that have not always been present in IGR working to date, particularly in relation to fiscal matters.

40. The Committee welcomes the work of the Independent Commission on the Constitutional Future of Wales in this area and supports its recommendation that IGR should be placed on a statutory footing to secure a duty of co-operation and parity of esteem between the governments of the UK. By doing so, it would heighten the salience and importance of IGR, although also note that it may not necessarily lead to greater effectiveness.

Conclusion 1. The Committee believes that the Welsh Government continues to participate and engage fully with the Prime Minister and Heads of Devolved Government Council, and other intergovernmental forums, and that such structures should be underpinned by the principles of mutual respect and parity of esteem.

Recommendation 1. The Committee recommends that the Treasury should, as a matter of principle, differentiate between devolved governments and UK Government departments when making funding allocations and in sharing fiscal information ahead of announcements, as a way of respecting the constitutional realities of the UK that would strengthen intergovernmental relations and make processes more effective and transparent.

Recommendation 2. The Committee recommends that the Welsh Government should press the UK Government to develop legislative proposals, in consultation with the devolved governments and parliaments, to place intergovernmental relations on a statutory basis, in accordance with the recommendation of the Independent Commission on the Constitutional Future of Wales.

⁴⁴ Nation.Cymru: Stamer to lead new Council of Nations and Regions with devolved First Ministers

⁴⁵ Plenary, RoP, 24 September 2024.

4. Finance Interministerial Standing Committee

41. The IGR review led to the establishment of the Finance Interministerial Standing Committee (F:ISC), which is led by the relevant finance ministers from the UK Government and devolved governments.⁴⁶

42. The draft terms of reference for the F:ISC state:

“Attendance would ordinarily include all finance ministers, however where appropriate may include bilateral engagement.”⁴⁷

43. When portfolio-level expertise is deemed beneficial to the particular conversation at hand, ministers from other departments and ministries can be invited to attend.⁴⁸

44. The review noted “The aim of the F:ISC is to consider the impact of economic and finance matters affecting the UK”, which would include:

- consideration of UK-wide and nation-specific macroeconomic and fiscal positions;
- consideration of emerging economy and finance issues and longer-term challenges that affect all administrations, where collaboration and sharing of information supports planning, policy development and decision-making;
- other ad hoc economic/finance issues affecting all administrations;
- resolution of financial disputes.⁴⁹

45. The F:ISC Secretariat is led collectively by officials from the members of the F:ISC. The agenda is determined by the Secretariat, with any administration

⁴⁶ UK Government: The Review of Intergovernmental Relations, Annex C

⁴⁷ UK Government: The Review of Intergovernmental Relations, Annex C

⁴⁸ UK Government: The Review of Intergovernmental Relations, Annex C

⁴⁹ UK Government: The Review of Intergovernmental Relations, Annex C

having the right to submit an item to the Secretariat to request it be considered at the relevant F:ISC meeting.⁵⁰

46. The review mentions the F:ISC meetings would be chaired by the UK Government or a devolved government finance minister and should typically meet each quarter with meetings taking place less or more frequently if agreed unanimously. Meetings are also intended to take place around key events.⁵¹

Rotation of Chair and location

47. A key benefit of the F:ISC is the rotation of the chair and locations. The then Cabinet Secretary stated in her written evidence that “The F:ISC places Finance Ministers in the various governments in the UK on a more equal footing, with the Chair and Secretariat rotating and all agreeing to the agenda, minutes, communique etc”. She also mentioned that “The Devolved Governments have an equal say on topics of discussion for the agenda”.⁵²

48. The Scottish Cabinet Secretary for Finance and Local Government, Shona Robison MSP (Scottish Cabinet Secretary), commented:

“I think it's a good thing in principle that there's a rotating chair. It allows us to make sure that the agenda covers very much the issues that the devolved administrations want to raise.”⁵³

49. Dr Anderson noted a significant strength of the F:ISC is the rotating chairs and locations of meetings. He stated while a fairly small element, this makes intergovernmental interaction less hierarchical, which was a common criticism of the previous JMC structures.⁵⁴

50. Professor Kenny agreed saying:

“Rotating meetings, having meetings in different places, is also important, and also no longer having the UK Government as the authority that decides when the meetings will happen... I think

⁵⁰ UK Government: The Review of Intergovernmental Relations, Annex C

⁵¹ UK Government: The Review of Intergovernmental Relations, Annex C

⁵² Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

⁵³ Finance Committee, RoP, 16 May 2024, paragraph 24

⁵⁴ Written evidence 01, Dr Anderson, Liverpool John Moores University

it has been very important to have regular scheduled meetings that are not just happening at the behest of one Government.”⁵⁵

Intergovernmental Relations Secretariat

51. Evidence submitted to the Committee highlighted the positive nature of the independent secretariat. Professor Kenny said:

“... some of the most important aspects of the new system, are the independent secretariat, which I think has been really important— it's a modest but important step forward.”⁵⁶

52. The Scottish Cabinet Secretary was complimentary regarding the work of the secretariat, saying:

“I think the work of the secretariat and the support around FISC is very important, and we very much appreciate the work of the secretariat. They do a good job, they make sure that the meetings are conducted efficiently. They, obviously, rotate around the various administrations in terms of hosting, and the communiqué that comes out of the FISC, which is published, is crisp, it's to the point. Also, the agenda, I think, is constructive, with the consultation of all parties. So, I would certainly commend the work of the secretariat.”⁵⁷

Communication during UK Fiscal Events

53. Dr Anderson suggested using the FISC as a principal (confidential) forum ahead of key events to discuss upcoming announcements with the devolved governments would seem a “sensible solution”⁵⁸, saying:

“The absence of this engagement probably speaks to an undercurrent of mistrust by UK Government departments

⁵⁵ Finance Committee, RoP, 1 May 2024, paragraph 41

⁵⁶ Finance Committee, RoP, 1 May 2024, paragraph 41

⁵⁷ Finance Committee, RoP, 16 May 2024, paragraph 34

⁵⁸ Written evidence 01, Dr Anderson, Liverpool John Moores University

regarding interaction with the devolved institutions, as well as, a lack of knowledge about how devolution works.”⁵⁹

54. The then Cabinet Secretary stated in her evidence to the House of Lord’s Constitution Committee that “At almost every meeting of the Finance: Interministerial Standing Committee, we ask for further information... We press quite hard to receive further information”.⁶⁰ She added:

“The only real information we get ahead of a fiscal event is a call with the Chief Secretary to the Treasury on the morning of that event. We get the RDEL and CDEL numbers, the changes to our budget and literally nothing else. I always run through a list of questions that I ask and we do not get any further information. Respectful sharing of information would make such a big difference to us.”⁶¹

55. She also highlighted in her written evidence, the UK Government’s unwillingness to communicate with devolved governments, saying:

“There remains reluctance on the part of the UK Government to share information which impacts on Welsh Government tax and budgetary policy in advance. Successive CSTs have stated that informing me could risk affecting the markets. As well as being a highly dubious claim, the suggestion implies a lack of trust.”⁶²

56. The then Cabinet Secretary also noted that communication during UK fiscal events was dependant on the CST in office. She said:

“The current CST has reinstated the usual process of a call on the morning of UK fiscal events to inform me of the changes to the Welsh Government’s budget and key announcements related to Wales. This has not always been observed and is dependent on who is in the CST post and whether they respect

⁵⁹ Written evidence 01, Dr Anderson, Liverpool John Moores University

⁶⁰ House of Lords, Constitution Committee, Transcript, 22 May 2024.

⁶¹ House of Lords, Constitution Committee, Transcript, 22 May 2024.

⁶² Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

this protocol. Engagement should not be dictated by the preferences of who happens to be CST at the time.”⁶³

57. Professor McEwen felt the risks with IGR structures were that they were open to “ministerial whims”. As a result, features of IGR structures such as the rotation of Chairs and locations of F:ISC meetings were because “the Chief Secretary to the Treasury has wanted it to happen and has attached enough importance to it”.⁶⁴

58. The then Cabinet Secretary also commented on the lack of engagement with the CST on arrangement of F:ISC meetings. She stated:

“There has also been a reluctance from CSTs to schedule F:ISC meetings for the year ahead, and although meeting dates are usually agreed by the Devolved Government Ministers well in advance, the CST only confirms a couple of weeks before the proposed date. This can make it difficult to plan agendas and adhere to the timescales outlined in the Interinstitutional Agreement between Senedd Cymru and the Welsh Government.”⁶⁵

Engagement with devolved governments

59. The then Cabinet Secretary noted in her written evidence she has regular engagement with her devolved counterparts, outside the formal F:ISC process, usually meeting around every two months. She commented:

“We primarily discuss the economic and fiscal context including spending pressures and the implications for our respective budgets. We share information on our approaches to issues of common concern including matters such as the cost-of-living crisis. We also consider opportunities to secure greater certainty

⁶³ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

⁶⁴ Finance Committee, RoP, 1 May 2024, paragraph 50

⁶⁵ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

of devolved funding from the UK Government including improvements to the UK Supplementary Estimates process.”⁶⁶

Committee View

60. The Committee welcomes the establishment of the F:ISC, which includes all finance ministers of the UK and considers the impact of economic and finance matters affecting the UK. We believe the F:ISC has implemented some modest but important developments including the rotation of the chair and location; and allowing any government to submit an item for discussion at a relevant F:ISC meeting. In addition the independent secretariat of the F:ISC was praised by witnesses and we welcome this approach as a step in the right direction. We believe these principles reduce the hierarchy that previously existed and puts the devolved governments on a more equal footing with the UK Government, in line with the principles of mutual respect and parity of esteem we outline in Chapter 3.

61. However, it is disappointing that in the past there has been barriers to the way F:ISC operates, including a reluctance from previous CSTs to schedule meetings for the year ahead or confirm their attendance in a timely manner, as this makes it difficult to schedule business and finalise agendas. This seems an ineffective way to conduct IGR relations and we believe there are simple and pragmatic steps that could be taken to improve how F:ISC works in practice.

62. In particular, we support the suggestion that the F:ISC is the most appropriate platform for the Treasury to provide necessary financial information to the Welsh Government. (This issue is explored further in chapter 5). We have heard on many occasions from the former Cabinet Secretary about the lack of communication on fiscal announcements and that engagement is dependent on the whims of the CST in post. We were also concerned with the reluctance on the part of the previous UK Government to share information. This suggests a fundamental weakness within IGR structures, which is characterised by a lack of trust and communication and subject to the personality of the CST at the time. However, it is positive to hear that the finance ministers of the devolved governments meet regularly around every two months to discuss their common

⁶⁶ [Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office](#)

areas of concern, which can then be collectively raised with the UK Government at F:ISC meetings.

Conclusion 2. The Committee welcomes the positive steps taken to improve the Finance Interministerial Standing Committee, including the rotation of the chair and locations; the establishment of an independent secretariat, which places all governments on an equal footing.

Recommendation 3. The Committee recommends that the Cabinet Secretary pursues the following changes so that:

- the Finance Interministerial Standing Committee becomes the most appropriate platform for the Treasury to share financial information to the devolved governments, in confidence if necessary, in advance of fiscal announcements;
- the rules and processes of the Finance Interministerial Standing Committee are developed to ensure that they are sufficiently robust and to reduce the discretion currently afforded to the Chief Secretary to the Treasury in its ways of working;
- the dates of Finance Interministerial Standing Committee meetings for the year ahead are agreed with finance ministers from the devolved governments in a timely manner; and
- updates are provided to the Committee on progress in these areas.

Conclusion 3. The Committee welcomes the regular engagement that has developed between the finance ministers of the devolved governments to discuss common areas of concern relating to devolved funding outside of the Finance Interministerial Standing Committee structures, as a firm basis to collectively influence the Treasury in these areas.

5. UK Government Devolved Funding

63. The devolved funding system in Wales is based on the Barnett formula whereby an increase in UK Government department spend – whose functions have been devolved to Wales – would normally give rise to funding consequential, to the Welsh Government. The UK Government informs the Welsh Government of the Barnett consequential it will be receiving based on its funding decisions.⁶⁷

Needs-based funding allocations

64. In her written evidence, the then Cabinet Secretary noted that the Welsh Government set out the need for a new principles-based approach to UK funding in its paper, *Reforming our Union: Shared governance in the UK* (June 2021)⁶⁸, which would be underpinned by a jointly agreed needs-based funding system operating on a consistent basis across the UK and overseen by an independent body.⁶⁹

65. Professor McEwen highlighted the absence of a needs-based element to the Barnett formula, which is “a little odd in a comparative context”.⁷⁰ She said:

“I cannot think of any system in the world that determines the funding arrangements for a constituent part of it based on decisions it makes for another part. That's the peculiarity of the UK system and the block grant Barnett funding. So, there's no needs-based element to that.”⁷¹

66. Dr Poole noted that “equalisation based on needs or based on tax capacity... is the usual means across decentralised fiscal systems of funding sub-state governments”.⁷²

⁶⁷ UK Government: Barnett consequential and the Barnett guarantee

⁶⁸ Welsh Government: *Reforming our Union: Shared governance in the UK*, June 2021

⁶⁹ Welsh Government: *Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office*

⁷⁰ Finance Committee, RoP, 1 May 2024, paragraph 105

⁷¹ Finance Committee, RoP, 1 May 2024, paragraph 105

⁷² Finance Committee, RoP, 26 June 2024, paragraph 49

67. He further added:

*"In the OECD, the examples of countries that don't use this equalisation based on needs or tax capacity are the United States, the UK, France and Japan... The UK and the US are the standout exceptions when it comes to the funding of sub-state governments, because these are the states that have a very significant regional tier— when it comes to Wales, Scotland and Northern Ireland, anyway."*⁷³

68. Philip Rycroft agreed with the need for a funding mechanism to be put on "a more transparent needs-driven basis".⁷⁴ He highlighted the inconsistency in funding the Barnett formula delivers across the UK, saying:

*"I live in Scotland and I've lived in Scotland for many years, so I don't want to suggest that Scotland is over-funded, but, clearly, Scotland benefits from the Barnett formula, and has done for many years, compared with Wales, and certainly compared with contiguous parts of England."*⁷⁵

UK Spending Reviews

69. The then Cabinet Secretary noted in her written evidence the Welsh Government's current settlement comes to an end in March 2025 and will be looking to the UK Government to provide early engagement and confirmation of plans for the next UK Spending Review following the UK General Election.⁷⁶

70. The then Cabinet Secretary noted in her oral evidence the uncertainty with Spending Reviews and multi-year budgeting, saying:

"There have been circumstances in the past where chief secretaries have said, 'Right, we're going to have a three-year spending review now.' So, then, we're in three-year spending review mode, but then all you get, actually, is a one-year

⁷³ Finance Committee, RoP, 26 June 2024, paragraph 50

⁷⁴ Finance Committee, RoP, 13 March 2024, paragraph 31

⁷⁵ Finance Committee, RoP, 13 March 2024, paragraph 31

⁷⁶ [Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office](#)

*spending round. Those kinds of things are difficult for us as well."*⁷⁷

71. Philip Rycroft mentioned the need for multi-year settlements in his oral evidence:

*"We should have multi-year settlements based on three- or, ideally, five-year spending reviews. This is true for the Welsh Government, Scottish Government, Northern Ireland Executive, also for local government in England, so that the devolved entities and subnational Government in England have the ability to plan their budgets and their finances over time."*⁷⁸

72. Gareth Davies, Comptroller and Auditor General, National Audit Office agreed stating:

*"... I would observe that it isn't only with the Barnett formula where there's a lot of concern about the stability of public funding— And so, quite a common plea when it comes to spending review timetables and so on is for a longer term view of the availability of funding so that spend-to-save programmes can be implemented with the confidence that there will be sufficient time to implement them properly and that funding won't be withdrawn part way through."*⁷⁹

73. However, he acknowledged that:

"... Governments have found over the years that they do need to respond quickly to events and developments— and we've just seen some very big ones in recent years— and therefore maintaining flexibility to manage the economy is also a big consideration. So, I agree that for lots of reasons— particularly if you just think about value for money, as we do as auditors— having greater certainty over funding beyond an annual cycle is extremely important, but I also recognise that there are other

⁷⁷ Finance Committee, RoP, 3 July 2024, paragraph 65

⁷⁸ Finance Committee, RoP, 13 March 2024, paragraph 73

⁷⁹ Finance Committee, RoP, 24 April 2024, paragraph 32

policy factors that Governments have to take into account and you can't expect them to only focus on the value-for-money question.”⁸⁰

74. In follow-up written evidence to the Committee, the then Cabinet Secretary confirmed that she has written to both the new CST and the Chancellor of the Exchequer and that “a constructive meeting with the CST” where they discussed the “need for close engagement on any Spending Review”.⁸¹

75. The then Cabinet Secretary added that:

“... the last time there was a Spending Review the Finance: Interministerial Standing Committee did not exist, so I am interested to explore how that forum could be used to facilitate discussion on key issues of shared interest.”⁸²

Timing of UK Fiscal Events

76. The then Cabinet Secretary noted in her written evidence to the Committee that “The timing of such [fiscal] events can cause Welsh Government challenges as seen with the most recent UK Spring Budget (6 March 2024) which occurred the day after our Final Budget was passed by the Senedd (5 March 2024)”.⁸³

77. She proposed a possible approach to addressing such issues, saying:

“These challenges could be mitigated by the UK Government setting dates for its fiscal events well in advance and sharing information which could impact on Welsh Government tax and budgetary policy in advance, on a confidential basis.”⁸⁴

78. The then Cabinet Secretary also said “Not knowing this information in advance of our Budget impacts our preparations and limits the amount of time

⁸⁰ Finance Committee, RoP, 24 April 2024, paragraph 33

⁸¹ Letter from the Cabinet Secretary for Finance, Constitution and Cabinet Office, 2 August 2024

⁸² Letter from the Cabinet Secretary for Finance, Constitution and Cabinet Office, 2 August 2024

⁸³ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

⁸⁴ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

to formulate our own plans”. She further acknowledged the impact on scrutiny time for the Senedd and the Finance Committee in particular.⁸⁵

79. Professor Kenny acknowledged the need for the UK Government to bear in mind the timetable of other governments. He said:

“... it really is important to make the argument that the Treasury should be, sort of, marbling into its thinking, in preparation for these events, the timetables of the other Governments in the UK, and it's not beyond its wit, I'm sure, to do that. And that, I think, just would be good governance. On that heading, there should be a consensus around that, and they ought to do it.”⁸⁶

UK Government funding announcements

80. As well as concerns about the timing of UK fiscal events, the then Cabinet Secretary was also critical of the timeliness of announcements and lack of transparency surrounding UK Government funding announcements and related Barnett consequentials.⁸⁷

81. The Scottish Cabinet Secretary also highlighted issues around the late funding announcements. She said:

“... there's something about the structure of our relationship around how funding flows— it's far too late in the year, so even with the best relationship through FISC, that isn't going to address some of those structural issues, and I would be hopeful, going forward, that we can begin to address those. We absolutely need earlier sight and certainty over our funding position at the beginning of the financial year.”⁸⁸

⁸⁵ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

⁸⁶ Finance Committee, RoP, 1 May 2024, paragraph 69

⁸⁷ Finance Committee, RoP, 21 June 2024, paragraphs 16 & 17

⁸⁸ Finance Committee, RoP, 16 May 2024, paragraph 11

Information sharing

82. The then Cabinet Secretary commented in her written evidence that she has raised with successive CSTs the need for greater clarity and more timely information on the implications of UK Government funding announcements for the Welsh Government Budget. She said:

*"We generally do not receive advance notice of allocations that the UK Government intends to make in England and any subsequent consequential funding that might flow to Wales. This emphasises the importance of having the budgetary flexibility to manage this uncertainty."*⁸⁹

83. The Scottish Cabinet Secretary, whilst saying that UK fiscal events occur too late in the year, noted that Scottish Government are informed about consequential funding to Scotland on the morning of the statement, commenting:

*"I think the way that fiscal events work, they are far too late in the year. The autumn statement, for example, in particular, causes us huge difficulties in being able to take through the democratic parliamentary processes here in Scotland, and we literally get a call on the morning of the statement to tell us the high-level figures, and that's it. And that's difficult when you're trying to plan."*⁹⁰

84. Dr Poole highlighted how late funding announcements are compared to other countries. He said:

*"I will confess, I don't know the ins and outs of the budget timing in all decentralised fiscal states, but, to my knowledge, there's nowhere that gives as little notice on future funding changes to regional governments that have very large-scale spending responsibilities."*⁹¹

⁸⁹ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

⁹⁰ Finance Committee, RoP, 16 May 2024, paragraph 14

⁹¹ Finance Committee, RoP, 26 June 2024, paragraph 68

85. The then Cabinet Secretary, in her evidence to the House of Lord's Constitution Committee, highlighted the need for governments to share information early.⁹² She commented:

*"For things to work as they stand, we definitely need that good will. We need all partners to put energy into the system. We need all Ministers to give direction to their officials to engage properly across Governments and share information early and that kind of thing."*⁹³

86. She further mentioned the need for trust between governments with confidential information, saying:

*"For me, good will is about trust, sharing information early and understanding that that information is shared with confidence. The Welsh Government have never spoken outside of meetings. We respect the confidentiality of the intergovernmental relationships that we have. We feel that we have shown that we can be trusted partners. Earlier sharing of information is important."*⁹⁴

87. This led to the then Cabinet Secretary saying in her written evidence "The impact of not sharing the information in advance is detrimental to the stability of finances in Wales". She cited examples of changes to Stamp Duty Land Tax (SDLT) creating uncertainty for housing sales in Wales and the impact from UK tax changes on the Welsh block grant.⁹⁵

88. She outlined the benefits of the UK Government sharing information relating to UK fiscal events in a timely manner:

"If the UK Government provided confidential information ahead of the fiscal event, the Welsh Government would be able to

⁹² House of Lords, Constitution Committee, Transcript, 22 May 2024.

⁹³ House of Lords, Constitution Committee, Transcript, 22 May 2024.

⁹⁴ House of Lords, Constitution Committee, Transcript, 22 May 2024.

⁹⁵ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

respond to the changes in a timelier manner, mitigating the risk of impacts on the property market in Wales.”⁹⁶

Funding Transparency

89. The then Cabinet Secretary noted in her written evidence that “UK Government funding announcements are not always as clear as they should be and as we would like them to be”.⁹⁷ She said:

“There are many examples of this, for example, we did not know how the UK Government intended to fund public sector pay offers in England announced in May 2023, and whether any consequential funding would arise, until nine months later at the UK Supplementary Estimates in February 2024.”⁹⁸

90. The Scottish Cabinet Secretary also highlighted issues with transparency, stating:

“...the fiscal arrangements here in Scotland are different from those in Wales and Northern Ireland, but there are some common areas. I mentioned a few earlier on around the transparency and removing some of the opaqueness around funding decisions, where Barnett flows, where it doesn't flow, having earlier sight of budget expectation and funding and those in-year positions.”⁹⁹

91. The then Cabinet Secretary also noted the challenges faced by the uncertainty of whether UK funding announcements are to be funded with new money or through savings or reprioritisation by Whitehall departments. This was previously identified by the National Audit Office (NAO) in its investigation into devolved funding report published in March 2019.¹⁰⁰ She noted:

⁹⁶ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

⁹⁷ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

⁹⁸ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

⁹⁹ Finance Committee, RoP, 16 May 2024, paragraph 31

¹⁰⁰ National Audit Office: Report on Investigation into devolved funding

“The final decision on funding may not take place until very late in the financial year at UK Supplementary Estimates, although the additional funding might have been in place in England for much of the year ...”¹⁰¹

92. The then Cabinet Secretary stated “the delay in providing clarity has impacts for our own spending choices and makes it difficult to plan effectively given the uncertainty about the exact size of the funding envelope available”.¹⁰²

93. Sir Paul Silk said he would like to see greater transparency in the way fiscal transfers are identified “not least to put an end to the idea that Scotland, Wales and Northern Ireland are uniquely benefiting from Barnett in a way that England is not”.¹⁰³

In-year funding processes

94. Both the then Cabinet Secretary and Scottish Cabinet Secretary mentioned the challenges posed by the UK Government’s supplementary estimates and in-year announcements.

95. The then Cabinet Secretary provided a recent example in her written evidence, saying:

“Provisional estimates were provided to us on 18 January. Final figures for the 2023-24 supplementary estimates were received on 7 February.

On 13 February, HM Treasury advised the final figures contained errors and revised final figures were provided.”¹⁰⁴

96. She added:

¹⁰¹ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

¹⁰² Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

¹⁰³ Finance Committee, RoP, 22 May 2024, paragraph 98

¹⁰⁴ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

“The overall changes to the Welsh Government budget in 2023-24 included an additional £231m in resource, £8m in general capital and a reduction of £38m to Financial Transactions capital. These changes were confirmed 7 weeks before the end of the Financial Year.”¹⁰⁵

97. The Scottish Cabinet Secretary said the notification of significant changes to devolved funding late in the year at supplementary estimates causes “huge problems” for the management of devolved budgets.¹⁰⁶

98. The then Cabinet Secretary mentioned the re-prioritisation of the Welsh Government’s budgets¹⁰⁷ in 2023-24 due to the significant pressures faced. She said “unpalatable decisions were made, some of which could have been avoided, had we known how much additional funding was going to be provided during the year”.¹⁰⁸

99. The Scottish Cabinet Secretary also used the reprioritisation of the Scottish budget as an example of the impact late funding announcements are having on devolved governments. She said:

“I mentioned that, last year, in the autumn of 2023, to balance the 2023-24 budget I had to announce savings and reprioritisation of £680 million. We then found that we had £500 million of additional funding that came through at supplementary estimates, so had we known that, we wouldn’t have had to make some of those very difficult choices— things around higher and further education, or around transport. There were many areas— employability— where I would have maybe made different choices.”¹⁰⁹

100. Consequently, the Scottish Cabinet Secretary noted “that greater clarity on block grant funding is critical. Earlier information about likely consequential —

¹⁰⁵ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

¹⁰⁶ Finance Committee, RoP, 16 May 2024, paragraph 52

¹⁰⁷ Welsh Government: Update on 2023-2024 financial position: summary of main changes

¹⁰⁸ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

¹⁰⁹ Finance Committee, RoP, 16 May 2024, paragraph 52

critical. And we need to find ways of making that the default position of the way funding is agreed, rather than the rather chaotic position that we have at the moment”.¹¹⁰

101. The then Cabinet Secretary mentioned in her written evidence that “Together with the other devolved Finance Ministers, I have led discussions on improving the supplementary estimates process to support effective budget planning at the F:ISC”.¹¹¹ She stated:

*“The outcome of these discussions to date have resulted in Devolved Governments being permitted to automatically manage outside their existing Reserve arrangements any funding changes at UK Supplementary Estimates that differs by more than 10% from the provisional estimates provided in January.”*¹¹²

102. Although she welcomed the support, the then Cabinet Secretary felt this didn’t address the issues relating to late announcements, saying:

*“... this mechanism is insufficient when material changes are notified in the last quarter of the financial year. This year, the combined resource changes represented more than half the total value of the Wales Reserve.”*¹¹³

103. The then Cabinet Secretary further added that “Agreement was reached at the F:ISC meeting in March 2024 for officials to revisit work to develop proposals for improving in-year funding processes including consideration of capital to resource switches, to be discussed during a future F:ISC meeting”.¹¹⁴

¹¹⁰ Finance Committee, RoP, 16 May 2024, paragraph 52

¹¹¹ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

¹¹² Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

¹¹³ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

¹¹⁴ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

Categorisation of spending programmes

104. In 2019, the NAO said “applying the [Statement of Funding Policy] SFP is straightforward where services and functions are fully devolved but more complex in areas where HM Treasury’s decisions on categorisations may be more subjective”.¹¹⁵

105. It provided railway infrastructure as an example of funding which does not always result in Barnett consequential for all devolved administrations.¹¹⁶ The NAO compared the High Speed 2 (HS2) and Crossrail infrastructure projects. It noted:

“HM Treasury assessed the [High Speed 2] project as bringing benefits to both England and Wales as national rail infrastructure is reserved to the UK government in England and Wales but devolved in Scotland and Northern Ireland. This meant that the Barnett formula would apply in calculating consequential allocations of funding to Scotland and Northern Ireland, but Wales would not be eligible for additional funding.”¹¹⁷

106. However, the Treasury categorised the Crossrail project as local transport, which entitled the devolved administrations to consequential funding as local transport is devolved.¹¹⁸

107. The Scottish Cabinet Secretary mentioned the Treasury should show its workings to improve transparency around project categorisation. She noted:

“So, I think the Treasury, first of all, should show their workings. If there's a categorisation, on what basis? What are the workings on how they have come to that decision? So, full transparency around why, and what they've applied, and the rationale. I think they show the workings, and I think that would help us to

¹¹⁵ National Audit Office: Report on Investigation into devolved funding

¹¹⁶ National Audit Office: Report on Investigation into devolved funding

¹¹⁷ National Audit Office: Report on Investigation into devolved funding

¹¹⁸ National Audit Office: Report on Investigation into devolved funding

understand why a decision has been made on a particular issue.”¹¹⁹

108. The Scottish Cabinet Secretary, further said she would like devolved governments to agree on rules set during spending reviews to support transparency of project categorisation, saying:

“There’s also, I think, the opportunity around the rules of the spending review, going forward. I think there are opportunities to tighten some of those, and to have agreements around more transparency and clarity around categorisation. So, we could look at some rules that will be agreed with the devolved administrations.”¹²⁰

109. When asked about the timeliness and financial implications of spending announcements, Lee Summerfield, National Audit Office said that “all of the Barnett consequentials will be driven by that statement of funding policy”.¹²¹ He continued:

“That is not a negotiation; that is a document that is shared with each of the administrations for information. Of course, there is a process by which administrations can raise concerns about that. But, fundamentally, that is after the event.”¹²²

110. In the then Cabinet Secretary’s follow-up letter to the Committee, she stated that whilst the Welsh Government does engage with the UK Government during development of the Statement of Funding Policy “ultimately the decisions about categorisation in the Barnett formula are currently made by the UK Government.”¹²³

¹¹⁹ Finance Committee, RoP, 16 May 2024, paragraph 59

¹²⁰ Finance Committee, RoP, 16 May 2024, paragraph 60

¹²¹ Finance Committee, RoP, 24 April 2024, paragraph 81

¹²² Finance Committee, RoP, 24 April 2024, paragraph 81

¹²³ Letter from the Cabinet Secretary for Finance, Constitution and Cabinet Office, 2 August 2024

Funding of spending programmes

111. The NAO highlighted HM Treasury also determines how it will fund changes in the UK Government's spending plans. Funding for changes in priorities may come from a variety of sources, including:

- taxation;
- efficiency savings;
- cuts made in one area of government to fund another, or
- funding allocated from the Central Reserve.¹²⁴

112. The Central Reserve is a contingency fund established by the government to meet the costs associated with unforeseen events that government departments (and devolved administrations) cannot be expected to meet from within their existing resources.¹²⁵

113. HM Treasury told NAO that the "Barnett formula applies to funding from the Reserve that is allocated to UK government departments where there are similar pressures on spending in Scotland, Wales and Northern Ireland".¹²⁶

114. The NAO further noted:

"But there are some exceptions where funding from the Reserve is allocated to a specific region of the UK. For example, £410 million allocated to Northern Ireland via the "confidence and supply agreement" was funded from the Reserve... as this funding was not linked to a change in the funding allocated to UK government departments, it did not trigger Barnett consequential." ¹²⁷

Statement of Funding Policy

115. The Scottish Cabinet Secretary, when asked about the Treasury using its Central reserve to possibly circumvent the Barnett formula, noted that "where

¹²⁴ National Audit Office: Report on Investigation into devolved funding

¹²⁵ National Audit Office: Report on Investigation into devolved funding

¹²⁶ National Audit Office: Report on Investigation into devolved funding

¹²⁷ National Audit Office: Report on Investigation into devolved funding

Treasury allocates additional funding in areas of devolved responsibility, it absolutely should trigger a consequential".¹²⁸ She explained:

*"Those principles are established in the statement of funding policy, and that should be transparent, it should be understandable, but, as you pointed out, Treasury can cut across these principles and where they do so, there is an immediate loss of transparency."*¹²⁹

116. Dr Anderson noted in his written evidence "the limited grounds for raising a dispute hint at the overbearing role the Treasury has in fiscal IGR". He suggested to ensure more "collegial and cooperative" IGR will require greater effort on the part of the Treasury to meaningfully engage with the devolved governments prior to, for example, changes to the Statement of Funding Policy.¹³⁰

Committee View

117. The Committee notes that the Barnett formula does not operate on a needs basis, unlike in other decentralised fiscal systems. We also note that the formula leads to inconsistencies in the way funding is shared across the UK. As such, the Committee supports the Welsh Government's view for a new principles-based approach to UK funding, that is underpinned by a jointly agreed needs-based funding system operating on a consistent basis across the UK and overseen by an independent body.

118. As highlighted in the previous chapter, the timing of UK fiscal events can cause significant challenges for the Welsh Government and subsequently impacts the budget scrutiny work of the Senedd, an issue that we have highlighted on many occasions.¹³¹ It is concerning to hear that the UK is one of the only decentralised fiscal states that gives such short notice on future funding changes, especially given the large-scale spending responsibilities of the UK devolved governments. The Committee believes that the current approach lacks transparency and we support the Welsh Government's view that these challenges could be mitigated by the UK Government setting dates for its fiscal

¹²⁸ Finance Committee, RoP, 16 May 2024, paragraph 54

¹²⁹ Finance Committee, RoP, 16 May 2024, paragraph 54

¹³⁰ Written evidence 01, Dr Anderson, Liverpool John Moores University

¹³¹ Finance Committee Report: Welsh Government Draft Budget 2024-25, recommendation 3

events well in advance and sharing information on a confidential basis. We urge the Welsh Government to continue pursuing this and call on the UK Government to provide early engagement and confirmation of its plans for the next UK Spending Review as soon as possible.

119. We have heard on many occasions that UK Government funding announcements lack transparency, including whether announcements are to be funded with ‘new money’ or through savings or reprioritisation by UK departments. During the Covid pandemic, our predecessor Committee wrote to the then Secretary of State for Wales, Simon Hart MP and the then Minister for Finance and Trefnydd, Rebecca Evans MS, calling on both governments to ensure that “future funding announcements clarify whether any funding provided to Wales is “new money”, and not funding which has already been previously detailed or announced.”¹³² We reiterate this view to ensure that the Committee has a clear understanding of the funding available to the Welsh Government.

120. The Committee notes the challenges posed by the UK Government’s supplementary estimates and in-year announcements that occur late in the year which causes problems for the management of devolved budgets. We have consistently called on the former Cabinet Secretary to press the Treasury for earlier and better engagement with the Welsh Government regarding significant funding announcements, with the aim of providing greater clarity in terms of the Welsh Government’s funding position earlier in the year.¹³³ In particular, we note the former Cabinet Secretary’s comments that some of the “unpalatable decisions” made when re-prioritising the Welsh Government’s budgets in 2023-24¹³⁴ could have been avoided, if there had been certainty over the additional funding that was going to be provided during the year.

121. We are pleased to hear that the devolved finance ministers have discussed improving the supplementary estimates process to support effective budget planning at the FISC. The outcome of these discussions has been for devolved governments to manage outside of their existing Reserve arrangements any

¹³² Letter to the Secretary of State for Wales: 24 September 2020

¹³³ Finance Committee Report: Scrutiny of Welsh Government First Supplementary Budget 2023-24, recommendation 2.

¹³⁴ Welsh Government: Update on 2023-2024 financial position: summary of main changes

funding changes at UK Supplementary Estimates that differs by more than 10 per cent from the provisional estimates provided. However, when significant changes are made late in the year this mechanism is insufficient. We understand that this issue, as well as consideration of capital to resource switches, will be considered again at FISC in the near future and we are interested to hear how this work develops. (These issues are considered further in the next chapter).

122. The Committee supports the view that the Treasury should show its workings to improve transparency around project categorisation. The HS2 project is a prime example of where the Treasury's decision on categorisations can be considered subjective. The Committee believes that the Welsh Government should have a greater role and more engagement during the development of future Statement of Funding Policy documents to mitigate project categorisation issues as with the HS2 project. Such decisions should be based on an agreed set of principles and not at what appears to be the whim of the Treasury.

123. The Committee also notes that the Treasury currently determines how it will fund changes in the UK Government's spending plans, which may come from a variety of sources. The Barnett formula applies to funding from the Central Reserve that is allocated to UK Government departments where there are similar pressures on spending in Scotland, Wales and Northern Ireland. However, there are some exceptions where funding from the Central Reserve is allocated to a specific region of the UK and in these instances it does not result in a Barnett consequential. The Committee is therefore concerned that the Treasury is able to use the Central Reserve to circumvent the Barnett formula and calls on the Cabinet Secretary to press for action in this area.

Recommendation 4. The Committee recommends that the Cabinet Secretary continues to engage with the UK Government to advocate for a needs-based funding mechanism to ensure fairer funding for Wales and provides an update to the Committee on progress.

Recommendation 5. The Committee recommends that the Cabinet Secretary presses the UK Government for action to ensure that:

- the dates for UK fiscal events are published well in advance to enable the Welsh Government to plan its budget more effectively; and

- more consideration is given by the UK Government to the Senedd's budgetary timetable when planning UK fiscal events, and when making announcements at short-notice outside of planned UK fiscal events; and provides an update to the Committee on progress in these areas.

Recommendation 6. The Committee recommends that the Cabinet Secretary presses the UK Government for action so that:

- the Welsh Government has greater engagement with and influence on UK Spending Reviews; and
- multi-year spending reviews are delivered as a matter of course to provide greater funding certainty to the Welsh Government at an earlier stage; and provides an update to the Committee on progress in these areas.

Recommendation 7. The Committee recommends that the Cabinet Secretary calls for annual and in-year Treasury funding announcements to be:

- less ad hoc; and that information impacting on Welsh Government tax and budgetary policy is shared prior to UK fiscal events on a confidential basis;
- more transparent in terms of whether they are funded with new money or through savings or reprioritisation exercises undertaken by UK Government departments to enable Barnett consequential to be calculated; and
- provides an update to the Committee on progress in these areas.

Recommendation 8. The Committee recommends that the Cabinet Secretary takes action to ensure that the Welsh Government is engaged in the development of future Statement of Funding Policy documents to mitigate project categorisation issues.

Recommendation 9. The Committee recommends that the Cabinet Secretary calls on the Treasury to publish detailed workings alongside its funding announcements to improve transparency around devolved funding and project

categorisation, to ensure that such decisions are taken on the basis of clear principles, and provides an update to the Committee on progress.

Recommendation 10. The Committee recommends that the Cabinet Secretary presses the Treasury to provide credible evidence for using the Central Reserve when this results in funding outcomes that circumvent the Barnett formula, and provides an update to the Committee on progress.

6. Budgetary Flexibilities

124. The then Cabinet Secretary noted in her written evidence that Welsh Ministers have continued to make representations to the UK Government for additional fiscal flexibilities through channels such as the FISC, bilateral meetings and correspondence with the CST and the Chancellor of the Exchequer.¹³⁵

125. She explained the fiscal levers currently available to the Welsh Government “limit its ability to respond quickly to emerging needs, leaving it dependent on decisions made by the UK Government, which fail to recognise the impact on its budgets and the scrutiny provided by the Senedd”.¹³⁶

126. The then Cabinet Secretary added:

“The current UK financial arrangements do not offer the predictability and funding certainty required to support Welsh Government budget planning and that of its partner organisations.”¹³⁷

127. The Independent Commission on the Constitutional Future of Wales made a range of recommendations in its final report regarding budget flexibility. In terms of borrowing and draw-down limits, the Commission recommended the Treasury should take the following action:

- indexing borrowing and overall reserve limits to inflation, in-line with the Scottish fiscal framework;
- the abolition of the reserve draw-down limits, in-line with the Scottish fiscal framework;
- it noted there is also a case for increasing capital borrowing limits.¹³⁸

¹³⁵ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

¹³⁶ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

¹³⁷ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

¹³⁸ The Independent Commission on the Constitutional Future of Wales: Final Report January 2024

128. The then Minister for Finance and Local Government (the then Minister), Rebecca Evans MS, supported these recommendations in a Welsh Government debate in Plenary.¹³⁹

Wales Reserve

129. To support Welsh Government in managing its fiscal powers, a Wales Reserve was established as part of the Welsh fiscal framework, which holds resource and capital reserves separately. This is held within the UK Government and enables Welsh Government to carry forward total aggregate funding of £350 million across financial years.¹⁴⁰

130. There are no annual limits for payments into the Wales Reserve. However, annual drawdowns are limited to £125 million for resource and £50 million for capital. Welsh Ministers may request additional flexibility with the consent of Treasury Ministers in exceptional circumstances.¹⁴¹

131. When asked about the rationale for why Welsh Government has limits to the reserves it can carry across financial years, Philip Rycroft noted:

“Ultimately, it is obviously the Treasury's concern about the public sector borrowing requirement, which is at the root of so much the Treasury seeks to do. But is it reasonable? No, in my view, it's not reasonable at all. This is money that's been allocated. In the grand scheme of things, if you look at the amount of money the UK Government is borrowing on an annual basis at the moment, these sums of money are not— I mean, they're important sums of money— going to destabilise the UK finances.”¹⁴²

132. He said “these sorts of constraints are unnecessary and I don't really understand what purpose they serve these days”, highlighting that Welsh

¹³⁹ Plenary, RoP, 27 February 2024.

¹⁴⁰ The agreement between the Welsh Government and the United Kingdom Government on the Welsh Government's fiscal framework

¹⁴¹ The agreement between the Welsh Government and the United Kingdom Government on the Welsh Government's fiscal framework

¹⁴² Finance Committee, RoP, 13 March 2024, paragraph 55

Government should be seen as a responsible operator and responsible for managing its own finances.¹⁴³ He further commented:

“... all it does, really, at the end of the day, is inhibit the proper and responsible expenditure of funds by the Welsh Government, because it forces you into making short-term decisions, which are not necessarily good value for public money. So, I think this is counter-productive.”¹⁴⁴

Barnett Guarantee

133. In January 2021, the UK Government published guidance on Barnett consequential and the Barnett guarantee. The Barnett guarantee was implemented in response to the Covid pandemic, providing the devolved administrations with increased funding certainty.¹⁴⁵

134. It enabled them to “decide how and when to provide support, rather than loans or receiving Barnett consequential in the traditional way” and allowed the devolved administrations to spend additional funding without having to wait for it to be spent in England first.¹⁴⁶

135. The Independent Commission on the Constitutional Future of Wales, in its final report, recommended for large in-year announcements:

“The UK Government should consider a solution similar to the Covid Guarantee when making decisions that potentially involve the allocation of substantial sums of money in-year... This would give devolved governments some degree of certainty about the funding available ahead of the overall UK Government departmental positions being finalised at UK Supplementary Estimates near the end of the financial year.”¹⁴⁷

¹⁴³ Finance Committee, RoP, 13 March 2024, paragraph 55

¹⁴⁴ Finance Committee, RoP, 13 March 2024, paragraph 55

¹⁴⁵ HM Treasury: Barnett consequential and the Barnett guarantee

¹⁴⁶ HM Treasury: Barnett consequential and the Barnett guarantee

¹⁴⁷ The Independent Commission on the Constitutional Future of Wales: Final Report January 2024

136. The then Cabinet Secretary mentioned the Barnett guarantee in her oral evidence to Committee when talking about budget flexibility. She said:

“... I think all of those things are important, to manage that kind of uncertainty, and then also the example that we had in COVID with the Barnett guarantee, I thought that was really useful, because then we had that certainty that we had a figure below which our budget won't fall, so we could plan on that basis.”¹⁴⁸

Capital to resource switching

137. The then Minister said the Welsh Government was seeking to develop a process to enable the switching of capital to resource in the same way as Whitehall departments are able to but which respects the scrutiny role of the Senedd.¹⁴⁹ She explained to the Committee:

“... there are cases where we're treated as less than UK Government departments, and that capital to revenue switch is a perfect example of that, because that would be a tool that would help us manage pressures or opportunities within the financial year, as happens in other parts of Government— in UK departments. That doesn't happen to us.”¹⁵⁰

138. Philip Rycroft noted the switching of capital to resource should be at the discretion of the Welsh Government, saying:

“I've sat in too many rooms across the years where there has been a switch, because of short-term exigencies, from capital to revenue and we see the results of that right across the land every day of the week. So, this is something that should be used with discretion, but that discretion absolutely should rest with the Welsh Government.”¹⁵¹

¹⁴⁸ Finance Committee, RoP, 3 July 2024, paragraph 114

¹⁴⁹ Plenary, RoP, 27 February 2024.

¹⁵⁰ Finance Committee, RoP, 3 July 2024, paragraph 31

¹⁵¹ Finance Committee, RoP, 13 March 2024, paragraph 66

Late funding announcements

139. The Commission further recommended that late funding announcements made by the Treasury should be carried across financial years. It suggested:

“A principle should be established that funding changes confirmed after an autumn fiscal event can be managed across financial years, in addition to any carry forward permitted under reserve arrangements, to ensure effective budget management at the end of the financial year.”¹⁵²

140. This was supported by Professor Kenny who also suggested:

“The other way to go is, of course, to think about rules relating to additional expenditure or cuts, and whether, therefore, there should be a rule that those run over the following financial year, so that there's more leeway for the devolved [governments] to actually manage the implementation of those.”¹⁵³

Committee View

141. The Committee believes that the fiscal levers available to the Welsh Government are insufficient and do not allow it to respond quickly to emerging needs or support its budget planning. We also agree with the former Cabinet Secretary that current arrangements do not offer the predictability and funding certainty required to support effective budgeting. This is an area of continued concern for the Committee and we commend the former Cabinet Secretary's efforts in making continuing representations to the UK Government for additional fiscal flexibilities through the F:ISC, bilateral meetings and correspondence with the Chancellor of the Exchequer and the CST.

142. The Committee notes that there are no annual limits for payments into the Wales Reserve. However, annual drawdowns are limited to £125 million for resource and £50 million for capital. We are unclear why these constraints are placed on the Welsh Government by the Treasury and are concerned that the

¹⁵² The Independent Commission on the Constitutional Future of Wales: Final Report January 2024

¹⁵³ Finance Committee, RoP, 13 May 2024, paragraph 69

Welsh Government is forced to make short-term decisions at the expense of strategic long-term decisions due to its inability to manage its own finances. Along with the former Cabinet Secretary, we support the recommendation made by the Commission to abolish the drawdown limits, in-line with the Scottish fiscal framework and our own previous recommendation.¹⁵⁴

143. The Committee supports the Commission's recommendation that, for large in-year announcements, the UK Government should consider a similar solution to the Barnett guarantee that was implemented in response to the Covid pandemic. We note this would give devolved governments some degree of certainty about the funding available ahead of the overall UK Government departmental positions being finalised at UK Supplementary Estimates near the end of the financial year.

144. The Committee has previously recommended the Welsh Government provides further information regarding the rationale and impact of the Treasury's decision not to allow the switch in funding from revenue to capital¹⁵⁵, and agrees that the Welsh Government should be able to undertake this action in the same way as UK Government departments. However, this should be used with discretion and clearly communicated by the Welsh Government's in its budget documentation and announcements so it can be subject to parliamentary scrutiny. As mentioned in paragraph 103, we also note that this issue will be considered at a future FISC meeting.

145. The Committee also supports the Commission's recommendation that late funding announcements made by the Treasury should be carried across financial years, in addition to any carry forward permitted under the Reserve arrangements, again in line with our previous recommendation.¹⁵⁶ The Cabinet Secretary should continue to press the UK Government for flexibility, to allow the Welsh Government to manage the uncertainty and ensure financial stability.

¹⁵⁴ [Finance Committee Report: Scrutiny of Welsh Government Second Supplementary Budget 2023-24 recommendation 1](#)

¹⁵⁵ [Finance Committee Report: Scrutiny of Welsh Government Second Supplementary Budget 2023-24 recommendation 2](#)

¹⁵⁶ [Finance Committee Report: Scrutiny of the Welsh Government Second Supplementary Budget 2023-24](#)

Recommendation 11. The Committee recommends that the Cabinet Secretary calls on the UK Government to implement a funding guarantee similar to the Barnett guarantee introduced during the Covid pandemic to provide a degree of certainty regarding devolved funding available and provides an update to the Committee on progress.

Recommendation 12. The Committee recommends that the Cabinet Secretary continues to press the UK Government so that the Welsh Government has the ability to switch capital funding to resource and provides an update to the Committee on progress.

Recommendation 13. The Committee recommends that the Cabinet Secretary continues to press the UK Government for flexibility for the Welsh Government to manage funding increases confirmed after an autumn fiscal event across financial years and provides an update to the Committee on progress.

7. Dispute Resolution

146. The IGR review set out a dispute management model, stating:

“Any finance minister can escalate a disagreement as a dispute by notifying the IGR Secretariat and F:ISC Secretariat by writing, if there is a disagreement between members of the F:ISC which cannot be resolved through normal channels or regular F:ISC discussions.”¹⁵⁷

147. It also explains that no member of the F:ISC can reject the decision of another to raise a dispute on any economic or finance issue or refuse to engage on its substance if the IGR secretariat recommends a disagreement be escalated as a formal dispute.¹⁵⁸

148. The first stage of the process would involve a meeting of senior officials, which will consider collective recommendations to Ministers for resolving the dispute. However, if the dispute is not resolved then Ministers would be required to meet, which would be chaired by an independent chairperson. If this fails to resolve the dispute then parties would have the right to request non-binding third-party evidence or advice to inform subsequent discussion.¹⁵⁹

149. If no resolution is found at the F:ISC, the matter will be referred back to the IGR Secretariat to be considered by the Prime Minister and Heads of Devolved Governments Council. This process is set out in the terms of reference for the Council.¹⁶⁰

150. A number of witnesses believed the dispute resolution mechanism was an improvement on the previous process. Professor McEwen said:

“One of the other big improvements is that, prior to the new machinery, one of the problems around disputes was that the UK Government and the Treasury, in this case, were able to deny the existence of a dispute. So, if devolved Governments

¹⁵⁷ UK Government. The Review of Intergovernmental Relations

¹⁵⁸ UK Government. The Review of Intergovernmental Relations

¹⁵⁹ UK Government. The Review of Intergovernmental Relations

¹⁶⁰ UK Government. The Review of Intergovernmental Relations

*raised an issue and said, 'This is a dispute we want to escalate', they could turn around and say, 'Well, we don't agree it's a dispute, so it's not going anywhere.' Now, the new system doesn't allow that."*¹⁶¹

151. She added:

*"We haven't tested it yet, but the system is that no one Government can deny the existence of a dispute. And most of the disputes over the years of devolution have been about money. So, it will be interesting to see how that actually works and how robust it is when the time comes. I think there has been one around Northern Ireland."*¹⁶²

152. The Committee wrote to the Minister for Finance in the Northern Ireland Executive (Minister for Finance) to ask for information on the nature of the dispute and its current status.¹⁶³ The Minister for Finance confirmed:

*"This dispute relates to the funding for the Troubles Permanent Disablement Scheme. This is a scheme which makes payments to individuals who have been permanently disabled as a result of an injury related to the conflict here."*¹⁶⁴

153. The Minister for Finance added:

"The nature of the Executive's dispute is that the Scheme that was designed and legislated for by the British Government is substantially broader in scope, in terms of eligibility, than that which was agreed by the local political parties here as part of the Stormont House Agreement. The Regulations which introduced the Scheme were made by the Secretary of State at Westminster in January 2020, in the absence of the Executive. The Executive therefore believes that the British Government has an obligation to meet the cost of the Scheme. This is based

¹⁶¹ Finance Committee, RoP, 1 May 2024, paragraph 54

¹⁶² Finance Committee, RoP, 1 May 2024, paragraph 54

¹⁶³ [Letter to the Minister for Finance, Northern Ireland Executive, 8 May 2024](#)

¹⁶⁴ [Letter from the Minister for Finance, Northern Ireland Executive, 29 May 2024](#)

on the principle set out in the Statement of Funding Policy that “where ... decisions of UK government departments or agencies lead to additional costs for any of the devolved administrations, where other arrangements do not exist automatically to adjust for such extra costs (e.g. if the Barnett formula doesn’t apply), the body whose decision leads to the additional cost will meet that cost.”¹⁶⁵

154. In terms of the current status, the Minister for Finance explained that:

“... the process was paused in October 2022 when Executive Ministers left office. Treasury officials indicated that the process could not be taken forward in the absence of the Executive. Given the return of the Executive, I intend to engage with Treasury to seek to restart the dispute process.”¹⁶⁶

155. Witnesses also focused on the independent element to the dispute resolution process. Philip Rycroft noted the independent mediation process rather than arbitration, saying:

“So, the structure is there. It allows for independent chairing of dispute meetings, of bringing independent evidence to bear, but not arbitration. So, ultimately, this has to be sorted out between the Governments. But is it effective? We won't really know until it's used in earnest.”¹⁶⁷

156. The then Cabinet Secretary noted the dispute resolution mechanism has not been tested, commenting:

“Well, we haven't yet raised a formal dispute, so in that sense the process itself hasn't been tested. That's partly because of the lack of engagement by the UK Government on some of these issues and the lack of consistent presence in the Treasury to have these discussions with.”¹⁶⁸

¹⁶⁵ Letter from the Minister for Finance, Northern Ireland Executive, 29 May 2024.

¹⁶⁶ Letter from the Minister for Finance, Northern Ireland Executive, 29 May 2024.

¹⁶⁷ Finance Committee, RoP, 13 March 2024, paragraph 52

¹⁶⁸ Finance Committee, RoP, 3 July 2024, paragraph 99

157. In terms of how the independent mediation process would work, a Welsh Government official said:

“... those Governments that are party to the dispute would consider collectively who might be a good body or individual to go to to consider this particular issue to be able to give that independent aspect into it, and they would agree who that would be.”¹⁶⁹

158. When asked whether the process should be one of arbitration rather than mediation Philip Rycroft, in his letter to the Committee, noted:

“Incorporating an independent adjudicator would not add much to that mix, unless they were to have the power to impose binding decisions on the parties to the dispute. That is unlikely to be acceptable to the UK government at least, if not also to the devolved governments, as an outsourcing of decision-making which takes it beyond the immediate control of democratically elected governments.”¹⁷⁰

Statement of Funding Policy

159. The dispute resolution mechanism for the F:ISC is broadly similar to other interministerial standing committees. However, witnesses highlighted that grounds for raising a dispute at the F:ISC are limited to “where there is reason to believe a principle of the Statement of Funding Policy may have been breached”.¹⁷¹

160. Dr Anderson noted that in terms of challenging the imbalance between Treasury and the devolved governments this limitation would make it more difficult to challenge in the F:ISC. He said “there is a list of principles within the statement of funding policy, and so, therefore, it's more limited to raise a dispute”.¹⁷²

¹⁶⁹ Finance Committee, RoP, 3 July 2024, paragraph 103

¹⁷⁰ Letter from Philip Rycroft in response to additional questions from the Committee, 11 April 2024

¹⁷¹ UK Government, *The Review of Intergovernmental Relations*

¹⁷² Finance Committee, RoP, 1 May 2024, paragraph 190

161. Dr Poole also mentioned the limitations of the FISC dispute resolution process, saying:

“We know that the statement of funding policy is incredibly important in the devolved context, because that's what sets the comparability factors for the Barnett formula, and that is the document that effectively, for example, determines whether HS2 will be an England and Wales or an England-only project. Those questions are carved out of dispute resolution.”¹⁷³

162. He added:

“There'll be possible room for engagement and negotiation, but still there's no ability to go out to third-party arbitration in those areas, while we have seen progress in other areas of the various different committees.”¹⁷⁴

Dispute resolution mechanisms

163. The IGR review noted that disputes raised in relation to the Welsh and Scottish Governments' fiscal frameworks will continue to be managed through the arrangements set out in their respective fiscal framework agreements.¹⁷⁵

164. The then Cabinet Secretary's written evidence, notes the Welsh Government's approach has been to work with the UK Government “constructively and pragmatically” on any issues that arise as part of what should be routine intergovernmental engagement.¹⁷⁶

165. However, she added that if the Welsh Government “cannot reach agreement through these arrangements, the dispute resolution processes are operational and open to us”.¹⁷⁷

¹⁷³ Finance Committee, RoP, 26 June 2024, paragraph 27

¹⁷⁴ Finance Committee, RoP, 26 June 2024, paragraph 30

¹⁷⁵ [UK Government: The Review of Intergovernmental Relations](#)

¹⁷⁶ [Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office](#)

¹⁷⁷ [Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office](#)

166. During the then Cabinet Secretary's oral evidence with the House of Lord's Constitution Committee, she said the Welsh Government has not utilised the dispute resolution mechanism to date, stating:

*"Thus far, we have not tested the mechanisms to see how they work in a dispute. The Welsh Government have not brought forward a dispute yet, because we take seriously that challenge to resolve disputes through discussion and collaboration. That said, if we are not able to do that, we will use the disputes mechanism."*¹⁷⁸

167. The then Cabinet Secretary noted in her written evidence the mechanisms remove some of the former barriers to raising disputes and require independent chairing and secretariat arrangements. They include a presumption of independent input, through either advice or mediation, and increased transparency to aid legislatures' scrutiny and stakeholder engagement.¹⁷⁹

168. In reviewing the FISC Terms of Reference, the then Cabinet Secretary said "we strengthened the dispute mechanism, clarifying the process of the appointment of an independent chair in the event of a dispute and timescale for a Ministerial meeting, to ensure disputes are addressed in a timely manner".¹⁸⁰

169. She also mentioned the IGR Secretariat's role in the dispute resolution process, saying:

*"The independent IGR Secretariat have a role in facilitating the process of dispute resolution. This includes assessing whether the appropriate steps have been followed to resolve a disagreement and decide whether it should be escalated as a dispute through the formal process."*¹⁸¹

¹⁷⁸ Written evidence 01, Dr Anderson, Liverpool John Moores University

¹⁷⁸ House of Lords, Constitution Committee, Transcript, 22 May 2024.

¹⁷⁹ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

¹⁸⁰ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

¹⁸¹ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

Fiscal Framework

170. In follow-up evidence, the then Cabinet Secretary explained:

“The Fiscal Framework dispute arrangements only relate to the implementation or operation of the Fiscal Framework. Any dispute raised using the Fiscal Framework process will firstly be considered by officials, initially at working level and then by Joint Exchequer Committee (JEC). Where officials are unable to reach agreement, disputes will be considered by ministers at JEC. The fiscal framework dispute arrangements potentially provide a streamlined resolution process in this area.”¹⁸²

171. The then Cabinet Secretary continued:

“The IGR dispute process covers disagreements on any fiscal or economic matter. Similarly to the Fiscal Framework process, any dispute will be considered in the first instance by officials, before being escalated to a ministerial level if officials are unable to reach agreement. If no solution is reached between ministers, the matter will be referred to the IGR Secretariat to be considered by the Prime Minister and Heads of Devolved Governments in the Council. This process is set out in the Terms of Reference for the Council. The IGR dispute process removes some of the former barriers to raising disputes and requires independent chairing and secretariat arrangements, which were not previously part of dispute arrangements. They include a presumption of independent input, through either advice or mediation, and increased transparency to aid legislatures’ scrutiny and stakeholder engagement. Similarly, the Fiscal Framework dispute process also incorporates the ability to include views from independent bodies, which is an important innovation. However, neither process has been properly tested.”¹⁸³

¹⁸² Letter from the Cabinet Secretary for Finance, Constitution and Cabinet Office, 2 August 2024.

¹⁸³ Letter from the Cabinet Secretary for Finance, Constitution and Cabinet Office, 2 August 2024.

172. In October 2013, the UK Government published a Memorandum of Understanding and Supplementary Agreements¹⁸⁴ between the UK and devolved governments. It says that “the consideration of a dispute by a JMC Plenary meeting is final, and there are no further stages within the dispute resolution process, unless a Plenary meeting decides to remit consideration of the dispute back to a further round of the Ministerial-level discussions”.¹⁸⁵

173. The fiscal framework agreement sets out the intention for a periodic review of the fiscal framework with the first review taking place before the end of the block grant funding transitional period. Either government can request a review but it is not intended that these arrangements will be reviewed more than once during a Senedd or Parliamentary term.¹⁸⁶

174. There has been no date set for a review of the Welsh fiscal framework. However, the Scottish fiscal framework has been reviewed and was updated in July 2023.¹⁸⁷

175. In follow-up written evidence, the then Cabinet Secretary highlighted that:

“The UK Labour Manifesto recognises that “the Welsh Fiscal Framework is out of date”. My immediate focus is on updating our flexibilities in line with those changes seen in Scotland a year ago. We have been calling for similar improvements for some time, as our borrowing and reserve limits are worth 23%– around a quarter – less this year than when they were introduced in 2018-19. These limits should immediately be increased, in the same way they have been for Scotland since last August, without the need for a review of the Welsh fiscal framework. It is a specific and minor adjustment that would make the framework agreement more sustainable for budget management purposes. I have already spoken to the CST about the budget flexibilities afforded to the Welsh Government being

¹⁸⁴ UK Government: Memorandum of Understanding and Supplementary Agreements

¹⁸⁵ UK Government: Memorandum of Understanding and Supplementary Agreements

¹⁸⁶ HM Government and Welsh Government: The agreement between the Welsh Government and the United Kingdom Government on the Welsh Government's fiscal framework

¹⁸⁷ UK Government: Fiscal Framework review – deal struck between Scottish and UK Governments: 20 July 2023

insufficient to manage our in-year financial position, to support economic growth and to enable delivery of high-quality public services in Wales.”¹⁸⁸

176. The then Cabinet Secretary continued:

“The result of the UK general election provides a unique opportunity to re-set relations and begin a new era of partnership, working together with the UK Government to deliver a shared vision for the outcomes we want to see for Wales, where it uses its reserved levers as well as providing enablers through ensuring we have the right budgetary tools. I made repeated representations to the previous UK Government for additional fiscal flexibilities through the appropriate channels, including the F:ISC and through bilateral meetings and correspondence with successive CSTs and Chancellors of the Exchequer. At the last F:ISC meeting [14 March] I secured a commitment for officials to re-visit work to develop proposals for improving in-year funding processes including consideration of capital to resource switches, to be discussed during a future F:ISC meeting. This is something I will raise with the new UK Government.”¹⁸⁹

Committee View

177. The Committee welcomes the improvement from the IGR review which sets out a dispute management model that any finance minister can escalate a disagreement as a dispute by notifying the IGR secretariat and F:ISC secretariat. We believe this is an improvement on the previous process where the UK Government and the Treasury were able to deny the existence of a dispute and as a result act as judge and jury.

178. However, we note that the new dispute resolution process has yet to be tested. We are grateful to the Minister for Finance, Northern Ireland Executive for providing information on the dispute that has been raised by them with Treasury

¹⁸⁸ Letter from the Cabinet Secretary for Finance, Constitution and Cabinet Office, 2 August 2024.

¹⁸⁹ Letter from the Cabinet Secretary for Finance, Constitution and Cabinet Office, 2 August 2024.

in relation to the funding for the Troubles Permanent Disablement Scheme, which makes payments to individuals who have been permanently disabled as a result of an injury related to the conflict in Northern Ireland. We will be interested to hear the outcome of this dispute, including whether the resolution process used was sufficiently robust to deal with the issue in hand.

179. We are also pleased to hear the independent element to the dispute resolution process, that allows for independent chairing of dispute meetings. However, we again recognise that this has yet to be tested and that its effectiveness will need to be assessed once the process has been used.

180. Although the process for escalating disputes within F:SC has improved, the Committee believes that grounds for raising such a dispute are too limited given that this can only happen where there is reason to believe a principle of the Statement of Funding Policy may have been breached. We also note that, in line with current practice, disputes related to the Welsh fiscal framework will continue to be managed through the fiscal framework agreement.

181. The Welsh fiscal framework agreement sets out the intention for a periodic review of the framework, however, there has been no date set for a review. The Scottish fiscal framework was reviewed and updated in July 2023.¹⁹⁰ Changes agreed for Scotland included indexation of capital borrowing and reserve limits to inflation, an increase in resource borrowing powers and abolishing the annual drawdown limits from the Scottish Reserve. The Committee believes that the Welsh fiscal framework is ripe for review and we would have expected this to have happened concurrently or shortly after the review of the Scottish fiscal framework. We have previously called for maximum flexibility within the fiscal framework¹⁹¹ and believe it should be amended in-line with changes to the Scottish fiscal framework to enable the Welsh Government more autonomy over managing its budget.

182. We are encouraged to hear that the Welsh Government has made it a priority to work with the UK Government on updating budget flexibilities for the Welsh Government in line with the situation in Scotland, especially as the Welsh

¹⁹⁰ UK Government: Fiscal Framework review – deal struck between Scottish and UK Governments: 20 July 2023.

¹⁹¹ Finance Committee Report: Scrutiny of the Welsh Government Draft Budget 2024-25, recommendation 1.

Government's borrowing and reserve limits are worth 23 per cent less than when they were introduced in 2018-19. Given the recent change of government at the UK level, the Committee hopes that fiscal arrangements in Wales will be updated, in line with the former Cabinet Secretary's wishes. Furthermore, we are pleased there is a commitment for officials to re-visit work to develop proposals for improving in-year funding processes including consideration of enabling capital to resource switches, which will be discussed during a future FISC meeting. These are crucial fiscal tools for the Welsh Government and we call for the Committee to be updated on the outcome of any related discussions with the Treasury on this.

Conclusion 4. The Committee welcomes recent changes to the dispute resolution mechanism which prevents the UK Government denying the existence of a dispute and applies independent chairing and secretariat arrangements.

Recommendation 14. The Committee recommends that the Cabinet Secretary calls on the UK Government to extend the scope for devolved governments to raise a funding dispute, given that such disputes may only be raised if a principle of the Statement of Funding Policy has been breached. and provides an update to the Committee on progress.

Recommendation 15. The Committee recommends that the Cabinet Secretary continues to pursue with the UK Government that a review is undertaken on the Welsh fiscal framework and that the framework should be amended in line with the Scottish fiscal framework, including:

- linking index borrowing and overall reserve limits to inflation;
- abolishing reserve draw-down limits;
- increasing capital borrowing limits; and
- that the Committee is updated on the outcome of those discussions.

8. Devolved Taxes

183. Section 116C of the Government of Wales Act 2006¹⁹², as amended by the Wales Act 2014¹⁹³, enables the Welsh Government to introduce new devolved taxes in Wales with the agreement of each House of Parliament and the Senedd.

184. The Command Paper: Wales Bill: Financial Empowerment and Accountability¹⁹⁴, which accompanied the Wales Act 2014 set out the criteria against which potential new taxes would be assessed.

185. In March 2020, the Welsh Government submitted a formal request to the UK Government to devolve further tax competence for a vacant land tax.¹⁹⁵ The then Minister for Finance and Trefnydd noted this “request follows over two years of work by Welsh Government to ensure Treasury had sufficient information to assess Welsh Government proposals”.¹⁹⁶

186. However, in December 2022, the then Minister told the Finance Committee the process to seek competence for devolving a vacant land tax had stalled.¹⁹⁷

187. The then Cabinet Secretary in her written evidence stated:

“Our experience in seeking devolution of powers for a vacant land tax makes it clear that the process for the devolution of new tax powers is not fit for purpose.”¹⁹⁸

188. She compared the Welsh Government’s experiences with the Scottish Government’s attempt to devolve tax powers, saying:

“The Scottish Government has been able to work with the UK Government to devolve competence for tax powers for a new

¹⁹² Government of Wales Act 2006, Section 116C.

¹⁹³ Wales Act 2014, Section 6.

¹⁹⁴ Command Paper: Wales Bill: Financial Empowerment and Accountability

¹⁹⁵ Welsh Government: Update on Welsh Government’s formal request to UK Government for devolution of further tax competence to Senedd Cymru

¹⁹⁶ Welsh Government: Update on Welsh Government’s formal request to UK Government for devolution of further tax competence to Senedd Cymru

¹⁹⁷ Finance Committee, RoP, 14 December 2022, paragraph 109

¹⁹⁸ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

Scottish Building Safety Levy (BSL), similar to the Levy being developed in England. The joint UK Government/Scottish Government consultation paper on the BSL, published on 8 January, shows that in this case UK Government is willing to devolve competence in advance of policy development when it suits them to do so.”¹⁹⁹

189. The then Cabinet Secretary recommended the “next UK Government should review and reform the process for agreeing new devolved tax powers”.²⁰⁰

190. When asked whether the Welsh Government had considered using the dispute resolution process to progress issues with the vacant land tax, the then Cabinet Secretary said:

“Well, it's certainly on my list of things that I think would make a good dispute. I think that it will be important to try and engage a new UK Government on this particular issue.”²⁰¹

Committee View

191. It is disappointing that limited progress has been made to devolve further tax competence for a vacant land tax and we note the former Cabinet Secretary's view that the process “is not fit for purpose”.²⁰²

192. In 2021, our predecessor Committee highlighted its disappointment that further progress had not been made in devolving a vacant land tax. It stated that this is a relatively uncontroversial tax and, “notwithstanding the first attempt at seeking competence for a new tax taking longer to iron out the process”, the Committee did not believe that the intention was for the process to take such a

¹⁹⁹ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

²⁰⁰ Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

²⁰¹ Finance Committee, RoP, 3 July 2024, paragraph 137

²⁰² Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office

long time when the powers to create new taxes were included in the Wales Act 2014.²⁰³

193. We fail to understand the previous UK Government's reluctance to work with the Welsh Government on this issue. This is particularly perplexing given that the UK Government has recently worked with the Scottish Government to devolve competence for tax powers for a new Scottish Building Safety Levy. Furthermore, we agree with the former Cabinet Secretary that the joint UK Government/Scottish Government consultation paper on British Sign Language, shows that the previous UK Government was content with the principle of devolving competence over introducing new taxes in certain instances.

194. We strongly believe that the Welsh Government should pursue with the UK Government a review and reform of the process for agreeing new devolved tax powers. We have commented elsewhere in this report that, too often, the framework for fiscal IGR is overly influenced by the whims and personalities of Treasury Ministers. We believe that this applies in this instance too, where the UK Government has not progressed the Welsh Government's request, even though it has followed the processes outlined in the 2006 Act. Should the UK Government not be receptive to reviewing the process, the Welsh Government should consider using the dispute resolution process to progress the devolution of a vacant land tax.

Recommendation 16. The Committee recommends that the Cabinet Secretary pursues with the UK Government a review of the process for agreeing new devolved tax powers, as outlined in Section 116C of the Government of Wales Act 2006 (as amended) and provides an update to the Committee on progress.

Recommendation 17. Subject to recommendation 16, if the UK Government is unwilling to review the process for agreeing new devolved tax powers, the Committee recommends that the Welsh Government utilises the dispute resolution mechanism to progress the vacant land tax, updates the Committee on any progress made, and provides an explanation if it is not pursued.

²⁰³ [Fifth Senedd Finance Committee Report: Implementation of the Wales Act 2006 and operation of the Fiscal Framework](#)

9. Parliamentary Scrutiny

195. Dr Anderson commented that parliamentary scrutiny of IGR is “undoubtedly” an important element in holding government to account. He noted:

“In most states, however, parliaments often have a limited role; IGR tend to be executive-dominated. The Review of Intergovernmental Relations offered very little with regard to parliamentary scrutiny, with no reference to concrete measures to facilitate parliamentary oversight.”²⁰⁴

196. In his written evidence, he recommended that committees should:

- conduct inquiries into IGR on a more regular basis to foster trust between different governments; more regular IGR evidence gathering sessions by committees would underline the importance of IGR taking place but also reporting these outcomes in a transparent way;
- hold hearings with ministers before/after each F:ISC meeting to discuss in detail the substance of intergovernmental interaction and potential topics to be raised;
- invite more people to give evidence on intergovernmental topics.²⁰⁵

197. Sir Paul Silk and Paul Evans published a report titled ‘A New Structure for Inter-parliamentary Relations in a devolved Great Britain and Northern Ireland’ in February 2023. The report noted “the creation of the new IGR structures announced in January 2022 provides a valuable focus for further IPR (inter-parliamentary relations) development, and one of the key features of what we propose is based on an accountability mechanism for the new IGR architecture”.²⁰⁶

²⁰⁴ Written evidence 01, Dr Anderson, Liverpool John Moores University

²⁰⁵ Written evidence 01, Dr Anderson, Liverpool John Moores University

²⁰⁶ Study of Parliament Group: A New Structure for Interparliamentary Relations in a devolved Great Britain and Northern Ireland

198. It also mentioned a lack of input by legislatures into the IGR structures, saying:

“No legislature has been invited to endorse the proposed new structures for IGR, and this points to one of the key issues that the legislatures should seek to address. While the January 2022 statement pays lip service to parliamentary accountability, it is for the legislatures themselves to make that a reality.”²⁰⁷

199. The report further stated:

“The proposed IGR structure reflects the increasing assumption of executive dominance in decisions about the governance of the UK after departure from the EU, and an increased tendency to centralisation. The legislatures should be prepared to work together to challenge this assumption of executive dominance in decisions which affect all parts of the state and which engage widely with devolved competences.”²⁰⁸

200. Professor Kenny felt that legislatures “have a really important role to play in actually finding ways to exercise their scrutiny function appropriately”.²⁰⁹ He said:

“So, what gets reported out of these [IGR] meetings, how useful is that, and how accessible is that? Again, there’s variability across the system. So, in the case of FISC, there are communiqués, I think, that come out of those. They’re useful, to a point. They don’t tell you very much, and obviously we have to understand that there are some issues around confidentiality and so on here, but I think there’s probably more that we could do in terms of asking for— Parliaments asking for— more feedback.”²¹⁰

²⁰⁷ Study of Parliament Group: A New Structure for Interparliamentary Relations in a devolved Great Britain and Northern Ireland

²⁰⁸ Study of Parliament Group: A New Structure for Interparliamentary Relations in a devolved Great Britain and Northern Ireland

²⁰⁹ Finance Committee, RoP, 1 May 2024, paragraph 79

²¹⁰ Finance Committee, RoP, 1 May 2024, paragraph 80

201. Professor Kenny noted that it is the responsibility of the legislatures to formulate what information regarding intergovernmental relations would be most useful and most valuable to them.²¹¹

202. Dr Poole focused on what Committees could do to scrutinise intergovernmental relations, saying:

“I think that it depends on your committee and the other committees' capacity to scrutinise what is being reported to you and, potentially, if they are issues that are somewhat sensitive and haven't been reported publicly in communiqués, then you could have closed-door sessions with the Minister to talk about this. But I think, again, this will depend on your own capacity to scrutinise those types of memorandums.”²¹²

Interparliamentary Finance Committee Forum

203. The Interparliamentary Finance Committee Forum (IFCF) was established in June 2022 by the Scottish Parliament's Finance and Public Administration Committee and the Welsh Parliament's Finance Committee, with the Northern Ireland Assembly's Finance Committee later joining following the Stormont elections in July 2024.. A key purpose of the IFCF is to provide a mechanism for dialogue on issues of common interest and concern regarding devolved public finances. Finance Committees from other UK legislatures may be invited to attend meetings where appropriate.²¹³

204. Dr Anderson noted the advantages of the IFCF regarding IGR:

“The horizontal interaction in the form of the Interparliamentary Finance Committee Forum is also an example of good practice. Horizontal relations are rather strong in federal states like Canada and Switzerland, but underexplored in the UK. I would encourage the Committee to continue its engagement with

²¹¹ Finance Committee, RoP, 1 May 2024, paragraph 81

²¹² Finance Committee, RoP, 26 June 2024, paragraph 107

²¹³ [Interparliamentary Finance Committee Forum](#)

this forum and seek to enhance opportunities for joint work between the various committees in the devolved legislatures.”²¹⁴

205. He also said there may be merit in pursuing opportunities for the IFCF to also work with committees in the UK Parliament to hold government to account more effectively.²¹⁵ He suggested:

“... joint committee hearings could be held with UK Government ministers, freeing up time for such ministers to attend one joint meeting between the various committees rather than several separate meetings.”²¹⁶

206. Sir Paul Silk mentioned the IFCF’s engagement with the Treasury Committee, saying:

“... I did read about that [IFCF] forum, and I recognise that that’s something that is very desirable. What was regrettable, I think, is that you weren’t able to engage with Ministers in the UK Government— they weren’t willing to talk to you. But you did engage, as I understand it, with the Treasury Committee, met their chair, and that’s very important to build up that sort of— . Well, I talked about the problems of interpersonal relations earlier on, but there are advantages to interpersonal relations as well, and if you can build up that level of trust and confidence between individuals who chair committees, members of committees, then that will surely be beneficial.”²¹⁷

UK Ministers

207. Dr Anderson mentioned he was “well aware that getting ministers to appear at committees is a difficult and onerous task, and an issue shared across the different parliaments”.²¹⁸

²¹⁴ Written evidence 01, Dr Anderson, Liverpool John Moores University

²¹⁵ Written evidence 01, Dr Anderson, Liverpool John Moores University

²¹⁶ Written evidence 01, Dr Anderson, Liverpool John Moores University

²¹⁷ Finance Committee, RoP, 22 May 2024, paragraph 142

²¹⁸ Written evidence 01, Dr Anderson, Liverpool John Moores University

208. However, he thought it was “imperative” that UK Government ministers engage with parliamentary committees in the devolved legislatures²¹⁹. He suggested:

“I am unsure whether there is merit in seeking to pursue this in terms of a statutory basis, but I think a good start would be some form of agreement between the different governments and parliaments that ministers will find time in their diaries to [engage] with parliamentary committees in the devolved parliaments.”²²⁰

209. Dr Anderson also advocated for exploring the possibility of meeting with ministers in private hearings. He explained “while it is certainly logical that UK Government ministers should engage with finance committees in the devolved parliaments prior to important fiscal events, such interaction can be easily dismissed on the grounds of confidentiality”.²²¹

210. During an evidence session on the ‘Silk Commission – 10 years on’, Lord Bourne of Aberystwyth told the Committee:

“We can't, as members of whatever institution we sit in, complain about devolution not working when we're not willing to put in the work at that sort of level, and I think [UK] Ministers have a duty to attend committees where required. And if it needs putting on a statutory basis, I think that needs to happen. It shouldn't need to be put on a statutory basis, but it seems to me pretty fundamental that should happen. And where members of whatever political party ignore a devolved body, the consequence will be felt electorally, and it should be.”²²²

Committee View

211. We strongly agree that parliamentary scrutiny of IGR is an essential element in holding governmental decisions to account and in improving IGR processes

²¹⁹ Written evidence 01, Dr Anderson, Liverpool John Moores University

²²⁰ Written evidence 01, Dr Anderson, Liverpool John Moores University

²²¹ Written evidence 01, Dr Anderson, Liverpool John Moores University

²²² Finance Committee, RoP, 28 June 2023, paragraph 116

and making them more effective. However, there is a role for parliaments to play in undertaking this role and we support Dr Anderson's views²²³ on how scrutiny of IGR by parliamentary committees could be enhanced.

212. We welcome the report published by Sir Paul Silk and Paul Evans which says the creation of the new IGR structures provides a valuable focus for further interparliamentary relations development. We also note that it mentions a lack of input by legislatures into the IGR structures, which we find concerning. This is precisely why the Committee, along with our counterparts in Scotland, established the IFCF²²⁴ at the beginning of this Senedd to provide a mechanism for dialogue on issues of common interest and concern regarding devolved public finances and for a collective voice when raising these issues with the Treasury. We also welcome that the Northern Ireland Assembly's Finance Committee has joined the IFCF, following the recent elections at Stormont.

213. Despite this, we have been extremely disappointed with the lack of engagement from the previous UK Government with the IFCF to date. During our last meeting, held at the House of Commons, Treasury Ministers and officials declined to meet with us, even on an informal basis. The IFCF wrote to the CST highlighting that it was a missed opportunity to develop relationships and greater understanding around our respective roles²²⁵, but we did not receive a formal response. In our view, this reflects poorly on the Treasury and shows a lack of respect and basic courtesy towards the Senedd and the other devolved parliaments. It also demonstrates an institutional unwillingness by the Treasury to engage with devolution, despite its key role in devolved fiscal matters, and a reluctance to acknowledge the territorial realities of the UK. The IFCF has written to the new Chancellor of the Exchequer, the Rt Hon Rachel Reeves MP with the hope of cultivating more constructive relationships with Treasury Ministers.²²⁶

214. We fully support the view of Dr Anderson that it is "imperative" that UK Government Ministers engage with parliamentary committees in the devolved legislatures²²⁷. This Committee and our predecessor Committee have both

²²³ [Written evidence 01, Dr Anderson, Liverpool John Moores University](#)

²²⁴ [Interparliamentary Finance Committee Forum](#)

²²⁵ [Letter from the Interparliamentary Finance Committee Forum to the Chief Secretary to the Treasury, 26 March 2024](#)

²²⁶ [Letter to the Chancellor of the Exchequer, 24 September 2024](#)

²²⁷ [Written evidence 01, Dr Anderson, Liverpool John Moores University](#)

struggled to secure the attendance of Treasury Ministers which has undermined our ability to look in greater detail at the UK Government's approach to fiscal matters in devolved areas. We have provided flexibility in terms of dates and ways of participating, but there has been an unwillingness to engage in any meaningful sense. We hope the change of government at the UK level will provide an opportunity to reset relationships with the new Treasury Ministers regarding attending Finance Committee evidence sessions when required.

Conclusion 5. There is scope for the Committee to conduct more detailed scrutiny of intergovernmental relations on fiscal matters, in addition to the work of the Interparliamentary Finance Committee Forum, and we welcome the regular updates provided by the Welsh Government before and after Finance Interministerial Standing Committee meetings as basis for our work.

Recommendation 18. The Committee recommends that the Treasury improves its engagement with the finance committees of the devolved legislatures, both individually and through the Interparliamentary Finance Committee Forum, with a view of increasing formal and informal dialogue on fiscal matters relating to devolution.

Annex 1: 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 viewed on the [Committee's website](#).

| Date | Name and Organisation |
|---------------|---|
| 13 March 2024 | Philip Rycroft, Member of the Independent Commission on the Constitutional Future of Wales |
| 24 April 2024 | Gareth Davies, Comptroller and Auditor General National Audit Office Lee Summerfield, Director of Investigations National Audit Office |
| 1 May 2024 | Professor Nicola McEwen, Director of the Centre for Public Policy University of Glasgow Professor Michael Kenny, Director at Bennett Institute for Public Policy University of Cambridge Dr Paul Anderson, Senior Lecturer in Politics Liverpool John Moores University |
| 16 May 2024 | Shona Robison MSP, Cabinet Secretary for Finance and Local Government Scottish Government |
| 22 May 2024 | Sir Paul Silk KCB Former Clerk at both the House of Commons and Senedd Cymru Paul Evans CBE Former Clerk of Committees in the House of Commons |
| 26 June 2024 | Dr Ed Poole |

| Date | Name and Organisation |
|-------------|---|
| | Wales Governance Centre |
| 3 July 2024 | Rebecca Evans MS, Cabinet Secretary for Finance, Constitution and Cabinet Office Welsh Government |

Annex 2: List of written evidence

The following people and organisations provided written evidence to the Committee. All Consultation responses and additional written information can be viewed on the [Committee's website](#).

| Reference | Organisation |
|---------------|--|
| FIG 01 | Dr Paul Anderson, Liverpool John Moores University |
| FIG 02 | Llanllfni Community Council |

Additional Information

| Title | Date |
|--|---------------|
| Additional information from Philip Rycroft | 11 April 2024 |
| Letter from the Minister for Finance, Northern Ireland Assembly | 29 May 2024 |
| Welsh Government: Evidence paper from the Cabinet Secretary for Finance, Constitution and Cabinet Office | 18 June 2024 |
| Written evidence from the Council for Fiscal and Financial Policy of the Autonomous Communities, Spain | 16 July 2024 |
| Letter from the Cabinet Secretary for Finance, Constitution and Cabinet Office | 2 August 2024 |