



Public Administration and Constitutional Affairs Committee

Oral evidence: [Devolution Capability in Whitehall, HC 200](#)

Tuesday 16 January 2024

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Members present: Mr William Wragg (Chair); Ronnie Cowan; Jo Gideon; Mr David Jones; John McDonnell; Damien Moore; Tom Randall; John Stevenson.

Questions 50 - 106

Witnesses

I: The Rt Hon. Sir David Lidington KCB CBE, Former Minister for the Cabinet Office and Chancellor of the Duchy of Lancaster (2018-19).

II: The Lord Dunlop, Former Parliamentary Under-Secretary of State at the Northern Ireland and Scotland Office (2015-17), Member of the House of Lords.

Examination of witness

Witness: Sir David Lidington.

Q50 **Chair:** Good morning and welcome to the Public Administration and Constitutional Affairs Committee. Today the Committee is holding its second oral evidence session in our inquiry on devolution capability in Whitehall. This inquiry is examining how and to what extent Whitehall policymakers take account of devolution in the policymaking process, the continued appropriateness of the “one civil service” model and whether more can be done to improve the knowledge and expertise concerning devolution across the civil service.

Joining us for our first panel this morning to discuss these issues is Sir David Lidington, the former Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office. Sir David, good morning; could you introduce yourself for the record?

Sir David Lidington: Thank you, Chair. David Lidington, former Member of the House and former Government Minister.

Q51 **Chair:** Thank you very much. Theresa May launched the Dunlop review



into devolution capability in July 2019, when you were serving as a Cabinet Office Minister. Can you explain why such a review was needed?

Sir David Lidington: The word of caution that I would make at the start is that the review was announced very much in the last days of Theresa May's premiership; it was done knowing that the report was going to come in to her successor. However, the motivation for it arose from her experience of the strain that the referendum outcome in 2016 and the subsequent Brexit negotiations had had upon the devolution settlement. You could see this certainly in the immediate aftermath of the referendum, in terms of some of the opinion polling in Scotland, which showed for a time a surge in support for Scottish independence.

However, I think that in the forefront of her mind was concern over Northern Ireland and the impact of Brexit on the Union, and the fact that we had had friction between the UK Government and, in different ways, both the Welsh and Scottish Governments during the previous couple of years. That had strained some of the constitutional assumptions and relationships, for example the Sewel Convention, which is supposed to hold—unless there are exceptional circumstances. That was the argument: whether the Brexit issue qualified as exceptional circumstances. There was a difference of view between the Scottish Government and the UK Government about that.

We could also see that with the repatriation of competences from the European Union to the UK, a very large number were going to involve both UK Government and devolved Government in Parliament competences. Therefore, it was right to have a look at whether our current way of handling devolution, in terms of the relationships between the centre and the devolved Administrations and within Government in Whitehall, was up to the mark or whether we needed to make some changes. I think that was the motivation in the Prime Minister's mind at the time and it was something that I very much supported.

Q52 **Chair:** To probe slightly more deeply on that, leaving the EU was the short-term issue. What weight would you give to longer-term issues since the inception of devolution?

Sir David Lidington: At the time it did not look short term. I might challenge your description there, given the experience of everybody in the last few years.

Chair: Medium term.

Sir David Lidington: That is what brought the issue to the Prime Minister's mind in particular. Behind that, yes, was the experience of dealing with the impact of devolution and seeing it work out in practice over quite a number of years since 1998 during my various ministerial roles, certainly as Minister for Europe, when the devolution question came up quite a lot, and Leader of the House when I chaired the Public



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Bill and Legislation Committee that was required, in considering new legislation, to take account of devolved responsibilities.

To some extent as Lord Chancellor, but certainly in the Cabinet Office where I had particular responsibilities for devolution, you could see where the strains were, where the rubs were occurring, and come to views as to the extent that those were down to personality and soluble problems about people learning to work together better, and the extent to which this needed some reforms to the way in which we went about things.

You will recall, Chair, that the review that was entrusted to Lord Dunlop was taking place at the same time as the intergovernmental review that has now reported. It was a more formal government process.

Q53 Chair: Indeed, and you touched on your happy time at the Cabinet Office in your first answer. What has the impact been of the UK Government moving responsibility for the Union and devolution from the Cabinet Office to the Department for Levelling Up, Housing and Communities?

Sir David Lidington: It is difficult for me to comment because that decision was made and the implementation took place after I had left Government, so I have not seen it first hand from that side of the curtain.

It was done in large part because Michael Gove was so committed to the devolution question, felt very strongly about it and was prepared to give it a priority in terms of Government thinking, which not everybody would have done. My personal view is that the devolution function, the devolution oversight, is best left at the Cabinet Office or in a reformed centre of Government entity. That begs a much bigger question about relationships between Cabinet Office, No. 10 and Treasury to some extent.

For the devolution settlement to work as well as it needs to, it is important that there is a senior Minister at the centre of Government who has cross-departmental responsibilities, who is probably chairing a number of Cabinet Committees and COBRAs and ministerial working groups and who can take that overview. If you give it off to any single Department, however committed and well-intended a particular Minister might be, it seems to me that you lose something. Also, that Minister is not going to be there forever, and you do not get that same institutional commitment from Housing and Local Government any more than you would from putting devolution in with DEFRA or the Home Office.

Q54 Ronnie Cowan: I have a supplementary to that last question. The Dunlop report in 2019 stated that Lord Dunlop recommended that the Government create a new Cabinet role entitled "Secretary of State for Intergovernmental and Constitutional Affairs". This post-holder would have full-time responsibility for the "constitutional integrity and operation of the United Kingdom". The Government did not accept this, but Michael Gove at the time was at the Duchy of Lancaster and he stated that responsibility for constitutional integrity fell to his office. Absolutely



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categorically it was his; he was in the Cabinet Office at the time.

Sir David Lidington: Yes.

Ronnie Cowan: Now we move on. This has been kicked around and has gone from the Office for the Deputy Prime Minister, the Department of Constitutional Affairs, the Ministry of Justice and has now ended up in the Department for Levelling Up, Housing and Communities. Is it there because that is the right place for it or is it there because Michael Gove is there?

Sir David Lidington: It is probably not my job to try to read the minds of either the present or previous Prime Ministers, but I think that a lot of it has to do with Mr Gove's undoubted commitment to devolution and the fact that he sees it as an important issue. His experience as a Cabinet Minister means that he does have an experience and a seniority and an ability to influence colleagues and keep the importance of devolution on the agenda. My personal view is that institutionally it would be better for devolution to be dealt with at the centre of Government, in the Cabinet Office or some other reformed structure that might secede it.

Q55 **Ronnie Cowan:** If Michael Gove leaves DLUHC, does that—

Sir David Lidington: I think—

Ronnie Cowan: I have not finished the question yet. If Michael Gove leaves DLUHC, do you think that it is right and proper that that purpose follows him or stays in DLUHC or, as has been suggested, be kicked over to DEFRA or BEIS or some other Department?

Sir David Lidington: I put that up deliberately as an Aunt Sally, which I hope was clear in my evidence. My firm view is that devolution is best held at the centre of government, even if you have a particular Cabinet Minister who is committed. The commitment to devolution and the recognition of the importance of devolution is something that ought to go with the job of Minister for Cabinet Office or Deputy Prime Minister. You need somebody who has that daily access to the No. 10 team and to the Prime Minister personally to make this work as well as it needs to do. I do not want to criticise or denigrate Michael Gove at all, because I have absolutely no doubt about his commitment, but institutionally the centre is the right location.

Q56 **Ronnie Cowan:** Given that the responsibility for the Union and devolution has moved from Department to Department, has that damaged the position?

Sir David Lidington: It is hard to say when I have not been in Government handling these relations myself. I do not think that there has been any intention—certainly not on the part of Mr Gove—to do so. It was clear in the first months or year of the Johnson Government that there was a mood among some senior Ministers to take a more aggressive stance towards devolution.



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The impression that I take, now looking on as a reasonably well-informed outsider, is that things have calmed down and there are better working relationships day by day, even though there are inevitably disagreements. That is what you see in any democracy around the world where there are different levels of government with assigned competences.

Q57 **Ronnie Cowan:** The issue is taking this responsibility and changing it from Department to Department. Has that undermined that position and has that meant that knowledge garnered by people in those Departments is then lost when it moves on to the next Department?

Sir David Lidington: You still have a team of officials in the Cabinet Office who are responsible for constitutional matters, including devolution. Not all of the officials have moved to Housing, Communities and Local Government. If a Prime Minister chose to do so, it would not be difficult to move the responsibility for devolution and constitutional affairs firmly back to the Cabinet Office. That is what I believe is the right way to do things.

Q58 **John McDonnell:** I am trying to envisage Government without Michael Gove, but there you are.

We are interested in the Cabinet processes about how devolution becomes embedded within those processes. Lord Dunlop's review recommended reforms to Cabinet Committees and to the write-round process for collective agreement. From your experience, which Cabinet processes have had the most impact in ensuring devolution is built in and that those considerations are put front and centre across Government? What processes have worked in that respect?

Sir David Lidington: When I chaired PBL on legislation, what I saw worked well was the fact that the three territorial Secretaries of State or their Ministers were around that table and officials were involved in looking at draft Bills put forward by Ministers. That meant that there was a very sharp reminder to any Secretary of State or Minister of State who came to us with a Bill that had overlooked some devolved competence. I do not know all the details, but I can remember occasions when there was a pretty sharp intervention by the Scottish or the Welsh Secretary saying, "You, colleague, don't seem to realise that things are done differently, and the law is different in this key respect" in Wales or Scotland. The Minister had to go away and go back to the Department and sort that out.

The fiche system, which I saw on write-rounds in all my ministerial capacities but particularly when I was Europe Minister, when the positions that the UK was to take at Council had to be approved by a write-round process of all interested Departments, including the territorial Departments, worked imperfectly. It did depend very much upon the importance that particular Departments gave to devolution—and how



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familiar they were, sometimes, with devolution—to some extent on the individual Secretary of State.

I began with DEFRA. Mr McDonnell will know that most of DEFRA's business touches on devolved competences in some way. I remember that when Caroline Spelman was Secretary of State there was a very firm direction from the top that you take devolved responsibilities seriously. When Owen Paterson became Secretary of State, I think his view was that too much was being conceded to the devolved Administrations. He was more cautious about that. There was a difference depending upon who was leading the particular Department.

The problems came when you have some new, relatively inexperienced officials coming in who had not had any previous experience of having to think about these matters and they were preparing their Department's response. It came through and sometimes it was my officials saying, "Go back and look at this again because you're leaving something out". There is not yet an engrained recognition throughout Whitehall of the necessity under the 1998 and subsequent Acts of working together as well as you can with the devolved Parliaments and Administrations.

Q59 John McDonnell: Some elements of that will come up in future questions. The write-round process takes place when policy formulation is taken some way forward. Is there a way of embedding the principles around devolution at an earlier stage?

Sir David Lidington: You could ensure that that is written into the Cabinet manual, you can ensure that it is written more strongly into the Ministerial Code. There is a mention of devolution, but you could have a more trenchant section on that. Ultimately you are dealing with human beings. Something that comes up in Lord Dunlop's report is that it is a good idea to make it an assumption, a policy, that normally somebody who is seeking to be appointed to a senior civil service role in any Department should be able to demonstrate familiarity with devolution and preferably some direct experience of devolution, whether that comes from holding policy responsibilities that required regular contact with devolved Governments or whether it derives from a period of work for one of the devolved Administrations. This is the whole question of the single civil service, which is something that you are looking at.

Q60 Mr Jones: Sir David, how would you assess the performance of different Departments in engaging with the devolved Administrations? Are there some that are particularly good?

Sir David Lidington: Usually I found that DEFRA was good. Those Departments where for years Scotland, primarily, and Wales more recently have operated in a different fashion cope well. The Treasury is unique. The Treasury was primarily worried that it should avoid getting sucked into spending any more money in devolved areas, so it was very resistant, post-referendum, to the idea that the Secretaries of State for Scotland or Wales and the UK Government should be able to spend more



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in the devolved areas, which has now taken shape through the Shared Prosperity Fund.

The Treasury said that if it let that principle go, it will be asked to bail out any problems with health or anything else that the devolved Governments should manage from their own budgets. Given the Treasury's role as custodian of finances, there was an understandable reluctance to go further.

Some of the other Departments, such as the Home Office, often found it quite difficult. The Home Office was not used to thinking in terms of devolution. There is a particular issue that Mr Jones will be very familiar with in the MoJ over the justice system and Wales with those, particularly since Lord Thomas's report. It is not just a matter of constitutional debate and where responsibilities should lie, but there are some very practical issues as well, when you look at high-security prisons and the necessity for a prison service to be able to transfer prisoners from one establishment to another and to have sufficient control over prison places nationwide for that to be effective.

Q61 Mr Jones: Prisons are an interesting example because education in prisons is the responsibility of devolved Administration. That would be another factor that might cause complications.

Sir David Lidington: Yes, it will, but it is not an insuperable problem. As we found out even on the Brexit issue, which was pretty divisive, you could get agreement without legislation on the great majority of topics if you had a habit of working together among officials and Ministers at both levels and if you could have perhaps concordats that set out how a particular problem should be solved and what would happen if there were disagreements and so on. It is possible on most issues to find a way forward that involves fairly constructive relations. There will be differences from time to time but that is not something that is absent from any other democracy.

Q62 Mr Jones: How effective are Departments operating in largely reserved areas in reflecting the devolved interests of Wales, Ireland and Scotland?

Sir David Lidington: Less good than the ones that are having to do it the whole time. That is because it is unfamiliar territory for them. You can have your career in the Home Office—most obviously, perhaps, Defence or the Foreign Office—and you do not have to think about devolution at all. For the external-facing Departments, MoD and FCDO, it is different, in any case, because those are clearly reserved matters. However even there, going to planning, if the Ministry of Defence wants to do something that requires planning consent in Wales, Scotland and Northern Ireland, you have to go through the devolved parties there.

Q63 Mr Jones: There is a very large Ministry of Defence training area in the Brecon Beacons. I would guess that that is potentially a cause of some friction.



Sir David Lidington: It is, although there are Ministry of Defence training areas in England that are the cause of some friction as well with local communities and government. It is not unique to devolved areas. To be honest, Mr Jones, that was not a problem that crossed my desk during my time as a Minister.

Q64 **Mr Jones:** How good are the devolved Administrations at engaging with Whitehall Departments?

Sir David Lidington: It varies. I do not want to poke sticks at Mr Cowan but there has been a particular issue in Scotland because the Scottish National Party has formed the Government with an overriding strategic objective of securing independence for Scotland. I am trying to put it neutrally; it is a perfectly reasonable democratic ambition for the SNP to have. Therefore, there is a risk that almost everything else becomes a tactic or a source of grievance that is then shaped to serve the overriding strategic interest.

With Wales, although the Welsh Government since its inception has always been run by or dominated by the Labour party, it has been possible to work with Labour Welsh Ministers and parliamentarians. That is not to say it has always been easy. However, I certainly found, in dealing with Carwyn Jones and with Mark Drakeford, that ultimately they were willing to make a deal if there could be agreement on a compromise that both sides could live with. With the Scottish Government I found it more difficult.

Having said that, with Brexit we found that there were over 150 areas of competence that needed to be repatriated from EU to UK level and that also intersected with devolved competence. Of those, from memory, there were four on which we were unable to reach agreement, but for the most part it was done without the need for legislation; at the most a memorandum of understanding or other arrangements could be made. There were four that were tough and in my term we did not get agreement on, of which state aid was the most obvious one. We have now seen Westminster legislation that has defined legal competences there. However, I was able, I hope, to strike up a decent working relationship with Michael Russell, who I dealt with most on European matters when I was at the Cabinet Office. A lot of that is informal. A lot of that, if you are the Westminster Minister, is showing respect for the authority and the competence of devolved Governments and Parliaments.

There is a corresponding responsibility on devolved Ministers to represent the fact that the Government of the United Kingdom is the legitimately elected Government of the whole of the United Kingdom and that for Scotland, Wales and Northern Ireland there are in effect two elected Governments and Parliaments, each of which has its own competences or, in the case of the Parliament of the United Kingdom, is the ultimate legislative authority.

Q65 **Mr Jones:** What about relations among the devolved Administrations



themselves? Do they tend to hunt as a pack?

Sir David Lidington: This a network of relationships that is still in progress. I did notice that the pattern of relationships within the islands has changed as a result of devolution. First Ministers do talk to each other from time to time without just going through Westminster. They have also struck up relationships with the Government of the Republic of Ireland as well. I do not see any objection to that where it is people learning from each other's experience of the formulation and implementation of particular policies: "How are you doing it here? Why is it different from how we tackle it?"—say mental health or rehabilitating offenders.

Where there has been friction—and it has largely been a friction between the UK and the Scottish Government—it has been where there has been a feeling in London that this was going beyond what was legitimate in exploring the experience of issues held at a devolved level here and was instead about trying to assert sovereign independence on the part of the Scottish Government. That is why we have had occasional rows about usually First Ministers or sometimes other Scottish Ministers talking to Ministers or Prime Ministers of foreign Governments, particularly if it is without a UK Government diplomat being present at the meeting. There is friction, and some of that is unavoidable, but you can overcome quite a bit of it by decent relationships and working on that.

For example, when I was chairing the ministerial meetings on Brexit talks, I found that we were never going to get complete agreement with either the Welsh or the Scottish Governments, but I started a practice of inviting the two Ministers—Northern Ireland was, as now, suspended at the time—to see me on my own, sometimes with the Private Secretary, sometimes just the three of us, before each of the formal meetings. That was usually Mike Russell or Mark Drakeford, and it was an opportunity for them to tell me if there was something that they were finding frustrating about what a Whitehall Department was doing, where they felt that they were not taking their concerns seriously, they were not getting replies to letters or something. I could take that away and say that I would deal with that, where the concern was proper, and privately sometimes tell them things where I would not have wanted minutes—for example, "You will need to expect that we will be coming to a meeting next month," or something—and they would respect that confidence. That did not work miracles, but it definitely made for a better working relationship just having frequent meetings.

UK Ministers need to be willing to go and give evidence to Select Committees in devolved Parliaments. That is important but it is good to occasionally have devolved Ministers come and give evidence to UK Select Committees. There is nothing that we should be afraid of in that.

Q66 **Ronnie Cowan:** Briefly, you made the point totally clear that the SNP Government are elected to establish an independent nation of Scotland. It is in our manifesto. It has been there ever since the party was born



and we not going to change from that. However, I would question the fact that you said that it is perceived that everything that they do is a lever towards that. I wonder how you justify that when we are offsetting the two-child cap and the bedroom tax and we have free prescriptions. Surely that is just making life better for the people of Scotland. If making life better for the people of Scotland is not the case and they will be better off as an embedded nation, you can win your argument. However, otherwise—

Sir David Lidington: I will resist Mr Cowan's temptation to come out with a list of things where I think that the outcome from Scottish Government policies under the SNP has been rather less than was claimed or hoped for. There are plenty others still in this place who can—

Ronnie Cowan: Your point was that they were moving towards independence.

Sir David Lidington: What I have sometimes found irritating was that something that we thought was a decent compromise would be denounced vigorously by the SNP. There was a genuine disagreement between me and my colleagues and Scottish Ministers over Sewel. I tried very hard to ensure that overriding Sewel was a last resort, and we put in place a set of protocols and we have a written agreement with the Welsh Government, which was offered to the Scottish Government as well, to get Theresa May's first withdrawal Bill through the House of Lords and the UK Parliament as a whole.

That required the UK Government, within a certain notice period, to go to the devolved Parliament with their view of what should be done, give time for comments and for those comments to be reported back fully to the House of Commons here. The House of Commons then decided to override that they would do so in full knowledge of the considered objections of the devolved Parliament as well as the devolved Government. The Welsh Government accepted that as a reasonable way to move forward and the Scottish Government did not. I thought that it was a pity that the Scottish Government did not because I thought that exceptional circumstances did apply there. Sorry, I am going on too long.

Q67 **Ronnie Cowan:** That was not an answer to my question, but never mind. You also went on to say that when First Ministers are talking to other Governments it is okay to discuss things like prisoner rehabilitation but not the constitution. How would that be?

Sir David Lidington: Because the Scottish Government speaking to Ministers of a sovereign state are entitled to speak about the things that fall legally and constitutionally within the competence of Scottish Ministers. Let's not forget that Scottish and Welsh Ministers are given every support by the network of UK embassies around the world in order to present the case for business, investment and trade that benefits Scotland.



I know of cases, and I can remember meeting the then First Minister once in Beijing when I was out there. She was out there with a trade mission, with our embassy hosting events for her and supporting her throughout that, because economic growth, job creation and prosperity in Scotland was very much a United Kingdom interest and we were all behind that. I do not think that she did on that occasion, but it would have been out of order to go and start talking to Chinese Ministers about the constitution of the United Kingdom.

Q68 John Stevenson: You have touched on the topics I was going to ask about, but I want to dig a little bit deeper. What value do you think territorial offices bring?

Sir David Lidington: They do act as reminders—and usually pretty bold and sharp reminders—around the Cabinet and Cabinet Committee tables of the need to take account of the interests of Scotland, Wales and Northern Ireland respectively. Most Ministers, whether it is a Conservative Government or a Labour Government, are going to represent English constituencies because England has the majority of the population of the United Kingdom.

Secretaries of State there, or a Minister of State, can be there, saying, “Hang on, there are slightly different sensitivities in this part of the UK, and we need to take those properly into account”, or, “You can’t do that because the law in Scotland is different”. My views have gone backwards and forwards on whether Lord Dunlop’s idea of a single, overarching—

Q69 John Stevenson: I will come to that in a minute. That is your view of the territorial offices, but the evidence that we have received is that in many cases the devolved Governments bypass the territorial offices and go directly to Ministers. How is that in your experience?

Sir David Lidington: It did sometimes happen, but again that is something that could and should be put right by the right culture and practice within Whitehall Departments. A Scottish Minister or Welsh Minister does not normally pick up the phone on a whim to a UK Minister. Text messages might go backwards and forwards, but if you want to have a meeting or have a serious discussion, that is put in the diary and planned for, and a briefing is sought. At that point the UK Minister’s Department ought to be checking here whether the territorial office concerned has been involved, whether it is in the loop on this and seek its views.

Q70 John McDonnell: Does that happen?

Sir David Lidington: Usually in my time it did. I cannot recall a particular incident when the Scottish or Welsh Secretary complained to me that they were being cut out. If it had been a major issue, it would have stuck in my mind. They were aware that there might be attempts at this, but they were always vigilant to do so. In the Cabinet Office I used to have meetings with the devolved Secretaries of State to try to make sure that we were all in the loop there.



Q71 John McDonnell: That takes me back to the question that you were just about to answer. You mentioned earlier that frequent meetings between Ministers solves a lot of problems—which is entirely logical—because you build relationships. On that basis, would it not be sensible, as Lord Dunlop has suggested, that there is one Secretary of State who is entirely responsible for the Union and devolution issues, so that everything is channelled through that Department? Therefore, you institutionalise it as well, rather than having the personality-driven element to it.

Sir David Lidington: I can see the argument for that. My key objective would be to have the function for the oversight of devolution sitting at the centre of Government, preferably under somebody who is the No. 2 in the Government, who would be located in the Cabinet Office or a No. 10 Cabinet Office operation.

Originally, I was very attracted to the idea of a single Secretary of State for the Union. Part of the difficulty with that at the moment is that the situation in Northern Ireland is still so fragile and the terrorist threat there is still real. It is very difficult to see us being able to dispense with a Secretary of State for Northern Ireland in those circumstances. Sadly, we do not have yet a stable devolved settlement in Northern Ireland in the way that we do in Wales and Scotland. If you are therefore going to keep a Secretary of State for Northern Ireland and say that we will dispense with the Scottish and Welsh Secretaries, that probably sends the message to the people in those two parts of the UK that we ought not to be sending.

Q72 John McDonnell: Therefore, if the Northern Ireland situation were stable, would you move towards—

Sir David Lidington: At that point I would look at it again. That would mean the Northern Ireland situation remaining stable for a decent number of years. Then we should look at that again. This is not a question that I would dismiss.

Q73 John McDonnell: Overall, you can see benefits and advantages of doing this rather than continuing with the present arrangement.

Sir David Lidington: I can see advantages, but it would also give an advantage of scale. Part of the difficulty now is that the teams led by the Scottish and Welsh Secretaries are very, very small in Whitehall terms and keeping an eye over everything that is going on is that much more difficult.

What we would risk losing if we went to the single Secretary of State model, and what we would have to find an answer to, is the presence of somebody with a distinctly Scottish and distinctly Welsh perspective on issues. It would be important in that model that a Secretary of State was not trying to come to a view about the UK interest as a whole if his job is to represent the views and interests of Scotland, Wales and Northern Ireland. That may not be the same on everything.



Fisheries negotiations was the obvious example when we were in the EU. You could have quite fierce rows between the Ministers and officials from Scotland and Northern Ireland, in particular, about which was the priority in the fisheries negotiations there. That will still be the case out of the EU, with the negotiations with the EU, Norway and the Faroes and so on.

Q74 Tom Randall: The UK Governance Group was established in 2015 as a body to co-ordinate devolution policy across Whitehall. What assessment do you make of the way that that has worked over the years?

Sir David Lidington: You had good civil servants there. They did not regularly report to Ministers. It was much more a civil service exercise. It is fair to say that awareness of devolution did improve over the nine years that I was there in government. It did not always make it smooth.

The reality—leaving aside what views any of us here took at the time on the issue—is that after the 2016 referendum that question started to swamp everything else in UK politics and the attention within Whitehall, at both political and civil service level. How we looked at devolution and how these debates played out was very much through the prism of the Brexit issues, as Governments, both UK and devolved, sought to grapple with the implications of the referendum vote.

Q75 Tom Randall: Lord Dunlop has recommended some big changes to the UK Governance Group, with a permanent secretary, inclusion of the Northern Ireland office and support by shared services and a central policy function. Is that the sort of reform that you would support?

Sir David Lidington: I am in favour of the shared services and shared policy function. As I said earlier, it should be located at the centre of Government. On a permanent secretary rank, I can see the case for that. I am slightly hesitant about saying that we should create an additional permanent secretary place. However, what is key is that you need to have a clear accountability. There needs to be a senior civil servant who is clearly responsible for Whitehall's understanding of devolution and Whitehall civil service policy and practice on devolution. That could be somebody who is of permanent secretary rank. Perhaps a second permanent secretary in the Cabinet Office or something like that might be a way of dealing with it, and there is less hang up about the particular grade and job title than it is somebody of adequate seniority and experience there and is clearly seen by the rest of Whitehall as somebody who they need to pay attention to.

Q76 Damien Moore: Both the Dunlop Review and Philip Rycroft, when giving oral evidence to us, said that entry to the senior civil service should require at least two to three years' experience in a devolved Administration. Would such an approach be beneficial for Ministers working with those civil servants?

Sir David Lidington: In most cases, yes. Both Philip and Lord Dunlop will have looked at this in greater detail than I have done. I am slightly hesitant about making it a binding rule. I am not sure that you should



say that senior members of the diplomatic service or the Ministry of Defence need to have that experience. I question whether, if it were a rigid rule, there would be adequate opportunities within the devolved civil services for everybody who wanted a senior civil service career at UK level to have the opportunity to serve there. There are only a certain number of vacancies at any one time. The principle ought to be established that if you apply for a senior civil service job—perhaps you ringfence MoD and FCDO—you should be able to show experience of devolution, either through working for one of the devolved Administrations or through having responsibilities in Whitehall that involved you dealing with devolution in your day-to-day work.

I do not know if you want to come on to Northern Ireland specifically, but we need to try to find ways of bringing the Northern Ireland civil service a lot closer to the civil service in the rest of the UK. There are some very, very good officials in Northern Ireland—I am not knocking them at all—but there is inevitably an insularity to the Northern Ireland civil service because there are not many secondments. Sue Gray's appointment to Northern Ireland from Whitehall at senior level was exceptional. That almost never happens, and you do not get many Northern Ireland civil servants who come and spend a few years broadening their experience in Whitehall or, for that matter, in the Scottish or Welsh Governments.

Q77 Jo Gideon: How would you assess the guidance and training available to Ministers and officials about devolution?

Sir David Lidington: I am going to be very frank, Ms Gideon: it is pretty minimal. The training that is given to Ministers is generally pretty minimal. When you are appointed as a new Minister, your Department will load you with ring binders full of briefing on all of the topics, and stuff your diary full of meetings. That is all important. You tend to get to know it on the job. I do not remember any of the ministerial roles that I had having any particular indoctrination on how devolution relates to you.

Devolution appeared on the fiche for Europe. My officials knew that it was important that we did that, because of the need to get legislative consent motions. In the Foreign Office if we were dealing with EU business that touched on devolved competences, and we knew that we had to get legislative assent from the Scottish or Welsh Parliaments, you would check. One of the things that I always looked at in those reports was what the Minister wanted and what their conclusions were on consultations with the devolved Governments.

That technocratic element, that requirement to get legislative assent, the requirement in Whitehall, the write-round process to show that you have thought through the devolved implications of this, are important if unglamorous tools. However, for Ministers the amount of training is very little; it is nugatory.

Q78 Jo Gideon: I was going to ask you if Ministers have sufficient support and knowledge to improve the devolution capability of their Departments,



but clearly the answer that you have given already—

Sir David Lidington: If a Minister comes in who has previous experience of a role that involved dealing with devolution, they obviously bring that to the new Department as well. However, a brand-new Minister, no. There is a good case for saying that for ministerial induction and also for parliamentary induction at all levels—devolved and this place—some element about devolution and how it works, what the constitutional set-up is, would be a good idea.

Q79 **Jo Gideon:** What changes would you recommend relating to devolution in the Cabinet Manual or Devolution Guidance Notes that would help?

Sir David Lidington: In part it is simply making sure that that guidance is put in front of a new Minister on appointment. You probably need to do what you have to do as Minister with the Ministerial Code, which is that you do not just get given it, you have to sign a letter to the Prime Minister to say that you have read it and agree to abide by it. Having something similar on devolution would be no bad thing and would be a way of getting people to read it, which is your first hurdle. There is nothing like knowing that, even if you think that it is not going to go near the Prime Minister personally. Having to put your name to something that is going to the Prime Minister saying, “Yes, I promise I’ve read this,” is a discipline.

Q80 **Jo Gideon:** Lord Maude’s recent report said that the disparity of a separate Northern Ireland civil service but its absence for Scotland and Wales should be resolved one way or the other. Drawing on your experience, what do you think of this view?

Sir David Lidington: I agree with Lord Maude, and I would resolve it by bringing the Northern Ireland Service on to the same basis as those of Scotland and Wales so that it was part of a UK-wide civil service. That would open up new opportunities for civil servants in Northern Ireland and it would broaden the experience of officials there if they could come and serve in Edinburgh, Cardiff, London or Darlington for a bit. Also, to have more people who had established careers in one of the other parts of the civil service going to Northern Ireland would be good for Northern Ireland governance, but it would add to understanding of particularities of Northern Ireland elsewhere in the UK. Too often Northern Ireland is seen by politicians as well as by officials as something that is different and distinct, and we do not want to think about it more than we have to. That does an injustice to people in Northern Ireland.

Chair: Sir David, thank you very much indeed for your time this morning. If there is anything else that you wish to inform us of, please write. In the meantime, thank you for sharing your experience. It is very helpful for the course of our inquiry.

Examination of witness

Witness: Lord Dunlop.



- Q81 **Chair:** Moving on, seamlessly as ever, through the wonders of technology and everything else, we are now very grateful to welcome our second panel to their place. Lord Dunlop—his name has been taken in vain many a time already this morning—is a former Minister in both the Scotland and Northern Ireland Offices, and author of the famous 2021 review into intergovernmental relations. Lord Dunlop, would you introduce yourself for the record?

Lord Dunlop: It is the first time that I have been called a panel, but I am delighted to be here. I am a Member of the House of Lords and was previously a special adviser for the constitution and devolution to David Cameron. I was then a Minister in the Scotland and Northern Ireland Offices, and I was the independent reviewer of the UK Government's devolution capability.

- Q82 **Chair:** You told a joint meeting of this and the territorial committees in May 2021 that every Minister needed the Union and devolution “rushing through their bloodstream”. Has that change of culture taken place?

Lord Dunlop: Certainly, awareness of devolution and how individual Ministers and Departments can impact on the governance of the Union has improved. Oddly enough, the fact that we had the Covid pandemic raised the salience of dealing with different levels of Government in a way that it had not before. A lot of Government Departments that had never been exposed to working with devolved Governments for the first time had to do so. Communities and Local Government, as it then was, the Department for Education and the Department of Health had pretty no exposure to dealing with the devolved Governments and suddenly they had a very steep learning curve.

Culture change is a massive issue. In any organisation managers will tell you that it is the most difficult thing to achieve. Before you get to that ideal state you need a focused agent of change within the organisation to drive that change. If I have one concern, it is whether that machinery exists in an institutionally robust way within the UK Government. A lot of the evidence that you have heard from David Lidington and from Philip Rycroft and others before is that a lot of it depends on personality. In my review I was trying to make the whole thing less dependent on the serendipity of having the right person—in this case Michael Gove—dealing with the issue and it would be something that would last and stand the test of time. That is the area that I have some concern about.

- Q83 **Chair:** Of your recommendations, is that the one that requires further Government action, or are there others?

Lord Dunlop: Were I to do the report again, given what has happened, I would go with what a lot of people have said: that what was the UK Governance Group and is now the Union and Devolution Directorate located in DLUHC should be returned to the centre of Government—as Sir David said—either within the Cabinet Office or some reformed centre of Government. It was notable that Francis Maude in his report identified



that that is the right place for it to be. When you are trying to get change across Government, it is the centre of Government that drives that change.

Q84 Damien Moore: Two years on from the establishment of the new intergovernmental relations structure, what is your view on how it has been operating?

Lord Dunlop: The reforms that were agreed in 2022 were very, very good and were very much along the lines that I had recommended in my own report. The whole problem with the way intergovernmental relations were managed was that they were not predictable or structured. I think that the three-level approach is a good one. The fact that you have interministerial groups that cover pretty much the waterfront of Whitehall means that you get opportunities for all Whitehall Departments to engage with the devolved Governments in a structured way. It has taken time to get that structure up and running and, from what I can see from the outside, some Departments are running faster and are more transparent about what they are doing than others. That will obviously take time to develop and become embedded. I certainly think it has been a positive step forward.

Q85 John Stevenson: You will have heard us have this discussion about our Secretary of State for the Union previously. That was one of your recommendations, but the Government decided to go down an alternative route. Has that proven to be successful, do you think?

Lord Dunlop: I would reflect the discussion you have just had with Sir David. They did not accept the recommendation I made in full. They went halfway towards it by recognising formally within the structure of Government for the first time a Minister for Intergovernmental Relations. I think that was good. What I was trying to drive at is that if the Prime Minister is the Minister for the Union, the Prime Minister has many things on his plate, and he needed a very senior deputy with clout who could take on some of the operational responsibility. In the figure of Michael Gove, we have somebody who has that clout, and has aptitude and interest in the subject to drive those issues forward.

From what I can see from the outside, and if you watch the Covid inquiry, a lot of the leaders of devolved Governments have remarked positively about his role. However, as you discovered in the previous discussion, if Michael Gove is not a permanent feature of the UK Government, you are slightly at risk that that drive and momentum gets lost. Any future Government, of whatever colour after the next election, needs to revisit this.

One of the thoughts I had—and I will suggest it to the Committee—is that the Lord President and Leader of the House might be a suitable person to take on an enhanced role for the Union. As we have heard from Sir David, the Leader of the House chairs the PBL Committee, and a lot of the tensions arise out of legislation that is being proposed. I think that



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the Leader of the House is also a non-departmental Minister and therefore may have the capacity to take on this role and, I think, formally has a foot in the Cabinet Office already. Again, under the Maude proposals, it is suggested that the Lord President or Leader of the House should be part of that centre of government.

Q86 John Stevenson: Does that mean you are moving away slightly from your original recommendation?

Lord Dunlop: Given that my original recommendation was not accepted, I have thought further about a pragmatic way to achieve what I was trying to get at in my recommendation.

Q87 John Stevenson: After the next election, if they came along and said, "Lord Dunlop, what do you think? We will implement what you want", would you go back to your original suggestion?

Lord Dunlop: Probably, but pragmatically that is an alternative.

Q88 Ronnie Cowan: One comment you made there that I cannot let slip is that the Leader of the House should be responsible for this. Given the current Leader of the House and her attitude towards everything Scottish, I think that it would be a huge step back, if nothing more than the media relationship we have currently ongoing. Every week she chooses to open her session with an onslaught on Scotland in a very childish manner.

John Stevenson: That is nothing to do with Scotland. That is the SNP.

Chair: Whenever this Committee dips its toe in politics we have trouble.

Ronnie Cowan: She challenges Scotland in her "12 Days of Christmas" as well. She is very disparaging about a number of things.

Chair: Let us move on.

Q89 Ronnie Cowan: How do we improve the situation of Mr Gove? Let us face it, after the next general election Mr Gove is not going to be in position. The Conservatives are not going to be in position. We will be faced with a Labour Government. How does that transition happen? If there has been good work happening in the background and things are slowly improving, how do we ensure that continues when there is a complete change of Government?

Lord Dunlop: I think that it is building on what is there. I think that what was the UK Governance Group, and what has become the Union and Devolution Directorate, is an important resource to drive change within Government. We talked about the ministerial leadership of that group, and I would take that back to the centre. I also think that the civil service leadership of that group needs to be looked at. I was interested in what Sir David had to say. It was disappointing that we had a second permanent secretary responsible for this area, but it was downgraded to a director general. That is not to question the effectiveness of the individual who does the job at the moment, Brendan Threlfall, who I think



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is a very effective official, but I think that signals within Government matter.

If Whitehall gets the message—and again, others have made the same point—that this is an area that is a priority for the Prime Minister, it will become a priority for the whole of Whitehall. Little things such as downgrading the leadership of that group from a permanent secretary to a director general is a signal. Having that civil service leadership at permanent secretary level is also important to ensure a voice in the Cabinet Secretary's weekly colleagues meeting that focuses on this issue. It sends a message to all Permanent Secretaries in Whitehall that this is important and something they have to take seriously.

Q90 **Ronnie Cowan:** Your review said, “understanding the devolution settlements is necessary”, but is not a sufficient condition of improving devolution capability in Whitehall. How will we know when Whitehall has sufficient capability? When can I stop moaning?

Lord Dunlop: I am not sure that the outcomes I would look for are ones you would necessarily share. We focus a lot on process, but what is the outcome at the end of the day? What does success in the longer term look like? Success would be if support in Scotland for the Union was up over 60%. Success, for me, would be if in polling, the trust levels for the UK Government in the devolved areas was increasing and getting stronger.

Also, is the level of legislative consent motions withheld by the devolved Administrations returning to the level it was before Brexit? Finally, success for me would be if the intergovernmental relations architecture produces evidence of joint working and projects that the various Governments across the United Kingdom are delivering successfully together where that makes sense.

Q91 **Ronnie Cowan:** I take your last point on board, absolutely. However, if I understood you correctly, your previous points all seemed to point to the Union being stronger than the systems working.

Lord Dunlop: I think that those are indicators of whether the governance arrangements within the UK are working in a way that the people who actually matter—the people who elect you and the devolved Administrations—are all satisfied. All the opinion polling suggests that people in Scotland, Wales, and Northern Ireland want to see the UK Government and the devolved Governments working well together. I think that you have to find ways of indicating whether that is happening successfully or not.

Q92 **Ronnie Cowan:** I have not seen that particular polling. The last one I saw was around 50:50 split between independence and the Union.

Lord Dunlop: I think that it is a different point about whether you want to—



Q93 **Ronnie Cowan:** Probably a different poll.

Lord Dunlop: I am sure it was.

Q94 **Jo Gideon:** Lord Dunlop, in your review, you proposed a shared policy function to be introduced between the three territorial offices. This has not been adopted by the Government. Why do you think the Government have been so reluctant? What are the barriers to implementing this proposal?

Lord Dunlop: I cannot speculate on why that has not been enacted. I think that you heard it in the last evidence session—and Mr Jones will be very familiar with this—that I was trying to make the point that the territorial offices are the smallest Departments within Whitehall. The officials within those Departments do outstanding work. However, in covering all the different policy areas, they are stretched very thinly. I was trying to see if there was some way in which you can get integration of the policy specialists to provide that specialist advice to the territorial Secretaries of State while preserving the offices of the Secretaries of State.

I never recommended in my report to get rid of the territorial Secretaries of State because I think that it is important to have those voices from Scotland, Wales and representing Northern Ireland around the Cabinet table, but whether you could get more synergies in the back office to provide more policy capacity to support the territorial Secretaries of State. When I was a Minister in those two Departments, they did outstanding work, but sometimes you felt that they had to run very hard to keep tabs on what was going on across the policy landscape.

Q95 **Jo Gideon:** The Institute for Government was told by devolved Government Ministers that they often bypassed the offices and went directly, as you have mentioned, to relevant Departments. In the light of this, what do you think is the specific role of territorial offices, and can they act differently to stop this bypassing?

Lord Dunlop: I think that the role is very simple. It is to represent Scotland, Wales, and Northern Ireland within the UK Government and to be a voice for the UK Government in the devolved nations. That is the classic role. I am not concerned about the devolved Governments wanting to speak directly to Whitehall Departments. That is a natural function of the reforms that have been made to intergovernmental relations and setting up these interministerial groups. You want to encourage relationships to develop between Whitehall Secretaries of State and their opposite numbers in the devolved Governments.

Where the territorial Departments are important is they are the guardians who have deep knowledge of their devolved settlement and can assess the implications of particular Government policies on those settlements. Despite the fact that devolved Ministers say they want to talk directly to Whitehall Departments—not something they would publicise—I always found they came to me as a Minister in the Scotland Office or Northern



Ireland Office to help to unblock something in Whitehall that they were finding frustrating. There is a lot of value in in the territorial offices, and for that reason I did not propose that they should be got rid of.

Q96 **John Stevenson:** On that point, would there have been an alternative merit to have a Secretary of State for the Union and then three Ministers of State below? Therefore, you have unity within the Department but yet still have Ministers directly responsible for particular areas.

Lord Dunlop: Yes, I did look at that. Status is important here. If you downgraded from a Secretary of State level, so that they did not have a seat around the Cabinet table, I think that would be a loss.

Q97 **Mr Jones:** Lord Dunlop, how would you assess the comparative merits of the single unified home civil service as opposed to individual civil services for the devolved Administration, such as we have in Northern Ireland?

Lord Dunlop: I think that the single civil service is an asset. They represent particular values and standards, and I think that people throughout the United Kingdom have a right to those standards being upheld within all parts of the United Kingdom. Therefore, I see the single civil service as part of the glue that holds the United Kingdom together and I would not favour slicing it up any further.

Q98 **Mr Jones:** Sir David Lidington just told us that he thought that the Northern Ireland civil service should be absorbed into the UK civil service. Would you agree with that?

Lord Dunlop: I am not sure he went that far—absorbing it within the UK civil service. I think that what he was saying—and I would certainly agree with it—is there needs to be more interchange between the Northern Ireland civil service and the UK civil service. When I undertook my review, I spoke to a lot of senior figures in the Northern Ireland civil service and privately they said to me that that was something that they would welcome. Sir David used the word “insular”. Having people from other parts of the UK going to work for a period in the Northern Ireland civil service, as Sue Gray did, I think would be a good thing for Northern Ireland and something I would definitely encourage.

Q99 **Mr Jones:** Sue Gray had a background in Northern Ireland, I think, didn't she?

Lord Dunlop: I think that she had family connections in Northern Ireland, but I think that most of her career was spent working outside Northern Ireland, but I may be wrong about that.

Q100 **Mr Jones:** We had evidence from the Senedd in Cardiff—their Public Accounts and Public Administration Committee—suggesting that there should be greater control of the recruitment processes by the devolved Administrations. Do you think that that is either practical or desirable?

Lord Dunlop: This was not an issue that came up when I undertook my review and, as I say, there is value in having a consistency across the



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United Kingdom in the way people are recruited into the civil service. I know that with interchanges between different parts of the civil service—if you want people who currently work in London to go and work in Edinburgh—there is a problem with different pay and conditions. That is a barrier to that interchange. With recruitment, I think that there is value to maintaining the existing system.

Q101 Tom Randall: Lord Dunlop, your review criticised the training on offer on devolution received by civil servants as mostly focusing on knowledge rather than skills. Would you be able to explain how it should be different?

Lord Dunlop: There are two points I would make about training. The point about knowledge is that as we move to more dispersed decision-making within the United Kingdom—we are talking about devolution in Scotland, Wales and Northern Ireland, but if there is further devolution in England, that will just highlight the point even further—it seems to me that the skills that civil servants have need to move with the times. In the past, when you have command and control from Whitehall, that is very different from when you have to negotiate and mediate between different levels of Government. Those skills of mediation and negotiation are an example of the kind of skills training required to deal with this new world.

On a more general point about training, I think that you have received evidence—and certainly I would concur, from what I have discovered—that the people who are interested in this subject will seek out the training and acquire the knowledge. However, what you want is a much broader understanding across the civil service. Even in the evidence you received from DLUHC, it talks about elective modules in the training. By definition, it is there if you want it, but there is no incentive for people to take up that training. I think that goes to what underlies a lot of my report. It is getting the right incentives there for people to, first, behave in the right way, and secondly, to acquire the knowledge and skills to operate in the devolved world. That is what I would look for in the training.

Q102 Tom Randall: My second question to you is to ask whether you think that progress has been made since your report in achieving those objectives. Perhaps on that second point, the answer might be no, but I wonder on your first point about moving towards skills if you think there has been progress.

Lord Dunlop: I have been out of Government for some time, and I cannot say hand on heart that I have seen that. If you have DLUHC Ministers and officials before you, it is certainly a question I would ask them. I cannot provide an answer to that. I certainly think that there has been progress in making more training available and getting more throughput of people through the training, and that must be a positive step forward.



Q103 **John McDonnell:** You have referred to the interchange issue and secondments. How would you assess progress in the interchange process?

Lord Dunlop: I think that progress is being made. There are more secondments available. It is still quite modest, but I do think progress is being made. I would go back to the point that you discussed in the earlier evidence session. Sir David summed up my recommendation quite neatly.

I never recommended that in order to get to the higher echelons of the civil service people needed to spend two or three years in a devolved Administration. That is probably not practical. I think that it should be mandatory that, if you aspire to get to the upper echelons of the civil service, you need to be able to demonstrate relevant experience of working on a project in Whitehall that involves the devolved Administrations or having experience of being in the devolved Administrations.

Q104 **John McDonnell:** You mentioned some of the obstacles, particularly with Northern Ireland. Are there any measures that you think need to be put in place to facilitate better interchange and secondments?

Lord Dunlop: I would take a step back. The overarching point I would make and leave you with is: what is the purpose of all these reforms and what are the outcomes you are trying to achieve? One of the things that I suggested in my report—and I think that civil servants know that this is something they should do but they found it quite difficult to address—is that if you want to hold people accountable, you have to have some metrics against which their performance would be judged. That kind of thing creates the incentives. I would look at the incentives across the whole waterfront, including whether people want to take up secondments and if those secondments are available. The way to address that is to make sure you have the right incentives within the system.

Q105 **John McDonnell:** What about individual Departments and the metrics of that? In the evidence we have had, there is a real variation between Departments on secondments and on interchange. You have the example of the Department for Education, where there is no interchange available.

Lord Dunlop: Yes. There is great variability between Departments. One of the recommendations I made that the Government have acted upon is having a senior civil servant who is a responsible owner within a Department for taking forward this agenda, and you have non-executive directors of those Departments. I think that it is working through that network with the devolution teams within the Departments and the Union and Devolution Directorate. It is getting all those parts working together to try to raise the standards in all the Departments.

Q106 **John McDonnell:** It is whether they are taken seriously and have the clout, isn't it?



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Lord Dunlop: That goes back to the point I made. If this is a priority for the Prime Minister, it will become a priority for the Secretaries of State and Permanent Secretaries.

My final point on that is that there was a commitment to hold the Prime Minister and Heads of Devolution Governments Council Meeting once a year. It is disappointing that it is over a year now since that council met. That is the kind of signal that sends a wrong message about the priority given to this area.

Chair: Thank you very much. That concludes our questions to you, Lord Dunlop. We are grateful for you sharing your reflections. If there is anything further you wish to acquaint us with, please write. For the moment, thank you very much indeed.