

Scottish Affairs Committee

Oral evidence: [Intergovernmental relations: 25 years since the Scotland Act 1998, HC 149](#)

Monday 11 March 2024

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Members present: Pete Wishart (Chair); Alan Brown; Wendy Chamberlain; David Duguid; Sally-Ann Hart; Christine Jardine; Mark Menzies; Ms Anum Qaisar; Douglas Ross; Michael Shanks.

Questions 300-353

Witnesses

I: Rt Hon Angus Robertson MSP, Cabinet Secretary for the Constitution, External Affairs and Culture, Scottish Government, Donald Cameron, Deputy Director, Constitution and UK Relations, Scottish Government, and Euan Page, Head of UK Frameworks/Internal Market Act Unit, Scottish Government.



Examination of witnesses

Witnesses: Angus Robertson, Euan Page and Donald Cameron.

Q300 **Chair:** Welcome to the Scottish Affairs Committee. We are delighted to be joined by the Cabinet Secretary and a couple of his colleagues—whom he will introduce to us—as part of our inquiry on intergovernmental relations 25 years after devolution. Cabinet Secretary, we are, as always, pleased to see you at this Committee. Could you please introduce yourself and your two colleagues and say anything that you would like to by way of a short introductory statement?

Angus Robertson: Thank you very much, Convener. I am delighted to be giving evidence to the Scottish Affairs Committee and to be joined by Euan Page and Donald Cameron, two of my senior officials in the Scottish Government. I welcome you all to my constituency and the Scottish Parliament. Thank you very much for the opportunity to come and speak to you all about the important matter of intergovernmental relations. I am happy to answer all questions about that subject this morning.

Let me address head-on the question of how the relationship between the UK Government and the Scottish Government was originally envisaged. The answer now is plain: not like this—not the way it is at the present time or has been in recent years. While there are good examples of collaboration, the simple reality is that the actions of the UK Government, since 2016 especially, have caused significant damage to the devolution settlement, which was established, as we all know, with overwhelming public support in 1998.

It has not always been so. In the period before Brexit, intergovernmental relations were underpinned by a common understanding whereby successive UK Governments, generally and rightly, recognised that devolved matters were the responsibility of devolved institutions, operating under the common framework provided by EU structures and EU law. Intergovernmental arrangements and relationships were able to deal effectively with significant political, legislative and administrative challenges in the period up to 2016, which included reaching the Edinburgh agreement in 2012.

However, since 2016, as a consequence of Brexit, the position has deteriorated badly, so much so that the very existence of devolved government is under threat as never before. This threat is not confined to Scottish devolution. The constitutional commission of Wales concluded: “The current settlement cannot be taken for granted and is at risk of gradual attrition if steps are not taken to secure it...without urgent action there will be no viable settlement to protect.”

Since 2016, we have seen an increasingly interventionist approach to devolved policy matters and the erosion of the protections provided to devolved institutions—nowhere more so than in the hollowing out of the



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Sewel convention and in the Internal Market Act. The Internal Market Act was, of course, imposed on the Scottish Parliament despite a refusal of consent, and embodies the challenge we face in establishing more equitable and sustainable relationships between Governments, not least because it fundamentally undermines the common frameworks programme, which was the result of good collaboration between Governments.

Incidentally, if you want an example of effective working between Ministers—I will come back to this at some length if colleagues are interested—Chloe Smith’s brief involvement in the relationship that we were able to establish was key to progress being made on the common frameworks.

However, the Internal Market Act cuts right across frameworks and has been used by UK Ministers to overrule and frustrate devolved decision making, most prominently with the deposit return scheme. But despite all of this, I want to emphasise the importance of good intergovernmental relations and the Scottish Government’s commitment to playing its part as an equal partner. Our objective for IGR is simple: we want the best possible outcomes for Scotland, working constructively with partners across these islands, including the UK Government. Our approach will continue to be to collaborate where our interests align and where there is proper respect for devolved powers and responsibilities.

However, despite examples of good collaboration, the effect of the UK Government’s actions is to constrain the powers and responsibilities of devolved institutions. Ultimately this approach frustrates the very purpose and operation of devolution. Previous experience shows that it does not have to be like this even under the current constitutional arrangements, which rely on expected standards of behaviour rather than enforceable rules.

The new improved IGR structures and principles lay the foundation for good intergovernmental working. The experience so far suggests that procedures and processes, however well designed, can only be effective if they are applied with good faith and integrity by all parties. The Scottish Government is committed to playing its part.

Q301 Chair: Thank you for that concise introduction. You paint a very gloomy account of the current conditions of intergovernmental relations. You said several things that we will want to explore a little bit further, but why do you think it has got to this stage? Why does the Scottish Government feel that they are in such a situation? Is there anything that you have perhaps detected that has led us to get there? I will come to solutions in a minute, but I want to know why you think we have got to the point where the Constitutional Secretary to the Scottish Government is coming to this Committee and telling us such things?

Angus Robertson: The first thing I would say, after a number of years in this post, is that it is not just the Scottish Government. If you had a Welsh Government Minister here—the Welsh First Minister, my opposite number



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Mick Antoniw, Vaughan Gething, or any of my Welsh Government colleagues—they would tell you exactly the same thing because we have the same views on the problems faced by devolved Administrations. No doubt now that institutions are up and running in Northern Ireland, if you were to speak to Ministers from both sides of the constitutional divide, they would also say exactly the same thing to you. This is not a Scotland-specific issue. It is something that is reflective, unfortunately, of a state of mind in Whitehall, which is that the devolved Administrations are to be managed or put in their place.

Much has been written about a debate that has taken place in the UK Government about what is known as muscular Unionism or seeking a more co-operative approach to things. You can definitely see how there is a fluctuation in that mindset and how that then impacts on interrelationships. The bottom line is that the UK Government does not take intergovernmental relationships seriously. I could provide evidence. I would be happy to provide the Committee with chapter and verse about meetings that are not attended and meetings that are cancelled.

I think I am right in saying that our British Prime Minister has not attended a full British-Irish Council meeting since Gordon Brown did in 2010. That goes all the way through JMCs, interministerial councils, full meetings of the British-Irish Council. It goes through the interministerial meetings, the JMC meetings that take place and have taken place. It is not good reading. I don't think senior Ministers are particularly interested in having good intergovernmental relations. If they did, they would turn up. If they turned up, they would provide the necessary documentation in advance of meetings. If they were really interested in seeking progress on things, they would be keen to discuss substantive issues as they progress. One would not be resorting to using constitutional shortcuts to stymie decisions being made in the Scottish Parliament; rather, one would have been having ongoing discussions earlier about that. One of the good things about having a GB civil service is that civil servants working for the Scottish Government will speak to their opposite numbers in UK Government Departments regularly, so little should come as a surprise to either the UK or Scottish Government unless information is being withheld.

I am always keen to start at the beginning, because I have now given evidence around this issue quite a lot to UK Members of the House of Commons and of the House of Lords, and there are good examples. I mentioned my interaction with Chloe Smith, who, at the time, was in the Cabinet Office. We had a particular challenge around the working of common frameworks, which was that they were not working. I said to her, and she concurred, that we did not understand why things had come to such an impasse.

Chair: We will come on to common frameworks.

Angus Robertson: Okay. Sorry—I do not want to jump ahead.

Q302 **Chair:** Not at all. We are really keen to capture your views on that.



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I think you are right. In this inquiry so far, we have heard that there have been three phases of devolution. There was one where we were all happy together, with one Government across the whole UK. There were the respect days that we had leading up to the independence referendum, when there seemed to be a degree of working together. There was then what happened after Brexit. You have had the great fortune of having the latter periods under your watch. Is it Brexit that has caused these difficulties? Is there anything else you can identify that has caused difficulty to these relationships? I think we are keen to capture what the Scottish Government feel have gone wrong with this; we can then maybe look at seeing how that can be put together again. In your view, what is the major cause of the difficulties?

Angus Robertson: I think the key accelerant is Brexit. If one looks at what happened, for example, with the overriding of the Sewel convention, it is not something that really happened before then. In fact, I think I am right in saying that the first breach of the Sewel convention was acknowledged as being a mistake. There was an apology for it, and no offence was taken. It was just one of those things that can happen, given the technical nature of legislation sometimes. However, for there to be 11 subsequent breaches of the Sewel convention shows that something has happened. That is something that the UK Government have decided to do; they have chosen to override the Scottish Parliament withholding consent. In many cases, the Welsh Senedd are not granting consent too. That goes back, in large part, to Brexit. It relates to legislation that has to do with Brexit. That is one part of it.

The second part of it is the UK Government's unwillingness to allow the common frameworks process to work. I am sure that you have been in and around the weeds of this and the Internal Market Act yourselves, so you will appreciate that the common framework predates the Internal Market Act. It was seen as being the way of being able to deal with different policy priorities in different parts of the UK, which is of course what devolution is about. It is about trying to find the right solution for the different parts of the UK, and those may very well be different.

The common frameworks process was that which was envisaged as working. The UK Government then introduced the Internal Market Act, which was incidentally one of the pieces of legislation that was not granted consent. That cuts across the workings of the common framework. Again, I think you have had evidence of it, and you will know that plenty of evidence has been given—

Q303 **Chair:** I do not want to cut you off, but we are going to go into that.

Angus Robertson: The short answer is that Brexit is the key accelerant, and those are the two specific examples that I would give. However, I think there is also—and I will tee this up for any subsequent question—an issue of who you are dealing with. Some are willing to work, and some are just not bothered.

Q304 **Chair:** There are a couple of things that we have heard in this inquiry—I



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am interested in your view on all this. Are the infrastructure or the institutional engagement robust enough to deal with the differences and difficulties? A lot of this has been characterised to this Committee as relationships. If the relationships do not work, it does not matter what the infrastructure or institutional arrangements are: there will be fallout and dispute. Is that your view? Is it all about relationships, or should we have in place the structures to be able to accommodate a different opinion?

Angus Robertson: Yes is the short answer. However, even having the structures does not guarantee success. The thing that really matters is having both the structures and the willingness to make them work. I am sure that this has been pointed out to you, but have a look at the list of interministerial groups. This is part of the structure that is supposed to have been set up to bring Ministers together to have a common understanding of what Governments are doing—common challenges or different approaches. That is supposed to be the format now. That renewed way of intergovernmental working, which the Scottish Government welcomed, is what that involves.

If you go through that, have a look first at how many groups were formed, and how many have been formed and have never met. That includes my area, where I have responsibility for constitution, external affairs and culture. To take culture, for example, there has been so little progress by the UK Government's Department for Culture, Media and Sport, that the devolved Administrations have got together to try to initiate progress in this area, and still absolutely none from the DCMS.

That is not an isolated example. You need simply ask, how many of the interministerial groups have been formed, how many have met and what has emerged from them? It is a sign that, yes, structures matter, but relationships matter as well. If Ministers want to take it seriously—I am on my fourth UK Culture Secretary, and I think I have met one of them, with frequent cancellations, and that is but one example of the problem at hand.

Chair: Thank you. We are going to go around the whole table. We have you for an hour and a half, Cabinet Secretary. I will bring in Alan Brown first.

Q305 **Alan Brown:** Good morning, Angus. You have already touched on the fact that the Welsh Government seem to feel the same way as the Scottish Government about what you called muscular Unionism and the breakdown in relationships. In October last year, the Welsh First Minister, Mark Drakeford, said that he thought that the UK Government's energy to invest in reviving intergovernment relations was at a relatively low ebb. Given that—*[Interruption.]*

Wendy Chamberlain: I am sorry; there was a hole in the middle of the table that I was not aware of.

Chair: We will carry on.



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Alan Brown: Mark Drakeford thought there was no energy there to invest in reviving relations. Is that a view you concur with? Is there any recognition from the UK Government about the need to improve relations?

Angus Robertson: Rhetorically there is, and if you look at Michael Gove, who is traditionally seen as the point person in the UK Government for a relationship with devolved institutions, the rhetoric is such that, yes, it is important that there should be good intergovernmental relations. When I share platforms with him and have pointed out the shortcomings, he has never ever dealt with the substance of the criticisms that have been made. Whenever there is a public-facing avowing of our intergovernmental relations—are they an important thing, are they a good thing—yes, people say they are, but in the substance and actuality of whether they are, there is a big difference.

There is also a difference between different Departments. Among some Departments that have historically had to deal with devolution pre-Brexit or even pre-devolution in 1998, there is a better understanding. If you were to pick DEFRA—probably a good example, because of agriculture and fisheries matters being devolved and the competence in the Scottish Government in the fisheries area, for example—there has been a much more pragmatic and historical understanding in the Department that these things matter. Others have come very late to an understanding that there is a requirement to work together. I think the best worst example of that is 13 requests to meet the Home Office—only finally was that acceded to.

More often than not, letters that ask for meetings are not even replied to. Again going back to my point about structures, a lot of that has to do with good will. I find that extraordinary, given that my officials would raise with me if ever I am written to by a UK Government Minister—“Minister X or Y has written to you.” It would be taken seriously. One would discuss what one is going to reply. The idea that one would just not bother replying is—but that is the norm, unfortunately, with things.

Q306 **Alan Brown:** Your time has been post Brexit, but was ignoring letters the norm or is that a new norm?

Angus Robertson: I can only speak for myself in this context. I have predecessors who can share their realities, but that is certainly mine. I think there are some Ministers who are seized of trying to make things work and who understand why relationships are important. Maybe an element to all this is the significant churn that there has been in Whitehall of Ministers coming in, not being in office for very long, and maybe not finding their feet and understanding why things like this really matter, but across the piece—from the top down—there has been an aversion to meeting with opposite numbers. We saw that recently in relation to the former Prime Minister and his attitude towards meeting his First Minister opposite numbers. I think this is something that goes from the top down.

Turning up for a common photo or for a short period of time before substantive meetings, and then leaving, is unfortunately the norm from the top down. It does not need to be that way. We turn up and our



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colleagues turn up—we're there—but meetings get cancelled and some are late. I had recent experience of that with our interministerial group on European Union relations, but it was perfectly understandable: my UK Government colleague had a vote in the House of Commons, and my Welsh colleague had something else. These things happen. But across the piece, it is much more of a structural problem.

Q307 Alan Brown: The Scottish Government are obviously very dependent on the block grant that comes from Westminster, and we've got the budget setting process. Recently, the capital budget allocation to the Scottish Government has been cut by almost 20% in real terms. What kind of consultation is there from the UK Government when they do those things? When the capital budget is getting cut, are there any discussions about what that means for the pressures on the Scottish Government?

Angus Robertson: I think I am right in saying that the Deputy First Minister and Finance Minister had a 10-minute video call on the morning of the announcement of the most recent Budget. I think that is the extent of anything that is substantive: "Here's what's happening; here's what the consequences are."

Q308 Alan Brown: Just to come back to wider relationships, the Welsh Labour Government are obviously talking on the same page as the Scottish Government. Do Labour colleagues at Holyrood recognise that part of the problem in the breakdown of relations is the UK Government? Also, in the wider context, if opinion polls are to be believed and are right, there will be a new Labour Government coming in at the next general election. Has there been any recognition of the issue, and how it might be resolved?

Angus Robertson: There is quite a lot in that question. Sorry, remind me of the first part of the question.

Alan Brown: Do Labour colleagues in Holyrood recognise—

Angus Robertson: On some level, the Scottish Labour party is committed to the repeal of the Internal Market Act. I am not sure if that is the position of the UK Labour party—maybe we could have clarification on that during the Committee.

Michael Shanks: I am not sure that that is the point of this session.

Angus Robertson: It would be great to see the repeal of the Internal Market Act. Among colleagues in the Scottish Parliament—certainly among Labour and, I think, Lib Dem colleagues—there is an awareness of how problematic it is. In answer to the first part of your question, I think there is an understanding. I think there is a political priority to show that there is equal blame for intergovernmental relations not working on the part of the Labour party and the Lib Dems; we hear that quite regularly in the Chamber. But I think all the evidence shows that in terms of trying to make intergovernmental relations work—being prepared to turn up to meetings, being there and asking for meetings to take place—both the Scottish and Welsh Governments have been working very hard to do just that, without great success.



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Chair: We will try to stick to the terms of the inquiry. One last quick question, Alan, before I bring other colleagues in.

Q309 **Alan Brown:** To touch on the common frameworks, obviously you spoke before about solving issues, but how effectively are the common frameworks working just now in terms of post-Brexit policy, and possible divergence from the EU and what that means?

Angus Robertson: To go back to my Chloe Smith example, that was a positive, glass half-full assessment of dealing with somebody. She was in the Cabinet Office, so right in the heart of trying to get something to work, and she was as keen as I was. Maybe it helps having been at Westminster for quite a long time and knowing colleagues from there, but if you are serious about doing business and coming to make progress with things, you can make relationships work. That was the case with Chloe, and it is a good example of the potential for making things work. Having said that, there are other areas where they simply do not work. There was a green light in terms of the common frameworks relationship for the deposit return scheme. It went through that process, but the process was then overruled, so unfortunately it is not that simple.

Alan Brown: We will come back to that.

Q310 **Wendy Chamberlain:** First, I apologise to Anum Qaisar for soaking her, and to the Clerks and yourself, Cabinet Secretary, for missing that there was a hole in the table when I placed that jug down.

So far, we have touched on the new IGR systems and you described them as being improved. You also mentioned, rightly, the fact that you have seen a real turnover of Ministers in Westminster, but one person who has been constant with his oversight is Michael Gove. If you are seeing a deterioration, what role or otherwise do you believe he has been playing?

Angus Robertson: I think a lot of UK Government Ministers defer to him in how they should deal with devolution-related issues. That has also been a feature of the devolution unit of the Cabinet Office. Both of those posts were the same at one stage, but they no longer are. Coming from Scotland, he is seen as somebody who has an understanding of politics here and devolution, and people have deferred to him. But often we are dealing with the much more iterative process of government. It is not about the flaring up of particular issues; it is about how the Government work on a day-to-day basis.

Wendy Chamberlain: Preventing the flare-ups, I suppose.

Angus Robertson: That is the whole point. We may come on to dispute resolution, but, to me, the much more important thing is dispute avoidance. If there are good relations with officials who are working with one another along the way, when things get escalated at a ministerial level, there shouldn't be surprises to anybody. That is why the shortcomings of the system that I have described—bare bullet point agendas, no sharing of documents in advance of meetings and so on—are not symptoms of that approach working in practice. I am trying to paint a



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picture of both the formal way in which things should work, which no fair-minded person could take objection to, and their actual working in practice. It is not the case with all Ministers and all Departments, but unfortunately it is too wide an experience.

Q311 **Wendy Chamberlain:** On that, and given that Michael Gove has described things as “so far, so good”, what is working well?

Angus Robertson: To say that things are so far, so good, when both the Scottish and Welsh Governments have said that they are not, is trying to paint something that is just not reflective of objective reality. It is not good. It is not fine. We have said it is not good and we have said it is not fine—and just because a Minister asserts it to be so does not make it so. That is one of the problems we have: there is not a willingness to confront the fact that things have not been working.

Let’s take some things that could be working. I give this example because I am closely involved in it due to my external affairs responsibilities. Last week, I had a meeting with Europe Minister Leo Docherty, the First Minister and Deputy First Minister of Northern Ireland, and Vaughan Gething of the Welsh Government. It related to EU TCA matters and a new process, which is supposed to mean that the devolved Governments are involved in advance of meetings between the UK Government and the European Commission. The most recent meetings have involved papers being shared and substantive agendas, while that was not the case at the start of the process. You might say, “I’m going to bank that as progress because I’m a glass half-full kind of person.” Let’s just take that as being good progress.

The other thing I thought was refreshing was that a number of us raised issues that we were keen for the UK Government to take another look at and think about—specifically, following on from the UK Government’s readmission to the Horizon programme on university research, I and other colleagues raised the prospect of rejoining Erasmus, which, of course, the Prime Minister at the time said the UK would not be leaving—and Leo Docherty said he was perfectly happy to go away and have a look at those issues. This is a discussion about not just the nitty-gritty of what’s happening at the next EU-UK TCA meeting, but what Governments might think about, because we think that is important—something shared by my devolved colleagues on the call. I am going to bank that as good progress and would want to follow it up. If there is more than just warm words, hopefully we can make some progress on all of this.

Q312 **Wendy Chamberlain:** We have a list of all the different areas and how much they have met or not met. There are a number of areas for which there have been no meetings at all. Have any discussions taken place outwith the structures? We have also had evidence that some things are taking place outwith the IGR structure.

Angus Robertson: Yes. For example, the devolution settlement foresaw that there should be an annual meeting between the UK Foreign Secretary and the Scottish Government’s External Affairs Secretary. When I met

James Cleverly, I was the first External Affairs Secretary to have such a meeting in the 23 or 24 years of devolution to that point. It was good to meet, because there are plenty things that are priorities for both the Scottish Government and the UK Government. Having an annual meeting should be the least of it; in my view, there should be more meetings than that. Unfortunately, the meeting I was supposed to have with his successor, David Cameron, was cancelled, and no subsequent date has yet been found for that.

So yes, there are other fora where we come together. It might be formally, through bilateral meetings. It might take place in fora such as the British-Irish Council, where you will often have Ministers from the Scottish, Welsh, Northern Irish and UK Governments—and, indeed, from the Channel Islands. There will be others where it is possible to catch up. One also bumps into colleagues. For example, I mentioned the Home Office, and when an erstwhile colleague from Westminster who was in the Home Office at the time was in Edinburgh, we were able to meet to talk about how the Home Office deals with the participation of international artists in Scottish festivals, which is still a current issue. So yes, there are a range of ways in which we can meet, but it is not always easy.

Wendy Chamberlain: I have one very brief question.

Chair: Very quickly.

Q313 **Wendy Chamberlain:** We are talking about intergovernmental relations, but interparliamentary relationships are important as well. It is great to have you here today, Cabinet Secretary, but do you recognise that we have had challenges as a Committee getting your colleagues to appear before us? I accept that that has also been the case for Scottish Parliament Committees. What could we do to improve those relationships?

Angus Robertson: I looked at the list before coming here, and 13 or 14 Scottish Government Ministers have given evidence before this Committee over recent years. I have given evidence to this Committee, the House of Lords Committee, and another ad hoc parliamentary Committee, and I will continue to give evidence.

Wendy Chamberlain: You have been very good.

Angus Robertson: Scrutiny matters. I think this Committee understands that I am answerable to the Scottish Parliament, but if we want to improve relations and the understanding of how things work, we should be working together. There are different ways of giving evidence, of course. As I said before, Convener, if you would like updated written evidence on some of those issues about things not working as they should, I am happy to provide that afterwards. I am pleased to be here, and thank you for the invitation.

Q314 **Mark Menzies:** Nice to see you again, Cabinet Secretary. You touched on the fact that some Departments were working well, and there was a good relationship, and then there were others where the relationship was



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dysfunctional, in your view. You gave examples; I think EFRA—Environment, Food and Rural Affairs—have met regularly since January 2022, while others still have not been set up. Why do you think that is?

Angus Robertson: I think the right of initiative lies with the UK Departments. I gave the example of where we in the cultural space—myself and Welsh colleagues, and I think Northern Irish colleagues as well; there is this issue of how long Northern Irish institutions haven't been up and running—are looking at this. Certainly ourselves and Welsh colleagues have been trying to encourage—if that is the right way of putting it—DCMS to ensure that there is progress. DCMS has a number of other interministerial groups as well—I think on tourism and sport—and I don't think that those are up and running. Some have managed to do so, but others have not. It would be great if there was any encouragement to try to get these up and running.

Then, it is about getting a regular cycle of meeting. It is not just, as often these meetings have felt like, a bit of a tick-box exercise: "Oh goodness, we're going to have to meet. We're going to have to talk. What are we going to talk about? Let's get through this as quickly as possible." There is lots to discuss. I would love to hear from other colleagues about what they are doing or not doing, and where we might learn from others and vice versa. There is very little space for that, and I would very much welcome that. I think that a lot of good faith has gone into trying to get these structures up and running, and they could get up and running. Donald, is there something that you are wanting to add there? You have a list in front of you.

Donald Cameron: I can add something if you wish, Cabinet Secretary. The Committee might want to know that, following the IGR review in 2022, 16 interministerial groups have been set up covering the main portfolio interests, both in the UK Government and in the devolved Governments. Four of those are: the UK education Ministers council, which, although an interministerial group has a different title from the others; a safety, security and migration IMG; a justice IMG; and one IMG in relation to Mr Gove's responsibility. Those are four additional IMGs that were established after the IGR review; the other 14 were in some way or another functioning before the IGR review.

Q315 **Mark Menzies:** Mr Cameron, just on the subject of intergovernmental relations, the Cabinet Secretary has already raised this, but how do you think they are working from senior official to senior official, or even further down the organisation, when people are talking about implementing things or sharing best practice? How is that operating in your view?

Donald Cameron: I would make a couple of points in response to that. First of all, I would pick up the point that the Cabinet Secretary made that the formal IGR structures are the tip of the iceberg, if you like; the bulk of the day-to-day interactions take place on a kind of portfolio-to-portfolio and official-to-official basis.



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It is an obvious point, but officials working in the Scottish Government or another devolved Government have the responsibility to support the delivery of devolved Government priorities, and that is similarly the case in relation to UK officials. Human relationships are human relationships—they will vary—but there is good constructive working at official level, as there can be at ministerial level.

In terms of the formal structures, one change that I think is objectively a positive thing is that the IGR principles—which set out the need for respect for respective responsibilities of the different Governments, and also the shared responsibility for chairing meetings and for agenda setting—have increased and opened up the space for intergovernmental relations. It is a much more consensual process, in terms of the support for that engagement, where, previously and historically, that would have been, as the Cabinet Secretary suggests, the responsibility primarily of the UK Government. I think that is an objective change. I think that what we are seeing now is a process of bedding down of the new arrangements, and the experience is variable, as the Cabinet Secretary has said.

The last point I might make in response to your question is that this is an inquiry about 25 years of devolution. I think increasingly—and I probably fall into this category—the number of civil servants in devolved Governments and in the UK Government who have experience of the respective systems is dwindling. The number of people in the Scottish Government, for example, who understand how Westminster operates is probably reducing, and vice versa in the UK Government. There is work done on a four-nations basis around Devolution Learning Week, for example, or around the policy profession, which relates to multi-level government, to increase understanding across the Administrations of how our systems work. That is an important point.

Angus Robertson: It is nice to see former colleagues on the Committee. I do not know whether this has come up in any of the evidence that you have received here, but from our point of view, which is one shared by the Welsh Government, one of the areas in which there is a gap in the interministerial groups relates to international matters. That is really quite important because of the impact that it has on devolved policy.

To give some examples, international treaties and agreement, which is reserved, is a matter for the UK Government. Having said that, full, formal early involvement in the development and negotiation of principles in relation to devolved areas would be really good. This does not happen properly at the present time. International conferences and negotiations, including but not limited to the WTO ministerial conference and the World Health Assembly, are dealing with devolved areas. More examples include how the devolved areas are promoted internationally, and the co-operation and working arrangements between devolved Governments and UK staff in British assemblies and permanent delegations. There is space for all those things to be managed if there were an IMG to do all of that properly. Unfortunately, there is not.

Q316 **Michael Shanks:** Thank you, Cabinet Secretary, for your time this



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morning. You said earlier that the initiative for these intergovernmental groups lies with the UK Government. Looking at the list of meetings, there were 42 meetings in the last quarter of 2023—none in the culture brief, as you said. Have you sought to host any of these meetings, or is it just one-way traffic on these things?

Angus Robertson: We have worked quite hard to get the formal structure up and running. As part of kickstarting that, I have sought to meet all my opposite numbers. I think I am right in saying that only one has found time to do so, and she is no longer in office. I would love there to be greater interaction on co-operation in the culture space. We had a really good bad example with how the Home Office mismanaged the participation of an international artist in Scotland's leading international poetry festival. This is something that the Home Office previously acknowledged was a problem area and they were minded to try to improve things.

Those are the sort of things that I would wish to be able to bring up at such a culture IMG. I have written to the Home Secretary in the meantime, asking to meet and talk about that. I will be happy to update the Committee as to whether he is prepared to meet the Scottish Government.

Q317 **Michael Shanks:** I looked at your evidence to the Scottish Parliament's Constitution Committee, in which you talked about many of the same things. You talked about respect being a crucial element and about how that respect has broken down; a number of our other witnesses have made the same point. Obviously respect is a mutual thing. Do you think there is any responsibility on Scottish Government Ministers or Ministers in any devolved Government as part of that as well, or has all the blame been on the UK Government?

Angus Robertson: All I will do is speak for myself. Any time that we are supposed to be meeting, I try to. If it is not possible to meet, I try to reschedule and arrange an alternative time and place to meet. I think most of my UK Government colleagues have my phone number; I am not difficult to reach, so if one is really wanting to make all of this work, one can make it work.

Unfortunately, I have too many examples of even UK Cabinet Ministers coming here. One that sticks in my mind was Jacob Rees-Mogg, who came all the way to Edinburgh and then was not prepared to meet in person. I think we had another Cabinet Minister, Steve Barclay, here last week. Again, he did not have any time to meet a Scottish Government Minister while he was here, although that meeting was asked for. I can speak for myself in saying that I am more than content to meet colleagues, because I think it is really important.

Q318 **Michael Shanks:** My question about respect is quite important, I think, because the mutuality of that is more than just writing a letter, responding to a letter or having a meeting. I take the point that you make.



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Can I read you one thing you said in your evidence to the Scottish Parliament's Committee? Interestingly, it was to a question from a different Donald Cameron, who is now a Minister in the Scotland Office. You said, "There is an ideological, anti-devolutionary, anti-self-government force at play" within the UK Government. Do you accept that language like that, and perhaps the opposing view that might say that your Government is also ideological and anti-devolutionary, is perhaps part of the problem in this breakdown in relationships?

Angus Robertson: I do not think so. I have high hopes for both Donald Camerons, but I have high hopes for Donald Cameron in the Scotland Office because I have had a very good working relationship with him and I think he understands the issues, so we will wait and see whether it is an institutional problem or one that has potential for improvement.

That parties have different views on the constitutional issues should come as no surprise to anybody on the Scottish Affairs Committee, but there is no equidistance whatsoever in relation to intergovernmental relations. The willingness to meet, even though there is a difference of view on policies or constitutional outcomes, is no barrier on the part of the Scottish Government.

I underscore this, and I will underscore this repeatedly: it is exactly the same position as the Welsh Labour Government. It is not about the fact that my party in government supports independence. The Welsh Labour party does not support Welsh independence, but it shares our position, as in the legion of quotes that you will have from Mark Drakeford downwards in relation to this UK Government's approach to devolution in general, but specifically on the workings of the Internal Market Act. That should put to bed any sense that there is an issue of equidistance. It is a matter that is shared equally strongly by the Welsh and Scottish Governments, and unfortunately the blame lies four-square and entirely with the UK Government.

Q319 **Michael Shanks:** Do you think that there is nothing else the Scottish Government could do to try to re-engage in intergovernmental working or to improve those relationships? Do you think it is entirely down to UK Ministers?

Angus Robertson: All I can say is that I can play my part in that, whether it is Leo Docherty last week or other colleagues in previous meetings. Please ask them: I think you will find that when the opportunity has presented itself, I have concentrated very much on where progress is being made and where the interrelationship is finding its feet—using terminology like that to show that it is a process—and on acting in good faith. When we have discussions around things and where there are things that we both need to do, as in the Chloe Smith example that I gave earlier, that is exactly what happens. I can speak for myself, and I am content that I am very well seized of trying to make things work. Where Ministers are fair-minded and are keen for it to be so, I am sure we will be getting into a better place. I hope so.



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Q320 Michael Shanks: Can I ask one specific question about your own brief in external affairs? We had Alex Salmond giving evidence to us, and he recounted, I think it is fair to say, an elaborate tale of how he singlehandedly got Anglo-Chinese relations back on track. One of the things he said in a number of his answers was that he had no difficulty at all with having FCDO officials present at meetings; he would regularly engage with the FCDO and was very happy to have them in meetings. Why do you think that that has become so difficult recently? Why do you think that when the First Minister met the President of Turkey, that was not possible? Has there been a breakdown in those relationships as well?

Angus Robertson: Speaking from my personal experience as the Government Minister responsible for external relations, I have been accompanied by representatives of British embassies and high commissions to, I think, every single interministerial meeting I have had. I cannot think of an example when I was not. I have lots of examples of colleagues sitting in meetings that I have had in different countries, and I have had absolutely no difficulty with that. In fact, more than that—

Michael Shanks: Can I ask—

Angus Robertson: I am sorry; I am talking about myself here and things that I was present at. I would go even further than that: I have met ministerial colleagues where I facilitated the presence of the British ambassador, because I thought it was good that they would be able to be at that meeting. Maybe it is one of those things where, for different reasons, one wishes to concentrate on the exception rather than the general rule of these things.

Q321 Michael Shanks: If, as you say, it has been so easy for you to do that, and clearly it was for Alex Salmond, why has it been so difficult for Humza Yousaf?

Angus Robertson: I think you will find that there have been plenty of examples where the First Minister has met with international representatives and there has been somebody there from the Foreign Office. There is no requirement on the Scottish Government to be accompanied to anything; there is a missive from the Foreign Office to its missions about how missions and embassies should approach these sorts of thing. In my experience, there is usually a very pragmatic approach to how that works, where at post, missions or embassies will take a view on a Cabinet Secretary. I will give you an example: I am going to Copenhagen next week, and the embassy will be well aware of what my programme is. A view will be taken: "Well, we're very interested in that, but to be honest, we don't need to attend absolutely everything."

How does one manage things that happen in different circumstances, particularly at multilateral events? If the FCDO is not prepared to provide somebody for the entire period of an event, there are always going to be challenges.

Michael Shanks: Thanks, Cabinet Secretary.



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Angus Robertson: I am just finishing my point. A lot of these things, by their nature, are sort of brush-by visits. They are not pre-organised things with a time and a place. My experience is that I am totally relaxed about it, and it would be good if the FCDO were too.

Chair: I am really keen for all colleagues to get an opportunity to ask some questions, so if you could make your responses a little bit briefer and tighter, it would be very helpful.

Q322 **Douglas Ross:** Good morning to our panel. Mr Robertson, you have just spoken about your role with international relations, as you describe them, and you have travelled extensively in your Cabinet position. Your Cabinet colleague Màiri McAllan said that “more often than not, world leaders are approaching the Scottish Government and asking for our advice on how we have managed to lead the way”. Given your role in charge of external relations within the Cabinet, which world leaders have approached the Scottish Government, and in which areas in particular are they looking for advice?

Angus Robertson: I think the area that I speak about most, whether that is with Heads of Government or ministerial colleagues—

Douglas Ross: Just for clarity, is this them coming to you? I know you travel extensively, and you will be doing a lot of that, such as speaking in Copenhagen; I presume you are going out to America next month as well. But when is it coming the other way? Màiri McAllan said that world leaders are approaching you.

Angus Robertson: Understood.

Douglas Ross: Which world leaders are approaching the Scottish Government, and in which areas in particular do they feel that you were leading the way?

Angus Robertson: If I may finish on the first and the second question, I was about to give the very good example of Iceland and other northern European countries, where there is a real understanding that what is happening in Scotland with renewable energy is world-leading. There is great interest in that. There is an attendant point with this in our northern European region, which relates to hydrogen. Yes, it is about onshore wind and how Scotland is leading the way in offshore wind, but the point I am trying to make is that it is more than that. We are all at a distance from one another where we can be interconnected; working together is really important. I am giving the Icelandic example because the Icelandic Prime Minister asked me whether Scottish colleagues would work more with them in this area.

Recently, when I met Simon Coveney on the same issue, he asked for there to be a closer working relationship with the Scottish Government on renewable energy in general and hydrogen specifically. I do not know whether the Committee is aware that the European Union’s hydrogen backbone map foresees hydrogen exports to the European continent from Ireland being through Scotland. Whether it is interconnection from our



northern European neighbours—in the fullness of time, that might be Iceland and Norway, but also Ireland—having those international connections in these areas is really important. To answer your point specifically, Mr Ross, that is a very concrete example that comes to my mind.

Q323 Douglas Ross: So you would be able to share with the Committee that communication, where the Icelandic Prime Minister has proactively asked for this from Scotland. How does that then get back to another Cabinet Secretary? Do you then brief the Cabinet to say, “These are the world leaders that are asking us for our advice on how we lead the way”? Do these requests for further information go from you to Màiri McAllan, who then makes that bold statement in the Scottish Parliament? Did you endorse her making that?

Angus Robertson: On the specific example of how these things work, in formal meetings one is accompanied by a colleague who will take notes on what happened. Not everything is noted in meetings, but that meeting, as an example, was also attended by the British ambassador to Iceland. That is one route by which things come back.

On this very specific issue, Mr Ross, it is something that I feel so strongly about that I have raised it repeatedly in the Cabinet, and you have perhaps heard me talk about it in the Chamber. There is such an important opportunity for us, and working with our international colleagues is key. It is not just in that direction; it is also in relation to the FCDO.

Douglas Ross: Could I—

Angus Robertson: If I can just finish this point very briefly, Mr Ross: it is very important. It underscores the reason why it is important to me, among others, with the Foreign Office. The Foreign Secretary is leading negotiations with the European Union on energy regulation and interconnectivity. That really matters to us, for all the reasons that I have just outlined.

Douglas Ross: And the UK Government.

Angus Robertson: Yes, indeed. This is the point that I am making. It really matters for the UK Government and for us that this point is raised. That is the No. 1 thing that I raised with them. It underscores why this being joined up is a good thing. There is absolutely no doubt with my Cabinet colleagues that I am saying that hydrogen really matters, and our northern neighbours are particularly interested in all of that.

Q324 Douglas Ross: I think you agreed with the Chair earlier that you would provide further information. It would be helpful if we could have a detailed description from you of all the world leaders who have approached the Scottish Government and what they have asked for. There are some useful examples that you have given us there, but if we could have all of that, it would be helpful.



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How important is the census for Scotland's public services?

Angus Robertson: I am not sure that that falls within the scope of intergovernmental relations, Mr Ross.

Douglas Ross: I will come on to why it does.

Angus Robertson: Well, please ask a question in relation to intergovernmental relations.

Douglas Ross: How important is the census for Scottish public services?

Angus Robertson: I want to remain within—

Douglas Ross: The Chair will stop you if he needs to.

Angus Robertson: I think the interaction of our public authority that deals with the census and the UK and other census organisations is a matter that is under constant discussion, because it does matter for all Governments in that intergovernmental space.

Q325 **Douglas Ross:** We are looking at devolution over the last 25 years, and of course as the Cabinet Secretary in charge you took a decision to separate the Scottish census from the rest of the United Kingdom.

Angus Robertson: As a matter of fact, I didn't.

Douglas Ross: Okay, so enlighten us.

Angus Robertson: It was my predecessor.

Q326 **Douglas Ross:** Okay, but you oversaw the census?

Angus Robertson: I did.

Q327 **Douglas Ross:** And you did not choose to go back into the UK-wide census.

Angus Robertson: I did not choose to revisit a decision. By that stage, we were part of a global pandemic. If anybody had raised with me the idea that it would be a good idea to send people out to doors to speak to individuals when we were under lockdown, that is not something that I would have been supportive of, no.

Q328 **Douglas Ross:** Why then was the return in Scotland, which was delayed from the rest of the United Kingdom, so poor in comparison?

Angus Robertson: Again, if the Chair is keen for me to remain within the intergovernmental space—

Douglas Ross: This was a different decision that had been taken.

Chair: I know you will be getting to its relevance to intergovernmental relations.

Angus Robertson: I will answer every question within the context of intergovernmental relations on this. There are a lot of lessons to learn



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about the evolving nature of the public and its willingness to deal with official inquiries.

As I think Committee members will be aware, the census in Scotland was predominantly digital, whereas the census in the rest of the UK was not. I think that that partly explains a lower initial return rate. That is issue No.1.

I think issue No.2 is more general: the rest of the world is catching up with Scotland and is moving to digital response. It is one of those areas where it would be very, very good for there to be better intergovernmental relations, so we can share with UK colleagues our learnings from this. I am absolutely sure that the same challenges that we face conducting a digital-led census Scotland are going to be the case in other parts of the world.

Q329 Douglas Ross: So if the world is catching up, is the success of the Scottish census another thing on your list that world leaders have been asking you about?

Angus Robertson: I know that the inter-agency discussion about how one organises these things is extremely international. That is why there was an international panel. It has validated the findings of the Scottish census and includes officials from right around the world. I suppose the point is about the advantages of intergovernmental relations but also our Government Departments working with one another about what is best practice and what are the common risks and challenges. It just underscores why it is a really good thing to work together with one another. If my colleague in the UK Government was keen to speak to me about that, I would be delighted to meet with him or her. I do not think there are any outstanding requests from other Government Ministers in the UK to meet with me about that.

Q330 Douglas Ross: This is my final question. You have the Cabinet responsibility for Creative Scotland. I know you have a junior Minister, but you are the Cabinet Secretary responsible for it. You would have seen the concerning article in the *Sunday Post* yesterday, expertly written, as always, by Marion Scott. What is your view on the £85,000 of national lottery funding that was given by Creative Scotland to this project, which has been rightly widely criticised? What involvement have you had since that article about the oversight of Creative Scotland?

Angus Robertson: In relation to intergovernmental relations, if there is any interest from other Governments that want to know about arm's length funding bodies, I would of course be happy to discuss that with Culture—

Douglas Ross: This is quite a serious issue.

Chair: It has also not got all that much to do with intergovernmental relations.

Angus Robertson: It has nothing to do with intergovernmental relations whatsoever, but I am trying to answer the question within the context of



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my invitation to this Committee. Both England and Scotland operate systems where they have independent funding bodies that fund applications for financial support. If there are any lessons that need to be drawn from independent arm's length organisations, I would be happy to share that with colleagues from elsewhere in the UK or anywhere.

Q331 **Douglas Ross:** But have you had any involvement over the weekend since you saw that article? What was your immediate reaction to it as a Cabinet Secretary?

Angus Robertson: Answering the question in relation to the intergovernmental space, which is the reason I am before the Committee, I have had no interest shared whatsoever by other Governments in terms of how Scotland's creative and cultural sector is funded. If they wish to discuss that, I would be happy to do so at the interministerial group that the UK Government has never, ever allowed to be formed.

Chair: We will leave it there. Thank you.

Q332 **Ms Qaisar:** Hello, Angus. Nice to see you. You spoke earlier about the DRS scheme, and I want to come back to that. It was interesting that there was a lot of disagreement over the process for seeking an Internal Market Act exclusion, with Scottish Secretary Alister Jack and Scottish Government Minister Lorna Slater saying different things. After the announcement last year, you said that "there is a need to look again at ensuring the Common Frameworks process, including the IMA exclusion process, operates as agreed". What did you mean by that, and what changes or clarifications are you seeking?

Angus Robertson: What I have spoken about a number of times in different fora in relation to policy divergence is drawing comparisons with what happened pre-Brexit, before the common frameworks and Internal Market Act, and post-Brexit. Before then, there is a very good example of policy divergence in Scotland and the rest of the UK. It relates to the minimum pricing of alcohol as a public health measure. That has come about, and I do not think there is any serious move against that now. There was great controversy at the time, but it was approved and it is now part of Scotland's public health approach. I think that now, at the present time, if there were to be such a suggestion, the UK Government would block that, and one would use the Internal Market Act to block that.

That is a really good example of how the current UK Government or most recent UK Administrations have used this particular policy approach to stymie progress. It didn't need to be this way. If there were concerns along the way as legislation was being proposed, proposals for amendment could have been made and meetings could have been had, with specific suggestions. I don't think it was about a deposit return scheme; it was a power play—that is the beginning and the end of it. Now, unfortunately, we don't have a deposit return scheme in Scotland; and incidentally, we don't have one in England. Most of the rest of the industrialised world does.

Q333 **Ms Qaisar:** What you have said about the difference in attitudes towards



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minimum unit pricing and a DRS is really concerning. What would you like to see, because this isn't sustainable, surely?

Angus Robertson: It's not. Just looking practically, where was the formal difference on the issue? It was a view in the UK Government that one should not include glass in a deposit return scheme. I think I am right in saying—I may be corrected on it, but the order of this is about right—that there are about 50, somewhere in the low 50s, deposit return schemes in the world, and 45 of those have glass. It is there for a reason—because we are trying to take recycling seriously and trying to find the mechanisms to do that. Unfortunately, because of politicking, one was not prepared to make progress on that. It wasn't always the case. The party in government actually had it in its manifesto at a previous stage.

Here's the key thing for this Committee, in terms of process and how process works. There was a green light through the common frameworks process, but then the Internal Market Act—this Trojan horse in the workings of devolution—was used to block the scheme. That is not about good government; it is not about good governance. As a result, Scotland does not have a deposit return scheme and England does not. This is no good for either of us.

Q334 **Ms Qaisar:** Is the Scottish Government currently seeking an exclusion from the Internal Market Act in relation to the sales of glue traps in Scotland?

Angus Robertson: It is. My colleagues will probably have to help me with the minutiae of this, but I think it is one of those areas that was to be subject to a meeting of an interministerial group. That would have been the format for such a meeting and for answers to be had and being able to communicate the wish to do something, but it has not happened, so it is another very concrete example. I am not sure whether Donald Cameron is in a position to give some additional information.

Donald Cameron: I will make a couple of points on the specific question about glue traps in relation to the Scottish Government legislation. The issue of glue traps—correct me if I'm wrong—is not covered by a common framework. The process that we have used is analogous to the common frameworks process, but the issue is not covered by a formal common framework. The Cabinet Secretary is correct: correspondence has been ongoing with the UK Government in relation to the need for an exclusion from the IMA. We have not yet secured a response to the question, whether positive or negative. The latest position is that the next meeting of the EFRA IMG is the place where we should expect to get the answer, but there has been some difficulty in securing a date for that meeting to take place.

Q335 **Ms Qaisar:** When was that letter sent?

Donald Cameron: I don't have that detail just at the moment, but I can let you know afterwards.

Q336 **Ms Qaisar:** Thank you; that would be really helpful. Finally from me,



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Angus, should the new IGR structures have a clearer role in the governance of the Internal Market Act and common frameworks processes?

Angus Robertson: Yes. This goes back to the original question from Michael about structures and personalities. I think there is something about getting the right structures in place, because then anybody can objectively see the following. Has one met? What was discussed? What progress was made? If one is then able to point out time and time and time again, from not just one devolved Administration but more than one, that this is not working, you know there is an issue; and no doubt you will conclude that there is an issue, because the facts are there for everybody to see. I think having the structures there is a good thing. At least then, if one is able to build on relationships where you will not agree on everything but for better public administration it makes sense to discuss some of these things in detail, make some progress on them, establish an iterative process and a regular set of meetings, to make sure we have momentum behind all of this, that is the way to have good governance.

If we were in Germany having an analogous committee inquiry about the German federal Government not meeting the German Länder, it would be a massive story; it would be unimaginable to have such appalling intergovernmental relations. Here, it is seen as being quite a technical subject. It is one that is written about and thought about a lot by constitutional experts and academics and parliamentarians, who I commend for looking at it, but the bottom line is that this is about good governance and public administration. And in this respect, in the UK we do not have it. In other countries, it would be treated a lot more seriously and I hope that the findings of your report will be read very closely in Whitehall.

Q337 **Christine Jardine:** Thank you for joining us today, Cabinet Secretary. In the evidence that you have given so far, you said that devolution is not working as it was meant to; that the UK Government are intruding—I think “incursions” is the word you used, as in making incursions—into the Scottish Government space; that there is no willingness in the UK Government to work on frameworks and that they are not turning up to meetings; and you describe devolution now as being “appalling” in comparison to the German system. Cabinet Secretary, does the Scottish Government accept no responsibility whatsoever for any difficulty in relations with the UK Government?

Angus Robertson: No, with none of the examples that you’ve read again into the record, and they are accurate and correct. These are statements of fact. Is there more that any fair-minded person can do? Absolutely. But I don’t know how many more times I can offer to meet my opposite number, as I don’t know how many times I can say to intermediaries, “Please can we take a look at this and try to get some oomph into making these systems work?”

It is not for the want of trying; it is a statement of fact that things are as they are. How one changes that—I speak for myself. When I’m involved in



these processes, I do my best to encourage my colleagues from the UK Government to understand why we value this and why we value a more positive approach and encourage people to think that it is a worthwhile exercise, but it requires the UK Government to take this matter seriously, in a way that they have not—I underscore the point again that this is not a party political issue, given the evidence of the shared position that we have with the Welsh Government. This is a devolution-related issue.

Q338 Christine Jardine: With respect, Cabinet Secretary, I am with you to discuss the relationship between the Scottish Government and the UK Government, and I am a bit uncomfortable at constantly quoting the Welsh Government without a Welsh representative here.

If as you say, however, it is entirely the fault of the UK Government and they are making incursions into areas where they should not be, and that they are to blame for the failure of legislation, why is it that every time it goes to court, the court rules that the UK Government are in fact correct and it is the Scottish Government that are not acting within the constitutional framework?

Angus Robertson: The simple answer is that it's a comparison of apples and pears, in terms of intergovernmental relations. The point about the Welsh Government is quite an important one and if you—

Q339 Christine Jardine: Could we please stick to the question, which is this: why is it that every single time it goes to the courts, the courts rule that the UK Government are working within the UK constitutional framework and that it is the Scottish Government and the legislation that it has presented that are not working within it?

Angus Robertson: All the examples that I have given are not ones that are subject to legislation—

Christine Jardine: Well, the DRS—

Angus Robertson: The examples that I have given the Committee about the workings or not-workings of interministerial government, about meetings not taking place or being rescheduled, or papers that are not being provided, and so on and so on—these are not issues that one can legislate for and nor can one take them to court.

That is why I made the point about comparing apples and pears. In terms of the daily interaction between the Scottish Government, the Welsh Government and the Northern Irish Government, and the UK Government, in the areas that I have described, these are specifically not areas that one can raise in a court of law. It is about best practice, and whether that best practice works or does not work. About specific issues of specific court challenges, all of that is in the public realm. None of that is specifically relevant to the evidence that I have been giving today about the workings of the structures of intergovernmental relations. They are not subject to courts; they are subject to good will and, unfortunately, there has not been very much of that.



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Q340 Christine Jardine: Would you not concede that if something ends up in court, regardless of the issue—whether it is an apple, a pear or an orange—it is because the relationship between the two Governments has been unable to resolve it. When resolved in court, the consistent view of the courts has always been that the UK Government have been acting within the constitutional framework. Specifically, you mentioned the DRS and blamed the UK Government for that, describing it as a power play, but is it not in fact the case that it was not solely the view of the UK Government that the scheme could not work properly? It was the view of a great number of major companies—manufacturers, glass manufacturers, glass distributors, whisky companies, beer companies—that the scheme was unworkable. It was not an objection to glass; it was an objection to the fact that the scheme would not work. To suggest that that is because devolution is not working is to overlook the fact that it might just have been bad legislation.

Angus Robertson: First, it is the Scottish Parliament's responsibility to legislate in devolved areas, not any other Parliament—

Q341 Christine Jardine: That was not the question. My question was, are you simply not blaming the relationship for the fact that it was bad legislation?

Angus Robertson: No. The legislation was passed and—

Q342 Christine Jardine: That does not make it good; that just makes it passed.

Angus Robertson: When we talk about devolution, we are talking about where decisions should be made, whether one agrees with them or not. I am perfectly willing to accede to the fact that Christine Jardine and I have a different view of whether something was worthwhile proceeding with.

In relation to intergovernmental relations and this point—this goes back to the point that I made right at the start—I would far rather be talking about not dispute resolution, but dispute avoidance. It is the case that one just does not hear about a great many things. They do not become matters of great import, because one has been able to deal with them on that official-to-official level, or where one has the structures of being able to get together. That is my preferred route to deal with all such things. Had there been good will about being able to deliver such a scheme, one would have been able to see that far earlier in the process from the UK Government, which one did not. The end of the lesson, as I have mentioned now a couple of times, is that neither Scotland nor the rest of the United Kingdom has a deposit return scheme. That is a great shame. If one had wished to make things workable, better or deliverable, one would have done a lot more about it. One did not do that. Sorry, to be clear, the UK Government did not do that.

Christine Jardine: On that point, the Cabinet Secretary assumed that he knew my view on the DR scheme. He is incorrect about my view of the DRS.



Angus Robertson: I am happy to be corrected.

Q343 **Christine Jardine:** I have one final point to make about that. Do you think that the people of Scotland are happy with the fact that they constantly see conflict between the two Governments, which ends up in court? Do you think that perhaps, rather than constantly making what the UK Government would see as incursions into areas that are not in the devolution settlement, such as external affairs, it might be better to take a more conciliatory approach and try to avoid such court cases? This cannot be entirely one-sided. As Mr Shanks said, respect goes two ways, and so does discussion.

Angus Robertson: I am sure one would not want to miss the point that this is not just a concern for the Scottish Government. The concerns I have outlined and the critique that I have been making—one can evidence this from the record of what Mark Drakeford and other colleagues in the Welsh Government have said—is shared by the Scottish and Welsh Governments. No doubt, many people in both Scotland and Wales are dismayed about the state of intergovernmental relations, but any fair-minded person with a fair-minded grip of the reality of what is causing the problem will conclude that, unfortunately, it is the UK Government that—

Chair: We will have to move on, sorry. We do not have much time left.

Q344 **David Duguid:** Thank you, Cabinet Secretary and colleagues, for coming along today. I will continue from Christine Jardine's question. A lot of that was obviously about the deposit return scheme, which was brought in a year earlier than proposed for the rest of the UK. There is also the Gender Recognition Bill, and the HPMAs are more stringent than proposed by the UK Government. I have no doubt that the intentions were good, but how much of that was about being difficult for the sake of being difficult, given that you knew that the UK Government would be put in a position of being against it and essentially picking a fight?

Angus Robertson: If one wants to pick the Gender Recognition Act as an issue, I think the Committee is aware that that piece of legislation was passed with cross-party support in the Scottish Parliament, including members of the Scottish Conservative and Unionist party who voted for it. There was a majority across the Parliament. I think the motivation of everybody who voted for it, including Conservative colleagues, was to try to get the best legislation that we could, looking at the fact that other countries had done so and wanting to ensure that we were able to do so here as well. That goes back to my previous observation about what happened with minimum unit pricing on alcohol; in that case, there were objections from industry as well, but one still proceeded with the legislation because it was the right thing to do.

Of course, legislation will always bring controversy—some people will agree with it, and some people will not. However, to me there is a more profound point here. It is not actually about the merits of the issue at hand: it is about governance, good governance and how that works. In a



devolution context, those are areas that have been devolved. There are, of course, areas where one could and should work with colleagues in other Governments in the UK around alignment and managing divergence, because there will be divergence—it is in the very nature of devolution. We should be using the structures in place to try to make this possible, and those are all examples that have been given where that has not happened. It is not for want of colleagues in the Scottish Government trying to seek that. Unfortunately, the politicisation of these very particular issues means that they have been stymied, whereas in previous examples—the best being minimum unit pricing—notwithstanding industry concerns, the Scottish Government could get on with it because the view was that this was an area of public health that was devolved. That is exactly what happened, and the European courts did not gainsay that.

Q345 David Duguid: I am not judging the validity of or good intentions behind the issues, but given the possibly unintended consequences of this legislation being passed, and given that the one and only time that section 35 has ever been invoked is in response to the Gender Recognition Bill because of its likely impact on UK-wide legislation—namely, the UK Equality Act—was there no one in the Scottish Government who knew that that that could be an issue? Was there no engagement? In fact, I know that there was engagement with the UK Government where a warning was given that that could or would be the case. Why power through with that?

Angus Robertson: At the heart of that was that throughout the longest time of the proceeding of that legislation, there was no indication that that sanction or blocking mechanism was being considered. It was very much at the end of the process that that was the case.

This goes to the nub of the point that I have tried to make a number of times. It is about having structures in place where one can regularly meet and discuss what one is doing. That means, yes, the things that are on the agenda, but it's also things that might come under any other business at the end of a meeting. A Government Minister could say, "Listen. It has been brought to my attention that there may be an issue with this, so we would like to work with you on how we can resolve the situation." If those institutions were up and running and running properly, or if there was a wish to have a proper bilateral relationship between Cabinet Secretaries or junior Ministers, that is exactly the way in which one should deal with this, not by taking out a constitutional hammer to hit a nut that has become politicised. It is for a political reason that it has been done, in my view, not from an issue of good or bad legislation; it is because it has become politicised. Sticking to the nub and where we can—

Q346 David Duguid: I want to move on to other questions, but I take your point on that. There are those who would suggest that there were also political reasons behind pushing the issue more rapidly than necessary, but I will leave it at that. I think the Secretary of State for Scotland has argued to that effect in evidence to this Committee.

There is one last thing I want to ask on the Gender Recognition Reform Bill



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process. There is an intergovernmental dispute resolution mechanism, so why was that not used and a judicial review chosen instead?

Angus Robertson: I think there is a timing issue around that. This is my point about when the power was invoked, but I will defer to Donald Cameron on the specifics of that. I think it was a timing issue.

Donald Cameron: I don't think there was sufficient awareness of the UK Government's intention to block the legislation or intervene in the way that it did. I would have to check the specifics at this point. The real concern expressed by the UK Government was expressed very late in the day and perhaps as late as the morning or the day before the stage 3 debate in the Scottish Parliament. There had not been prior notification of the level of concern. In fact, on the point about whether anybody in the Scottish Government was aware of the potential impacts and if there had been an ongoing discussion about the potential use of section 35—

Q347 **David Duguid:** Sorry to interrupt, but that was despite the hundreds of amendments to the legislation as it was passing through the Scottish Parliament.

Donald Cameron: The specific intention to intervene in the way that subsequently happened was not something that—

Q348 **David Duguid:** My understanding of the section 35 process is that it is a process that always goes through on every piece of legislation, but this was the first time that the decision was made to not allow Royal Assent. It is a process that goes through at the end of that process.

I want to move on from that because time is limited. I want to go back to something that the Cabinet Secretary said earlier about hydrogen. The Committee received evidence from the then Cabinet Secretary for energy and net zero, Michael Matheson. I have to be honest: this was the first I had heard that there were discussions going on with the Federal Government of Germany, among others, on coming up with an agreement that, in essence, Scotland would produce loads of hydrogen, and Germany, among others in northern Europe, would be customers for that hydrogen. Like I said, that was the first I had heard of it.

I did some digging in the energy industry around Scotland and became aware that various engagements had been made with them, and some companies had been commissioned by the Scottish Government to look into the feasibility and so on. As I said, meetings had been taking place with the Federal Government of Germany. What meetings have been had with UK Government Ministers on that? Bearing in mind the reserved nature of international trade, energy policy, cross-border transmission of energy—

Chair: Order. It will have to be a very brief response because I am keen to make sure Sally-Ann Hart gets a question in.

David Duguid: It is my last question.



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Angus Robertson: I will respond briefly. I am just repeating the example that I gave before. I spoke with James Cleverly, the UK Foreign Secretary, in his office about that very point. I look forward to speaking with his successor about it.

Q349 **David Duguid:** Was that in advance or after the discussions with the German Federal Government?

Angus Robertson: I cannot remember the exact dates, but as a correction the Scottish—

Chair: Order. I am keen to move on. Maybe you could write to the Committee.

Angus Robertson: Of course. Happy to do so.

Q350 **Sally-Ann Hart:** Good morning to our panel. Some areas of intergovernmental activity such as the green freeports, the fiscal framework negotiations, which you have mentioned, and city region deals have been regarded as successful. What made those successful compared with other areas of intergovernmental working? Was it the funding from the UK Government? Was it a working together approach and putting politics and egos aside for a common goal? Was that what made it successful?

Angus Robertson: I think it is simpler than that. It might indeed be funding from the Scottish Government as well as funding from the UK Government, might it not? I think it is where there is an alignment of interest. Where it is very obvious from the off that there are particular policy suggestions about which the devolution unit, Michael Gove or the Scotland Office say, "This is actually, in a significant area, devolved", it is really important for the UK Government to work with the Scottish Government. From our side, there is an analogous process: where issues are brought up, there is a recognition that this is partially reserved and partially devolved. This goes back to Mr Duguid's point. This issue that is so close to my heart is partly devolved and is partly reserved, and we are going to have to get both of those things working right and with good will to deliver on them. I am absolutely seized of that.

The nub of the answer to your question in these particular examples— which I acknowledge as being good examples and we should strive to do that with absolutely everything—is where there is an alignment of interest and agreement. The heart of what devolution is about comes when there is a difference: it is about being able to do things in one's own way. That is as true for the Scottish Government as it is for the UK Government in relation to England. We have to be able to have that grown-up approach to managing difference, divergence and different priorities, and we have to be able to do that in the best possible way. But the short answer to the question is that there is a shared interest.

Q351 **Sally-Ann Hart:** Building up trust between the two Governments clearly needs to be done better. Are there additional policy areas on which you are optimistic that the Governments could work together—policy areas on



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which unity between Scotland and the rest of the UK might be built? Let us just set aside the SNP's independence agenda. Set aside anger over Brexit—that is done. Set aside politics. Could both Governments prioritise common goals, for example on NHS reform or economic growth or something like that?

Angus Robertson: I will speak to the area where I have a direct interest and intergovernmental relations. It is this point that I began to address in relation to Mr Duguid's question. In Scotland, we are blessed to have won twice in the natural resource lottery with hydrocarbons in the '60s and '70s, and now with renewables at scale. When speaking to other northern European countries, which all tend to be windy and wet countries—not Wendy countries; I was looking at Wendy Chamberlain as I said that, which is a Scottish Affairs Committee inside joke—it is clear that we are going to be in a very strong position, looking at our shared interests with northern European neighbours who have a real interest in helping to provide the resources that the European continent requires. We will be net energy exporters. We have been net energy exporters with hydrocarbons. We will be net electricity exporters and we will most probably be hydrogen exporters as well. Being able to do that right now when Germany, the biggest economy in Europe, is interested in importing it from wherever it can is a really good area on which we can work together.

Whether through the bilateral conversations I had with James Cleverly or the conversations I had at the Königswinter meeting—I asked this question there in the company of a whole series of people, including from the UK Parliament—we are working very hard to work with the UK Government to help on the regulatory and interconnectivity points, because it is surely a matter above and beyond party interests or different constitutional preference. People made significant decisions as hydrocarbons were discovered in this part of Europe; we look at our neighbours in Norway and see what they were able to do, in a way that the UK did not with oil and gas in Scotland. We cannot repeat those mistakes with renewable electricity and hydrogen. I am keen to grab that with both hands, and that is why I am keen to—

Q352 **Sally-Ann Hart:** Have you read the renewable energy report from the Scottish Affairs Committee? It's brilliant. You ought to have a look at it.

Angus Robertson: Well, thank you very much.

Q353 **Sally-Ann Hart:** We really focused on green hydrogen. We went to Germany, and it was absolutely fantastic. The UK Government have looked at that report and made some really positive impacts with the contracts for difference, so we can work together on lots of things.

Angus Robertson: The deliverable that really matters for our continental European colleagues is interconnectivity, which doesn't exist but might and should exist; it should be in everybody's interests to try to secure that. There is no currently functioning hydrogen market, although we know it is coming; we know the Germans require it. I think the academic assessment is that northern Europe can provide 10% of continental Europe's hydrogen demand, which is significant, given that Robert Habeck



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is traveling to Namibia, Mozambique and all kinds of countries in the Gulf to try to secure hydrogen. Why don't we make it easier for friends in continental Europe to be able to import from northern Europe? Scotland is in a fantastic geostrategic position: it is close to Ireland, which will export to the continent through Scotland, and look at our northern neighbours, from Greenland and Iceland to the Faroes, and across to Norway and Denmark. All of us have an interest in being interconnected with a European continent, so anything that can be done on regulation and interconnectivity is key to that. Those things are reserved. That is where we require the UK Government to act, and I really hope that they will.

Chair: I am afraid that is our time up. Of course, everybody should be reading Scottish Affairs Committee reports.

Angus Robertson: Hear, hear.

Chair: Cabinet Secretary, thank you ever so much for your evidence this morning. I think you said you would get back in touch with the Committee on a few things; I know you will do so in a timely way. Thank you ever so much from all the Committee for your contribution and your time this morning.