

Justice Committee

Oral evidence: [Constitutional relationship with the Crown Dependencies](#), HC 595

Tuesday 7 September 2021

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[Watch the meeting](#)

Members present: Sir Robert Neill (Chair); Rob Butler; Angela Crawley; Janet Daby; James Daly; Miss Sarah Dines; Maria Eagle; Laura Farris; Kate Hollern; Dr Kieran Mullan; Andy Slaughter.

Questions 1 - 57

Witnesses

I: Ian Gorst, Minister for External Relations, Government of Jersey; Deputy Jonathan Le Tocq, Minister for External Relations & Constitutional Affairs, Government of Guernsey; and Howard Quayle CBE, Chief Minister, Isle of Man.

Written evidence from witnesses:

- [Note prepared by the Government of Guernsey in advance of 7th September evidence session](#)
- [Letter from the Governments of Guernsey, Jersey and the Isle of Man, dated 31 August 2021, on relations between the UK and the Crown Dependencies](#)

Examination of witnesses

Witnesses: Ian Gorst, Deputy Jonathan Le Tocq and Howard Quayle.

Chair: Welcome to this evidence session on the relationship with the Crown Dependencies, for which the Ministry of Justice, as we know, has responsibility. Welcome to our witnesses. I will ask them to introduce themselves in one moment. Because it is a formal evidence session, Members must declare their interests. I am a non-practising barrister formerly consultant to a law firm.

Rob Butler: Prior to my election I was a non-executive director of HM Prisons and Probation Service and a magistrate member of the Sentencing Council.

Andy Slaughter: I am a non-practising barrister.

Maria Eagle: I am a non-practising solicitor.

Janet Daby: I have no interests.

Laura Farris: I am a practising barrister.

James Daly: I am a practising solicitor and a partner in a firm of solicitors.

Miss Dines: I am a barrister but I have not taken any cases since the general election.

Q1 **Chair:** That has put in everything about us. Perhaps I could ask our three Ministers from the Crown Dependencies to introduce themselves for the record.

Howard Quayle: I am Howard Quayle, Chief Minister for the Isle of Man.

Ian Gorst: I am Ian Gorst, Minister for External Relations and Financial Services in the Government of Jersey.

Deputy Jonathan Le Tocq: I am Deputy Jonathan Le Tocq, Minister for External Relations and Constitutional Affairs for the Government of Guernsey.

Q2 **Chair:** Thank you very much. The Bailiwick of Guernsey for these purposes includes Alderney and Sark. Welcome, gentlemen. Some of you are familiar to a number of us on the Committee. It is always good to see you all. Thank you for coming over. What I thought we would do is pick up some of the issues that you raised in the joint letter that you have helpfully sent to us, which we will publish. We have already had a chance to look at that.

I would like to kick off with the way you would describe relationships, because it seemed to me that there have been changes in the way in which the relationship has developed. Obviously, a number of quite important factors—Brexit and other things—have influenced that. It happens, for the reasons that are set out that the Ministry of Justice—

some might think surprisingly—has always had responsibility for this. Before that, I think it was the Department for Constitutional Affairs, going back before the Ministry was created, so there is some continuity there, as some of you will remember.

How would you describe the role and the relationship? We have seen it put down in constitutional text, if you will, that it acts for the Crown Dependencies in relation to their defence and external relations and how legislation is dealt with through the Privy Council. I want to come back to that. We do not legislate for your internal matters. Of course, you are entirely self-governing in those.

Does that still accurately encompass what the relationship is? What is your assessment of the way in which the Ministry of Justice acts as a steward of the UK Government's responsibilities towards the Crown Dependencies in that role?

Howard Quayle: Chair, many thanks for your kind invitation. Thank you all for taking an interest in the Crown Dependency cousins and, indeed, for your continued interest and the Ministry of Justice's role in representing our interests across the UK Government.

Before I answer any specific questions, with your permission, Chair, could I make a few points before we go on? First, and it answers part of your question anyway, I want to stress the relationship that we have with the Ministry of Justice is positive, and there is a good level of access at official and political level. There are regular meetings at officer level as well as ministerial level. Indeed, I will be meeting Lord Wolfson in London next week. I find the Ministry of Justice is always there if we need it.

Secondly, I would like to add that the Ministry of Justice has, in line with the recommendations of this Committee, which I think was back in 2010—

Chair: It was.

Howard Quayle: —stood back a little and allowed our relationship with other parts of Whitehall to grow. This means that by far the most frequent and meaningful contact between our Governments is at departmental level. That has obviously intensified during Brexit and the Covid era. This change has been really fruitful, I know we feel, and my colleagues do, too. We feel that across Whitehall there is now better understanding of the Crown Dependencies than there had been in the past.

My third point to stress is that we want to make sure that we take advantage of the opportunities Brexit has presented. I have mentioned closer working relationships across Whitehall. I want us to keep hold of that. I would not like to progress back to where we had been before Brexit and Covid, with the ability to communicate with Departments. I am very eager for the Isle of Man to be included in the UK's new free trade agreements and that they are open for us to participate in, especially for the first time in services.

My final point, Chair, is to let you know that an election is coming up at the end of this month, and I will be stepping down as Chief Minister of the island and retiring from politics. I had always said that two terms was my limit to sort out the problems and then I would go back to my old life. This will be my last official engagement with this Committee. I will be meeting with other political friends and colleagues for the final time next week. After that election, I am sure that our new Council of Ministers will want to think about the relationship with the UK more broadly and how we can work together to ensure that the close bond between the Isle of Man and the UK continues. With that, I am happy to hand over to my colleagues.

Q3 **Chair:** Thank you very much, Howard. We have appreciated the way in which you have worked with us and the service you have given to the Isle of Man. I am sure we will have more to say at the end of the meeting about that. However, I do understand there is a slightly transitional arrangement at the moment.

Mr Gorst or Deputy Le Tocq, any other comments?

Ian Gorst: Just to reiterate what the Chief Minister of the Isle of Man has said, and I think you picked up, Chair: the most important relationship for Jersey and all the Crown Dependencies is with the United Kingdom and the United Kingdom Government. The constitutional relationship is extremely important, and I think that the engagement we have had that the Chief Minister described throughout Brexit, and then of course through Covid, has been better than probably at any other time for many years.

We went on a transitional arrangement through the signing of the framework agreement in 2007 where the Crown Dependencies were empowered, as it were, by the UK Government to develop their own international personality, even though of course we know, as a matter of international law, the UK is responsible for international affairs and for defence. We have needed to develop that through Brexit as we have built bilateral relationships as well.

The trading relationship, constitutional relationship, and all our cultural and economic links with the United Kingdom remain. That remains the most important link. That is shown by the fact that 95% certainly in Jersey of all our trade is what we consider northbound into the United Kingdom. Therefore, coming into Brexit and signing the new customs arrangement was critically important, because up until then we had this 800-year history built on privileges, protocols and royal charters. We move hopefully into a position where that constitutional relationship continues to be understood, respected and enhanced.

We are grateful of course, Chair, for all the work that you, your Committee and previous Committees have done in enabling that understanding right across Government.

Chair: Thank you.

Deputy Jonathan Le Tocq: I will not say very much more because I agree with what my colleagues have said completely, but, in terms of illustration, Ian and I go back quite a long way in Channel Island Government, and so we have experienced quite different seasons of relationships, and some stresses and strains over the years. Some 10 years ago, as you will remember, Sir Bob, there were problems with resourcing and the understanding, I think, of our constitutional links and the differences between Crown Dependencies and other parts of the British family, shall we say.

That has changed, and I think, particularly with the efforts that have been put in as the change of relationship with the EU occurred, certainly at both official level and at ministerial level, the engagement has been very different in the last few years. It has been busy in volume and, if I can use the word, in the quality of the engagement. There have been major improvements. We would not want to lose those because they have helped us, and I believe they have helped the UK Government as well, not to waste time. Sometimes there was time wasted in the past because we duplicated a lot of things. I think we are in a much better working relationship, but, looking to the future with the need to engage on FTAs, for example, and things, we need to ensure the quality remains there.

Q4 **Chair:** That is helpful. I got the sense that the gatekeeper role, for want of a better phrase, that the MOJ exercised in the past over everything could slow things up, and that is not something you would wish us to retreat into.

Deputy Jonathan Le Tocq: Absolutely, totally there. We have had to, but it has not been as hard as perhaps it would have been in the past. The relationships with DEFRA, and through Covid as well with the Department of Health, have been really essential in representing the smallest of the Dependencies of the Crown. As you know, it is a complex one as well, having three jurisdictions depending what subject we are talking about. It has been much more helpful for us to have better engagement and better pre-knowledge before we need something or before we are being required to give an opinion on something.

Q5 **Chair:** Do I get a sense that there has been a better understanding of the issues now in the relevant service departments, for want of a better phrase?

Deputy Jonathan Le Tocq: Certainly. There is always room for improvement from my angle, but in terms of what I have experienced over the past I would say it is a sea change.

Q6 **Chair:** Are there any areas for improvement?

Ian Gorst: If we just go back to when the Government set up the Department for Exiting the European Union, at that point, there was a quarterly chief ministerial meeting at ministerial level and then at official level. Over the fullness of time we have ended up with, in effect, a weekly contact group, which became a clearing house where relevant

Departments sent officials. With the demise of the Department for Exiting the European Union, that moved into the Cabinet Office, with the Paymaster General chairing that at a ministerial level, but, equally, having good contacts with the Chancellor of the Duchy of Lancaster. Officials have moved on and had that weekly Covid clearing house as well.

For Brexit, that has meant that DEFRA, of course, were right at the forefront of the tricky issues around the Brexit negotiations, and it has a great understanding now.

If you take Covid, the Department of Health has been extremely supportive. Although we have all three taken different approaches to Covid, there has been that linking in and understanding at the Department of Health, which again is facilitated by the Ministry of Justice. What we are saying is that, while the Ministry of Justice has that really strong, important job of facilitation to do, we would like to maintain that engagement and understanding right across the Department, and probably improve it, because we all know, as Ministers change, and as officials change, there is always a chance that we will go back to that old position that your previous report highlighted, where there was not a good understanding of the constitutional relationship.

We know it can be tricky. We are moving now into needing to develop that better understanding with the Department for International Trade, and we started to do that with a visit from Greg Hands only last week in Jersey—

Chair: Yes, I saw that.

Ian Gorst: —which was very positive, but of course it has a big agenda, and, therefore, reaching out to us and consulting us as the constitutional position requires in good time allows us to be supportive of Government policy, and engaged in it, and make sure that we are not a drag on the ticket, as it were.

Q7 **Chair:** The concern has always been, has it not, that you can be so far down the agenda with Departments such that, even if not deliberately, there could be an element of neglect because it is not on the radar screen sufficiently? Is there anything we can do structurally or institutionally that would make sure that does not happen? Hopefully, it does not at the moment, but how do we maintain that?

Howard Quayle: I suppose it is about ensuring that the Ministry of Justice is resourced. It was given extra officers during Brexit and I am sure they will be called back regarding the Crown Dependencies if it is resourced. Obviously, it is not going to win every argument, but it always goes into battle on our behalf—we do not doubt that for one minute—and relationships with it are very good. Against some of the bigger Departments it is maybe not going to win every time, but we know it does its utmost. Ensuring that it is well resourced would be key.

Q8 **Chair:** So we do not want to lose any of that, but, equally, you want to

maintain your ability to have direct access to the relevant policy departments.

Deputy Jonathan Le Tocq: That is where the improvements have really been seen, and to go back on that would be a retrograde step, particularly in light of the international identity framework that was established probably 12 years ago now, or so. The way I would put it, I suppose, is that the Ministry of Justice's role is more in terms of the business-as-usual, day-to-day operational regular activities that we need in our relationship with the Crown; and then, with the other Departments, we need the direct relationship because the UK's relationship, particularly trade, is changing. As to our ability to be briefed and to brief the Paymaster General, for example, in her role in the Cabinet Office, that has been very, very useful indeed for us. It has helped us, I think. Because we are small, we sometimes get requests to turn something around very quickly, which is very difficult to do when you have a team of one, perhaps, doing everything. In Guernsey's case, we have to get Sark and Alderney on board as well. There are still lots of times when that does not happen, but there is a better understanding now that we need as much advance warning as possible.

Q9 **Chair:** That is helpful for us to take away.

Finally from me, do you get a sense in the way things have changed that the UK Government understand that, although of course there are many similarities between the Crown Dependencies, there are also differences—for instance, economic and social differences, different priorities and different sets of challenges? Are we avoiding the risk about which I know we had a concern in the past that everybody gets bundled into one homogenous lump when that is not necessarily how it is? Are the UK Government avoiding that temptation successfully?

Howard Quayle: I think it is improving. The relationship, the ability to go to the likes of DIT, DEFRA, and Health and Social Care—the Isle of Man, for example, has a reciprocal health agreement with the United Kingdom—and therefore that greater freedom to meet the Departments and explain the islands' situations, is certainly improving the situation. I think there is still a significant lack of knowledge in certain areas, but it has really improved of recent. That is why I am very keen to stress again that we do not go back to how it was pre-Covid. It really has improved in recent times.

Q10 **Chair:** May I push you as to what those areas are where there is still a lack of knowledge?

Howard Quayle: We have different constitutional relationships. The Isle of Man has had full VAT—

Q11 **Chair:** I see, it is around those sorts of things rather than anything else.

Howard Quayle: Yes, we tend to work together very well.

Chair: I understand.

Ian Gorst: I should say we work carefully where at all possible at presenting a united position for the Crown Dependencies. We recognise that for big Departments, three islands, or more than three islands if you have Jonathan, coming along and saying, "Well, actually, no, I'm totally different from the other one over there," when broadly we are similar, would be difficult. That is why the technical relationship for officials across Departments is really important because those technicians can deal with those individual nuances. Of course—and I hesitate to mention this—the differences came to the fore in fishing post Brexit, so there are differences, but, largely speaking, we are able to present a position that is beneficial to all three Crown Dependencies therefore working positively with the UK Government.

Deputy Jonathan Le Tocq: That is one of the things that I think has improved. It has forced us, in a good way, to co-operate and to talk far more than we did certainly when I was first elected and served 20 years ago. There was not a lot of contact with the Isle of Man certainly, but even with Jersey that has improved. Where there are areas where we can say, "Well, look, it would be better if we took a united approach on this that doesn't affect our constitutional relationship and perhaps sometimes even enhances it," we will do so. I would say that, if you analyse it, often our objectives are the same, but the means by which we reach them will be different, and there are often diseconomies of scale.

Chair: Understood.

Q12 **Dr Mullan:** You have talked generally about what you might describe as your working relationship with the UK Government. Could you touch more specifically on how well consulted you feel you are when it comes to forthcoming legislation or policy changes that would have ramifications for you? Do you feel you are consulted? What does that look like, and how do they tend to approach it with you?

Howard Quayle: The majority of times we are well consulted. Obviously with some of the Brexit negotiations, especially on fish, it really was last minute, and it was "take it or leave it" sort of thing. But we have to accept that the UK was in major negotiations on the treaty and the fishing element was a last-minute agreement.

On the whole, we are well informed on what is happening, which we appreciate, because the sooner we are told, we can discuss it in our Council of Ministers for the Isle of Man and take it to our Tynwald if there is any legislation that needs to be approved.

On the whole, it is good; it is improving. There are always areas where occasionally you will get thrown at you, as one of my colleagues has mentioned, a day to turn something around, whereas clearly we have to get approval and have various discussions first. We always think the sooner we are involved, the better and then we can turn things around. We have proved with Brexit that we can be trusted to be given information and then we can have everything ready to ensure that we do not hold anything up at the United Kingdom's end.

Q13 **Dr Mullan:** You mentioned that there can be variation. Would that variation emanate from legislation and policy in particular Departments? Are there some that are better at it? Is there X or Y Department always consulting you at the last minute versus other Departments?

Howard Quayle: I would not like to criticise any individual Department. I mentioned fishing because that was really at the last minute. We had been given a narrative and I know from an Isle of Man point of view we were happy with the clause that was being mentioned. We all have slightly different ways of taking our legislation through, and, as I say, the sooner we can get it, the better. We have been trusted with information so that we can go ahead and have our laws drafted and take them through our various Parliaments.

On the whole, I cannot say there is one Department that holds us up. There is good will and significant improvement in relationships now that we have been able to get our officers at the coalface to meet their relevant officers to discuss similar problems so that they can understand where we are coming from.

Q14 **Dr Mullan:** Perhaps I will put it another way: is there a particular Department that is really good at it that we could highlight so that others can see how they approach it and ensure they include you in a timely manner?

Ian Gorst: Could I come in and answer it in a slightly different way? Although one might think it is at a departmental level, it is not necessarily. The reason I say that is because throughout Brexit, because of the fishing, we have had a really good relationship with DEFRA. It has had to understand for us what our previous agreement with the French was and how that would feed into the negotiations. At the negotiation level, we have had great engagement and a good working relationship, so much so that officials were speaking to me at all hours of the night live from the anteroom of the negotiations. You can't get better than that.

Yet at the same time, when it comes to presenting the Fisheries Bill, the same Department just puts in a permissive extent clause without the appropriate respect for the constitutional position, which is that the UK Government would not put in a permissive extent clause without consulting us and us agreeing that it was the way that we wanted to incorporate those international relations within our domestic legislation. Strangely, it is not at a departmental level. We have had long conversations with the Minister about why they approached those things differently. We would still assert the constitutional, correct position, and we will continue to do so. We are grateful, Chair, for your intervention on the floor of the House in that regard.

We have had another permissive extent clause added into the Armed Forces Bill, where we have domestic legislation, and we would contend that the appropriate constitutional position is that the relevant Department would come and talk to us about the amendments that you were making, or it was wanting to make to its legislation, and say, "In

order to align, we think these are changes you might wish to make.” We then say that is easiest done by a permissive extent clause, or we will literally change the Jersey legislation to mirror and give the same effect to what you are trying to do there.

At a technical level, on everyday matters, we could say that Departments are working well. In this legislative way, and I am not sure whether that is arising out of legal advice or it is just obligations that they are wanting to make clear, sometimes it is still falling down.

Deputy Jonathan Le Tocq: May I just add to that? Particularly for Guernsey and Jersey but in Guernsey’s case, if we are talking about flies in the ointment, to a certain degree, the permissive extent clause, particularly in the Fisheries Bill, was more than a fly in the ointment from our perspective. It seemed to go completely against some of the good work that had been done as regards consultation. But we have sometimes had to respond within a week—I think on more than one occasion within a day, and on one occasion within an hour—and for us in Guernsey to be able to do that, with Alderney and Sark as well, because we need to include them, is nigh on impossible. I think we managed to do that on that occasion, which is pretty much miraculous, but the point is that, if that continued, that would be a real problem.

There should be an understanding that in the case of the permissive extent clause, in both Guernsey and Jersey—I think I am right in saying that for Jersey—if either of those particular Acts enacted those PECs, we have a mechanism anyway and it would have to come to our Assemblies. Because of the way in which it has been handled up to now, I cannot guarantee it would go through the Assembly in that way. The simple fact of the matter is that we could legislate domestically, and we have done over many decades and centuries, so it does grate with all the good work that has been done, and is being done, elsewhere.

Q15 **Dr Mullan:** Do you think these occasions are a result of a lack of thought or a lack of planning? Suddenly at the last minute they realise they have not consulted you. Or is it a deliberate strategy on occasions so as not to get into an extended debate with you about something? What would you say it is more?

Deputy Jonathan Le Tocq: I will pre-empt that by saying we are talking about a handful of situations. The PEC was probably a very serious one, where we felt we had made our points clear months before and yet this still happened. That could be for a number of different reasons, but probably near the top of that list would be the feeling that it would be much easier if we just fitted the mould of everybody else. I can sympathise with that, because in Guernsey we have to persuade Alderney and Sark sometimes to do things. They are small island jurisdictions, but they have a long tradition and heritage and constitutional relationship, so we try to do our utmost to respect that. As a result of that, I can sympathise, but, at the same time, that is a constitutional relationship, and I think it should be understood and respected to the uttermost.

Ian Gorst: We might just say that we can put the PECs into one basket, but if we then start to think about the FTAs—I don't know if you are going to ask other questions on that—the consultation has to be meaningful. It cannot just be, "This is what has been negotiated on your behalf. You can take it or leave it." It should be, "What would you like? What are the policy objectives?", much as we did through the Brexit process, to be fair to those negotiators, who did that well.

The Department for International Trade, of course, is under a lot of pressure to sign FTAs as quickly as possible. It has a third party it is having to negotiate with. We have to be careful that the territorial extent, which is the extent to which we would be covered and want to be covered, is not just left to the end, because you potentially end up confusing a third party with a peculiar constitutional arrangement. We think that trying to deal with that up front, or perhaps if there is one approach to territorial extent clauses that can be used right across FTAs, mirrored or largely built on the one that was used in the TCA, might be helpful in ensuring that the problems, some of the timing issues and the difficulties are actually smoothed out, and we do not encounter them going forward.

Chair: Laura Farris.

Q16 **Laura Farris:** I just wanted to ask a few questions about the Covid pandemic. I think I am correct in saying that all of the Crown Dependencies had their own strategies when it came to things like lockdowns and school closures. Am I also right in saying that certainly there was a symbiosis with the British Government on things like vaccines and PPE, but you had your own supply chains when it came to testing? Is that true of all the Crown Dependencies, or were you entirely dependent on the Government for all of that?

Howard Quayle: Obviously, we are very grateful to the United Kingdom for enabling us to have the vaccine, which we have rolled out on a pro rata basis across our populations. In the early days, I know from the Isle of Man's point of view we went into Manchester for our testing regime and then we set up our own system regarding PPE. We would get the general stuff that was easy to get from NHS England for the island, which we paid for. On the Isle of Man we have a reciprocal health agreement. We fund our own. If you were taken ill visiting the Isle of Man, you would get free care, other than getting you back. Neither of us covers repatriation costs; that is up to the individual.

For Covid, regarding PPE, the more significant gowns, masks, aprons, et cetera, which were needed, we sorted it all out ourselves and paid for it ourselves. On the Isle of Man we have a big manufacturing sector—

Q17 **Laura Farris:** Just pausing there, it seems some of the stuff you got from NHS England and some of it you manufactured yourselves. We had a period in the United Kingdom of 18 months of exceptional Government power, with restrictions and rules. To what extent did the Crown Dependencies take their lead on all of that from the Government, and to

what extent were you autonomous? I am not sure how exceptional powers exercised in the United Kingdom would impact on you or whether you would feel at liberty to do exactly what you thought was best.

Howard Quayle: We were at liberty to do exactly what we thought.

Q18 **Laura Farris:** So you could have had have no restrictions at all throughout the pandemic.

Howard Quayle: That is right.

Ian Gorst: Each of us has our own equivalent of a medical officer for health. That is a matter that is dealt with in each Crown Dependency completely autonomously, which is representative of the constitutional position. But, of course, we worked very closely with the Department of Health. Right at the start with PPE, when everybody was scrabbling around for PPE, we were getting some from the NHS, for which we were extremely grateful, and some we were trying to source ourselves. As we got through that early stage, we very much worked with the PPE provision via the NHS. We did our own on-island testing and we procured that ourselves. Then for the vaccination we were absolutely plugged in and aligned with the NHS, and the NHS supplied the vaccinations.

But when it came to on-island decisions about lockdown, about opening or closing schools, about opening or closing borders, we absolutely made those decisions on island, but our medical officers for health of course are plugged into your medical officer for health so there was the sharing of data and expertise.

Q19 **Laura Farris:** On that subject of the sharing of data, was there any relationship between you and the Ministry of Justice? Was there any need for its input? Has any part of your Covid response or Covid experience been guided by it? If so, how?

Ian Gorst: I would not use the word "guided", but I would use the word "supported". They definitely helped with the link into the Department of Health and the securing of PPE. We had the issue of islanders travelling into the UK and therefore finding themselves impacted by the UK's travel restrictions, and it was supporting individual islanders and all those sorts of things. They have liaised across Departments.

Q20 **Laura Farris:** So they provide the conduit for the Crown Dependencies in all your engagement with other Government Departments.

Ian Gorst: That is exactly right. Absolutely.

Q21 **Laura Farris:** My final question: how have you found that relationship during Covid?

Deputy Jonathan Le Tocq: May I come in on that because Ian raised a point and it touches on the last question? Generally speaking, with respect to the Covid pandemic, we have done our own thing because that is appropriate. There has not really been a role for the Ministry of Justice in that. In terms of Guernsey, for example, we have two hospitals: a main hospital on the island of Guernsey and a smaller one in Alderney.

Sark has no national health system of any sort but is dependent. There was all sorts of emergency legislation that came into effect on that point.

Early on, we were in a similar position to everybody scrambling around for PPE and trying to work out what vaccines we needed and how to administer them, but we would do that independently.

Later on, as people began to travel, one of the issues—I will use this as an example—was islanders needing to travel through the UK to get elsewhere and then to come back. On Guernsey, our borders were quite tightly controlled because, for example, if Alderney had a serious case, it would be very difficult for us to manage. We had put very serious restrictions on our borders that were different from the UK's. Some people struggled to come back via the UK if they were coming back from being away, because there was different legislation in the UK that meant they would have to stay in the UK for a while before being able to come back, or buy testing equipment that they would never use because they were transiting through the UK to come back.

It was difficult at that time for us to communicate those problems to the UK Government. We did so through the MOJ, but I think even then they struggled to see that this was a major issue. For a short time, it was a major issue, and it was difficult for us to resolve it. We had several what we thought were simple solutions to it. There were instances like that, but this was a pandemic; it was unique. So it was perhaps not surprising that those issues occurred, and that is an example of it.

Ian Gorst: The MOJ hosted regular meetings with the Department of Health and Social Care for all the islands, especially for the vaccination programme, which was exceptionally good, but we are all agreed with regard to the messaging regarding travel that it could have been better. Sometimes we were finding out via public broadcasts what was going to happen for the United Kingdom, and therefore our people travelling through, rather than finding out beforehand from the relevant channels. But, as I say, I cannot praise the UK NHS enough for its help. It provided the algorithms for us to set up our 111 call centre, for example, and it has provided the vaccine.

On the Isle of Man, along with our colleagues, we shut down totally, and we were the first in the British Isles to open up because we had the ability as a small island surrounded by water. We did things differently. We were open for a lot longer internally on the island, but we looked after ourselves from a cost point of view for PPE and the medicines, although the vaccine was provided by the UK. I would like to thank them again very much for their generosity in enabling us to do that on a pro rata basis.

Ian Gorst: The MOJ helped to facilitate that engagement and those works, and it continues to do so as we face the thorny issue of the UK Government perhaps having vaccine passports to attend nightclubs and big events like that. That is going to impact on island citizens. We are going to need to develop our Covid app even further. They supported us

with QR codes for travellers to France. We personally do not see that we will be introducing a vaccination certificate for islanders to attend events on island, but we recognise other Governments are, so we need to be prepared and have the appropriate facilities for islanders to be able to use as they travel.

Q22 Chair: Thank you very much. We have talked about areas where there might be tensions and difficulties, and we will come back to that. The other area where at one point there was some potential tension was back in 2019 and the suggestion that we attempt to legislate to compel public registers of beneficial ownership. As it is, we know all of the Crown Dependencies have through their own internal processes now committed to exactly that objective, so the policy issue is not perhaps live now, but it was something where Members on both sides of the House argued that, on the basis of the Kilbrandon commission and the general duty of good governance that sat upon the United Kingdom, that there was a case that permitted such legislation. Others of us, myself included, argued that we did not think that was a constitutionally correct position. That was the view the Government took in the end in the distinction between Crown Dependencies as opposed to the Overseas Territories, which was the way the amendments to the Act went. What are the lessons we can learn from that so that we do not get into that sort of situation again?

Howard Quayle: First and foremost, all of the three Crown Dependencies take their international responsibilities very seriously. We were always committed to playing our part, but it was to do it in a way that suited our systems so we could monitor what was happening in the European Union and then come up with our own public registers. Back in 2016 we already had beneficial ownership registers, and we regularly share our information with the United Kingdom Government. That is renewed annually, and each time it has been more than acceptable. I think millions of lines of data are shared with the UK Government. We committed to having a beneficial public register; we would monitor and work with the European Union on the fifth anti-money laundering directive, seeing how it interpreted it and what it considered the way forward would be.

We agreed in 2021 that we would be working with it on coming up with a strategy on our legislation and what it would look like for our register. That is ongoing at this moment in time. Then by the end of 2022, following on from where it had moved forward on its fifth anti-money laundering directive, within 12 months we would then move our legislation. Obviously, there has been this little thing called Covid-19 that has maybe delayed that process, but we are working and more than prepared to have a public register. It was disappointing that some people wanted to force it on us when it was something we were already doing. Our registers clearly showed who owned a company, and if you put down fictitious information you could be struck off, fined or even sent to prison. We had very good data that we shared with the United Kingdom. It was a disappointing part of our history, I suppose, but we have come through it.

Q23 **Chair:** I accept what you all say about what you have actually done within your own systems, but does it perhaps portray something where we need within Parliament and elsewhere to ensure there is a better understanding of what the constitutional relationship is? Well-intentioned colleagues with good motives honestly believed that there was a legal power to act; others of us did not take that view. Can we learn a lesson to avoid those sorts of crossed wires cropping up in the future?

Deputy Jonathan Le Tocq: I think that is a very good point. Personally, I am not against it; in fact, I welcome engagement and discussion. The main reason we were being criticised is that we were being accused of lack of transparency. We would argue—and we did—that our objective is exactly the same: it is transparency. Some were saying the best and most transparent model is to have a register open to the general public. We were saying in our registers we balance transparency with privacy, but at the same time our registers are in real time, whereas many registers, including the one in this country, are only updated once a year. We have complied with all the international standards, and Howard has already mentioned that. With the fifth anti-money laundering directive we are moving in that direction, and we have always done that, but the fact is that we would argue that ours is more transparent when it comes to law enforcement and other international appropriate bodies that have access very quickly, sometimes within a very few hours, to real valuable information that is up to date.

Howard Quayle: Could I clarify a point? Within 24 hours the three of us will provide information to the UK Government. If it is terrorism, it is one hour.

Ian Gorst: It is within one hour. It is a case where our policy objectives are the same: fighting the illicit financing of terrorism and money laundering. It was how we achieved it that was different. We are very respectful of the constitutional relationship, but we recognise, I think as you said, Chair, that it is not always well understood and well known, and we value the argument. We say to Ministers, "If you have an issue, come and talk to us, and let's have a conversation about how it can be solved. First, if it is a real issue and you have evidence of it, then we will have a conversation about how it can be solved and we will resolve it in a way that is respectful of that constitutional relationship."

This was a situation where the UK was largely the only country around the globe that had this public register, which was a self-declaratory register rather than ours, which was undertaken by a regulator. Having said that, of course, with what was happening in Europe, and we commit to following regional and international standards, we were therefore able to hopefully meet the objectives of some UK parliamentarians and of the UK Government, through following a regional standard, which is something that we will always do anyway.

Also, to think about that answer, we were reminding ourselves earlier that the international framework was undertaken back in 2007. That was in a post-Brexit world, so there might be an argument that that could be

used in a modified form in the future to help facilitate that greater constitutional understanding.

Chair: Pre Brexit, not post Brexit.

Ian Gorst: Pre Brexit, yes. Brexit has been going on so long.

Maria Eagle: It seems post Brexit.

Chair: It seems a long time ago. Andy Slaughter, you had a follow-up.

Q24 **Andy Slaughter:** Good afternoon, gentlemen. Notwithstanding what you have said about achieving the same result by different means, do you ever feel that in the way you approach such matters there is an element of cake-ism—of wanting to have your cake and eat it? You talked about your dependency during Covid and other matters, and how you benefit from the relationship with the UK, but you also wish to preserve a sort of exceptionalism where, on anything you wish to, you will do it your own way. Do you see a contradiction there at all?

Ian Gorst: Not at all, because I do not see it as exceptionalism. This is a constitutional relationship that goes back centuries. It is not as if it is sudden. Sometimes there can be a misunderstanding and a belief that the Crown Dependencies or the Channel Islands look like former UK colonies. That is not the case. Certainly Jersey and Guernsey were part of Normandy, and so we have that centuries' long history, which has evolved over time. I think that, actually, our relationship is mutually beneficial. The things that we do in our economy give value up into the United Kingdom's economy. If those services that are provided in Jersey, Guernsey and the Isle of Man were not provided in Jersey, Guernsey and the Isle of Man, they would be provided in a less well-regulated environment, meeting lower standards, somewhere else in the world. Therefore, we think that the benefit that we give to the United Kingdom economy should not be understated, and it is a very positive relationship that we have that has been built over years, but it is built on domestic and fiscal autonomy in the islands.

Deputy Jonathan Le Tocq: If I can add to that, I can understand how it might seem as you describe, but I think what Ian has said, alluding to the historic reasons why islands for many, many years have developed their own culture, not being a colony of the UK, is correct. I often refer jokingly to the fact that if there is any colonisation going on, as my ancestors were fighting on William the Conqueror's side, it is the other way round.

Joking apart, I think it is important because there is a symbiotic benefit to that, and there are costs as well. If you want all the services that you can get in a large city, you will not live in the Channel Islands because it is impossible to do that because of the economies of scale and the cost of living is higher, inevitably. But there are some benefits, and those benefits need to be protected because they come as a result of the fact that we could not defend ourselves. My parents lived through Nazi occupation and were very grateful when Liberation Day came and the British were there to liberate us, but there are vulnerabilities of living in

smaller places where you need a relationship. It can be lots of different sorts of relationships. I accept that. There is a small island just off the south coast of Brittany about the same size as Guernsey, but it has about one-hundredth of the population of Guernsey, because they are not providing those sorts of services.

It costs more for us to do that, but we choose to do that, and we do it in our own way. We achieve the same objectives by going about things slightly differently. To use one example, in terms of regulation, if we had a one-size-fits-all form of regulation imposed on every area, we would not find the people in Guernsey to manage or enforce that sort of operation. You have to look at the objective and say, "How can we achieve the same objective but do it in a slightly different way?", and we manage to do that.

Howard Quayle: May I comment on this? Obviously, the Isle of Man has been part of the UK family for a long time. Our Parliament goes back to 979, so it is 400 or 500 years older than your Parliament. We have economies of scale. I was in Northern Ireland, Wales and England recently visiting factories that are there because the Isle of Man was able to attract the parents to headquarter there. With our small population, we are too small to provide the jobs, and the jobs go around the north of the United Kingdom.

We have our own peculiar situations and set-ups, but we have always worked well with the United Kingdom. We have always tried to play our part. In world war one the Isle of Man had more casualties than anywhere in the British Isles. The Isle of Man has played its part in the British family for a long time. One in 13 people evacuated from Dunkirk was on an Isle of Man steam packet ship. We sent our entire fleet. We have worked and done our best to be part of the United Kingdom family, but we are a small jurisdiction, and we have economies of scale, which our colleagues in Jersey and Guernsey have, too. We do things slightly differently, but always within the international law and working with our friends in the United Kingdom Government.

Chair: Thank you.

Q25 **Angela Crawley:** I do not wish to bring up old wounds, but I would like to ask a question on permissive extent clauses. My question will be directed to Ian and to Jonathan in the first instance. Do you think that the UK Government acted appropriately in proceeding with the inclusion of the permissive extent clause in the Fisheries Act? I know this is quite close to home because it was only last year and obviously that Act was without your agreement. First, would you like to comment, and, secondly, how do you feel these instances could be avoided in the future with respect to constitutional arrangements? Perhaps I will start with Jonathan and then come to Ian.

Deputy Jonathan Le Tocq: Thank you. Forgive me if I repeat some of the things I have had said before but it serves only to underline them.

To speak about process first, it is not that there aren't UK Acts of Parliament with permissive extent clauses applying to the Channel Islands. There are many. This started in the right way, in the sense that we were consulted months before and asked if we wanted to be included in a PEC. We thought about it and said, "No, we can legislate domestically for that as and when it comes to it, and we will consider the issues at stake each time and produce appropriate legislation where necessary." That was all we heard for many months, until a few weeks before the amendment was put in. In terms of process, that left us with a bad feeling of why ask us if the answer is, "We're going to do this anyway"?

On engagement, we felt the reasons given were unreasonable, because it was not a matter that could not be resolved through domestic legislation, and it did not seem to us to be, in this particular instance, such an important, crucial and risky area that required that sort of heavy-handedness. We made that clear. As my colleagues have said already, we were very grateful for those in the Commons and in the Lords when it came to the reading there, who spoke up quite strongly, primarily because, constitutionally, that is not how it has been done in the past. That is basically it.

As I have said before, if it was ever enacted, there would be huge problems in it being registered in our courts. In Guernsey's case, three Assemblies would need to pass it, and that would be quite hard now. I am sure we would still want to have the objective of fulfilling international obligations, but we would do it through our own legislation, and it might well be by the time it came to that we would have done it already and it is totally unnecessary, therefore.

Q26 **Angela Crawley:** Thank you. And Ian?

Ian Gorst: I would merely reiterate what Jonathan has said. We were not pleased about it. We objected to it because it did not respect the constitutional position of consultation and agreement. We did not accept the Minister's rationale for why he had introduced it. We have had conversations with him and with Victoria Prentis, and they have given us undertakings that of course they will consult with us prior to ever getting into the position where they would seek to use it. So that has given us great comfort that it will not be used, but I have no doubt, as Jonathan has indicated, that if there is an international obligation that needs to be met by Jersey or Guernsey, we will meet it, and, if it requires an amendment to our domestic legislation, we will amend it accordingly.

Also, as Jonathan said, sometimes we actually request a PEC from the UK Government for a particularly complicated piece of legislation, which is just easier to deliver through the UK legislation, and that is probably, for example, going to be the case with your new Immigration Act.

Angela Crawley: That is very helpful; thank you.

Q27 **James Daly:** Just for the record, because we have everything in front of us, can you explain what a permissive extent clause is? I know we could

be in for a lengthy discussion, but in a nutshell.

Ian Gorst: In a nutshell, it is a clause in a piece of UK legislation that allows the Minister to request Her Majesty to sign an Order in Council to give effect to that legislation in Jersey, Guernsey or the Isle of Man in the future.

What would then normally happen when an Order in Council is signed is that in Jersey and Guernsey's domestic legislation it requires the Chief Minister to present it into our Parliament for a vote and to be approved, and to be registered in our Royal Courts. You can see if you have already got to a confrontational situation and Her Majesty signs an order in council, and it is dispatched to a territory in Jersey, you are in a situation that you never want to get into.

Q28 **James Daly:** The point is, though, that the UK Government can do that. I know it may not be acceptable to you, but they can do that if they so choose.

Ian Gorst: It is not respectful of the constitutional arrangements. Theoretically, it could be undertaken and an order could be signed, but we would argue it would not actually be given effect to in the Jersey Parliament or registered in the Jersey courts, and, therefore, you can see you would be in a very difficult situation that actually could be avoided, as the Chair said, through having the argument in the first place.

Q29 **Chair:** I understand that, if a piece of legislation is not registered in the Royal Courts in the three jurisdictions, it is not enforceable.

Ian Gorst: No.

Q30 **Chair:** And it would not be regarded as constitutionally valid.

Deputy Jonathan Le Tocq: Absolutely right, and that is a constitutional stand-off that we really want to try to avoid.

Chair: And that is the consultation point we go back to that you are making, which we hope now has been dealt with. That is helpful to explain. It is a different situation than we have, the idea of registering in the Royal Court, but it is a very important part of your constitution, as I understand it. Thank you.

Q31 **Janet Daby:** My questions are about the relationship between the Crown Dependencies, the UK and the EU. You have already mentioned some of these already. How, if at all, do you think the constitutional position of the Crown Dependencies has changed as a result of the UK's departure from the EU? Perhaps we can start with you, Howard.

Howard Quayle: I do not really think it has changed. The Isle of Man and Jersey and Guernsey were never members of the European Union. We complied with the rules, but we got no money out of it and we put no money in. We complied to enable the freedoms that we had: the freedoms of people, manufactured goods, fishing and agriculture. To an extent, that has continued now. I know the previous question was more to do with Jersey and Guernsey, and we have a slightly different

constitutional relationship, but in this area, historically, and from a geographical position, we still have good friendships with Ireland, and that relationship will be maintained throughout this, and going forward.

We do not feel on the Isle of Man that it has changed. We were enabled to get the freedoms of movement, agriculture, fishing and manufactured goods. Those were the key elements for us. We were able to renegotiate our current VAT agreement with the UK through the European Union just to the UK going forward. We do not think it has altered our relationship with the European Union, which was through the UK anyway, or our constitutional relationship with the United Kingdom, from an Isle of Man point of view.

Q32 **Chair:** Any difference of view, gentlemen, from either of you?

Janet Daby: Yes.

Deputy Jonathan Le Tocq: I completely agree with Howard, in the sense that protocol 3 of the UK's accession to the Treaty of Rome meant that we were not members of the European Union. Protocol 3 was primarily put in place to maintain the constitutional relationship we had with the UK, and the ability to trade, particularly. At that time, most of the trade from Guernsey and Jersey would have been horticultural and agricultural products. That changed over time. The TCA has kept in place, to a large degree, the elements of protocol 3 that were in place before, but obviously there are cultural effects to the TCA in comparison to being members that are the same for the rest of the UK. We have British citizenship and certain rights, although if you had parents and grandparents who were born in the Channel Islands your passport was stamped with something to say you had no right of abode in the rest of the EU. That has gone, so we are all in the same boat effectively.

Other than that, we have good regional relationships with France, and I think they are better than they have been for a number of years. Strangely, from my perspective, the process of Brexit has forced us, even in the sticky situation of fisheries, to get closer to our French cousins, which is something that I am very grateful for.

Ian Gorst: I do not disagree with what my colleagues have said. Over the years, we have had to build a bilateral relationship with Europe anyway because we were only in for goods, as they said, even though we were not members. For things like data protection we had to show ourselves to have an adequacy certificate; and for various things about aircraft flying over Jersey and Guernsey we have had to show that we are compliant and reach the standards there. There are all sorts of areas where we have to have this bilateral relationship. That will need to be maintained even though now everything that has been negotiated has to go through this rather convoluted process of Jersey, Guernsey and Isle of Man, to London, London to Brussels, and then down to the regions or the Government in Paris.

As we said earlier, the most important thing was maintaining a customs arrangement with the UK, which is what we did through the customs agreement. I do not think that the constitutional relationship has changed. There is always the danger, which we have been touching on throughout this conversation, of perhaps either people in Brussels or people here in London just thinking one size fits all from a constitutional perspective. That is something we have to be mindful of and guard against going forward.

Chair: Thank you.

Q33 **Andy Slaughter:** Could you say a little bit about the process of negotiating the trade and co-operation agreement? You were not actually parties; you were not at the table to do that. So how did that actually work—that you could ensure by proxy that your views were represented?

Ian Gorst: We set out with an aligned policy objective as the three Crown Dependencies, which we represented to the UK Government. We had ministerial-level meetings and we had those official-level meetings at the contact group, but the reality was that officials were having to speak to UK officials who had been in the negotiating room on the particular issues that were arising and then feed back to us. We would make decisions in fairly real time. That would be fed back. We would agree together with UK Ministers and officials what we thought was a reasonable negotiating mandate that could be delivered; they would then feed back. There was quite a lot of to-ing and fro-ing in real time, just as there was right across all the Government Departments here in London.

Howard Quayle: We had a very good relationship at the time with Robin Walker, who at the time was the three Crown Dependencies' representative in DExEU. That was coupled with officers having face-to-face communication with our various concerns, because, just like Scotland, Northern Ireland and Wales, we could not all sit round the table and say, "This is what is going to happen," but we were able to feed in our concerns about what we thought would be a good outcome for our respective jurisdictions, and I am very pleased with the level of contribution. That is where things have improved. As I said in my opening statement, we do not want to go back to—I am not saying—the bad old days, but things have significantly improved and it is really important that we keep that momentum going forward.

Deputy Jonathan Le Tocq: The process for negotiating the TCA was very clear from the outset and a good one, certainly from our perspective in Guernsey, to use for the future, because early on, before even engagement in negotiations between the UK and the EU, there was a scoping out of what the issues were for us, chapter by chapter, and indeed a framework was created, if you like, that respected the constitutional relationship. Although there were some very short timeframes, and I referred to them before, to make decisions, because we had advance warning of scoping of where the issues would be, we could make those decisions fairly quickly.

I think that framework, if I can add to your question really, would be a good one to use—I do not know if we are going to get to talk about the future FTAs—because that was really helpful for us. In other words, there was an understanding of a framework that was put to the EU saying, “This is how we are going to treat the Crown Dependencies because this respects their rights,” in the same way that countries like France would do with its smaller territories and things like that, which meant that, although there were pinch points and there were and still remain some issues, we knew full well what they were. We identified where they would be, and we were ready when the time came to make those decisions. From my point of view, that is the best you can wish for in this brave new world that we are in. I think the TCA process, while it was heavy going in places and certainly time-consuming, was done to the best it could have been done to our advantage.

Andy Slaughter: Thank you; that is helpful.

Q34 **Maria Eagle:** What would you all say are the main legacy issues that still exist as a consequence of the UK’s exit from the EU? There may be some fisheries issues that some of you might want to mention at this point. It would be interesting to hear how that is going after the earlier gunboat diplomacy.

Ian Gorst: May I start with one other legacy issue, which is the border operating models? Of course, the UK no longer being in the EU, there is a requirement for SPS checks at the border. Jersey and Guernsey need to introduce that new operating model and we have not yet agreed with DEFRA what is going to be an appropriate model. Again, it comes down to economies of scale, and not needing to replicate everything that a larger country might have as long as you have the equivalence of outcomes, so you know the checks are being undertaken and you know that the standards are being maintained.

That is an ongoing legacy issue, but you are right: the main one remains fisheries and an understanding really across both sides about what was agreed. That is around the licences that need to be issued, and that is around the nature and extent of what previous fishing was. It is respecting historic fishing rights, while recognising that, in Jersey’s case, it is now the issuing authority for the licences. The TCA is quite clear that that is the case and that it should make the decisions around those licences, and there is not just an automatic transition from what was the previous agreement to the new agreement.

It was extremely difficult when we thought we had made progress in issuing licences earlier this year. We are grateful for the support of the British Government, from the Prime Minister down. We don’t ever want to get into that situation again. We want to work carefully through what are some quite technical details and data to ensure that the licences that we issue respect those historic fishing rights but are no more and no less. Those conversations are happening in a perhaps more positively engaged way than they were prior to May, but in Jersey we still do not have all of the data we need in order to issue the relevant licences, so we continue

to have those conversations up through Brussels. But they are happening, and we continue to push for the relevant data so that we can issue the licences in line with the TCA. We have issued an extended amnesty until the end of this month. We have been really encouraging all parties to make sure that data is delivered so that those licences can be issued.

Deputy Jonathan Le Tocq: In terms of Guernsey, all I can add to what Ian has said is that we took a slightly different approach initially. Knowing that we would not be able to, or guessing that we would not be able to be at a point where we would have all the data in place to be able to put a new licensing regime in place quickly, we decided on an interim regime, which we have rolled out month by month and will continue to do so if necessary until the end of the year, awaiting the correct and full data so that we can operate the new regime.

I have to say personally that the frustration in all of this for me is the number of different levels. Putting it frankly, I am pretty confident that if we could just sit down with our Norman cousins, for example, we would come up with a solution very quickly, but, of course, legally we cannot do that, so they are working through Paris and Brussels and we are working through London to do that. We are very grateful for the help we have had from DEFRA. I am not complaining about that at all. But this is frustrating for us, because the longer it goes on, the more tension there is in our fishing communities. In Guernsey's case, with Alderney and Sark, they are quite small, but if they lose their fishing communities, a lot of their identity, culture and tourism is massively affected by that. Although it is a minute part of our economy overall in the Bailiwick of Guernsey, it is a very important part, and we want to ensure that the rights that we have managed to achieve, particularly landing rights of their catches into the French market, remain, and that the right type of fishing, sustainable for the future, happens in our waters, which in Guernsey's case is the biggest amount of seas around the Bailiwick of Guernsey compared with anywhere else. We have to be careful, but that is the frustration, to be honest.

Q35 **Maria Eagle:** We will come back to the Isle of Man because I guess the transitional issues might be slightly different, but I just want to ask a further question on the fisheries issue. You have until the end of the month and you have until the end of the year. Given that the relationships are not yours but are, as you have described, frustratingly, through others, who perhaps have a slightly more soured relationship over Brexit, do you really think those timescales are going to be met, or are you concerned that there are going to be ongoing issues, beyond your transitional arrangements, beyond your interim arrangements and beyond your one month, which seems like quite a short timescale given the extent of the problems?

Deputy Jonathan Le Tocq: We are concerned in Guernsey, and I will speak for Guernsey first, but particularly for Alderney and Sark because obviously we are speaking on their behalf. Anything that affects them, as I said before, will be very detrimental. The longer it goes on, the more

difficult it is. We are trying to maintain good, lower-level relationships with fishing communities along the Normandy coast, for example—in our case it is more Normandy than Brittany, but it involves Brittany as well—and at a regional level and département level in France as well, so that there is at least an understanding of what our intents are and there are no surprises. But it does need to end at some point and come to a conclusion.

Ian Gorst: I understand entirely that, for us, it is now a very tight timescale, but we need to push to get the relevant information to issue the licences. I get the feeling that the fishing community in Jersey has been frustrated for months, but the fishing community in France as well just wants it resolved. It does not necessarily want the time to be continually pushed out. It wants to know what its future is: is it going to get a licence; does it meet the criteria? This is why we have been encouraging them, through official channels, to provide the information, because once that information is provided, we think we can issue a good number of licences pretty speedily. In extremis, we will have to consider whether we can get that done. It is still too early to say whether we can quite get it done in the timescale that we have set ourselves, but we really hope we can.

Q36 **Maria Eagle:** Mr Quayle, back to my original question about legacy issues, are there any legacy issues of the UK's exit from the EU that particularly concern or affect you on the Isle of Man?

Howard Quayle: Only in a much smaller way compared with Jersey and Guernsey, due to our geographical location and the number of boats fishing in our waters. There were some from the European Union, but they were in the tens rather than the hundreds. We still have not received any list whatsoever from the European Union as to which vessels will have the right, or they claim will have the right, to fish in our waters. Jersey and Guernsey have a problem where they would have smaller boats in their waters that would not have the automatic tracking devices that can prove that they were in your waters, whereas the Isle of Man is quite a long journey from Europe, bar southern Ireland, and, therefore, some of the boats fishing in our waters would have a clear history and be able to prove it. To date, we have not received any notification of the boats claiming to have fished in our waters.

Regarding our borders and the flights direct from France, we do not have that problem obviously—a little bit from southern Ireland but as part of the common travel area and therefore it is slightly different. From this point of view, the legacy issues are considerably smaller than my colleagues in Jersey and Guernsey are experiencing.

Q37 **James Daly:** My colleagues were asking you questions regarding the future, which I think we need to talk about going forward, but, very briefly, your joint letter mentions the resource implications of maintaining good relations post EU exit for the UK Government. Have these been raised with the MOJ? Could you talk about the cost implications?

Deputy Jonathan Le Tocq: I am happy to lead on that. Yes, first, they have as far as Guernsey is concerned. Some of that relates to the fact that we are in this brave new world of opportunity, of new free trade agreements emerging, but also, linked to that, a number of other, more complex regulatory situations, which, going back to issues we have all talked about beforehand, could have potential negative effects on us. In the equation there might be some disbenefits. While there might be some opportunities for new trade, the other side might say, "Overall, this is going to cost us too much to apply the sorts of regulation that would be required for that sort of agreement to take place."

My staff, for example, has doubled through this process. That in itself is indicative of the fact that we are having to work harder. In Guernsey everybody is a "jack of all trades", and you have to do multiple things anyway, but it is because the world is more complicated. We accept that, but I think some of the resource challenges might be helped by the sorts of approaches, as I alluded to before, where if we had a framework for negotiating whatever it might be, not just trade agreements, there might be other types of agreements that could be negotiated, where the constitutional piece was clearly in place beforehand and we did not have to do that every time. At the moment we are sort of having to go through the same issues again. That is—

Q38 **James Daly:** I think I asked the question the wrong way. How can the UK Government help you with those conversations and outcomes that you need?

Deputy Jonathan Le Tocq: Okay. That would be a useful thing. If we could have an acceptance in future agreements, "This is the constitutional framework in which we negotiate," that they can take to whomever that particular agreement is being negotiated with, we would know how to scope out where we have interests and where we have not.

Q39 **James Daly:** If you want to speak about financial services, going to the MOJ within Government is not really your first port of call, I would have thought. One thing that comes out to me during this conversation with the three of you is your interests and what the relationships are based on. I am still not clear who you pick up the phone to actually speak to and get decisions and how you influence, but I think that is probably a bigger discussion that we could have. My perception is that you need more clarity in terms of the constitutional relationships and the frameworks as to how these discussions can take place. For us as a Committee that has oversight or scrutiny of those relationships with the MOJ, it would be helpful to us as well. Would that be—

Deputy Jonathan Le Tocq: I will finish on that and then perhaps Ian would like to say some things. Yes, basically that is a very good point, and I think the MOJ does a great job, but we need broader contact now. If the processes were in a framework position to begin with, it would save a lot of time. At the same time we recognise that, because it is a more complicated world, we need to be present more than we were in the past. In my 20 years, we never used to have an office in Brussels or offices in

France and travel as much—although we have not been doing a lot of that in the last 18 months. That is necessary, and we accept that fully, and that costs us more. But there are other things that would be useful for both the UK Government and for us.

Ian Gorst: Perhaps what we are arguing for, as your colleague referred to it, is cake-ism. What we are really saying is that the extra resource that has been in the Ministry of Justice throughout the period of Brexit and largely Covid we think has worked really well for us. It has meant that there has been better understanding right across Government and greater engagement.

Q40 **James Daly:** It is hard for this Committee to scrutinise telephone calls, if you understand what I mean, and I do not think the lack of clarity in terms of these relationships helps. It is not your fault at all, gentlemen, but I think we could take something forward perhaps as a recommendation to Government.

Deputy Jonathan Le Tocq: At one time, one of the issues was the changeover of staffing. That has been resolved, I think, but, as Ian alluded to, we know that the extra resource put in towards Brexit has been removed. There are two things. One is the resource issue, but there is the process issue as well. There are some areas where we could improve on that.

At a slightly different tangent, with the MOJ particularly, Guernsey is very interested and for a number years now has resolved as a result of an investigation committee to move towards a process for Royal Assent on legislation that is more akin to the Isle of Man's existing one. We still have not got there. That would save a lot of time all round, and I do not think it would add in terms of risk.

Howard Quayle: The MOJ is a facilitator with other Departments and that is where we have really seen a good improvement. Before, we would go with a problem and it would go off and fix it. Sometimes, because we are at the coalface of our problems, it is so much better that a negotiator, a facilitator, or whatever, enables us to get on with other Departments.

I will give an example from a costing point of view. We are running a dual health service at the moment. We have gone from a traditional NHS model. I went off to Christchurch to look at the Canterbury model. Sir Jonathan Michael has done a new early intervention system. But we are having to run the two systems at the same time, which is an additional cost for us, but we will be able to switch off the old model once the new system has bedded in.

I would put it to you that, while Brexit has happened, it is an unsettling period for a couple of years. Once the new system is bedded in, perhaps some of those additional positions could be switched off, but we cannot switch them off the minute it is over when you have free trade agreements and we are looking for a narrative, a text, to be inserted into any deal going forward. We are trying to negotiate a deal retrospectively

for small jurisdictions. At the end of the day, the United Kingdom is a major world player and we have to concede that we are Crown Dependencies. It is hard to get someone to renegotiate a treaty because we were not included in it from day one, but with just a little bit more work and resources it would make a significant saving for all in the long term.

Q41 James Daly: May I ask one very brief question? Again, we could be here for hours talking about this, so I apologise, gentlemen, for asking you to be a little more concise than probably we need.

I think it was you, Jonathan, who said that your relationship with France in particular has improved. Forgive me—this is my ignorance when I said this. When you talked about the new terms of free trade, you said, “Legally we are not able to speak with the European Union.” I may have misunderstood that, I am sorry, but I have just written down here, “Legally we can’t do that.” Looking at it constitutionally, if it is an FTA or any type of foreign policy or international policy, is it that you do not subcontract but the British Government negotiate on your behalf and therefore the relationship is with the British Government, or is it that you—because certainly there must be some contact; you have offices in France and Belgium—are not allowed legally to speak directly to the French Government or the EU about these things?

Deputy Jonathan Le Tocq: The fact is that we have been given entrustment, which is the official term for it, to negotiate in certain circumstances. Guernsey has negotiated on its own behalf because it has entrustment from the Crown to do so on tax information exchange agreements, double taxation agreements, and more recently we have negotiated—it is a first but we have done it—a social security agreement with Latvia, because we have a lot of Latvians working in Guernsey, and that has worked very well. Certainly the Bailiwick of Guernsey would like to extend that entrustment because that would help us, not in every area, but there are certain things where small jurisdictions do have this ability. So far as I understand it, the Faroe Islands’ relationship with Denmark is very similar to the Crown Dependencies’ relationship with the UK, and they have that ability. I do not think it is impossible to do that, but that would speak to some of what you are talking about.

The fact is that at the moment I suppose what we have been arguing with regards to future trade agreements is for a PEC—a permissive extent clause—to be effectively there whenever a new trade agreement comes in that respects the existing framework, so that in the future we can move fairly quickly; otherwise, in the situation that Howard was referring to, if afterwards we have to get the UK and whichever other jurisdiction to renegotiate on our part, that is going to be very hard to do and it is going to be a long time coming.

Ian Gorst: Could we just clarify this, though? With regard to the TECA, because the two sovereign parties to the agreement are the United Kingdom and the European Union, when it comes to exchanging information about fishing, for example, in order for us as the competent

authority to issue the licences, there is a formal process envisaged and prescribed in that agreement that is between the two state parties and therefore it has to flow through that convoluted process when it comes to the TECA. But when it comes to services—as Jonathan said, we have our own office in Brussels—we will go and talk to Commissioners and perm reps about other things that are outside the trade agreement, and of course they ask about fishing as well, so we have that bilateral relationship.

When it comes to formal agreements, which Jonathan has also touched on, obviously international treaties per se are for sovereign states, but the UK Government have entrusted us previously on a universal basis to sign tax information exchange agreements, sometimes double taxation agreements, and we are just starting to enter into bilateral investment treaties. They have been happening on a case-by-case basis. It comes back to the resource again. We could be entrusted on a more universal basis with a model agreement that we have already had the conversation with the UK about, so that we can just go off and do those, but because the UK is the sovereign state it still has to review the agreement before it is ultimately signed and brought into force.

James Daly: That is very helpful; thank you.

Q42 **Chair:** That is very helpful. Back in 2014, I know our Committee recommended that the MOJ and the Crown Dependencies explore greater use of letters of entrustment as a mechanism. Does that remain the position that you would welcome the UK adopting?

Howard Quayle: Yes, very much.

Q43 **Chair:** Are there particular areas where you would like us to be saying to the UK Government, “Here are areas,” perhaps in the global form that Ian suggested, or in other specifics where we could be looking to see greater use of letters of entrustment? Are there particular topics or particular areas you can think of?

Howard Quayle: Services and free trade agreements.

Q44 **Chair:** Services in particular.

Deputy Jonathan Le Tocq: All the services. We have history in that. In terms of the EU in the past, as Ian has said, we have had to bilaterally negotiate our rights for access to markets, and we have done that.

Q45 **Chair:** Services and trade agreements you think and perhaps in terms of a model agreement to be rolled over across the lot.

Deputy Jonathan Le Tocq: Yes.

Q46 **Chair:** What has been the response of your UK counterparties to that suggestion so far?

Ian Gorst: I think the reality, of course, is that most UK Government Departments have been so busy with Brexit and Covid that they have not been able to give it the time for ultimate consideration. It is fair to say

that getting the entrustments for the bilateral investment treaties has been exceptionally slow. We are now starting to make some progress, but we could deal with that slowness by more universal entrustment documentation, because we have previously agreed what the model agreement would look like.

Q47 **Chair:** That is a constitutional document in a sense in a more universal form, so one would look to the MOJ to be the lead on that.

Ian Gorst: Yes, because of the nature of it, as James suggested, it has to be Treasury involvement, plus Department for International Trade involvement, and of course the Foreign Office is concerned about its obligations as well.

Q48 **Chair:** In terms of your case being made to the British Government, you as the Crown Dependencies would like to have this facility.

Ian Gorst: Yes.

Q49 **Chair:** That seems to be the MOJ as facilitator, representative of your interests role.

Howard Quayle: I think, Chair, there is broad agreement with the Departments for this to happen for the Crown Dependencies, but we have already missed out on Japan, Australia and New Zealand. These have been going for a while and we do not want to see that happen going forward. We would like to draw a line under it and say, going forward, there is a narrative, a text, that we can all agree to include the Crown Dependencies.

Q50 **Chair:** It is also the area where some of the British Overseas Territories have a concern.

Deputy Jonathan Le Tocq: Yes, it is.

Chair: Notwithstanding the normal provisions of article 29 of Lisbon where you say it covers the entire territorial extent, unless otherwise, but it does not seem to in this. Thank you; that is very helpful. If you want to come back with anything more around that in any more detail, I am sure the Committee would be interested to see what we can put before the Ministry in relation to that. Thank you very much.

Q51 **Rob Butler:** I was actually going to talk to you quite a lot about future free trade agreements and relationships with the Department for International Trade, but we have covered that fairly comprehensively already in various parts of the session. So, to avoid any repetition, is there anything that any of you would like to add on the specifics of the relationship with the Department for International Trade specifically, at the risk of treading on a different Select Committee's remit, with or without the facilitation of the MOJ?

Ian Gorst: I think we would reiterate what we said—that a more universal territorial extent might work and save them time, because we are conscious of the time issue for them. We have a very good working relationship with Greg Hands. It is really about timing. It is coming back

to this consultation in advance rather than just, "This is what we have negotiated. What do you think about it?", so that we can support his work and his team's work as well. As I said, he visited Jersey last week and I think he has a very good understanding of what our policy aims would be in the work that he and the Department are doing.

Chair: That is very helpful.

Q52 **Miss Dines:** Thank you for coming along, gentlemen. We know it has been a trip for you. What are the Government doing to enhance your growing international profile?

Ian Gorst: Shall I go first? We, certainly, as three Crown Dependencies have believed in the concept of global Britain, perhaps long before it was a concept in this place. We have been going around to prospective markets and marketing Jersey, Guernsey and the Isle of Man—in its case—as part of the British family, and we have the attributes that you would market as being part of the British family. We find that embassies, high commissions and Department for International Trade officials on the ground around the globe are very supportive of our work and facilitate introductions not only at governmental level but commercial level as well. So we are very much plugged into that particular piece of work.

Q53 **Miss Dines:** What about involvement in international debating fora, in a wider sense, not just trade?

Deputy Jonathan Le Tocq: That is an area where I think there could be improvement, but there certainly has been, from Guernsey's perspective, from zero, to a position now where we get invited, particularly through the Commonwealth. So far as Guernsey is concerned, and I am thinking particularly of Alderney, there is some bespoke industry that has perhaps existing connections but would like to expand on that. In Guernsey's case, for example, we have a health medical digital manufacturing industry that we were not really aware of before Brexit, but it has come to the fore. There are opportunities there, and, as a result, it would be good for us to be able to support it more and to see potential growth, which would benefit the British family even more, because it is almost inevitable.

For example, and I am not trying to advertise here, Specsavers is headquartered in Guernsey, but of course it is everywhere across the UK and many other countries. That is the benefit, I think, of being able to do things that are innovative. Very often, we have entrepreneurs who have an idea. There are all sorts of reasons why they can headquarter in Jersey and franchise out, as in the case of Specsavers and others. Yes, there is more that can be done there. How we go about doing that I am not sure, but I am glad that it seems to be on the increase that we are being invited into fora and into opportunities for future trade.

Howard Quayle: From an Isle of Man point of view, we took part in a project a while back where we were showing products and we provided a watch. The Isle of Man is famous for two very well-known watchmakers, one dead, but innovative designs. The lens that was taking photographs

on the Mars Rover was made on the Isle of Man. There is the Hadron Collider and the International Space Station. We have specialist parts and, going forward, this is an area where we see that more promotion can be done. We have the new, innovative ideas and small set-ups, which then grow and we can expand into the north with jobs. As I say, our size does not allow us to do that, so more marketing of our products as part of the British family will help from the manufacturing side certainly.

Ian Gorst: May I come back very briefly? You are right to raise that issue. One of the areas where we have been seeking to help and plug in is COP 26 and all the net-zero carbon initiatives we have on island. For us, of course, being finance centres, we think that we can work with the UK Government on green finance and the way that that can support those environmental objectives. We have not perhaps made as much progress in that regard as we would have liked.

Q54 **Miss Dines:** Are the Government doing enough to bring you on board?

Ian Gorst: I think we would like to make more progress in that regard, yes.

Q55 **Chair:** Again, any specifics as to where?

Ian Gorst: In Glasgow.

Q56 **Chair:** Up in Glasgow. You would like a bigger involvement in COP, basically.

Deputy Jonathan Le Tocq: We have made that pretty clear, I think, but it would be good to see some movement in that area.

Q57 **James Daly:** May I ask one question? I thought what you said, Jonathan, and all of you, was quite exciting. We should not underplay what you said in respect of your role as a financial centre, bringing not multinational but big companies in, and potentially playing a role in the north of England, potentially transforming and impacting the economy in the north of England. We have come here to discuss the constitutional relationship, but there are some very real relationships we need to encourage in terms of regeneration, economic advancement and job creation, where all three of your Dependencies are very much integral to our financial future.

Deputy Jonathan Le Tocq: Yes, you could be employed as our salesman, I think. All three of us have virtually no unemployment problems, but we could and we are already involved. The first green fund was established in Guernsey, and that is doing brilliantly. Showcasing that and exploring the opportunities for extending the benefits of that elsewhere is something that we need help with.

Howard Quayle: We are spending nearly £14 million on a new ferry terminal in Liverpool. We spend nearly £30 million in the north-west on healthcare every year and £10 million on education, mainly around the north of England. Our aeronautical sector employs lots of people off island as well.

Chair: I understand that. It has been a very comprehensive session, I hope. I am conscious too, of course, that there will be some occasions where the priorities of the Crown Dependencies—some or all of them or some mixture—may be somewhat different from those of the UK when it is negotiating these international matters. In 2014, our Committee maintained that there was a duty on the Government to ensure that that divergence or difference of view is reflected in negotiations. Has that proved a problem thus far in practice? Are you satisfied that your views have been adequately represented, or is there a risk of them being subsumed into what was the broad UK agenda—the duty being done to you that one might argue they owe you?

Deputy Jonathan Le Tocq: I will go back to what we said at the beginning. It is better than it was, certainly from a few years ago. We are very small and we understand that it is difficult, politically and at official level, to understand what the differences might be. It is difficult, but there is certainly room for improvement on that.

The areas in which we differ from the UK are minor in comparison but they are often important. We have touched on fisheries. It is a good example of it, and it is important that we have a different approach. I think DEFRA has largely got that when it came to negotiating on our behalf.

Chair: Gentlemen, thank you all very much for your time and your trouble. We very much appreciate you coming to London to speak to us. It is always good to see all of you, and we look forward to dealing with certainly two of you in the future as we go forward in these matters.

I would say a personal thanks from me for the warm relations that we have had over the time that you have been Chief Minister, and for the very warm, frank and cordial relations that you have had with this Committee when we have been carrying out our scrutiny tasks. We want to pay tribute to the service that you have given to the Isle of Man. It is a high level of public service and I am sure that your fellow country people in the Isle of Man appreciate and recognise that. We do.

Howard Quayle: Thank you very much, Bob, for those kind words. We have had a good working relationship over the years. I thank the Committee members for taking an interest in the Crown Dependencies. I believe that, working together, we can enhance the offering of the UK family going forward, not as a hindrance but as a help. Being small, we can be nimble and agile and innovative, and we can attract businesses to help them grow and when they grow they expand. Working together, we can move forward, and therefore working with you has been a real privilege and a pleasure, and I will miss this element of it.

Chair: Thank you very much. We will miss that too, Howard. We wish all good fortune to you and your family for the future. This session is concluded.