

Public Administration and Constitutional Affairs Committee

Oral evidence: [Devolution and Exiting the EU, HC 484](#)

Monday 5 February 2018, Cardiff

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[Watch the meeting](#)

Members present: Mr Bernard Jenkin (Chair); Ronnie Cowan; Paul Flynn; Dame Cheryl Gillan; Kelvin Hopkins; Dr Rupa Huq; Mr David Jones; Sandy Martin.

Questions 185 - 359

Witnesses

I: Rt Hon Carwyn Jones AM, First Minister of Wales, Leader of Welsh Labour; Shan Morgan, Permanent Secretary, Head of the Welsh Civil Service; and Piers Bisson, Director for European Transition in the Welsh Government.

II: Andrew RT Davies AM, Leader of Welsh Conservatives; and Jane Dodds, Leader of Welsh Liberal Democrats.

III: Elin Jones AM, Presiding Officer, National Assembly for Wales; Manon Antoniazzi, Clerk and Chief Executive, National Assembly for Wales; and Mick Antoniw AM, Chair, Constitutional and Legislative Affairs Committee, National Assembly for Wales.

IIII: Dr Jo Hunt, Reader in Law, Cardiff University; and Dr Elin Royles, Senior Lecturer, Aberystwyth University

Written evidence from witnesses:

– [Elin Jones AM](#)

Examination of Witnesses

Witnesses: Carwyn Jones, Shan Morgan and Piers Bisson.

Chair: I welcome the Welsh First Minister and the Permanent Secretary of the Welsh Government to this special session in the Welsh Parliament on inter-institutional relations within the United Kingdom. I ask you to identify yourselves formally for the record.

Carwyn Jones: Carwyn Jones, First Minister of Wales.

Shan Morgan: Shan Morgan, Permanent Secretary for the Welsh Government.

Piers Bisson: Piers Bisson, Director for European Transition in the Welsh Government.

Q185 **Chair:** Thank you for being with us as well, Mr Bisson. We have a lot to rattle through and then a train to catch so if we can keep the questions short and the answers equally short we will get through, and I would be very grateful for that. If it carries on a bit, I shall have to push you on.

I remember the last time we came you did not feel you were getting your quality time with the Prime Minister of the United Kingdom, First Minister. You made your frustration very clear. How often have you spoken to the present Prime Minister and seen her? How are those relations with the Prime Minister now?

Carwyn Jones: We have had two phone calls since 2016 and we have met five times. We have not met for some time. The meetings have generally been with the First Secretary of State rather than with the Prime Minister. They have been more fruitful meetings in terms of delving into the detail and, of course, there have been regular meetings of the JMC(EN), which have looked at issues such as common frameworks and how we move forward more generally.

Q186 **Chair:** How does this compare with previous Prime Ministers?

Carwyn Jones: It is not as good.

Q187 **Chair:** It is not as good—so it has got worse?

Carwyn Jones: Yes, in terms of frequency and what the meetings are about. There was much more engagement with the previous Prime Minister—much more debate, much more of an understanding of where he stood on issues. We would often discuss issues, we would often disagree but at least we knew where we stood. In terms of the quality of the discussions within those meetings, it is certainly not as good as it was previously.

Q188 **Chair:** We have just had a change of First Secretary of State. When did you first meet David Lidington?



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Carwyn Jones: Last week, in person, in his current role, with a phone call about two weeks previous to that. It was a very good meeting, I have to say. With his predecessor Damian Green, those meetings became better as time wore on. The meeting last week was certainly very useful and we discussed a number of issues.

Q189 **Chair:** What exactly has been the topic of the discussions?

Carwyn Jones: Clause 11 features very strongly in those discussions. Frameworks are being looked at for areas such as agriculture and fisheries and, most pressing at the moment, there is the need for amendments in the Lords to the withdrawal Bill to ensure that I am in a position to recommend a legislative consent motion to the Assembly.

Chair: We will come on to that. Thank you very much. Cheryl Gillan.

Q190 **Dame Cheryl Gillan:** Carwyn, first of all it is really good to see you again.

Carwyn Jones: Yes, welcome back.

Dame Cheryl Gillan: Thank you so much for hosting us here. I feel as if it is coming home in a funny sort of way.

Just to press you a bit on ministerial and intergovernmental relations: how often have you been meeting with the First Minister of Scotland? I appreciate that at the moment Northern Ireland is a bit of a hiatus.

Carwyn Jones: I have not met personally with the First Minister of Scotland since August. I have had phone calls since then. There is day-to-day contact between officials and there has been more regular contact between Mark Drakeford, the Cabinet Secretary for Finance, and his equivalent in Scotland, Mike Russell.

Q191 **Dame Cheryl Gillan:** Would you say over the period of time that you have been First Minister that you are having less contact or more contact with the Scottish Government and Parliament?

Carwyn Jones: It is about the same. On this issue, of course, we face similar challenges in terms of clause 11 but in terms of my personal contact with my colleague in Scotland, Nicola Sturgeon, it is about the same.

Q192 **Dame Cheryl Gillan:** You have not increased the frequency of your contacts specifically during this period where we are considering Brexit?

Carwyn Jones: No, because the day-to-day machinery has been the responsibility of Mark Drakeford and Mike Russell and they have been involved in more meetings together. Indeed, because they represent the respective Governments in the JMC(EN) the content has tended to be between them and reporting back to us.

Q193 **Dame Cheryl Gillan:** Does that flow through to officials as well? Are you having increased contacts with the Scottish Government?



Carwyn Jones: If I could ask Piers to perhaps come in on this.

Piers Bisson: Absolutely. On a range of issues related to the European position and the UK's exit from the EU, that gives rise for new areas to discuss with Scottish Government officials and then with UK Government. Both in support of the JMC arrangements and also in bilateral contact, we have had probably quite a lot of contact with Scottish Government counterparts and there is quite a wide range of areas of common interest.

Q194 **Dame Cheryl Gillan:** At Permanent Secretary level, are you having a similar experience as well?

Shan Morgan: Yes, across the whole of the Welsh Government we are putting a lot of energy and, frankly, scarce resources into engaging constructively. There are four sets of engagement. First, my own. There is a monthly meeting of devolved Administration Permanent Secretaries with DExEU. I always attend that with key staff. I have a weekly one-to-one meeting with Philip Rycroft, the head of DExEU, and there is Jeremy Heywood's weekly meeting of all Permanent Secretaries.

The second big block is the EU transition team, represented here by Piers. They engage directly with DExEU and Cabinet Office on policy, strategic and constitutional matters. They have been responsible for producing policy papers that set out the Welsh Government position, which have been very well received. There is general acknowledgement that they are strongly evidence-based so they have had, I believe, quite a lot of impact.

The third block of activity is individual Welsh Government Departments. Brexit policy and operational impact has been mainstreamed across the Welsh Government and individual officials from each Department have very regular direct contact with their counterparts in the UK Government and it is they who have been taking part in these deep dives.

Finally, the fourth block I would mention is our small Brussels office where the staff obviously have regular engagement with UKRep colleagues.

On the quality of the engagement I would say it has been severely constrained by limited transparency on detail but it has been very positive in certain areas. I would highlight the development of UK frameworks at the formal agreement on principles for frameworks. I think that was a big step forward. We hope very much that that shows that we will engage very constructively and build trust.

Dame Cheryl Gillan: Thank you very much indeed. I appreciate that, thank you.

Q195 **Mr David Jones:** Good morning, First Minister. I understand that the Welsh Government has submitted a Continuity Bill to the Presiding Officer. Could you explain the purpose of the Bill and how it is proposed it would work?



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Carwyn Jones: There are two objectives to the Bill: first of all to ensure that the law continues to function, of course, following the UK's withdrawal from the EU but, secondly, to ensure that it is the Assembly and Welsh Ministers who are responsible for taking the necessary legislative steps in relation to EU law in Wales where those steps are about devolved matters. Just to be clear, that is not our preferred way forward. We would prefer to be in a position where there are agreed amendments to the laws that protect the devolution settlement but, of course, the Continuity Bill is something that we have to hold in reserve if that situation does not arise.

Q196 **Mr David Jones:** Could you explain how the Bill would work in practice?

Carwyn Jones: What it would do is ensure that EU law, as it currently applies, will continue to apply but it would also ensure that, where powers return in devolved areas from Brussels, they return here. That is a step we have to take in order to preserve the devolution settlement. But as I said earlier on, that is not a preferred option; we would prefer to be in a position where we have agreed amendments between the Governments in the laws that would then deal with the issue.

Q197 **Mr David Jones:** Have you shared a draft of the Bill with the British Government?

Carwyn Jones: No, the Bill has been shared with the Presiding Officer but, of course, the Presiding Officer has not yet made his determination on the Bill as to whether it is within competence and so now would not be the appropriate time to share that Bill.

Q198 **Mr David Jones:** Do you anticipate that such a Bill would put you on a collision course constitutionally with the British Government?

Carwyn Jones: "Collision course", I think, is a strong phrase. I would certainly put us in a very different position but then we are already. What we want to do is get to a position where that is avoided, where we can agree amendments, and we know the Prime Minister herself has said there will be amendments. I want to get to a position where I can recommend a legislative competence consent motion order to the Assembly but we are not yet in that position. It certainly is not the case that we are looking for reasons to try to block the Bill, far from it. We want to get to a position where that LCM can be passed.

Q199 **Mr David Jones:** At the moment, if the Bill currently before the Lords proceeds it would be, I would have thought, incompatible with the legislation that you are proposing.

Carwyn Jones: Yes, it would. We are already in a position where there is disagreement over what should happen with devolved powers when they return from Brussels. The difficulty is this: as things stand, I would have to stand up in the Assembly and ask the Assembly to approve a situation where powers that would otherwise come to the Assembly should be diverted to Whitehall for an indefinite period.



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Clearly, no UK Prime Minister would do that in the UK Parliament and there is no way I can do that here, as the Chairman has said, in the Welsh Parliament. I want to be in a position where I can say to the Assembly, our position is protected, the devolution settlement is protected therefore there is no reason now why a LCM cannot be approved.

Q200 Mr David Jones: How encouraging was your last meeting with the First Secretary of State?

Carwyn Jones: It was good. There are open discussions, there are issues that still need to be resolved, but I think it is possible to get to a position where those issues are resolved. We are not there yet but welcome the commitment the UK Government has given. What we do not want to see is a situation where legislative consent is refused both in Wales and Scotland and then overridden at Westminster. That is a position of conflict and not one that I would seek or want to see. I would rather see this resolved through Lords amendments.

Q201 Mr David Jones: You acknowledge that the United Kingdom Parliament has the power constitutionally to override any legislation that the Assembly were to bring forward?

Carwyn Jones: Yes, it does but that would be wholly undemocratic. It is legally correct, of course it is. You have to remember that the devolution settlement here was approved not by one but by two referendums and the people in Wales in 2011 gave their very strong support for primary powers to come to this place without the restrictions that are there in the current EU (Withdrawal) Bill. It is hugely important that the democratic mandates of previous referendums are respected in the same way as the mandate in the Brexit referendum should be respected.

Q202 Mr David Jones: But, of course, the Government of Wales Act does reserve the competence to the United Kingdom Parliament. Isn't there inherently the seed of constitutional conflict as a consequence of what you are proposing?

Carwyn Jones: Not at all. Our argument is this. At the moment, if we look at agriculture, everything pretty much is either controlled from Brussels or from Cardiff. There is no involvement or very little involvement from Whitehall. This would mean that in a situation where powers that would naturally flow constitutionally back here to the people of Wales would be prevented from doing so. That is a recipe for conflict and one that we should seek to avoid.

There is also an inherent conflict in some areas that are not resolved without agreement. I will give you an example. Fisheries quotas are allocated, of course, at European level. We will be in a situation potentially where DEFRA would allocate the fishing quotas to the four nations of the UK but DEFRA is also the English Department. So how could we have confidence that DEFRA would not skew the quotas in order to help England. I am not saying that is what they would do but certainly



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that is an inherent conflict that needs to be resolved. The way to resolve that is to be in a position where issues such as quotas, such as the distribution of agricultural subsidies, are discussed and agreed between Administrations. I think that helps to avoid conflict and to ensure the UK remains in harmony.

Mr David Jones: We will be discussing issues such as that later in this session.

Q203 **Chair:** If I could pick up on one thing. The expectation is that DEFRA becomes something of a UK Department because obviously it takes on responsibilities for the whole of the UK. The question is how do we provide assurance and make sure Wales has a voice in the way that Department exercises its functions.

Carwyn Jones: There is an inherent conflict because DEFRA is also the English Department in agriculture and in fisheries. It would have to resolve—

Q204 **Chair:** The Home Office has some UK responsibilities—anti-terrorism, for example—but is very much an English Department, isn't it? It is possible to spread—

Carwyn Jones: No, it is not—it is an England and Wales Department, the Home Office pretty much. If we look at devolved areas such as agriculture, such as fisheries, the UK pretty much does not exist; everything is either devolved or it is run at a European level. How do we then get to a position where we resolve the inherent conflict that exists where a department in Whitehall is both the British Department and the English Department? How can there be reassurance, for example, that there will be fair dealing in terms of quotas. We do not know, for example, how agricultural subsidies will be—

Chair: Your concern is very clear.

Carwyn Jones: So that is the difficulty.

Q205 **Paul Flynn:** Isn't the greatest danger to Wales the collision that is likely to take place, is taking place, between two wings of the Government at the moment and the lack of clarity stems from that—whether we get a hard Brexit or a soft Brexit? When Michael Gove spoke at Oxford, he did not mention Wales; he mentioned "The Archers" frequently in his speech and he mentioned the continuation of subsidies in England. Do you think the fit-all United Kingdom recipe that is given for agriculture is going to lead to anything but disaster for Welsh agriculture if you are exposed to international competition?

Carwyn Jones: There is a need for there to be an agreed set of rules across the UK in order to preserve the UK's internal single market, we know that. That is an objective we share with the UK Government. The difference is that we see the current withdrawal Bill as imposing those rules whereas we believe those rules should be agreed. That inherent



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conflict has not been resolved. It is hugely important that we move to a consensual model as far as the UK is concerned.

Agricultural subsidies are a case in point. At the moment we receive something like £260 million in subsidies from the European pot. Our question is what happens to them. We don't know. The easiest solution is for the UK Government to set aside a sum of money equivalent to what the UK gets now and for that money to be distributed in the way that is now. In other words, we end up with the same amount of money. That should remain until the agreement as to how that might change in the future. Otherwise we end up in a situation where there is a great danger that money will be distributed via Barnett, in which case we get an enormous cut of something between two-thirds and three-quarters of the agricultural budget in Wales. That has not yet been resolved either.

To me, agricultural funding will have to be held in a separate pot and dealt with in a different way. Farmers would not want to see a situation where health and education is competing for money that would otherwise go to farming. But these issues need to be resolved and then the mechanism needs to be in place to ensure that, when and if there needs to be a change in that funding allocation, it is agreed.

Q206 **Paul Flynn:** What would be the effect on the Welsh steel industry if it is exposed to full competition with China?

Carwyn Jones: It would suffer very greatly. I am not a believer in free trade agreements being the panacea for everything. There is merit in having a free trade agreement with an economy that has a similar income level as your own, because the temptation isn't then there for jobs to move into the economy with cheaper wage rates. However, a free trade agreement with China that would allow the flow of Chinese steel into Wales would destroy the Welsh steel industry.

Q207 **Chair:** But you accept that the DIT is a UK Department?

Carwyn Jones: I do and trade is reserved; that does not mean I do not have a view. In a similar way if a trade deal with New Zealand, a small economy, led to a greater amount of New Zealand lamb coming in, that would also badly affect the Welsh agriculture industry.

Q208 **Chair:** How could we conduct free trade agreements as the United Kingdom, with other countries, without agriculture being in the mix?

Carwyn Jones: Then we must accept that our agriculture industry will be decimated.

Q209 **Chair:** That is making an assumption that we throw open the doors. I do not think that will happen, but agriculture is usually a crucial component of a free trade deal. How would you imagine that Wales, Scotland and Northern Ireland would be engaged in agreeing or being involved with the construction of such trade deals?



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Carwyn Jones: Through consultation. I don't argue that we should have a veto on trade deals—it is a reserved area, and that is fine—but I think it is hugely important that there should be consultation because there are some nations and regions in the UK that would be adversely affected, particularly adversely affected, by trade deals with certain economies and certain countries.

Q210 **Mr David Jones:** Just briefly, First Minister, you have indicated that you are not wholly averse to free trade agreements with suitable countries. Which countries would you regard as suitable?

Carwyn Jones: The European single market.

Q211 **Mr David Jones:** Apart from that?

Carwyn Jones: That cannot be ignored. The European single market is a market where 60% of our exports go, where 90% of our food and drink exports go, which we are—

Chair: We take that as read; he was asking about other countries.

Mr David Jones: I was asking about other economies.

Carwyn Jones: I do not believe it is possible to have a free trade agreement that works unless we have an agreement with our closest, most important market.

Q212 **Mr David Jones:** I appreciate that but you indicated that you are not wholly averse to free trade agreements with suitable economies. Are you saying, therefore, that you only regard the European Union as a suitable economy with which you wish to have a free trade relationship?

Carwyn Jones: Not at all. I would be more than happy to see free trade relationships with other countries that did not adversely affect the economy of Wales or the UK.

Q213 **Mr David Jones:** Could you give me examples, please?

Carwyn Jones: Much of it depends on what the agreement might look like, of course. The US is a market, of course, that people would want to see barriers removed from. That is one market. People talk of India and China; tread carefully because of the great difference in income levels and that is hugely important. I do not believe that the UK is in any position to agree a free trade agreement with any other economy or country unless it can get right its situation with its biggest and most important market.

Q214 **Mr David Jones:** You have indicated that you would rule out New Zealand. What about Australia, Canada?

Carwyn Jones: Fine, but they are no replacement for Europe. They are very small economies compared to the European Union.

Q215 **Dr Rupa Huq:** I want to come back again to the Continuity Bill. As far as we were told last night—we have already had meetings yesterday—it is



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more of a race than a collision course, in that it has to clear its stages here before the EU (Withdrawal) Bill. I think you have said that your Government does not want a Continuity Bill, that ideally the UK Government should amend the EU (Withdrawal) Bill. What do you think of the amendments that are done? Have you seen those? Would any of those do it for you?

Carwyn Jones: They are not yet sufficient. At the heart of this is clause 11; it is not exclusively clause 11 but there has to be a series of amendments that are agreed on clause 11 that can give us the comfort that we need. We are not there yet.

Q216 **Chair:** What specifically do you want the amendments to achieve?

Carwyn Jones: For example, what the amendments do is effectively impose a conferred powers model with regard to European issues and European powers. It inverts the devolution model that Scotland already has and Wales soon will have.

What we suggest is that instead of having a model that says, "European issues are reserved to the UK Government except those issues that are specifically devolved", invert it to say, "All European issues are specifically devolved except where certain issues are reserved". I think that preserves the devolution settlements.

There is a question then as to what should be reserved but we know that there will be some areas where there will need to be a common agreement within the UK. The concern is the UK Government take the view that somehow if we have these powers we will immediately try and do something that will jeopardise the internal market of the UK. Why would we do that?

I am somebody who has consistently and strongly argued for us to be participants in the single market. I can hardly then argue that we should not do the same the UK's internal single market. What we have said is, let the powers come to rest where they should; agreement should be in place not to use those powers until such time as we have agreement to do it across the whole of the UK.

Dr Rupa Huq: That is what you would like to see on the face of the Bill and then you could recommend legislative consent.

Q217 **Chair:** In the European Union, without any treaty changes and as things develop, more and more competencies are drawn into the European Union from the member states. If an international agreement is made, for example, whatever is in the competence of that agreement automatically becomes an exclusive competence of the European Union. Would you be happy that under your proposal there would, in fact, be potential for powers to slide back up to the UK level on the same basis as they do in the European Union?



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Carwyn Jones: Only where there is agreement and only to my mind where there is a need to protect the integrity of the UK's own internal single market. But the key is that this is done by agreement and not by what we would see as imposition.

Q218 **Chair:** That would give Wales a veto over, say, an international trade agreement, just as Wallonia nearly vetoed the CETA deal. You would want Wales to be in the same position?

Carwyn Jones: No, as I said before, I do not see a veto but a consultation as something that we would want.

Q219 **Chair:** But there would have to be agreement? If agreement is required then you have a veto.

Carwyn Jones: No; "consultation" is the word I would use.

Chair: Consultation, right, okay. I think that is very reasonable and this is very helpful, thank you very much. Moving on.

Q220 **Dame Cheryl Gillan:** Basically what you are asking for is a seat at a table with the rest of the Governments of the United Kingdom to ensure that whatever we arrive at is in the best interests of the whole of the United Kingdom, including Wales?

Carwyn Jones: Yes.

Q221 **Dame Cheryl Gillan:** That is not really rocket science, is it?

Carwyn Jones: No—I entirely agree.

Q222 **Ronnie Cowan:** I am worried and I am wondering what the contact is between the civil service, the Welsh Government and the UK Government—not just the frequency of that contact, but the quality of it and how productive it has been. I am also curious: are you playing out scenarios behind closed doors that say if the Welsh Government gets control of, for example, agriculture that is what we can then do with it? Or is that off the table until the politicians get their act together?

Shan Morgan: I would say the engagement so far is constructive but it is still at an early stage, still quite high level. We have been going through these deep dives that you will have heard about. There has been one on agriculture and we are expecting more to follow. At this stage they are just looking at the broad scope for each subject and identifying where we can co-operate, as well as looking at where there might be a need for underpinning legislation. The process has been constructive so far but it is still at an early stage. Of course we need to resolve the situation on the EU (Withdrawal) Bill that cuts across the devolved settlements.

Q223 **Ronnie Cowan:** That is what I am worried about. If we wait for politicians to sort this out—I have lost count, we are 470, 460 days away from Brexit now and we have already wasted 580, 590 so politicians so far have not done their job. Is the civil service looking at this and saying,



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"Planning ahead, post EU, this is a possibility of what we could do if we are given that power"?

Shan Morgan: Definitely. That is what my staff spend a lot of time doing, and I spend a lot of time doing that. I mentioned the direct contacts I have when I am up in London. We have put a huge amount of energy into this, preparing for different situations. There are areas that concern us more than others obviously. Issues like agriculture, fisheries, the environment, have required a great deal of resource but there is a huge effort going on to make sure that colleagues across the whole of government understand Welsh interests.

Q224 **Ronnie Cowan:** I am not quite sure you answered my question there. Maybe I missed it. Going into the Brexit election, the EU actual referendum, we had a very vague idea of what Brexit actually meant. Are we now in a situation where we have a better understanding of what Brexit means and have we played out scenarios to say, "If we got all of agriculture, if we got all of fishing, that is what we could do with it"?

Carwyn Jones: The difficulty is that the referendum in 2016 asked people to vote for a concept and people have interpreted that result according to their own beliefs. Some will argue that it is a vote to leave the customs union for hard Brexit; others disagree. There is no evidence either way as to what people voted for. When we had our referendums here people could, if they wished, look at a document that explained what would happen as a consequence of how they voted. That is part of the difficulty here. It is a difficulty for all parties. How do you interpret a vote for a concept in a way that you believe will get the support of most of the people? Discuss. Nobody can possibly know the answer to that question.

In terms of what thought have we given to what we might do with agriculture and fisheries, it all depends on the financial settlement, of course. It is one thing to have the powers; it is another thing to have the money. From our perspective there are differences in agricultural policy between the different nations of the UK. There needs to be; agriculture is different in the different countries. That has worked very well. But, of course, there has to be a set of rules within which everybody operates.

One of the areas which is not yet resolved to my mind is, if we get to a situation where the UK is no longer bound by EU state aid rules what are the rules? There are no rules. I do not want to be in a position where there are no state aid rules in the UK, attractive though it might be to say, "Wouldn't it be marvellous to throw money at Bristol to attract jobs in Bristol?" The biggest wins in that situation, so there have to be rules in place.

The next question then is, who makes the rules, how are they agreed, and how are they policed? Clearly, we would need to have a body that would police the rules. To my mind, it would need to be a court, in the same way as the European single market, and indeed in EFTA. The



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Supreme Court could do it, but there has to be an independent adjudicator of those rules that is independent of all governments.

Q225 **Ronnie Cowan:** The bad news is that there are 417 days left until Brexit.

Chair: You have made the point.

Carwyn Jones: Yes. Time is short.

Q226 **Kelvin Hopkins:** This is one for Shan Morgan again. You touched on some areas where I think the phrase is, "Deep dive work has been done", particularly agriculture. Agriculture: I would like to talk about that a bit further because, First Minister, you suggested that free trade was not a panacea. Would it not be wise to go even further than that and say agriculture is an area where protectionism would be right? Norway protects its agriculture very strongly indeed, and without protection it would just die. One of the reasons why the Norwegians are so strongly in favour of that degree of independence is because they can protect their agriculture and indeed their fishing. That is one question, and if I can build another one into that—

Chair: Let us have that one first.

Carwyn Jones: I do not know of a single economy or country that does not try to protect agriculture, because of the emotional attachment that the people have to the land, even though they may live in cities, and I do not know of a single country or a single free trade agreement where a country has volunteered the death of its agricultural industry in order to achieve that agreement.

Q227 **Kelvin Hopkins:** Indeed. When we are out of the CAP and we can reallocate agricultural subsidies, is it not possible that we could allocate it away from those very wealthy, large farmers, mostly in England—the Duke of Devonshire, for example—and spend a bit more on supporting and sustaining Welsh hill farming and sheep? That would be a sensible thing to do, would it not?

Carwyn Jones: We do it already, to an extent. Our system here is very, very different. There are two things we need to guard against. First, an attempt to skew the market against certain goods, which is why we need rules, which is why we need state aid rules. We would not want a situation, for example, where one country decided to oversubsidise its produce to make that produce cheaper within the UK at everyone else's expense, and that is something we would need to guard against.

Secondly, of course, ensuring the ability of farmers to be able to move goods around the UK. England is a very big market for us. Of course it is. We need to ensure that access to the market of the UK is as unfettered as it is now.

Q228 **Kelvin Hopkins:** Again, it occurs to me that we could subsidise our own agriculture for strategic reasons, for cultural reasons, for all sorts of reasons, but we could also buy some of the cheap surpluses from what



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remained from the EU, because it is sometimes selling off surpluses at knockdown prices outside its own market—not to the advantage of some African countries, but we could buy some of that and do very well out of it.

Carwyn Jones: I am not sure that happens now. It certainly used to happen, but the issue of oil production has been dealt with. Certainly, at one point, farmers were paid to produce as much as possible, which is why we had all the glut that we had, and the Welsh sheep flock was far bigger than it should have been, but a quarter of the production, I would say, was not needed. Now we have a far more market-focused sector in Welsh sheep meat—it is the same in beef, the same in dairy—than was the case before.

Yes, from my perspective, agricultural payments are there not just as an economic payment but as a social and cultural payment as well. Effectively, farmers receive the money and they act as conduits for that money to be spent in and around the community, so they are rural subsidies, in effect, that happen to have farmers as the conduits.

Q229 **Mr David Jones:** First Minister, there has been quite a bit of discussion historically about the issue of whether there should be a separate Welsh jurisdiction. Of course, it is currently part of the conjoined England and Wales jurisdiction. Do you foresee that the departure of Wales from the European Union with the rest of the UK is likely to have any impact upon that particular argument in the future?

Carwyn Jones: No, I do not. I think this is an issue that is separate from Brexit.

Mr David Jones: Thank you.

Q230 **Dame Cheryl Gillan:** I have looked at your proposals for a UK Council of Ministers. Would you care to explain them for the Committee's benefit?

Carwyn Jones: Yes. Instead of having the JMC, which is working better than it was, but you will know yourself that JMC Plenary was basically a forum that came and complained at each other. It did not have any particular use beyond that, which I regret. I think there is a huge—

Q231 **Dame Cheryl Gillan:** Hang on. We did get the transport stuff Barnettised from the Olympics.

Carwyn Jones: We did. That was a hangover, of course, from a different Government. Yes, we did do that, but it was rare. You know this yourself. It was not a particularly constructive structure, and we have an opportunity to have something more constructive now. A Council of Ministers where we can deal with issues such as agriculture, such as fisheries, on a common UK basis and come to agreements. There is a precedent for this. It is not as extraordinary as it may sound.

Many years ago, when I was Secretary for Agriculture and Rural Development, as the title had it then, every month the four Ministers



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would meet in London and we would agree the position for the coming European Council of Ministers meeting, and it worked very well. There is a precedent there for it, and we were from different parties. It was not something that could not be done despite those differences. If it was good enough then, to my mind, it is good enough now, and it can be expanded now to a situation where these issues can be discussed and agreed.

Q232 Sandy Martin: You talk about how it worked when there was agreement, but how would it work when there was not agreement? It is very difficult to see how a Council of Ministers, where you have three Ministers representing 15% of the population and one Minister representing 85% of the population, would be able to disagree without one party overriding the other three parties.

Carwyn Jones: We have suggested a voting system that would overcome that, recognising the size of England. For example, you might say it is England plus one. These are not views we have canvassed with the Scottish Government in terms of getting their agreement, but there are ways around this in terms of having a voting system that recognises the size of England. Would it be right to have a situation where the sheer size of England is ignored? No, it would not be, but there are ways around that.

Q233 Dame Cheryl Gillan: Surely there is a constitutional anomaly here because, ultimately, the UK Parliament is sovereign, and that is part of the reasons we are leaving the European Union. Isn't there always going to be some sort of conflict with the structure that you are proposing, unless there are further agreements between the four nations?

Carwyn Jones: I am unconvinced that the sovereignty of the UK Parliament is the way forward. Is this as radical as it seems? Does it mean federalism? No, because the English question is a big question. What do you do with a country that is so large? Canada has a system of pool sovereignty, and it works very well, and it is a very stable country. In reality, despite the fact that the legal situation is that Parliament can override anything, politically, it would be very difficult to do that. In fairness, no attempt has been made to do that over the past 19 years in any event.

Do we have to move to that model in order for a Council of Ministers to work? No. It is not essential. A Council of Ministers could work just as well in terms of establishing conventions that would then be followed.

Q234 Dame Cheryl Gillan: That was essentially what we were trying to do with the Cabinet Sub-committee that had a Minister in each Department that was responsible for liaising so that there was some sort of co-ordination back in the days when I was occupying a seat. For me, it is quite a tricky thing to give birth to because we almost have to get the Ministers together and show that it works before anybody will accept a formalisation of the structures that you are proposing.



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Carwyn Jones: I see no reason why it cannot work. It works at European level. It works in other countries. There is no reason why it cannot work, and it did work very well, of course, in terms of the example that I have just given.

Q235 **Dame Cheryl Gillan:** What about the other areas of devolution in England? Of course, now we have huge powers going to London and to Manchester and to other areas. Have you thought how that would figure?

Carwyn Jones: That would be a matter for us, but we, of course, have the city deals. We are looking at how we can create a similar structure in the north-east of Wales, working with the northern powerhouse, economically of course. Political borders do not follow economic reality. We know that.

There is a case for devolving powers further to the appropriate structures. It is making sure those structures are the right structures in order for those powers to be devolved.

Q236 **Dame Cheryl Gillan:** How would you envisage the scrutiny of it? I am delighted we are having this meeting because this is really constructive and it is on the initiative of our Chairman here. How would you see parliamentary scrutiny, whether it is Welsh or Scottish or Westminster?

Carwyn Jones: That is the issue that we are wrestling with at the moment. What kind of structure could we put in place that is sufficiently accountable both to local electors and also accountable to the Assembly itself? I do not believe that is something that should hold us back in terms of looking at how we can create regional hubs within Wales.

Q237 **Dame Cheryl Gillan:** Is active work happening on that at the moment? Is there anything you can share with us as a Committee?

Carwyn Jones: Yes. That work is ongoing. I will ask the Cabinet Secretary to write with further information on that.

Dame Cheryl Gillan: Thank you.

Q238 **Chair:** Do you envisage scrutiny to be a joint enterprise between the United Kingdom Parliament and the Welsh Assembly, or would it be—

Carwyn Jones: These are devolved matters.

Q239 **Chair:** Even where JMC is dealing with joint frameworks, for example?

Carwyn Jones: I do not think this would be an issue that we would call up in joint frameworks. These are issues that are wholly within devolved areas that are issues for each separate Government.

Q240 **Dame Cheryl Gillan:** Can I just press? Would you not see, for example, a Committee such as this having MPs sitting alongside MSPs and Assembly Members, which is what I had in my mind's eye? The point is we are all elected representatives; we all have a common interest. We are accountable to our individual parliaments and our electorates, but



surely there must be something where we can sit MSPs, AMs and MPs alongside each other to scrutinise.

Carwyn Jones: Scrutinise what, though?

Q241 **Dame Cheryl Gillan:** How the inter-governmental bodies go, the Council of Ministers operate.

Carwyn Jones: I see. In theory, I do not see a problem for that. That would be a matter, of course, for the legislatures to resolve.

Q242 **Dame Cheryl Gillan:** There should really be no barrier. We are all elected representatives and we all have a common interest. It would be quite an interesting concept.

Carwyn Jones: In terms of the different Parliaments scrutinising the work of the different Governments, where those Governments are involved in inter-governmental machinery, in theory, I cannot see why that would be a difficulty.

Q243 **Mr David Jones:** Just pursuing that last point further, you mentioned the northern powerhouse, which of course is of great interest to Members of Parliament and Assembly Members from north Wales. Would you agree that the absence of cross-border structures is holding back both north Wales and the north-west of England in terms of maximising the benefit of the northern powerhouse initiative?

Carwyn Jones: We have the Mersey Dee Alliance, of course, that is a cross-border initiative.

Q244 **Mr David Jones:** That is an ad hoc arrangement, isn't it?

Carwyn Jones: It is. There is no reason, in theory, why there cannot be a structure put in place to enable cross-border co-operation. That was everywhere else in Europe, so there is no reason why it should not happen here.

Q245 **Mr David Jones:** I remember that Elizabeth Haywood a few years ago proposed such cross-border structures. Is that something that you personally would support?

Carwyn Jones: In theory, yes. We would have to see how those structures would work. Who, for example, would represent the English side? It is easier in Wales, but it is more difficult then in terms of working out who would represent England, maybe local authorities. Would there be an input from the UK Government? These are issues that would need to be resolving, but they are not beyond resolution.

Q246 **Mr David Jones:** Would your Administration be supportive of the notion of devolving competence to a north Wales entity in order to participate in these cross-border structures?

Carwyn Jones: Given the right structure, it is something that we would be prepared to look at.



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Q247 **Mr David Jones:** Thank you for that. The Welsh Assembly Government has argued that it now has a legitimate interest in a range of reserved policy areas that impact upon Wales. You have suggested that inter-government institutions should be extended to other areas that are not necessarily within the devolved competence of the Assembly. What areas would you envisage these to be?

Carwyn Jones: Trade is one area. I think it is important to have, as Cheryl Gillan has put it, a seat at the table in order to make sure that the interests of Wales are represented as part of those discussions. As I say, we do not seek a veto but we do seek consultation.

Q248 **Mr David Jones:** Are there any other areas, apart from trade, where you feel that it would be helpful?

Carwyn Jones: This is ongoing work. We have to see what kind of Brexit we end up with next year and in the years beyond that in order to see whether there is a need for more consultation. I cannot see that there will be any objection from the UK Government to putting in place a system of consultation in areas that are reserved.

Mr David Jones: Thank you.

Q249 **Kelvin Hopkins:** First Minister, what more can be done to build and develop trust and mutual respect between the Governments and legislatures in the United Kingdom? Are there models elsewhere that might be useful to look at?

Carwyn Jones: The UK is unique in the sense that it is not a unitary state but it is not federal either. It sits somewhere between the two. In terms of relations between the legislatures, those relationships—as somebody who is sitting in Government—are not as strong as they might be.

In terms of the relationships between Governments, it is a Council of Ministers, and that kind of structure would certainly help in terms of facilitating that. I would say of the British-Irish Council and the JMC, the British-Irish Council is a forum—it does not do much beyond that—and the JMC has been a forum where much could have been done with it, but it tends to be, as I say, a sounding board for complaints. We could go well beyond that and set up a structure where there is genuine discussion and genuine agreement on the way forward across the UK.

Q250 **Kelvin Hopkins:** Have things been improving a bit in recent years, particularly since the 2011 referendum and more power going to the Welsh Assembly and so on? Does that mean a bit more respect?

Carwyn Jones: What is missing is a proper trilateral—and, we hope, quadrilateral in time, with Northern Ireland—structure where these discussions can take place. The JMC Plenary meets once a year. That clearly is not enough. Yes, it is true to say that there are other Committees of the JMC that meet more frequently, but in reality I sit down with the Prime Minister, the First Minister of Scotland and, in the



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past, the First Minister and Deputy First Minister of Ireland once a year. I do not think that is enough. We need to make sure that the meetings are more frequent than that.

Q251 **Kelvin Hopkins:** You do not have the tensions as with perhaps Scotland with this MP, my colleague, Ronnie Cowan, here, and Northern Ireland, for obvious other reasons. There are problems, in a sense, more tensions there, than there are between Wales and England and Wales and the United Kingdom. Is that fair?

Carwyn Jones: What sort of tensions do you mean?

Q252 **Kelvin Hopkins:** There are many people in Scotland who still want to be independent, and the governing party is an independence party.

Carwyn Jones: That is not a factor in Welsh Parliament.

Q253 **Kelvin Hopkins:** You do not have that?

Carwyn Jones: No.

Q254 **Dr Rupa Huq:** I wanted to ask, as a fellow Labour comrade, where the party or party relations in general fit into all these different hierarchies and structures. Relationships, inter-governmental relations, and how party politics fit into this.

Carwyn Jones: The relationship is very good with both Jeremy Corbyn and Keir Starmer.

Q255 **Dr Rupa Huq:** Do you meet with them regularly in the same way that you do with the First Secretary and that kind of thing?

Carwyn Jones: More regularly.

Q256 **Dr Rupa Huq:** More regularly. Good. Are there tensions within the Labour Party? Our party has different wings as well, and also, in Wales, different bits of it voted differently.

Carwyn Jones: There are no tensions within the Labour Party as well. There are different viewpoints.

Q257 **Dr Rupa Huq:** I think it fell to me to ask where—

Carwyn Jones: There are different viewpoints. Of course there are. The thing about Brexit is that party lines become very blurred, to my mind, in terms of people's approaches to what the UK should do once it leaves the EU. My view is we should be in the Customs Union and have full and unfettered access to the single market. You can debate whether you can be a member of a market or not. I do not think it matters. If you are a business, all you want to know is you can export without a barrier.

Q258 **Dr Rupa Huq:** Yes. Maybe say that louder to our leader, because sometimes he seems to think that—anyway. *[Interruption.]*

Carwyn Jones: I think it is important to react to events as they develop.



Dr Rupa Huq: Sorry.

Q259 **Sandy Martin:** Yes, I think we will move swiftly on from that.

First Minister, you have overwhelming support in Wales for the additional devolution powers that are coming to Wales at the moment, but do you believe that there is further you should go? Presumably, the Plaid members in Wales want full independence, otherwise they would not still be running as a separate party. Where would you draw the line between your view of how much devolutionary power Wales should have and full independence?

Carwyn Jones: There is one major and unresolved issue, and that is justice. That is the unresolved issue. Beyond that, there are very few other issues. There are issues then of how the structure works in inter-governmental relations, but we had this odd scenario, of interest to lawyers perhaps, but people are not exactly marching the streets about it. I accept that. This is the only common law jurisdiction anywhere in the world where there are two legislatures, and it makes no sense from a legal perspective. Those who choose to look at these things cannot understand why it is that, for example, an Act of Parliament might say, "This changes the law of England and Wales, but it only applies in England". People have had experience of people producing an Act of Parliament, only to be told, "That does not apply in Wales", even though the title suggests it does, which is clunky.

Secondly, of course, there is a challenge from the legal profession. I am told by judges that counsel turn up in courts in Wales and argue the wrong law because they assume, because it is the same jurisdiction, the law must be the same. One of the challenges we do face is how we disseminate Welsh law to the legal profession, how well they find out what it is, and what it is. That is true. It is an odd scenario from a legal perspective that usually you have one Parliament, one jurisdiction, and the only place where this does not happen is here.

Q260 **Sandy Martin:** Would you say that your tax-raising powers are sufficient, or do you still feel that there are certain things that you would like to be able to do in Wales that are being hampered by the UK Parliament?

Carwyn Jones: Tax-varying powers, other than raising, is the word that I would use. It tends to set hares running. No, we welcome the tax-varying powers that we have had. There are still some outstanding issues. Air passenger duty is a particularly sore issue for us. It is devolved in Scotland. It is not devolved in Wales, and no reason has been given for this at all. That is a running sore, air passenger duty, and we could do a lot with our airports, plural, if that was devolved.

In general, the test will be how the UK Government deal with requests from Welsh Government for new taxes. To me, the only consideration the UK Government should apply is, will this affect other parties of the UK



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adversely? That is what I would argue, not how we are going to use it. That is a different issue.

Barnett is another issue. We do not support Barnett. We think Barnett is out of date. Our Scottish colleagues will take an entirely different view, I understand that, but we are not supportive of Barnett in its current form.

In terms of the taxation powers that we have, they are substantial. They need to be in. We have a revenue authority, of course, that has been set up, and what is absolutely essential is that we can be in the new powers. We are making changes in terms of land transaction tax—stamp duty as it is at the moment—but certainly no plans for a widespread overhaul of the way in which taxes are collected or indeed the tax rate.

Q261 Paul Flynn: What is the value of your Government's contracts with Carillion?

Shan Morgan: It is not a significant provider of services in Wales. It does feature in one of the bids to run the rail services in Wales and the borders from October 2018, and to take forward some key aspects of the next stage of Metro. The relevant bidding organisation is currently looking at ways in which it can legitimately remain in that process. Carillion is currently the Welsh Government's appointed contractor for the delivery of the design of the A40 Llanddewi Velfrey to Penblewin road scheme. We are exploring all the options as to how best to progress to the next stages of the project so as to minimise any delays.

It is also the Welsh Government's appointed contractor for the design of improvements to junctions 15 and 16 of the A55. Its profit warning in July 2017 was released after the receipt and assessment of Carillion's bid for that project, but prior to the formal award of the project. As soon as Carillion's profit warning appeared in the press in July 2017, we paused our procurement process so as to allow investigation to be carried out on Carillion's financial stability. As a result, the Welsh Government, on balance, could not legitimately withhold awarding the contract to Carillion. As with the A40, we will be exploring all options as to how best to proceed to the next stages of the A55 work. Just to sum up again, Carillion is not a significant provider of services here in Wales.

Q262 Paul Flynn: I take it that there is a smaller proportion than there was in England. I recall that Rhodri Morgan took a view that PFI was instant gratification for politicians, which was bought at the expense of paying three times for the cost of projects in expensive borrowing. Is it your view now of the Government that PFI generally was an error—good for politicians, but disastrous financially for taxpayers?

Carwyn Jones: We are not as exposed. We do have some PFI projects, but they go back a good few years. We are not as exposed as other nations in the UK. We took the view that we would look at conventional borrowing rather than PFI. There is an attraction to politicians of being



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able to deliver a project now and pay for it later at much higher cost. That is something Rhodri resisted and I resisted.

Paul Flynn: Yes. Thank you very much.

Chair: First Minister, we are a few minutes over, but it has been brief and very helpful to us. I hope that we can continue to have these discussions and promote the co-operation between Westminster and Cardiff over the years ahead. Thank you very much indeed for being with us.

Carwyn Jones: Thank you very much, and I hope they do find a way of turning the heating on here, Chair.

Examination of Witnesses

Witnesses: Andrew RT Davies and Jane Dodds.

Q263 **Chair:** Welcome to our second panel this morning here in the Welsh Assembly, where we are taking evidence on inter-institutional relations within the United Kingdom. Can I ask each of you to identify yourselves for the record, please?

Jane Dodds: My name is Jane Dodds. I am the Leader of the Welsh Liberal Democrats.

Andrew RT Davies: Andrew RT Davies, Leader of the Welsh Conservatives in the National Assembly.

Q264 **Chair:** We are very concerned to hear this morning that Leanne Wood is unwell and cannot be with us. We send her our very best wishes, and I hope she gets well very quickly.

Can I start? We are going to have to be very brief with our questions and our answers. The whole of the National Assembly for Wales voted in favour of introducing a Continuity Bill. What were each of your reasons for supporting this?

Andrew RT Davies: If I go first, then. From the party's point of view here in the National Assembly, we believe that not enough certainty had been given in the negotiations to date around protecting the devolution settlement, and that is why we chose to vote in that particular way. It is wrong to say that it was a major vote in that I think the vote you are referring to was a Back-Bench Member's Bill—correct me if I am wrong—introduced by Steffan Lewis.

We have a presumption as a group that, where Back-Benchers bring forward legislation in this institution, they should have the right to take that forward and add some more meat on to the bone of it. It was very much at the preliminary stage, but we do, as a group, have reservations around some of the assurances that have come in the discussions around the devolution settlement.

Q265 **Chair:** It is very important that this is not a full-on, 100% commitment to a Continuity Bill.

Andrew RT Davies: No. It is important to understand the context that that vote was given in.

Jane Dodds: Yes, thank you. As you know, I do not sit in the Welsh Assembly, but from our perspective we would support the EU Continuity Bill in the Welsh Assembly. The reason for that is that it is an insurance



position. We are very concerned about the effect of the EU (Withdrawal) Bill on Wales, and it feels like we need something there just in case.

Q266 **Sandy Martin:** Can I just ask Mr Davies? There is going to be a very short timeframe within which such a Continuity Bill could have any effect. It is going to have to come in pretty quickly if it is going to happen before the withdrawal Bill is passed by the UK Parliament. If you are not 100% happy and if you think there may be serious reservations about some aspects of it, do you think there is any likelihood that the Continuity Bill will come into effect before—

Andrew RT Davies: Let us be clear. I do not particularly want to see a Continuity Bill coming forward for discussion in this institution. I hope that via negotiation an accommodation can be arrived at. I watched your first evidence session; as the First Minister is on record as saying, he feels in a position to support an LCM of resolution in this institution. I hope that we can get to that position.

I met David Lidington on Thursday and I understand obviously from the preparatory work that Damian Green did when he was First Secretary of State that there has been considerable progress along the way to reach that agreement. We are not at that position yet but I do believe that an agreement will be met.

Q267 **Dame Cheryl Gillan:** Can I just ask if it was a handout Bill from Government that was given to your Back-Bencher or genuinely from the Back-Bencher?

Andrew RT Davies: No, it was not our Back-Bencher. It was Steffan Lewis, Plaid Cymru.

Q268 **Dame Cheryl Gillan:** No, the Back-Bencher.

Andrew RT Davies: No, it was very much his own proposal. It was not the Welsh Government's Continuity Bill.

Q269 **Dame Cheryl Gillan:** The Welsh Government came in on this later?

Andrew RT Davies: I believe the Welsh Government in tandem have been working their own Bill up and they are very clear that they do have their own Bill ready to go at the moment. Steffan Lewis has been promoting this avenue for quite some time. I am not saying that it is the correct avenue but, as I said, as a group we have a presumption when a Back-Bencher has the good luck to be drawn on the ballot that they should be able to take that proposal forward and put some meat on the bone. I think most people agree that is a sensible way forward.

Q270 **Dame Cheryl Gillan:** I was trying to find which came first, the chicken or the egg. It was quite interesting because I presume the Back-Bench bill was introduced because of this tight timeframe, which is almost impossible—



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Andrew RT Davies: There is a frustration. I am sure that if Leanne were here she would be able to map it out but it is not for me to speak on the reasoning why Plaid Cymru as a group and Steffan Lewis chose to do this. They do believe that there is an urgency that the Government have not addressed in this place around a Continuity Bill. As I said, I do not particularly want us to get into the territory of a Continuity Bill. I want us to have an agreement with the UK Government that allows an LCM to be passed in this institution and in Edinburgh because that is the sensible way forward.

Q271 **Dr Rupa Huq:** Since the days when Tony Blair let slip, during one of those early referenda, that it will be like a parish council and it will not have any powers at all, devolution in Wales has come on in leaps and bounds. Two referendums now. Where would you like to see the future of the relationship between Wales and the UK going?

Jane Dodds: It feels like we are very much on the road. We are not at full devolution yet. There are lots of things we could be looking at. From the Liberal Democrat perspective, we want to be thinking about the same powers that are in Scotland being here in Wales as well. We are very much on the road to devolution in terms of the Liberal Democrat position.

Andrew RT Davies: You are quite right; there are two former Secretaries of State on this Committee and both worked tirelessly to bring forward new proposals. The two Wales Bills that have come forward, along with the Silk Commission that Cheryl in her time as Secretary of State established—there was cross-party representation on that Commission as well—have pushed the institution into completely new territory. I believe that the devolution settlement needs to recognise what the United Kingdom is: the most successful cultural, economic and social entity the world has seen. Devolution should not be allowed to pick that apart. It should strengthen it.

I do not necessarily believe that we should be replicating what Scotland has because one thing I do recoil from is this argument, "For Wales, look to Scotland". That is not the case at all. Economically we are far more interlocked with the economy of England than the Scottish economy is, for example, and the last thing I want to do is create walls that do not need to be created between Wales and England. I believe that the Assembly should be now working with the new toolkit it has rather than trying to race on to the next staging post of devolution, which at the moment seems to sit in 101 different boxes.

Q272 **Ronnie Cowan:** Keeping that in mind, I am wondering what impact you foresee of the UK's exit from the EU. What is that going to do to the future governance of Wales?

Andrew RT Davies: I think it is going to be very positive. As a Brexiteer, you would expect me to say that. I think there is a huge opportunity here to strengthen what we have in the devolution toolkit at the moment. The UK Government—



Q273 **Ronnie Cowan:** More powers coming through?

Andrew RT Davies: By working with what we have already and working with a strengthened UK model of governance.

Q274 **Ronnie Cowan:** What does that mean? More powers coming to Wales.

Andrew RT Davies: If that is what seems to be a sensible model of governance then yes, that might well be the case. The UK Government is already on record as saying that more powers will come out of leaving the European Union to the devolved Governments and the devolved institutions. I do not believe it should happen for the sake of it.

Q275 **Ronnie Cowan:** Clause 11 had the opportunity and it gave nothing. The words are cheap. We want to see action. The question is: when the UK leaves the EU, how are you going to get more governance over Wales through that process if you want it?

Andrew RT Davies: I believe at the moment what you have is a deference to the Brussels model that has stopped a lot of the decision-making in Cardiff and the ability to push that decision-making out from Cardiff to the regions of Wales. I have been an Assembly Member now for 11 years and the amount of times you get told, "We cannot do it because Brussels says we cannot do it"—now we will have an opportunity to influence the decision-making process and take some of those decisions ourselves here in Wales.

I hear your evidence-gathering session the First Minister highlighted hill farming here in Wales, for example. There used to be a scheme called the Tir Mynydd scheme that support hill farmers here in Wales because of the socially challenging environment they worked in. We were told at the time that scheme had to go because Brussels did not believe it was compatible with the European model of support. Overnight, the Welsh Government withdrew that support. We will be able to craft an agricultural policy and a rural support policy that is fit for Wales and fit for the UK, not necessarily fit for 27 or 28 other countries.

Q276 **Ronnie Cowan:** If you get those powers back from the UK.

Andrew RT Davies: I am confident that will happen because the UK Government is on record as saying that will happen.

Q277 **Ronnie Cowan:** I hope you do.

Jane Dodds: We are at opposite ends of the spectrum, quite clearly. We have always been a Remain party. We are very concerned about any powers being taken from Wales and we see the EU (Withdrawal) Bill as doing that.

One of the concerns I have is whether the second Chamber will have time to scrutinise properly the EU (Withdrawal) Bill because that is part of our democracy and our position here. We have to see that Wales will get not a penny less from leaving the EU. That is the Liberal Democrat position.



Q278 Sandy Martin: For both of you, briefly, leaving aside the matter of money, there is a very strong feeling—the First Minister mentioned it—about the difference between the British Government taking powers from Brussels and then divvying up a few like crumbs from the table to the devolved Administrations, or alternatively everything going to the devolved Administrations apart from the reserved powers. The whole question of reserved powers is not about the powers; it is about who gets to choose which powers you have and whether or not you have powers as of right or just what the British Government wants to give you. Do you recognise that as an issue?

Andrew RT Davies: As I understand it, the powers that are transferring back from Brussels to the UK amount to about 64 or 65 different areas. That list has been dramatically reduced over time, especially with the negotiations, and as I said, the commitment from the UK Government is very much to transfer as many as possible of those responsibilities that are coming back from Brussels to the devolved Governments and the devolved legislatures.

One thing we all have to be conscious of, and I think all politicians are, is that we do not harm the biggest market of all, which the UK single market. It is linking those two competing dynamics together, the strength of the devolution settlement with the need to preserve the UK single market, and finding an equation that will balance the votes in those discussions.

Q279 Sandy Martin: I think we can all agree about that. What I do not think we are necessarily going to be agreed about is whether you think it is sensible that the decision as to which powers come to the devolved Governments is entirely in the hands of the UK Government.

Andrew RT Davies: Certainly on paper that is how it should work because obviously that is how the democratic settlement is. I would hope that it could be arrived at by agreement but obviously under the Government of Wales Act the UK Parliament is sovereign. That can be exercised if it was the wish of the UK Government.

I hope we do not get to that position and we do find an agreement that can transfer these responsibilities. As I have said time and time again, the UK Government is on record as saying they want to transfer those responsibilities. This is not a power grab. I get the language, do not get me wrong, because we are in the field of politics, but this is not about a power grab.

Q280 Ronnie Cowan: Can I ask what you think of what has happened so far? Why do you think clause 11 has reached this stage with no amendments to it, 591 days after Brexit?

Andrew RT Davies: You probably understand the way the Houses of Parliament work better than I do, being a member of this institution. I would very much hope that progress can be made very quickly on amendments to make sure we can get into the position we need to be in,



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as I said, to get a recommendation here and get a recommendation in Holyrood that the LCM can pass. Those discussions, as I understand them, are ongoing. As recently as Thursday of last week there were discussions on this.

Ronnie Cowan: We know in any political environment that if the will is there, things can happen. If the will is not there, they do not.

Q281 **Mr David Jones:** The Welsh Government has indicated that it would like to see intergovernmental relations put on a statutory footing. On behalf of both of your parties, would you agree with that? Could you also say which specific proposals you would favour?

Jane Dodds: Yes, I would absolutely agree with that, to see that put on a statutory footing. Of course the context here—and I would agree with Andrew on this—is that we want to see trust built up so that there is the opportunity for people to work on the basis of what is best for the Welsh people. While that occurs, while we get to a point where things can be negotiated, we need to think about mechanisms that make that much healthier.

I understand the various First Ministers only meet once a year at the moment, for example, and that probably is not enough. We need that to happen more frequently. We need to have very clear priorities and the opportunity to talk to each other about what is best, in our case, for the people of Wales.

Q282 **Mr David Jones:** You mentioned priorities. Which priorities would you put first?

Jane Dodds: Of course agriculture would be the big one, particularly here in Wales; trade; and welfare, benefits and looking at how we can get the grants that we had from the EU back into Wales, particularly in those areas that are deprived. I am sure there are many others as well.

Q283 **Mr David Jones:** Yes, but those, if I may say so, particularly the grants issue, are relatively small to medium-term. If you are putting the whole relationship on a statutory footing, which would you say are the priorities for that new footing?

Jane Dodds: The subject areas? I am sorry, perhaps I am not experienced enough to understand that question.

Q284 **Mr David Jones:** I am sorry. As you know, at the moment the arrangements we have, the JMCs, are relatively informal and frequently honoured more in the breach than the observance. As I understand it, the Welsh Government thinks that these arrangements should be statutory. I am just wondering what sort of arrangements you feel should be comprehended in that new statutory arrangement.

Jane Dodds: The frequency and the way that they are operated, possibly. There would need to be a kind of proportionality to that given



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that Wales, Scotland and Northern Ireland would be representing fewer people.

Q285 **Mr David Jones:** Can you explain that proportionality point?

Jane Dodds: Perhaps I have not used the correct terminology but my view is of course that England and the leaders of England represent far more people than we have in Wales, Scotland and Northern Ireland. I would like an opportunity to look at that and negotiate how that would look, including our ability to look at things like agriculture as a big issue in that.

Q286 **Mr David Jones:** And in terms of frequency of meetings, which is a point you raised?

Jane Dodds: I do not have a view on that but it definitely should be more than annual.

Q287 **Mr David Jones:** That is not just for plenary but for other arrangements that might be put in place?

Jane Dodds: I do not have a strong view on that, possibly because I do not have the experience in that, but it certainly should be more than annual.

Q288 **Mr David Jones:** Mr Davies?

Andrew RT Davies: I do not believe that this term "English leaders" or "English Government" is helpful, to be honest with you. We have a Government of the United Kingdom that is constituted in the Parliament of the United Kingdom and relies on Members of Parliament to get its business through. Obviously you have had the English votes for English issues legislation that has come through and an element has crept in to segregate the legislation that passes through the House of Commons.

I do believe that there needs to be a complete overhaul of the way Governments meet but importantly, and you touched on it earlier in your evidence-gathering session with the First Minister, the metro mayors and city mayors in England have an important role to play as well in a lot of the decision-making that happens post-Brexit. I do believe that has been overlooked entirely. It certainly does not exist in the current framework because the framework was put in place before the current Government's policy of creating metro mayors and city mayors. It is fair to say the whole landscape needs to change and change in a positive way.

Q289 **Mr David Jones:** You think that that should be a change on a statutory basis?

Andrew RT Davies: I am open-minded, to be honest with you. I am someone who does not particularly like to be reverting to law all the time. Perhaps that makes me a Conservative, as such. I prefer to reach consensus by agreement rather than compunction through the legal system or the legislation that you are using. I would hope that politicians



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recognise that we are going into a landscape that is totally different to what we have worked in for the last 40 or 45 years. This should not be seen as a hurdle, this should be seen as an opportunity to create a more dynamic framework for the cities, the regions and the countries of the United Kingdom.

Q290 **Mr David Jones:** Do I infer from your answer that you are not wholly persuaded that we should be moving to a statutory arrangement?

Andrew RT Davies: As I said, I am open-minded on that at the moment.

Q291 **Mr David Jones:** What is the position of your group on this?

Andrew RT Davies: It is not a discussion we have had so we have not formed a group decision other than that we do not believe that the JMC as a vehicle is functioning to the best of its ability at the moment, leave alone once we leave the European Union. We should look at it as an opportunity to put the structures in place that do reflect what we look at and where modern Britain is today, as I said, with metro mayors, city mayors and the devolved Governments.

Q292 **Mr David Jones:** Do you think that there should be interparliamentary scrutiny of intergovernmental relations within the United Kingdom and if so, what would you propose for that?

Andrew RT Davies: We are here today and you are a Committee of the House of Commons obviously taking evidence from leaders within this institution and others as well, looking at what is going on around the United Kingdom in the different legislatures in a formal setting. It has to be a good thing, I would suggest. I would have no fundamental objection to that. I know it has been cited sometimes that different Ministers are asked to come and give evidence to this institution, for example, and they say, "I am not accountable and I am not coming to your evidence-gathering session". That is regrettable and it is an opportunity missed because obviously we have shared objectives and shared goals.

Q293 **Mr David Jones:** Do you think interparliamentary arrangements should be put in place whereby, for example, Members of Parliament, MSPs and Assembly Members should be sitting on the same Committee and conducting interparliamentary scrutiny of the various Governments of the United Kingdom?

Andrew RT Davies: Whether you have joint Committees in the way you have mapped that out—David, as I say, I have not formed an opinion on that at the moment. I do think there is a real issue around how, going forward, we make decisions when one part of the United Kingdom accounts for—as I hear the figure—85% of the population and the three other parts make up the remaining 15%. We have never had to deal with this challenge. I know people cite other countries and other models around the world but they have evolved into those models. We are going



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to have to create something from a very historic landscape that we have dealt with for the last 40 or 45 years.

Q294 **Mr David Jones:** Ms Dodds, in terms of interparliamentary scrutiny what is the Liberal Democrats' position?

Jane Dodds: I am not sure we have looked at this specifically but I would not disagree totally with what Andrew says. There are emerging complexities that really mean we should be looking at models that work across the various parliaments and legislatures. We have a huge border between England and Wales.

Healthcare, for example, is an issue that affects people in Wales across the border into England and vice versa. We need to think about what models could work to help us to work better to adopt frameworks that deliver better services and better resources for people across both countries, and certainly again with Scotland as well.

Q295 **Mr David Jones:** Would that extend to interparliamentary scrutiny?

Jane Dodds: I am open-minded and I am very interested in looking at models that could work in that respect.

Q296 **Kelvin Hopkins:** What effect do relationships within your party have on intergovernmental relations? Here I am addressing Andrew Davies.

Andrew RT Davies: I would like to think we have very good relations, strong relations. As I said, only last Thursday I was meeting David Lidington and the Secretary of State, Alun Cairns, to discuss opportunities that might exist as we go forward. I regularly go up to London, along with colleagues. They regularly come down to London. In Wales obviously we have those meetings and within the party itself there is a very strong relationship.

Two former Secretaries of State sit on this Committee here and I pay tribute to Cheryl in particular, who set up the Silk Commission. It was one of the very first acts I think you undertook, Cheryl, that really did set the benchmark for the next five or six years of the devolution project, concept or whatever you want to call it, with two Wales Acts emanating out of that agreed political positioning where all the four parties were represented. The discussions took place. Did everything that everyone wanted come out of that Commission? Not necessarily so, but a huge piece of work was undertaken and a blueprint to take that devolution forward was agreed.

Q297 **Kelvin Hopkins:** You do not find that the Welsh Conservatives are pushed a bit further away from UK Conservative Party policy or UK Conservative Party politicians to an extent? I noticed there was a unanimous vote for the draft Continuity Bill, which you have supported.

Andrew RT Davies: As I said, I would not read too much into the vote taken in the Chamber. This was a Back-Bench vote and it is the principle the group has always had. If you look through our record of voting on



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Back-Bench legislation, we have voted on some weird and wonderful stuff on the principle that if a Member is fortunate enough to bring a proposal to the Assembly at its very initial stage, we believe that Member should be entitled to take it forward and flesh it out, whereas we have seen the Government exercise to kill off Back-Bench legislation in its infancy. We just do not think that is a sensible way to develop legislation. People do have the right in a democracy to take their ideas forward.

Do we get pushed to the margins? At 19.5 stone, it is a bit difficult to push me around, to be honest with you, and as people will attest. I do believe we have a very good relationship. Of course that relationship comes under tension at some points because obviously we have points that we want to push but we make all devolved policy here in Wales, for example, on health, on education, on agriculture and the environment. I could go on. There are 21 or 22 competence areas. It is clearly understood that that policy-making capacity is here in Wales and we work with colleagues to try to influence UK-wide policy on criminal justice, policing and so on, and on defence, which has a big footprint here in Wales. We enjoy that close relationship.

Q298 Paul Flynn: Could I first of all welcome the Lib Dem representative and congratulate the party this morning warmly for adopting a policy I have advocated to every Chancellor of the Exchequer for the last 25 years: charging those who retire and stay in work National Insurance payments? This is an eminently sensible way of raising billions of pounds in a just and pain-free way and I hope there is success with it.

Welcome, of course, Mr Davies, and again a warm welcome for the fact that you have been ready students of devolution over the years. As someone who gave evidence to the Kilbrandon Report in 1963, it was not ever thus. It has been very good, I think, for Wales and everyone else, the fact that you have shown a flexible policy on devolution and learned to love it at a slower rate. It is a very gratifying result for all of us.

I sit on the EFRA Committee, which has had evidence from Michael Gove, who seems to be selling Brexit by pretending to go green. Would you agree he is actually going Welsh by seeking to impose a limit on the maximum amount that farmers get in subsidy? Because in England £1 out of every £5 paid in subsidy goes to millionaires or billionaires, he is going to insist that subsidies are paid on production rather than on ownership of land. Post-Brexit, what sort of system would you like to see for Wales and what limit would you like to see on the top farming subsidies that are paid out, knowing our special conditions?

Chair: Could you answer that very briefly? It is not quite on the topic of intergovernmental relations.

Andrew RT Davies: Is that for both of us?

Chair: A sentence each, please.

Q299 Paul Flynn: I think the Lib Dems are on course on this.



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Andrew RT Davies: I have to declare an interest as a recipient under the Common Agricultural Policy here in Wales. I presume that is in the Committee rules so I declare that and put that on the record.

To me, it is going to be a huge opportunity for us to revolutionise the countryside. We have an average age of farmers of 62 in Wales. You do not build a future with an average age of 62. I passionately believe food production needs to be at the heart of any economic and support policy for the countryside. I would say that as a farmer, would I not? I believe that passionately.

The one thing you cannot knock Michael Gove for is putting ideas and policy out there. This may be a bit of Government-bashing here, if I may, but sadly we do not have the same policy positions being taken by the Welsh Government and there is a huge void in that field of discussion at the moment.

To me, food production and food security has to be the heart of rural policy, along with sustainable rural communities and the way you build those communities to keep young people in them. You can do that via the envelope of cash that comes via national frameworks. That is why I was so early in day coming out and talking about national frameworks. By 'national' I mean UK frameworks. Otherwise we are going to be in a very difficult position.

Q300 **Chair:** Jane Dodds.

Jane Dodds: Very quickly, I have nothing more to add. We have differences. Continued access to the single market and unfettered access to the customs union.

Q301 **Paul Flynn:** Can you explain how it is going to work out in Wales? Mr Johnson committed himself at the election to giving 150% of the cheque that will come back post-Brexit to the health service. He has also committed himself to continuing to pay 40% of the money that is coming back in agricultural subsidies. He has already spent 190% of the money that is coming back. Can you explain to farmers who are worried at the moment about being exposed to world competition with a hard breakfast—hard Brexit—

Chair: Ask the question, please.

Paul Flynn: How is it going to work out? What is going to be the percentage of the budget—because the steel industry is going to be in trouble post-Brexit—

Q302 **Chair:** Mr Davies?

Paul Flynn: Post-Brexit for Wales, what is going to be the maximum?

Andrew RT Davies: I have to say I am not a spokesperson for Michael Gove. I am sure he can speak for himself. What I do know is that an Oxford farming conference in January he clearly set a roadmap out of



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support for agriculture and the rural economy to 2024, which obviously is a mandate beyond the current Parliament. That is a welcome roadmap.

As I said earlier, the sad thing about the Welsh Government's position is that we have had no vision. We have had no view. My view is quite simple. Three things. It is about food production and food sustainability, the environment and strong rural communities. If you work within those three corridors you will have a vibrant countryside that has youth at its heart rather than an aging population and a declining population.

Q303 **Chair:** But you heard what the First Minister said. How legitimately can Michael Gove speak for Welsh agriculture under the new arrangements?

Andrew RT Davies: Michael Gove also wears the hat of UK Agriculture Minister. He goes to Brussels and negotiates at the moment on behalf of the UK. That has been a position that has been accepted since we have been in the European Union and since devolution came into being. I appreciate people want to play semantics about this but at the end of the day there is a willingness and a commitment in every speech that Michael Gove has made to strengthen the rural economy and strengthen spend in the rural economy.

Q304 **Chair:** Jane Dodds?

Jane Dodds: We have severe concerns about agriculture in particular. We want to move forward and get the best deal for Welsh farmers. There are severe concerns about what Michael Gove is talking about and offering. We need to do better by our Welsh farmers here in Wales.

Q305 **Paul Flynn:** Farmers—

Chair: Moving on now. Cheryl Gillan.

Dame Cheryl Gillan: Can I return—

Paul Flynn: Chair, we know your position on this—

Chair: No, no. You have had a very long question. Cheryl Gillan. Order. Cheryl Gillan.

Q306 **Dame Cheryl Gillan:** Returning to the inquiry, I would just like to ask some questions about trust and intergovernmental trust. Ms Dodds, your position is at the moment that you trust Brussels and the Brussels regime more than you trust the UK Government. Is that correct?

Jane Dodds: It is not correct. What we want to see is that there is a better relationship across all of the frameworks—

Q307 **Dame Cheryl Gillan:** But you would prefer that we stayed with the European Union and therefore your trust in the Brussels regime is obviously superior to—

Jane Dodds: I would not call it—

Q308 **Dame Cheryl Gillan:** —the UK Government.



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Jane Dodds: I am sorry to interrupt. I would not call it a regime. We are very clear that we want to stay in the EU. We can see the benefits that it brings, not just in terms of resources and services. We want to recognise the UK Government and the EU, and indeed we want to be looking outside the EU as well. The Liberal Democrats have always unashamedly been a pro-European internationalist party and that is our position.

Q309 **Dame Cheryl Gillan:** You trust the UK Government?

Jane Dodds: There are always issues where we might have differences but we have to work together in relation to leaving Europe.

Q310 **Dame Cheryl Gillan:** But you trust them? I am trying to get to this. You raised trust in your answer.

Jane Dodds: Not on everything, no. Obviously they are a different party to us and they have different values, but surely we have to be working together in order to get the best deal for everybody and certainly the best deal for the people of Wales.

Q311 **Dame Cheryl Gillan:** You are not going to differentiate between the amount of trust that you put in Brussels; you would prefer that the status quo was maintained?

Jane Dodds: That is correct.

Q312 **Dame Cheryl Gillan:** Your trust is greater in Brussels than it is in the UK Government?

Jane Dodds: I am not sure I would be able to very clearly say that is the case. I am very clear we—

Q313 **Dame Cheryl Gillan:** How could you improve your trust in the UK Government?

Jane Dodds: I think it is about looking at what values we work with, particularly for the people of Wales—looking at devolution, looking at how they can support us in those devolved settlements and those aspects. I think it is a growing trust.

Q314 **Dame Cheryl Gillan:** Could you specifically identify those values that you feel the UK Government do not have and that they would need to have to gain your trust?

Jane Dodds: In relation to the position of the Government on the single market and coming out of the customs union, that has severe concerns and implications for the people of Wales, particularly those working in agriculture. That is one area.

Q315 **Dame Cheryl Gillan:** Mr Davies, can I ask the same question of you? How is your level of trust? Would you trust the UK Government more than you would the Brussels regime?

Andrew RT Davies: Yes, I do. You would expect me to say that—they are a Conservative Government—but whatever colour Government are in



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Parliament in the UK, I would hope very much that they would bat as hard as possible for the UK. I trust the Welsh Government to do the best job possible. That does not mean that I will not stand up in that Chamber or sit in these Committee rooms, scrutinise them and hold them to account where they are failing. But that should not call into question your ability to trust someone to do the best job they can. It might be the ideology is different, but ultimately I would not say that I do not trust the Welsh Government or I do not trust the UK Government.

Q316 Dame Cheryl Gillan: How do we improve this trust and respect between our various Governments around the United Kingdom?

Andrew RT Davies: I think the one thing that has come out in earlier evidence-gathering sessions is about creating this framework for Governments to interact together on a level playing field, as it were. There is very much a disparity in that interaction at the moment. One thing I constantly hear coming out of Secretaries of States' mouths in the House of Commons, when answering questions et cetera, is they call them the "DAs", the devolved authorities. In fact, they are Governments, at the end of the day. It is written in the Bills that set them up and it is just simple things like that read into the bigger picture and the bigger narrative.

Q317 Dame Cheryl Gillan: Sensitivity to language?

Andrew RT Davies: I think if you do not get your language right, how can you hope to get the substance of what you are trying to achieve? As I said, this coming out of the European Union and the post-Brexit environment offers a huge opportunity for us to create something really special and dynamic here as to the way the UK is governed and the UK operates. We all accept that there is a journey about passing powers and responsibilities down. That has happened in England via the city and metro mayors; in Wales and Scotland and Northern Ireland, obviously it has been the creation of legislatures and Governments from that.

Q318 Dame Cheryl Gillan: I pressed the First Minister on his proposals for a Council of Ministers. One of the things I do is sit on the Council of Europe, which is elected representatives from national Parliaments of 47 countries and it is older than the EU. Would you see that there was room for a Council of Ministers that was scrutinised by a joint Committee of the various Governments around the United Kingdom, so AMs could sit alongside MSPs, alongside MPs?

Andrew RT Davies: This builds on the points that David was making a little earlier. As I said, I am quite open-minded about that. I accept that the landscape we have is not robust enough and is not fit for purpose and does need changing. Regrettably though, when you look at some of the coalition building that goes on here and the inclusiveness that goes on here, it does seem as if very often if it is not Labour's way, it is not happening.



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We get representatives who go and sit on European Committees at the moment from this institution, but basically the First Minister appoints those representatives and to date there has never, ever been a Conservative representative to go out and do that. It is one thing to talk about it; it is another thing to look at the record and see what is being delivered.

Q319 **Dame Cheryl Gillan:** Presumably if we did have a joint Committee, as with this Committee, we have representatives from all parties on it, which I think is a healthier way of doing it, because if we are trying to—

Andrew RT Davies: I am not talking about the Committees of the Assembly; I am talking about some external Committees that offer real opportunities. Do not forget about the Scrutiny Committee that oversees the spending of European money in Wales—the Chair was removed from that because she broke the Labour whip. She is a Back-Bench Member, the Cardiff Central Assembly Member, and was removed from the Chair's role of oversight of European spending here. When you talk about governance arrangements, when you talk about accountability, you do have to look what is going on in the backyard as well when people are promoting other schemes and think about their record.

Q320 **Dame Cheryl Gillan:** Anyway, you think that there are definitely optimistic signs that we could improve the trust?

Andrew RT Davies: Without a shadow of a doubt. Language has to be part of that equation. I just gave you a very simple analysis there of this constant referral to the DAs. I mean, DAs, what are people referring to?

Q321 **Dame Cheryl Gillan:** I think it is devolved Administrations.

Andrew RT Davies: I know that.

Dame Cheryl Gillan: I think it is just shorthand. I do not think it is supposed to be—

Andrew RT Davies: But it is dismissive.

Dame Cheryl Gillan: Yes, I understand.

Andrew RT Davies: If you have a Government and you have a legislature, which the Assembly is now—and soon to change to a Parliament in its title—and you have the Scottish Parliament, you have the Scottish Government. Those are the terms that should be used.

Dame Cheryl Gillan: No, I agree.

Q322 **Kelvin Hopkins:** I very strongly support your batting for the rural economy and for the national importance of agriculture. Is there something to be learned from perhaps the way we supported agriculture before we joined the common market and before we joined the Common Agricultural Policy? We used to sustain agriculture in various ways. Do you think we could learn something from those days?



Andrew RT Davies: The 1946 Agricultural Act obviously set in motion a whole raft of support measures that continued up until our membership of the European market and then the Common Agricultural Policy that flowed from that. As I said, my principal concern has to be about food security and productive agriculture. I used the figure of the average age of a Welsh farmers today, 62. I have two sons and a nephew who want to come into the agricultural industry. Thankfully, because their old man is in it, they will hopefully get a chance.

If you were my father's generation, you started with absolutely nothing; you had a chance in that era, back in the 1950s and 1960s. You do not have that today. The Common Agricultural Policy has not benefited Welsh agriculture. I will happily champion a more reformed, more liberal agricultural policy that ultimately pays for production of public goods, so that we can see a genuine return to young people coming into our great industry.

Chair: Anything to add, Jane Dodds?

Jane Dodds: Yes. Quickly, I support the principle of CAP. It needs reforming, without a doubt, but that means we should be staying with that system.

Chair: Thank you both very much indeed. It has been a brief but hell-for-leather session and you have given us a great deal to think about.

Examination of Witnesses

Witnesses: Elin Jones, Manon Antoniazzi and Mick Antoniw.

Q323 **Chair:** May I welcome Elin Jones, Presiding Officer of the Welsh Assembly, to this meeting of the Public Administration and Constitutional Affairs Committee of the House of Commons? It is a great honour for us to be here as your guest and we are very grateful to have the opportunity to have these sessions here. Could I ask each of you to identify yourselves for the record, please?

Elin Jones (Translation): I am Elin Jones, the Presiding Officer of the National Assembly for Wales, here representing the Assembly this morning—a very warm welcome to our Parliament.

Mick Antoniw: Mick Antoniw, Assembly Member, Chairman of the Constitutional and Legal Affairs Committee.

Manon Antoniazzi (Translation): Manon Antoniazzi, Chief Executive and Clerk to the National Assembly.

Q324 **Chair:** We have a few questions to get through very quickly and we will ask short questions. If we could keep the answers short as well, we might



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be able to catch our train at the end of our session.

Many of the witnesses to the Committee have suggested placing intergovernmental relations on a statutory footing. If this were to happen, what kind of parliamentary oversight do you think would be necessary?

Elin Jones (Translation): As we move towards implementing the decision to exit the European Union, one of the great challenges for the UK Constitution is to ensure that the relations and the work that goes on inter-governmentally between devolved Governments and the UK Government is accountable first of all to the individual Parliaments and also that we, in a way, can look at how that scrutiny happens between Parliaments too. That is a piece of work that has not been done in any formal way in the past. Therefore it is a new piece of work that will take a great deal of thought before anything is put in place and before any decisions are made as to whether that should be on a statutory footing.

In that regard, it is very timely that you are taking evidence from us here this morning, as the Constitutional and Legislative Affairs Committee that Mick Antoniw chairs has published a report—in fact, published it last Friday—on the very issues that you are discussing. I can see that you have a copy in front of you there.

There is a recommendation contained within the report, and Mick can expand on this, that specifically refers to this point and proposes the idea of having some sort of Speakers' conference, which would bring together the Speakers of the Parliaments in order to initiate the discussions on the details as to how and whether we should be providing scrutiny on a parliamentary level on a statutory footing. If you are happy for me to refer the question to Mick Antoniw to talk about the Committee's recommendation, I will do so.

Mick Antoniw: Our recommendation was very heavily influenced by this Committee's recommendation as well as paragraphs 38 and 39 of your last report, the November report, which is that there needs to be a post-Brexit constitutional change and restructuring and looking at the JMC and the format that would be.

It was very interesting, the question you placed there, in terms of where the scrutiny is, because obviously you cannot move away from the situation of primary parliamentary scrutiny, but I have been very impressed with the way in which the inter-parliamentary meetings of Committees—for example, the one we had on 18 January—have brought together almost the cross-parliamentary sphere of all those areas, looking at the principles and the fundamentals of change that is taking place.

I think that would be a very interesting mechanism. I heard the question in the evidence earlier; it being suggested that is maybe the role of this Committee. I think the development of the role of the intra-parliamentary



group is a very interesting one that could be developed, put on a more formal footing. It would require perhaps certain Standing Order changes, but would be a very useful way of looking at the principles of the issues that arise, while not undermining the primary parliamentary roles.

Q325 **Chair:** Who is going to initiate this? How are the three or four Parliaments in the United Kingdom going to jointly initiate this kind of work so that we finish up establishing some permanent machinery?

Mick Antoniw: That is a very good question. The suggestion that we have come up with is that we think there is a constitutional role for a Speakers' conference to initiate this, to set the parameters of that debate for all four Parliaments or Assemblies for the devolved Governments and the UK Government and to get some constructive discussion on the principles that might underlie the development of a more formal relationship.

The First Minister has spoken and others have spoken in the past about the role of the JMC. It has been given all sorts of different potential names, but there is a sort of structure that is required and a more formal structure, because post-Brexit there is not a return to some pre-1972 nirvana. We do need to have an updating of our constitutional structure and also the capacity to look at the longer-term constitutional change that needs to take place—not just in terms of the devolved Governments, but also the changes taking place within England itself.

Q326 **Chair:** Can I ask what discussions, Madam Presiding Officer, you have had with Mr Speaker Bercow about this sort of thing so far informally?

Elin Jones (Translation): To date, the quadrilateral meetings between the Speakers and Presiding Officers of the United Kingdom do take place. They tend to be relatively informal, discussing all sorts of issues relating to the effective running of Parliament, in addition to constitutional issues. Although we have discussed some issues related to Brexit and in our previous meeting before Christmas we did discuss the Withdrawal Bill, we have not discussed formally in any way the issues related to what scrutiny at a parliamentary level should look like and what joint scrutiny or joint accountability should look like post-Brexit.

Given that this recommendation has now been made from one of our Committees of this Assembly, then it is an issue that I am very interested in, most certainly. It is an issue that I would see as being a responsibility of mine, and also through your work perhaps in the Commons there is a responsibility now to raise these issues formally between Speakers and Presiding Officers of the various Parliaments of the UK. There is some urgency in this area now and therefore I will be taking this issue forward and placing it on the agenda for the next meeting of Speakers, which hopefully will start at the beginning of April.

Q327 **Chair:** I am encouraged by that. What discussions take place at Clerk level? Could I ask the Chief Executive and Clerk that question?



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Manon Antoniazzi (Translation): Of course there are various meetings that happen on an official level. I also go to the quadrilateral meetings with the different Speakers and I am in very close contact with the Clerks of the other Parliament informally and formally. That is reflected on several other levels. The Clerks meet regularly; the lawyers are also in close contact.

Q328 **Chair:** Of inter-parliamentary or joint parliamentary scrutiny, what discussions have you had about that?

Manon Antoniazzi (Translation): As Elin said, I would not say that the discussion has been very specific and formal on this issue, but we have set the foundation for more formal discussions in future if needs be. We have internally, in this Parliament, been preparing for the additional resources that will be needed for scrutiny and collaboration before and after Brexit. I think it would be a natural extension of that to discuss that with the other Parliaments.

Q329 **Mr David Jones:** Thank you, good morning. In your evidence to this Committee you said any new intergovernmental decision-making arrangements, such as the Council of Ministers proposed by the First Minister of Wales, must be based on clear principles of subsidiarity, parity of esteem and transparency. Could you explain in a bit more detail what you mean by that and could you also indicate how you feel that could be achieved?

Elin Jones (Translation): Welcome back to the Member, welcome back to the National Assembly. I believe that those principles are important. They are principles important not only to the relations between Governments and Ministers and any future Council of Ministers, but to the Parliament that that Council of Ministers is accountable to. What I believe is important within those principles is that the relations between Governments and therefore between the Parliaments is a relationship of equality, in which the institutions are equal and which share powers in a Council of Ministers.

I am sure that anticipating a future Council of Ministers as we move forward from the European Withdrawal Bill is easier to imagine, because there is a precedent for it, than to imagine what exactly the system should be in terms of Parliaments working jointly and undertaking joint scrutiny of a Council of Ministers. As Mick Antoniw has said, it is very important to ensure that the first accountability of any Government in a Council of Ministers should be to their home Parliaments.

Then we would need to develop work when accountability is relevant between Parliaments too. That would be joint scrutiny, as we have dealt with the work surrounding Brexit, and that there is a role not only for Governments to discuss this jointly, but also for Parliaments—in the context of their Committees mainly at the moment—to be looking at this issue and having oversight of the work that is ongoing as we undertake Brexit.



Q330 **Mr David Jones:** What about statutory underpinning of the arrangements that you are talking about?

Elin Jones (Translation): In terms of any statutory underpinning of the inter-parliamentary work then I do not believe that I am in a position—and I do not believe anyone else is in a position either—to come to a very specific conclusion on that at the moment, because there is a fair bit of work to be done in imagining what the future structure of that work will be. It is too early to say that that should be on a statutory basis and therefore bringing the model together in terms of what, if anything, needs to be put in place at an inter-parliamentary level is an issue that needs a great deal more thought. That is why the recommendation made by the Constitutional and Legislative Affairs Committee of this Assembly is useful at this point.

I think we do now need to generate some momentum. We need a vehicle so that we can discuss these issues and some sort of Speakers' conference could be a means of achieving that over coming months.

Q331 **Dame Cheryl Gillan:** Following on from this, I was going to ask you some questions about potential working at Committee level, following your evidence, but I think what I want to know is do you think that there is the will from the Members of the Welsh Assembly, soon to be the Welsh Parliament, here to sit alongside, for example, Members of Parliament to carry out joint scrutiny and perhaps even carry out joint investigations between something like CLAC and PACAC? Do you think that there is a good political will these days to carry out that joint scrutiny and to sit alongside each other?

Elin Jones (Translation): I think the political will is there if the value of the work can be highlighted for all. What we do not want is any sort of situation where there is duplication of scrutiny and that there is not a particular value in creating joint Committees or having inter-parliamentary collaboration. It is very important in putting any regime in place that it adds value rather than duplicating work. I do think that any politician can be persuaded, if they are adding value to their activities, that there is value in them doing that. Mick and Mick's Committee of course have had direct experience of the value of joint scrutiny.

Mick Antoniw: It seems to me that what is important is the framework and that there are two clear areas. One is the role of the Committees, of this Committee, of my Committee and some of the other Committees that exist and the Standing Orders that exist to enable that to happen. We have had experience in the past where inconsistencies or limitations in Standing Orders have prevented that happening. But on the basis that we are talking about the development of a structure of scrutiny and engagement for a reformed JMC, I think clearly there is a need for some form of rules that set the parameters of it, because one of the big issues has been where is the delineation between devolved responsibilities and non-devolved responsibilities and also what has happened in the past,



where you have joint responsibilities or you have grey areas and so on—resolving those.

A statutory footing is fine, but there have to be clear parameters, clear rules, and some form of dispute mechanism as well. Just by way of reference, a very interesting paper that has been published by Professor Rawlings, who I know has given evidence very much on these points, on Brexit and the territorial Constitution. I think is very well worth referring to and consideration of some of the ideas there, which I think underpin what PACAC has been saying, but also some of the other constitutional Committees.

Q332 Dame Cheryl Gillan: Can I just press you further? One of the things that I found valuable was to come down here and sit in the Assembly and answer questions on the Queen's Speech, for example, so that Assembly Members could raise issues and questions directly. Could you see, for example, the Welsh Grand Committee being constituted, maybe on occasions where there was a suitable subject, but including Assembly Members and Members of Parliament?

Mick Antoniw: For me, I think the answer is yes. I think that opportunity would be relished, provided there was a clear framework within which it was happening. In a post-Brexit situation, the issue of common frameworks is going to be very fundamental in terms of the devolved Governments and UK Government working collectively to achieve consensus. I think many people will buy into that as a positive constitutional development.

Q333 Dame Cheryl Gillan: Just coming back, Llywydd, to you, it is really important that there is mutual respect and trust between the Governments of the various parts of the UK and with increased devolution, for example, to metropolitan areas and with London. Perhaps there are even common issues that need to be looked at in the total picture, but that it needs to be looked at with the elected representatives for the areas that they come from. Could you see that happening in the future?

Elin Jones (Translation): Certainly where there are common frameworks developing between Governments and Parliaments, as powers over the environment or agriculture become powers held across the UK, and where there are common frameworks in such areas and there are Joint Ministerial Committees looking at the governance of those powers, then certainly we would have to consider what scrutiny happens of that work and where accountability lies. One point that should be made here, as the Council of Ministers would be discussing a common framework on our seas or whatever else it may be: that that has to be transparent so that the scrutiny of it is possible and is efficient and transparent.

That is important in terms of the individual Parliaments and the accountability of the elected Members of those Parliaments, but in very



specific circumstances where powers are pooled across the UK, then I do believe that we need to consider how we carry out that scrutiny by all elected Members through some specific model. There may be examples where that model could be between Members of Parliament and Assembly Members on the basis of the Welsh Grand Committee, but generally speaking, I would anticipate those models bringing together the four territories of the United Kingdom on an equal basis.

Q334 Dame Cheryl Gillan: To be fair, that is what I was envisaging. I come to Manon Antoniazzi. I have to say, it is all very well for politicians to talk about this and to have a political will and to see that we want to move forward, but what are the practical aspects of this? What would we need to have inter-parliamentary working increased? Do you think we can do it by changing Standing Orders; do you think legislation is necessary; do you think we could do it by just trying some joint meetings on certain specific subjects? How would you envisage the practical side of this working?

Manon Antoniazzi (Translation): In response to the recommendation that you made as a Committee in the past, we have looked at our Standing Orders. As the Llywydd mentioned, there are no barriers in terms of Standing Orders to holding joint meetings. I believe that there are some barriers in Westminster Standing Orders and that is something that could be looked at, but certainly I would not turn away from this idea of having joint scrutiny or joint analysis of information informally and formally. I am sure that there is evidence that value could be added in that way.

We have been planning for an increase in work. We do not know how much extra work there will be, but you are right in saying that there are practical implications for collaboration and joint working. They are going to come regardless of the withdrawal Bill and we are looking to ensure that any additional work has additional resources in terms of staff, translation, from our point of view, which is required by Standing Orders, joint recording, using the different styles of the different Parliaments and arranging that Committee members have the right access to confidential information and so on.

It all comes back to this question of will. If there is political will that this work will be fruitful and productive then we can prioritise the resources to ensure the best work is done.

Q335 Dame Cheryl Gillan: Thank you. Can I ask a simple question, due to my ignorance? As Secretary of State, when I came down to do the Queen's Speech I could take questions from any Assembly Member in the Chamber. Have you ever had any other Secretaries of State in the Chamber to be asked about their policies or a piece of legislation?

Elin Jones (Translation): No, only the Secretary of State for Wales. Following the Wales Act 2017 the requirement for the Secretary of State to report on the Queen's Speech has lapsed on a legislative basis.



I am sure other Assembly Members would be angry with me if I did not refer to the fact that our Committees often request that Secretaries of State, particularly in the context of Brexit, should be available to Committees here for scrutiny and have found it relatively difficult to persuade Secretaries of State from Westminster to appear before Committees of this place. I do accept, of course, that there are practical problems and time constraints that are relevant to all of this. However, it has been an issue for quite some time in terms of how one gets Ministers who are responsible for issues that relate to the responsibilities of our Committees or our Assembly to provide evidence on any given matter.

Q336 Dame Cheryl Gillan: I am sorry to hear that. I was always very willing to come here and I think most people are. It is a question of time, possibly. Also, we have received a very warm welcome here and it is really good to be back. Actually, no, it is cold in this room. The emotional welcome we got was warm, if the atmosphere is a little cold.

Is it possible for your Committees to come to Westminster and hold their sessions there? I appreciate it is difficult with the translation and so on.

What about junior Ministers while there is so much pressure on some of our senior Front-Benchers at the moment because of the time provisions, has that been tried?

Mick Antoniw: It is something that has been considered in my report, which you have a copy of. It is absolutely right that we are moving into a new constitutional framework. It completely changes where the engagement has perhaps been a bit defensive on both sides in terms of these issues because we will be in a post-Brexit arena. The constitutional relationship with the UK is in a new framework as well and that needs to be resolved. That means that if inter-parliamentary working is to take place then there has to be that proper cross-engagement, whether it be Ministers from here to other Committees or vice versa. I get the feeling there is a strong willingness for that.

Dame Cheryl Gillan: Thank you, that is very helpful.

Q337 Chair: We are going to have to go much faster, I am afraid. Short questions and short answers, please, albeit it has all been very, very interesting and helpful. Thank you.

Paul Flynn: Thank you very much to Mick's Committee for its work over the past period that was very helpful for us as members of Parliament. The work of the Committee, under Huw's leadership at the time, was extremely valuable to us as members of Parliament.

I do not know whether of you heard Mike Russell last week talking about the difference that has emerged in the relationship between Westminster and the JMC. The most significant issue is the fact that we are partners, rather than people on an equal footing. We are partners, not equals. This is the new environment to ensure the development of issues with regard to devolution. We have an issue with the attitude from the centre, from Westminster, that threatens the development of devolution.



Elin Jones (Translation): Returning to my answers to previous questions, ensuring that there is respect in any inter-governmental or inter-parliamentary work is crucially important. People should consider those relations as being a relationship of equality between the Parliaments and the Governments where powers are shared or pooled. That respect, and the issue of being partners on an equal footing, is hugely important and provides a firm foundation to the constitutions of the Parliaments post-Brexit. We went into the European Union pre-devolution and we are exiting post-devolution. What develops as that happens has to be very different to the situation previously.

Q338 **Paul Flynn:** If there was respect to the Assembly from those in Westminster then we would know, perhaps, what that would mean following Brexit. They might say there are additional powers coming after Brexit, that it is not a power grab but is an arrangement that is only temporary in nature. There has not been anything said over the past few weeks about how many new powers will come to Wales, but people see it as a threat to the current powers. The whole thing is a problem for us and is a threat to the process of devolution.

Elin Jones (Translation): I assume you are referring very specifically to the withdrawal Bill and the debate taking place between the Welsh Government, the Scottish Government and the UK Government on clause 11 specifically. Our Committees in this place have provided evidence and proposed amendments to that Bill so that it does not put the current powers of the Assembly at risk.

Of course, you will be aware as a Committee that there will need to be legislative consent given by this Assembly. There will be a request for that and a vote on that at some point. I do think we are reflecting the political reality of the Assembly at the moment by saying that the Government and the majority of Assembly Members believe that if there is no change to that Withdrawal Bill then that legislative consent motion will not be passed by vote of the Assembly. However, things can change, of course.

Q339 **Paul Flynn:** A last brief question. Do you believe Wales has set a good example in voting three times for devolution here? Is that an example that we should vote at least one more time over Brexit because some people, on reflection, might have changed their minds?

Elin Jones (Translation): You are tempting me to comment on a second Brexit referendum. I am not going to make a comment as presiding officer on that, only to say that the people of Wales have voted twice over the last 20 years to establish our current model of devolution, in 1999 and in 2011. In that referendum in 2011, it was the express desire of the people of Wales to have full legislative powers for this Assembly in devolved areas. Any challenge to that from any Parliament will be contrary to the desires of the people of Wales expressed in a referendum in 2011. That would be very unfortunate. Mick might be tempted more than I am on the issue of a second Brexit referendum



Mick Antoniw: I would say first of all that what you are doing is underlying the absolute need for some form of underpinning—and I would say statutory underpinning—of the JMC in the future constitutional arrangements that exist. The issue as to whether there should be a second referendum on the deal depends on the will of the people, if there is demand from people that there should be a referendum on details. That is a political matter. It is not a matter my Committee has considered. The principles of referenda and what you are asking people to decide upon are there for all to see.

Paul Flynn: Thank you.

Q340 **Sandy Martin:** The Welsh Government has submitted a Continuity Bill to you and is waiting for your ruling on the competence. Can you explain to us what issues and considerations come into how you make that ruling?

Elin Jones (Translation): I am not going to give you a sneak preview on my views on the issue of legislative competence, I am sorry to disappoint you. I have a dual role in deciding on whether the Continuity Bill is within competence and also to decide whether that Bill is in the appropriate form in terms of its introduction. I will be making my decision on these issues over the next few weeks. I understand, of course, there is some time imperative and some urgency surrounding all of this, given what is happening with the Bill currently being scrutinised in Westminster.

Q341 **Sandy Martin:** Thank you. It appears to me the major issue with clause 11 is the difference between the conferred powers model and the reserved matters model. I am wondering how you think that any ruling on competence might be able to deal with that discrepancy between those two models.

Mick Antoniw: The crux of the problem with clause 11 is really the constitutional starting point you come from—that is, whether powers are being repatriated to Westminster or whether they naturally go, in accordance with the devolution statutes passed by Parliament, to the areas with devolved responsibility. The answer to that—I do not want to go into the long, constitutional answer—is, of course, that if there were no Withdrawal Bill those issues would go back in accordance with what Parliament has already directed, the devolution statutes. That is the starting point. That is why it is seen as a power grab, because it retains powers and interferes with the constitutional arrangement.

I will sum it up by reading this very short paragraph from Professor Rawlings in the paper I have recommended, “The sooner clause 11 is cast aside the better. Constitutionally maladroit, it warps the dialogue about the role and place of the domestic market concept post-Brexit. As such, the occupation of legislative and executive space in the Withdrawal Bill appears not only a risky venture but also a lazy one. An unthinking form of greater England unionism, which assumes only limited territorial difference, would be another way of characterising it.” That is very



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common to a lot of the other evidence that has been given about it. That is why clause 11 is such an obstacle to legislative consent on moving forward on the Withdrawal Bill.

Q342 Sandy Martin: Is there not a problem that a lot of the powers that are being repatriated from Brussels could be packaged up in a sectoral way, but that some of those may be functions that are properly held by the UK Government rather than by the devolved Governments? In order to be able to decide which of them are going to be devolved to the devolved Governments, and which of them are going to be held by the UK Government, you need to have some sort of mechanism for triage, if you like?

Mick Antoniw: There does need to be a mechanism. It needs to be a mechanism that is fair across the devolved Governments. That is the issue where consent comes in. There is a recognition that there are areas where there is a need for common agreement. However, the assumption that effectively legislation drives the coach and horses through our existing constitutional structure seizes those powers and makes provision for the devolved Administrations but does not make the same provision then for England. It is essentially dysfunctional. It should apply consistently across the whole of the UK. That is the basis where I think there would be potential consensus.

Chair: We have had a very, very interesting session but I am sorry it is a little bit short. We are very, very grateful to you for your evidence and, indeed, for your warm welcome. Thank you.

Elin Jones (Translation): Wear a jumper next time. Thank you.

Examination of Witnesses

Witnesses: Dr Jo Hunt and Dr Elin Royles.

Q343 Chair: Welcome to our two witnesses for this last session in the Welsh Assembly of the Public Administration and Constitutional Affairs Committee on inter-institutional relations within the UK. Could I ask each of our two witnesses to identify themselves for the record, please?

Dr Hunt: I am Dr Joanne Hunt from Cardiff Law School and the Wales Governance Centre. I am also a senior fellow with "the UK in a Changing Europe" initiative.

Dr Royles: I am Dr Elin Royles from Aberystwyth University. I work in the international politics department at the university and I am also part of the Welsh Centre for International Affairs at Aberystwyth University.

Q344 Chair: Thank you, and welcome. Unfortunately we literally have 30 minutes for this session so we have very little time. I will press straight on.



We have a binary system of devolution in this country that may have been suitable while we were a member of the European Union but is not suitable where we are going to have joint frameworks and what one might call shared competencies. What do you think about how we need to rearrange our devolution settlement to cope with Brexit?

Dr Hunt: Initially I would say the model of it being a binary system does not fully capture what we are inheriting. Within those wide swathes of areas of EU competence—where the EU has played a role—we have seen shared working across the UK, we have seen inter-governmental working and inter-parliamentary working.

To the extent we have had a successful example of JMC, we have seen it there—of course, there are various limitations with that but that is the one that has worked the best—and also inter-parliamentary relations. Particularly dating back to the move to a subsidiarity review, and when that became an institutional requirement within the EU system, we saw greater co-operation between the Parliaments and the EU Chairs Forum, the ECUK Forum. We have some things to move forward with, where we have seen positive co-working across Governments and Parliament.

Dr Royles: I do not think this binary model works for Wales because we will not have reserved power models until the 2017 Act is implemented. We are much more familiar with sharing powers, of having to collaborate across Governments.

As you have seen and reported in your last report, there are challenges with the international relations arrangements between Governments. Where the relationships often work best is when there is a legislative basis. In areas such as climate change, the 2008 Climate Change Act does require bodies to collaborate and so on. I think there are positive arrangements in places. As Jo said, we are used to this, especially in the context of the European Union. We are used to having to create policy, not always in agreement, and there are effective ways of doing that to reach a UK position.

Q345 **Chair:** Is there any difference between a conferral model and a reserved powers model when it comes to this question of how we share functions and competencies? Is there any substantive difference, or is it a religious thing?

Dr Hunt: We will wait and see. There is a different starting point with those two models. At that moment we have a presumption within an EU system where we have a system that has a constitutional recognition of a principle of subsidiarity, if we see what we have at the EU and what could map across. That provides an orientation and presumption as to where powers would lie. Whether you can suggest that is the difference between a reserved model and a conferred model, perhaps; moving towards a system where there is that presumption that actions lie at the devolved level, unless the case can be made for them to be taken up a level.



Another point to be made is that as we leave the EU we are leaving that constitutional consecration of a principle of subsidiarity that we have within the UK order at the moment, which we have inherited from the EU. There is an absence of its articulation explicitly in the discussions we are having at the moment. Although the JMC October principles that were agreed are being seen very much as having been a positive step forward, it is quite clear subsidiarity is not explicitly one of those principles.

Dr Royles: These are slightly different points but I do think one of the main reasons for moving to a reserved powers model in the 2017 Act was to have greater clarity in the governance arrangements. That is relevant to the public too.

When you have a situation where 48% of people believe that the Welsh Government has powers over health or 42% believe that policing is devolved then there is a problem in terms of people's understanding of what is devolved and what is not. The idea of moving to a reserved powers model can assist in that process.

A broader issue in having a reserved model across the UK is that it provides greater clarity. It is easier for civil servants in Westminster to understand the models of devolution rather than having to deal with so many different models. The hope is that having one common model will make it easier for civil servants to respond to devolution and include officials from devolved Administrations in the day-to-day work.

Q346 **Mr David Jones:** There is general agreement that the United Kingdom internal market needs to be preserved and regulated. What is required by the United Kingdom Government and Parliament in order to regulate that internal market?

Dr Hunt: Again, I will go back to what we already have. We know the internal market we do have within the United Kingdom is supported and constructed by the EU's single internal market, the legislative regulatory techniques and, of course, the judicial techniques there. If we are rolling forward EU law we could roll forward those free-movement principles and apply those on an UK-wide basis and use such techniques as the pre-authorisation technical specification notification, so we can leave regulatory competence where it falls at the moment according to the devolution settlements.

We could respect that, but achieve shared outcomes in other ways. We could have the possibility of regulatory independence or autonomy, unless it creates problems for the internal market. At the moment, on an EU-wide scale, that is operationalised through the states informing the Commission if they are seeking to regulate on particular areas that may create barriers to trade and then, post-legislation, judicial control of those. We could exercise something like an UK internal market principle. We already have courts that understand what the internal market principle means and it is whether we operate that on a UK-wide basis.



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Q347 **Mr David Jones:** What would replace the role of the Commission in those circumstances?

Dr Hunt: It would have to be a body independent from the UK Government, which would not be reflective of any one part of the participant states. It would be an independent Commission. We have had suggestions of different institutions and different institutional formations that could be reconstituted at a UK level and that mirror those EU institutions.

Q348 **Mr David Jones:** That would clearly have to be a creation of statute, I imagine?

Dr Hunt: I would imagine so, it is an appropriate approach to do so with an institution like that. We would have a body that could play the role of the Commission. We have those existing court structures that could play the role of reviewing measures afterwards.

Q349 **Mr David Jones:** That would operate arm's length from Government?

Dr Hunt: UK Government?

Mr David Jones: Any Government. I am interested in the way this body would operate. Who would it be answerable to?

Dr Hunt: The institution itself, if we have something Commission-like.

Mr David Jones: Perhaps you could write to us with further thoughts on that matter.

Dr Hunt: Yes.

Mr David Jones: Dr Royles, do you want to add anything?

Dr Royles: There are a number of interesting ideas emerging here. Of course, the House of Commons would have a role in regulating that process and in having oversight of the work of the Committee. With the idea of having joint frameworks, you do need a robust framework in place to ensure collaboration between the various parts of the UK.

We have a common interest in creating an internal single market that works effectively in order for that system to work between various parts of the UK, and also to secure trade with other parts of the world. There should be no regulations that have a detrimental impact on any single part of the UK. Having institutionalised mechanisms is the best approach in delivering that, moving on from the more informal approach taken within the UK at the moment.

Chair: We have 20 minutes and five questions, which means pretty speedy progress.

Q350 **Dame Cheryl Gillan:** Yes, sir. The Welsh Government has presumably been able to influence EU laws and regulations while the UK has been a member of the EU. Do you think the Welsh Government has been able to successfully influence decisions? How do you think that is going to



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compare with their ability to influence decisions once we have left the EU when the UK Government will be, at the moment, the replacing body of the unelected Commission and the EU?

Dr Royles: Thank you. The processes that have existed hitherto in order to enable the Welsh Government to influence the European Union have been very effective because of the level of collaboration between the United Kingdom Government and Wales in influencing the British perspective. Those structures work very well.

You have been asking this morning about problems with regard to trust. We have high levels of trust in the relationship between civil servants and so on in making decisions. Therefore influencing the formal structure is one thing. Then there are the additional channels that Wales can take advantage of as a region—through the office in Brussels, for example, to influence the European Commission informally and so on, through influencing members of the European Parliament and the regions. That relationship is vital between the UK representation and the Welsh Government staff who are treated as official diplomats of the United Kingdom out in Brussels. We have a model there of the kind of collaboration that could be repeated as we try to develop arrangements within the United Kingdom following Brexit. After leaving there are so many questions about how the situation of the United Kingdom is going to change as a third country and what that will mean.

Q351 **Dame Cheryl Gillan:** You are saying that four MEPs from Wales in a small office in Brussels have more effect on the Brussels Commission than you expect 40 MPs and a Secretary of State from the Wales Office to have on a similar section of life that will transfer from Brussels.

Dr Royles: No, I am sorry, that is not what I tried to say at all. What I was trying to say is that there are additional ways of trying to influence, not that they are more effective. As a region there are informal ways of trying to have an influence. It is possible these will be useful for the United Kingdom Government to learn from as it prepares to be a third country.

There is potential to have to use informal methods. The soft diplomacy and culture will have to be more important. There is a role also for the regions to be part of European networks and so on. There is a major challenge for the Welsh Government to have an influence. As we know, the same challenge will face the United Kingdom Government. They will have to maintain the same collaboration between the UK representation and Wales out there in Brussels. That structure is developed more widely as we think about diplomacy within the European Union following Brexit.

Chair: Anything to add, Dr Hunt?

Dr Hunt: Again, we are looking at the framework within which Wales and Welsh interests have been articulated. The EU has been a particularly responsive and hospitable system for that because subsidiarity is within that system and flows throughout it. Across the member states a number



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of them that are constructed on federal lines or on devolved lines, so there is an understanding and appreciation of the regional dimension and space for that to be articulated and captured within legislative solutions.

There may not be many situations we could highlight and say, "Yes, Wales made a difference". If you look at something like GM and the Deliberate Release Directive and the space for local decision making within that Directive, Wales played a longstanding part as part of the GM-free network that feeds into the softer networking informal governance. Also, using subsidiarity mechanisms to feed into the Public Procurement Directive. It is part of an atmosphere and environment that was receptive to regional and devolved issues.

Q352 Kelvin Hopkins: Thank you, Chair. My question is specifically to Dr Royles. How might leaving the EU affect governance roles played by arms-length bodies in Wales?

Dr Royles: The arm's-length bodies are important because in talking about inter-governmental relations what tends to happen is that we focus on the JMC and on the relations between governmental organisations. However, the role of external bodies is important in governmental arrangements. In the context of Brexit we think of the organisations promoting Wales abroad, such as Wales Arts International, and the various bodies involved in the devolved matters, who are currently trying to collaborate with their counterparts in Westminster and at a UK level.

There are challenges there, on occasion, in terms of to what extent Wales has a sufficiently strong voice and to what extent these structures for decision making within the UK organisations give Wales enough of an influence, be that within the British Council or in terms of more strategic decisions in campaigns such as Britain Is Great, which is tourism.

Brexit highlights the importance of international relations and creating trading relationships. Tourism and culture plays an important role in this. However, to what extent do these organisations that are involved in these processes on a day-to-day basis have sufficient influence on the UK decisions that contribute to Wales's role internationally?

Q353 Kelvin Hopkins: That leads on to my supplementary, which is how this might affect the power of the National Assembly of Wales to implement policy in areas of devolved competence.

Dr Royles: The main area I have been looking at in this area is international affairs and the international relations of the Welsh Government. In a range of areas—this goes back to the previous question—there has been some sharing of power. There are not binary arrangements in place. There are some powers held at Westminster and some at a devolved level. They are well used to dealing with each other and seeking influence.

The challenge is—as we see more generally in inter-governmental relationships—the informality of the process and the lack of formal



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structures, the lack of influence of the Welsh Government in decision making or, if decisions are devolved to the arms-length bodies, then how much influence they have practically on the decisions taken by the UK-wide body.

In a number of areas we do see close collaboration. For example, many Welsh Government offices are located in foreign consulates. There is potential there for collaboration in the same way as we see in Brussels at the moment between the Wales office in Brussels and UK representation. We need to emulate these kinds of processes. Where joint decision-making needs to happen then we need to strengthen the Welsh Government's voice in those processes.

Q354 Paul Flynn: Thank you very much for your evidence. Do you believe that the whole thing is a matter of trust and confidence between Westminster and Cardiff or between Cardiff and the European Union? The whole thing will depend on who wins the battle within the Government at the moment between those people who want to jump over the cliff edge and those who want to go on very carefully to ensure the relationships will continue.

Dr Royles: We have seen various kinds of inter-governmental relations with various parties and power. The emphasis has been on informal ad hoc relations. As your previous report emphasised, I do think we need more formal and concrete structures in place because culture is not going to create those arrangements. This is more than a matter of political parties or an issue of opinions on Brexit. We need robust arrangements in place so the appropriate decisions can be made for the coming challenges and the challenges in terms of the post-Brexit arrangements.

Q355 Dr Rupa Huq: With the proposed increase in all these overlapping competencies after we leave the EU, I wondered what needs to change to make inter-institutional arrangements fit for purpose. We keep hearing that it is not joined up at the moment.

Dr Hunt: To reiterate what we have seen coming from recommendations across Committees—your own Committee, House of Lords Committees and Committees here from the Assembly—is that need for perhaps a statutory underpinning, but a formal set of systems to go forward for inter-governmental and inter-parliamentary working.

With the situation we have at the moment if there is not that trust between personalities—with how much it has been driven at the personal level up until now—we need to generate trust in the institutions and trust in the systems. Having a system where there is that obligation to meet every month that is written in could go towards creating that trust in the institutions.

Dr Royles: I agree entirely. We are seeking institutional solutions here. We have tried using 20 years of culture in creating these relationships. It is challenging. There are so many demands on Governments and civil servants and it is not something that comes naturally. We do need to find



institutional solutions to create structures that will allow close collaboration.

As I mentioned earlier, when we look at the collaboration between UK representation and the devolved offices in Brussels, they work with each other and engage with each other. There is a high level of trust to such an extent that they trust the devolved Governments and the officials of the devolved Governments to attend meetings, such as Cobra, and in the structures of the European Union to represent them at that level. That is an example that relationship can have a very positive impact. However, that needs to be arranged and a statutory framework for that would be a clear solution.

Q356 Dr Rupa Huq: Placing everything on a statutory footing would formalise it rather than the “as and when” at the moment?

Dr Royles: Yes, but it depends on what it is. In terms of the JMC and so on, it is important there are elements of that that are on a statutory basis.

As I mentioned earlier, we need to consider the range of inter-Governmental relations, the work of Departments, and also the external bodies and how they work, how we can create more consistency in terms of the arrangements between all of those. We cannot expect the leaders of Government to meet more often than twice a year. Ministers could do so maybe every month but what of those day-to-day relationships?

As we know, there are good relations between officials on various levels but on occasion those relations are not as strong as they should. We could create a more robust arrangement for that. I am not sure if we need a statutory framework for that but we need to think about what is appropriate for all the different levels involved.

Q357 Ronnie Cowan: We have heard about soft diplomacy and about the high levels of trust between civil servants. As these talks go forward, how do we build that trust and respect between the legislative bodies throughout the United Kingdom and between them and the civil service? Even this week we have heard that has been talked down by Conservative Back-Benchers.

Dr Royles: It is a challenge, isn't it? Things have declined, unfortunately, over the past few weeks, as you heard from Carwyn Jones this morning. The EU (Withdrawal) Bill does not help matters.

We need to change the culture swiftly. Personally I think it is only through proposing formal structures for inter-governmental relationships that that can be achieved, including forms for dealing with disputes, so we overcome this current context of declining relationships and the lack of trust. It is very difficult to move on from this without having more robust structures in place to deal with these issues.

Q358 Ronnie Cowan: Can you have a formal structure if there is a lack of



mutual respect?

Dr Royles: At present a lack of structure suggests that is the situation that has arisen. In creating and requiring dialogue, the hope is things would improve.

Dr Hunt: At least the dialogue would take place or there would be a forum for that dialogue. There were those long periods where meetings did not happen. If there is that obligation to meet and to get around a table—

Q359 **Ronnie Cowan:** If it is done by obligation, is it not a case of people being forced into it? I am always of the mind that if people can do it in a more social aspect then they build up to a working relationship. People who just work together sometimes do not see each other as human beings or understand the difficulties we have. If we have a mixture of having people together on an informal basis, where they get to like each other as human beings, there is the possibility they can work together better and more constructively. It is which comes first, I suppose.

Dr Royles: When we look around the world, in inter-governmental relationships formal structures tend to help the relationship. Perhaps the informal element will arise if they meet for supper before a meeting or afterwards. Of course, there is room in developing relationships for that. However, developing that formal relationship will require those discussions to happen jointly to improve the situation at present with regard to inter-governmental relationships.

Ronnie Cowan: I spoke recently to people from Lithuania, Latvia and Estonia. The Baltic States have that relationship going and it is sometimes quite icy. There is not always a feeling that there is mutual love around the room. They understand for common goals they have to pull together to make themselves strong as the Baltic States. We do not seem to have that. That is a statement, not a question.

Chair: Thank you very much indeed for a most interesting session. We may write to you for some further thoughts and detail, particularly about the joint parliamentary scrutiny of these arrangements. I am very grateful for your being with us today.