

Scottish Affairs Committee

Oral evidence: [Coronavirus and Scotland, HC 314](#)

Thursday 17 September 2020

Ordered by the House of Commons to be published on 17 September 2020.

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Members present: Pete Wishart (Chair); Mhairi Black; Deidre Brock; Wendy Chamberlain; Alberto Costa; Sally-Ann Hart; John Lamont; Douglas Ross.

Questions 459 - 526

Witnesses

I: Rt Hon Alister Jack MP, Secretary of State for Scotland, Scotland Office, Iain Stewart MP, Parliamentary Under Secretary of State (Minister for Scotland) Scotland Office and Gillian McGregor CBE, Director, Scotland Office.



Examination of witnesses

Witnesses: Rt Hon Alister Jack MP, Iain Stewart MP and Gillian McGregor CBE.

Q459 **Chair:** Welcome, Secretary of State. We kicked off our coronavirus and Scotland inquiry with a session with you, which was very helpful. This is the last session of the inquiry, so we are very grateful to have you back again with your colleagues. For the record, please say who you are and an introductory opening statement, and could you introduce your Minister and the member of staff who is with you?

Mr Jack: I will do that in my opening statement. Last time I did not have a proper opening statement because we were slightly curtailed to leave to go to a Cabinet Committee, but this time we do not have that curtailment. I would appreciate it if I could say a few words.

Thank you for the opportunity for us to give evidence to the Committee and this important inquiry on coronavirus. Since I last appeared on 14 May, the Committee has heard from a number of distinguished witnesses and in July published its interim report. I am pleased that we are able to give evidence for a second time and to discuss your recommendations.

I would like to introduce my team: our new Minister, Under-Secretary of State Iain Stewart—this is the first time he has appeared before the Committee—and Gillian McGregor, Director of the Scotland Office. This is what is very likely to be her last appearance before she leaves the civil service at the end of this year. I want to put on record my thanks to Gillian for all that she has done for the Scotland Office.

In mid-May the death rate from this terrible disease was less than it was at its peak in April. On 14 May, 61 deaths were recorded in Scotland, and across the UK 428 deaths, and since then the disease, sadly, has taken more lives, created more suffering and wreaked economic havoc. Thankfully, the death rate is much lower today, but I need hardly say that the public health risk has not gone away. We appear to have entered a new and dangerous phase where the epidemic is growing faster and cases in hospitals and care homes are rising again. The other thing is the socioeconomic consequences of the infection continue to manifest themselves and will do for quite a long time to come.

Co-operation between the UK Government and the devolved Administrations is as important as ever, and we will probably come on to discuss that later. The strength of the UK economy has enabled the UK Government to put in place an unprecedented package of support for jobs and businesses. In Scotland we are currently supporting more than 930,000 jobs through the furlough scheme and the self-employed support scheme. We have added to that an additional £6.5 billion in Barnett funding, which has been guaranteed to the Scottish Government to deal with Covid-19.



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We have also done that by respecting the devolved competencies of the Scottish Government and other devolved Administrations and their Ministers. Although the UK Government's testing network is providing significant support to Scotland, it is the Scottish Government that set the policy and specify the criteria for who should be tested. There has been much talk about the divergence of approach of these Administrations, but the UK Government will continue to try to work together to share our thinking and our data because ultimately all Administrations across the UK have the same goal, which is to save lives and to suppress the damage.

I look forward to discussing these issues and the Committee's interim report in this session today.

Q460 **Chair:** I welcome too our new Minister, Minister Stewart, and share the sentiments that you expressed about Gillian and her services to the Scotland Office and to the civil service over all these years. We will miss her as a regular attendee at this Committee.

Thank you very much for the introductory statement. The last time you appeared before this Committee was on 14 May and we discussed several issues of the four-nations approach. You and I had a discussion about the efficiency and effectiveness of the four-nations approach and what was still in place, even at the point of 14 May. There was some suggestion that it was fraying at the edges. What do you see as a four-nations approach, is there still such a thing and how is it working?

Another thing that you told us on 14 May was that you were having regular, if not daily, meetings with Scottish Ministers and officials. If that is still the case, how are these characterised and on what basis are you having those meetings? We have had some comments in subsequent evidence, particularly from the Scottish Government, that said that these meetings have not been regular, that the usual infrastructure that is being used for these type of conversations and dialogue has barely been touched, and that there are many more meetings arranged Department to Department, instead of either through your officers or any of the formal structure we have in place. I know that is a lot, but I am hoping that you can help us with some of that.

Mr Jack: I recognise some of those remarks because things have evolved, but they have evolved through necessity. We started with the COBR meetings and then moved to the ministerial implementation groups, which were very much the thing during March, April and May, and that is right. There was a huge volume of necessary policy development at that time and we needed to all share information and be on the same page as best we could.

The irregular meetings may be irregular, in as much as they happen on different days from week to week, but the Health Ministers meet weekly. They may not meet on the same day every week, but they meet weekly. The territorial Secretaries of State and the Cabinet Office have



discussions with the Scottish Government weekly. If I think back over the last four to six weeks, in some weeks that has been two or three meetings and in other weeks it has been one meeting. But none the less, these meetings happen, and it is the way we are doing things. Rather than creating policy, it is broadly sharing information or sharing decision making, which tends to be a bit of a one-way street, on the steps that we are taking as we come out of lockdown.

Q461 Chair: You obviously have very carefully studied our interim report. We made several conclusions in that, one of which was that when this all started there was buy-in from across the four Governments, which started to fray a little bit as the pandemic progressed. One of the features that most interested us was where this was leaving intergovernmental relations. I am going to give a quote from Mike Russell—who gave evidence to the Constitution Committee in the Scottish Parliament this week—who said that the trust between the Scottish Government is at an all-time low and he mentions “a hostility to devolution”. Do you recognise that intergovernmental relations between the UK and Scotland are at an all-time low? What are you doing to try to repair some of the issues we have now?

Mr Jack: If there is a lack of trust from Mike Russell that is a matter for Mike Russell. There have been incidents over the summer where we have felt that it is a one-way street. As an example, we had a meeting to talk about our app. Joe FitzPatrick attended that meeting and was involved in discussions—this was a MIG in late April—and two days later the Scottish Government announced their intention to develop their own contact-tracing app. While Joe FitzPatrick came and happily listened to our plans and advice and everything else, he did not make any message of the Scottish Government’s plan.

Trust is a two-way street. I can give you other examples. We talked with the First Minister last week about the rule of six, and in that meeting we laid out to her what our plans were on that. She said, “I will do something tomorrow,” but she didn’t tell us that the following day she was doing the rule of six excluding children under 12. She could have told us that and we could have come to an agreement. We were trying in that meeting to get all the devolved Administrations on to the same page, because people across the United Kingdom deserve that.

There has been a lot of confusion over the summer. The Scottish Government have done things differently. They have presented the case that they were doing a far better job with the virus despite much higher care home deaths. They claimed there was a prevalence five times higher of Covid in England than in Scotland, and the UK Statistics Authority—

Q462 Chair: With due respect, Secretary of State, what we are trying to get at is some of the intergovernmental arrangement relationships and how things are working now.



Mr Jack: When we are accused of having five times the prevalence and the UK Statistics Authority say that claim was completely untrue, although it was repeated many times, you can understand where relations might become a bit strained. I am making a point. I am making it clear it was not true. At the time when there was lockdown in Leicester, the prevalence of the virus was as high in Dundee.

Q463 **Chair:** I was asking you how you improve this relationship and this perception of a breakdown in relationships. I am not hearing anything about what you are doing to try to ensure this relationship is improved.

Mr Jack: I am telling you what we are doing. We are having regular meetings, sharing data, putting the data into the Joint Biosecurity Centre, trying to get everyone on the same page with the quarantine countries. We are still sharing the information. We are instigating those calls. The three territorial Secretaries of State and the Chancellor of the Duchy of Lancaster participate in those phone calls and we are doing our very best to keep good relations with the devolved Administrations.

Q464 **Chair:** That brings us right up to date in the proceedings in Parliament this week with the Internal Market Bill. You will know the strength of feeling about this in Scotland, the hostility. The First Minister referred to this particular Bill as an abomination. There is a real anger that for the first time ever there is a piece of legislation that allows the UK Government to directly involve itself with what are clearly devolved responsibilities as set out in the Scotland Act 1998. Do you feel that this is helping relationships between the UK and Scottish Governments? It looks extremely likely that the Scottish Parliament are not going to pass a legislative consent motion, such is their anger about what is being suggested in this Bill. Will you accept that rejection from the Scottish Parliament or will Westminster, as it usually does, just ignore the Scottish Parliament and legislate anyway?

Mr Jack: We are legislating because under the Sewel convention there is the convention of not normal. This is legislation that is required because we are leaving the European Union. That was not something that was envisaged when the Scottish Parliament was established. We now need to pass Bills to secure the United Kingdom's economy and the security of the internal market. The principles of mutual recognition and non-discrimination are in there to protect Scottish businesses. That is the right thing to do. Sixty per cent. of Scotland's trade is to the rest of the UK, more than it does with the rest of the world, never mind the EU. It is over £50 billion of trade and it is important that we protect that.

I have written to the First Minister. I heard her abomination remark, but what she said on food standards and environmental standards, on funding, diverting funding, minimum alcohol legislation, pricing legislation, on this naked power grab, on crippling devolution—all those claims she made were not true, as I have made very clear in my letter. She has not responded yet.



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The simple fact is that these things are not true. The UKIM legislation is the strength of the United Kingdom. As I said in an interview with the BBC last week, I would be disappointed if the SNP looks at everything through the prism of separation. I thought it was a good piece of legislation because it strengthens the United Kingdom economy. That is not something that the Scottish National party wants to see happen.

Q465 Chair: You mentioned independence—or separation, as you characterise it. We are currently in a situation where all opinion polls are showing a sustained majority support for Scottish independence. The last one was 53% but there was one as high as 55%. What are you doing with the Internal Market Bill and your approach to Scotland and what I termed yesterday in the House of Commons as “aggressive Unionism”, where an imposition-type of Union seems to be being portrayed by the UK Government now? Do you think this is working for you when you observe some of the opinion polls and you are seeing support for independence reaching such stratospheric heights?

Mr Jack: You missed off that little asterisk on those numbers, which says “excluding the don’t knows”. That is the first point. Those figures are always quoted by the Scottish National party, but they exclude the don’t knows. When you look at the numbers with the don’t knows in, the figure is 47%. Leaving that to one side, I recognise that there are a lot of people in Scotland, soft Unionists, who are upset by Brexit and they have moved towards the Scottish National party over that.

I believe that when we come out, the United Kingdom, as is, will be a globally outward-looking country, doing good trade deals. As you know, we have just concluded agreements with Japan, which is going to be very successful for Scottish businesses and protect Scottish geographical indicators in a way that the EU trade deal does not. Even Stornoway black pudding is recognised. It is a very good trade deal for us.

As we take a globally outward-looking approach, as a United Kingdom, hopefully those people who are upset by Brexit will realise that it is not a xenophobic approach to life and they will come back to supporting the Union. The UK Internal Market Bill shows the strength of the Union in protecting Scottish jobs, protecting the Scottish economy and protecting Scottish consumers. It helps keep prices down in the shops.

Chair: Good luck with that one is all I can say.

Q466 John Lamont: I want to follow on from the Chairman’s question about a power grab from the Scottish Parliament. I have spent a lot of time looking at and analysing these claims from the SNP about the power grab. I am struggling to see the powers that have been taken away from the Scottish Parliament. This is speaking as someone who has spent 10 years as an MSP, so I understand quite clearly the powers that the Scottish Parliament has. Are you aware of any powers that will be taken away from the Scottish Government as a consequence of the UK Internal Market Bill?



Mr Jack: Not a single power has been taken away. All powers that the Scottish Government have now—and this was in my letter to the First Minister—they will still have, and they will have over 100 more powers. It is quite the opposite. It is, as the Prime Minister said, a power surge. There is not a single power being removed.

Q467 **John Lamont:** You agree with my conclusion that this UK Government wish to enhance and support devolution as a consequence of the powers flowing back from Brussels and that those who wish to destroy devolution are those who want to take Scotland out of the United Kingdom?

Mr Jack: I completely agree with that. The Scottish Parliament is the most powerful devolved Parliament in the world, and it is about to get more powerful. There is no question that that is the case. The idea that this is wrecking devolution is fanciful. It is fanciful more so when it comes from a party that wants to destroy it altogether and move to independence—independence that in itself is a hypocrisy because it involves handing those powers back to the European Union and not being that independent at all, not least our very valuable coastal fishing waters.

Q468 **John Lamont:** Adopting the single currency of the European Union as well probably. Returning to your opening remarks and the support that the UK Government have provided to the Scottish economy during the last few months during the pandemic, you reckon it is 930,000 jobs supported by the UK Government support schemes. Is it not also true that the UK Internal Market Bill is primarily around supporting jobs, not just in Scotland, which is about 500,000 jobs that are dependent on trade with the rest of the UK, but across all parts of the UK? For that reason alone, were you surprised that the Opposition parties, primarily the SNP, voted against that UK Internal Market Bill? Were you also surprised that they voted against the recent Trade Bill, which was simply rolling over the existing trade deals that many businesses in Scotland get the benefit from?

Mr Jack: First, the Fraser of Allander Institute says it is 565,000 jobs. It says that over 500,000 jobs are protected by the UK internal market.

There has been a lot of nonsense in the press about the Trade Bill, because the truth is that the Trade Bill was not about food standards or anything else. It was simply about rolling over the existing deals that we had with the EU, and you cannot roll over an existing deal and, in the process, put in new clauses. How that was represented was fairly misleading. We are not reducing food standards when we leave the European Union. We are transferring their food standards and their environmental standards in the Withdrawal Act into UK law.

Our intention as a UK Government—and the Prime Minister is very strong on this—is that we will increase animal welfare standards and food standards and go further than the European Union. If the Scottish Government, through their Continuity Bill, decide to mirror the European Union's food standards and health standards—and they can because the



UK respects devolution—the irony is that we will then see lower food standards and production standards in Scotland as it follows the EU standards, and higher standards in the rest of the UK. Despite what is being claimed, the Continuity Bill following EU standards will bring lower standards to Scotland, but Scottish producers will still be able to sell to the rest of the UK through mutual recognition—that protects them. I will be sorry if the Scottish Government choose to follow the EU’s lower standards when we increase ours.

Q469 John Lamont: The UK Conservative party manifesto last year in the general election was very clear about maintaining food standards, environmental standards and animal standards. Picking up again the remarks from the Chairman regarding intergovernmental relations, there was a review initiated in 2018 about intergovernmental relations. Could you update us on where that review has got to, please?

Mr Jack: The review was paused due to the Covid outbreak, but we had a JMC meeting in May this year and we resumed working on the review. In August, Ministers from all four Administrations met and we discussed our interim proposals and we have broadly agreed a dispute avoidance and resolution package. The plan that we are looking at and planning to follow is the one proposed by the Scottish Government.

Gillian McGregor: Could I say something at this point, following on from the intergovernmental relations point that the Chairman mentioned earlier? We talked a bit about the interaction between Ministers, but I wanted to underline that of course there is a lot of official level interaction as well. It is very regular, frequent and constructive. Quite often the focus tends to be on the areas of disagreement but I would not want to undermine the fact that there is a lot of good constructive work that has happened across all four devolved Administrations and some tricky issues in relation to Covid.

As well as regular weekly meetings—quite often more frequent than that—we also have deeper discussions about particular issues and share information and regulations, and those discussions are constructive. Of course, there is sometimes frustration if things are done a bit differently, but we work through that. I wanted to register that engagement takes place and it is very important to us.

Iain Stewart: May I also add, as a relatively new Minister, I have very regular meetings with counterparts in the Scottish Government on a wide range of areas that sit within my portfolio. I found those to be very cordial and constructive. If I might cite one as an example: I have the welfare policy within my portfolio and the engagement I have had with Cabinet Secretary Somerville has been very fruitful.

There is a substantial increase in the Scottish Government’s powers on welfare policy flowing from the Scotland Act 2016. It is a very complex area as they evolve their policies, which have to work alongside UK-wide welfare systems. At the end point, the user does not see what lies behind



that. Those negotiations and discussions are working perfectly well but they do not raise a big debate in the media. That sort of level of interaction and co-operation has been working very well, from my perspective as a new Minister.

Mr Jack: I will add one last thing, John. CDL said at the last PACAC Committee that we would be publishing the intergovernmental review before the end of this year.

Q470 **Mhairi Black:** Following up on the point that has just been raised, Jeane Freeman told us, "I had no relationship in particular with the Secretary of State for Scotland", so I am just trying to understand a bit more. What has been the official role of the Scotland Office and you, as Minister, between the UK Government and the Scottish Government when it comes to the health aspects of this pandemic?

Mr Jack: Other than meetings online, I met Jeane Freeman on 12 March in her office. It was memorable in many ways. It was quite a long meeting and it did not start until about 10 that night. About an hour into the meeting the Secretary of State for Health, who had flown up, joined us. We agreed at that meeting to joint working. That was a meeting that was facilitated by us. As was appropriate, it was for Health Ministers to then meet regularly to discuss health.

Jeane Freeman and I attended some of the MIGs, but if she needed help—as does any Minister or Department in the Scottish Government that needs help—we facilitate help across Whitehall. We are very happy to do that and we have done it on a number of occasions, but I have not had any further approaches from her in that regard since the meeting on 12 March.

Gillian McGregor: I agree with the Secretary of State's analysis on that. What quite often happens is that, as an office in the Scotland Office, we have an overview of everything that is going on but if there are specific issues to be dealt with that are fairly detailed—and some of these health discussions are very detailed—there is no reason why that sort of dialogue would not happen between the experts from each Government. That would seem to me to be a sensible thing to do, while we retain our overview.

In the early days, some of these relationships between the health officials on both sides were quite immature because of the nature of health, so they have to broaden. Particularly in the early stage, I pride myself in saying that we were able to meet and facilitate some of those links. Once they are up and running, it is entirely legitimate that those discussions should happen in that way.

Q471 **Mhairi Black:** That is helpful. What I am trying to get at is, from everything that we have heard, certainly in this inquiry, I get the feeling that the purpose of the Scotland Office is to be of help wherever it can be, just floating about. It is not playing a specific role. Am I correct in



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saying that?

Mr Jack: The Scotland Office does many things. There is £1.5 billion of spending going through the city and growth deals. We are busy on a lot of fronts doing a lot of different things. If I take yesterday, for instance, over the Airbus-Boeing issue, I facilitated meetings with the Secretary of State for the DIT and the Secretary of State for BEIS. I visited them separately, highlighting problems, sorting out a logjam as we move towards negotiations, something that we can do coming out of the EU, a problem that has existed for over a decade and is now affecting our whisky industry. We are able to help through our ability across Whitehall to knock heads together or get things done.

Then we have the other roles that we do. I know we have issues with direct spending, but we are also in discussions with the Treasury about the amount of money going to Scotland. We have been very successful in the last spending reviews in getting a bigger uplift than would normally be the case, if you look at inflation.

We are Scotland's voice in Whitehall and there are many different things. We have discussions ongoing with the Department for Transport at the moment about some quite exciting projects, and on it goes. But we are trying all the time to look at what we can do to bring Scotland's influence to the table.

Gillian McGregor: I completely agree with that. There is a delivery role for the Department in making sure that things like city deals happen and work, and bringing together colleagues across the vast expanse of the UK Government Departments to try to achieve that. We have direct responsibility for ensuring that the Scotland Act is implemented properly, and we are bringing together Departments to do that.

There is also a facilitation role. This office has a unique perspective and it is the same for the Wales Office and the Northern Ireland Office. We try to look across all Government policy as it impacts on Scotland and make links that people who are working in individual policy areas may not spot themselves. That does not mean that we need to swoop in and get involved in absolutely everything, but if we spot something we think is important to Scotland, and also areas where we can collaborate and work together with the Scottish Government, we will try to support them and make that work.

Mr Jack: I will further add that we have Cabinet write-arounds and we see what is coming forward as policy. It will not surprise you that some of the things in the year I have been here—I will not go into the detail—that I am most proud of are things I have stopped happening rather than made happen. That will not surprise you in government, but it is putting the perspective of where we are. A lot of what we do is protecting the devolved settlements.



Iain Stewart: Colleagues have referenced the city and regional growth deals programme, which falls within my area. I have been doing a lot of work in that to complete deals across Scotland for every part. But we are also looking at, with some of the disruption that has happened because of Covid: are some of the initial ideas still valid? Could the programmes be adjusted in a way? I am discussing with Scottish Government counterparts, the local authorities and Treasury to see what sensible adjustments might be made going forward. That is work in progress. That is a very critical role that I have in the office here.

Q472 **Mhairi Black:** It is very encouraging to hear the Minister explicitly say things like being Scotland's voice in Whitehall. Following on from that, we have already touched briefly on the Internal Market Bill that is coming through Parliament. Can the Minister tell me: had the Internal Market Bill been in place at the start of this pandemic, what would you have liked to see happen during this pandemic using the powers that the Internal Market Bill will eventually grant the UK Government? What would you have done differently?

Mr Jack: I do not think the UK Internal Market Bill is for pandemics. It is for protecting trade.

Q473 **Mhairi Black:** Yes, but I am looking at clause 46(2)(c), which says any Minister of the Crown may provide money in all these different devolved areas, one being health, education, culture and such like. With that in mind, with a massive health pandemic happening, what would the UK Government have done had they had the powers under this Internal Market Bill?

Mr Jack: We did a huge amount. With direct spending from the UK Government into Scotland, you only need look at the furlough scheme to see that we did a massive amount of spending into Scotland directly and continue to do so. Then there was the support for jobs, support for businesses, the package that we added to the Barnett formula, obviously. All of these things can happen.

There is a broad range of things in that clause 46 around spending. I cannot think of a specific example about health, but it will be—and it would not affect the pandemic—around capital projects. That clause is about capital projects. We would not have had time to pull off a capital project during the pandemic.

Q474 **Mhairi Black:** Can you understand then why certainly some in Scotland would be concerned if we have a Minister saying that this Bill will give UK Ministers the power to basically override the Scottish Parliament in devolved areas, specifically mentioning something like health?

Mr Jack: I must correct you there. It is simply not to override the Scottish Government in devolved areas. It is to put the UK Government in the place where the EU was before. Having left the EU, we are in a new world. We are able to spend, whether it was the TENs money or the



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European regional development fund where people applied for funds and it was match-funding—

Q475 **Mhairi Black:** I am conscious that I am taking up time but it is important to say that when the EU gives that money to the Scottish Parliament to spend, it does not do it directly, which is what the UK Government are suggesting.

Mr Jack: The Scottish Government or local authorities under ERDF would make applications for funding. Then, often by matched funding or other methods, the funding would come forward. We have not laid out our proposals on how that funding will happen, but it will be done collaboratively with the Scottish Government and local authorities. That is absolutely the position. It will not be the UK Government just piling in and doing things that no one has asked for. But it allows us, in those areas, to invest in the capital that previously—and we made a manifesto commitment to match or even increase the existing EU funding, and all we are doing is keeping that in place. That is all that does. It does not in any way affect devolution or override the Scottish Government. That is simply not correct.

Iain Stewart: UK Government spending in areas that are primarily devolved is not something new. For example, over the last three weeks alone I have announced through BEIS and other Departments over £20 million of research funding on Covid matters for Scottish universities. It is right and proper that the expertise of academics in Scotland can be at the forefront of our battle against this virus. I do not see anything irregular about that.

Q476 **Chair:** I want to clarify something that I heard from the Secretary of State, and you can tell me if this is the case. I think the Secretary of State was coming quite close to saying none of this additional spending in the powers of clause 46 would be done without the consent of the Scottish Government. Did I hear you correctly on that?

Mr Jack: No, I said the spending would be done—I used the words “collaboratively with the Scottish Government or local authorities” but I said that the system that would be put in place for this spending—

Q477 **Chair:** You would not seek the consent of the Scottish Government for any of this extra spending, even though it is in areas of devolved powers?

Mr Jack: You are going one stage further than we have got to at the moment in our discussions with the Treasury. I am not going to go that far in saying. This will not be money imposed upon Scotland against its will—quite the contrary. It will be money that is to help capital projects and other things. I do not think we should make a grievance out of more money. This is money over and above the money currently received from the UK Government into any of the devolved Administrations.

Q478 **Chair:** I do not want to take too much time on this, because it was Ms Black’s question, but it is a new development and I am certain people will



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be picking up on those remarks about the relationship between consent or consultation. I wanted to make sure we did not mishear you when it came to that.

Mr Jack: What conclusion are you drawing from what I have said?

Chair: I thought you came quite close to saying that none of this extra spending would be done without the Scottish Government's consent. You have clarified to say that you would just spend it anyway, regardless of what the Scottish Government said about it.

Mr Jack: I did not say that. I said that there would be consultation on the spending with the Scottish Government and/or local authorities, no different from the way the EU moneys come to Scotland, the shared prosperity fund. What I was saying to you is that it is not a case of the UK Government will decide that they want to build something somewhere and just crack on and do it without getting planning permission. The idea that we will be heavy handed around this money is completely—

Chair: It is vitally important, and we will leave the quibbling between the UK and the EU to one side for another debate and we will have to move on.

Mr Jack: I must just put that on the record.

Q479 **Wendy Chamberlain:** Thank you, witnesses, for returning to speak to us. It is very important given that we saw you so close to the outset of our inquiry. We talked a lot then about what was happening and what the intention going forward was. It is an important opportunity to look back, particularly as we see rates of the virus rising.

In my section I want to look at lessons learned, lessons, opportunities, whether prior to the pandemic or during the previous few months. My first question is on Exercise Cygnus. Last week we spoke with witnesses about Exercise Silver Swan and touched on some of the assumptions that were apparently made in that exercise, which arguably were unhelpful as we faced Covid, about care homes not being included in the exercise. Also, that we made assumptions about the type or strain of virus that would cause such a pandemic and that it would be treatable.

Exercise Cygnus talked about how the Scottish Government were involved at COBR level but that there were opportunities for the Scottish Government and for the devolved Administrations to be involved on a smaller, ongoing basis. My question is to Gillian in the first instance. What input did the Scotland Office have to the outputs from Exercise Cygnus, particularly about intergovernmental relations?

Gillian McGregor: Exercise Cygnus was a different type of exercise. That was about preparing for a flu pandemic, and the devolved Administrations were invited to all the relevant meetings about that. It was a very different scenario, but one of the possible advantages that came out of that was an understanding that we would have to act quickly and jointly to prepare legislation for extreme events. One of the real positives that



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came out of Cygnus, although it was not all relevant to the types of challenges we are facing now, was that we had some draft legislation that had originally been drafted for a flu pandemic that we were able to very quickly adapt for Covid.

When we talk about intergovernmental relations and working jointly, we worked very quickly together on the Coronavirus Act 2020, bringing in the devolved competence issues as well, and were quickly able to secure the legislative consent motion from Holyrood.

I have quite a lot of experience in doing these exercises and then when the real thing comes around it is never the same as you expected, but there are all these things that you can draw from it.

Another thing, just on a personal level, we draw from these exercises is that they get us used to working together in crisis moments. Obviously Covid is a crisis that has been going on a very long time. We work together at operational levels. For example, in previous situations like this we have had people from our office in the Scotland Office embedded in the Scottish Government resilience room—not this time, obviously, because we were in a lockdown situation. But it just shows that some of the lessons that you get from these exercises may not look 100% relevant to the situation you are facing, but you can always draw something from them. In this case, the legislative aspects and moving quickly were probably the main ones.

Q480 Wendy Chamberlain: Where my question is coming from is when we think back, and as Mhairi referred to, to the evidence that Jeane Freeman gave to this Committee. We know the JMC has not been meeting, the MIGs were in place but potentially there was a drop-off in those meetings and engagement. I am interested to understand that that seems to have been something that Cygnus already picked up in its recommendations. Was that potentially an opportunity lost that could have had us moving even more quickly, despite the legislative benefits that you describe there?

Gillian McGregor: There has always been an understanding that when you are facing a situation like this—so a flu pandemic or, in this case, Covid—it does not respect boundaries between the nations of the UK. We have to work together, and we do. For important decisions and for important points in this crisis there have been ministerial meetings. I know that the Chancellor of the Duchy of Lancaster, Michael Gove, has chaired numerous meetings with the First Ministers of each of the devolved Administrations, and the Prime Minister has too.

I do not think in these sorts of situations I perceive a holding back of information and data from the UK Government's side—quite the opposite. There has been a desire to share expertise, including the chief medical officer network, which has been very important. That engagement has been taking place, from my vantage point.



Q481 **Wendy Chamberlain:** That is interesting because one of the reflections of Ms Freeman was that the Cabinet Office potentially was a more valuable place for that kind of thing, getting information out there and making those linkages.

Gillian McGregor: We work extremely closely with the Cabinet Office, and the Cabinet Office has an important role in co-ordinating some of these discussions because they happen across the UK Government and all three devolved Administrations. The Cabinet Office has an important role and me and my colleagues in the Wales Office and Northern Ireland Office are also part of those discussions because it is happening across the whole of the UK.

Q482 **Wendy Chamberlain:** I hope that is something the review is considering, thank you.

My second part is to the Secretary of State. Given that we are now several months into the Covid pandemic, what we picked up from witnesses last week was that there has been much closer working and a lot of learning about how we work together and tackle things. What key lessons do you think the Scotland Office has picked up over the last few months and that it will take forward in relation to how we have dealt with the pandemic so far?

Mr Jack: The key thing has been to try to avoid confusion. Lessons have been learned by the devolved Administrations, lessons like testing positive patients before you send them back to care homes. Lessons have been learned by the Treasury about job supporting and so on.

From our perspective and in our discussions with the devolved Administrations, the thing that keeps coming back to me is I find it very frustrating that we are one United Kingdom Government and we are three devolved Administrations but we are one country. We have borders that the virus does not respect. They are geographical borders, not physical borders. We have to understand people move around the UK, whether it is on business or visiting families or on holiday. What I have come to understand very strongly since I last spoke to you is that we need to stop the confusion. All the Administrations in these weekly meetings we have should be grown up and not be different for the sake of it, for whatever agenda they have. It has not brought anyone to a different outcome. The prevalence of the virus is as high in any part of the UK as another. You can point to low areas and high areas, but on average we are all four nations experiencing similar problems.

Whether it is changes to social distancing rules or the Joint Biosecurity Centre, the quarantine I talked about earlier, or even the UK Government's "hands, face, space" message to the public, and the Scottish Government have gone for FACTS—all of those things, in a funny way, it is just harder, and it muddles the message. I see this particularly with a constituency that is close to the border with England, and particularly again with the rule of six and, before that, how many people



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from how many households you could have one side of the border and another. I saw no logic in the rules being different. Going forward, if we are living with this for a long time to come, we should have clear, simple messaging and it should be UK-wide.

Q483 Wendy Chamberlain: My challenge back to that is the fact that the UK Government in areas of England has taken different approaches to lockdowns because arguably there is different evidence to suggest how that outbreak is spreading, whether that is house-to-house transmission or, as we saw in Aberdeen, where it was through licensed premises. For me, the evidence is—

Mr Jack: You are absolutely right but, if you notice, I did not mention lockdowns. The approach to lockdowns has to be local and focused and reacting to the problems they see. I totally agree with that point, but in my list of things that I felt we could get on the same page with, whether it was quarantine countries to make it simpler for airports or the rule of six or the messaging of hands, face, space or FACTS, those are the things I am talking about. For local lockdowns you have to tackle what is in front of you and where the virus source is.

Q484 Alberto Costa: When you last came before the Committee, I raised the issue of logistics and the trade between Scotland and England. You mentioned in an earlier answer the importance of the trade that Scotland has, particularly in goods with the rest of the United Kingdom. My own South Leicestershire constituency is home to one of the largest logistics parks in Europe and there is much by way of goods imported into Scotland and exported out of Scotland into parts of the east midlands. The question I have is about supply chain issues. From the beginning of the pandemic the good work that was done by the various stakeholders mostly eliminated any problems with the supply chain. How are you going to ensure, going forward, if there is a second wave of this terrible Covid-19 virus, that the supply chain resilience in Scotland is maintained to allow Scotland to continue the trade, in particular with other parts of the United Kingdom?

Mr Jack: You raise a good point. It is the same strategy as we had last time. We have been very active in this area and we were lucky last time—I say “lucky”, you can read that however you want—we were fortunate in that we had preparations in place because the European Union operations committee, running up to 31 October, had made lots of plans of what would happen in the event of a no-deal Brexit. Those preparations were able to be used for the Covid pandemic.

In April, the Department for Transport—I have some pieces on this—took the steps to support the ferry operators between GB and NI, including the vital Cairnryan-Belfast link in my constituency. It signed agreements in May worth £35 million with ferry operators in the channel and the Irish sea to ensure there was sufficient capacity for the flow of essential goods. Other steps were taken. The Department for International Trade took steps to improve our resilience and the flow of pharmaceuticals and PPE.



There were obviously opportunities for Scottish manufacturers built into that.

The important thing is that we had a plan in place, and we were able to execute that plan. We did not have any disruption. There was not much prediction of disruption but there were—and it is a separate issue—for a while problems with PPE and the supply of PPE, but that is because the world was hunting down all the PPE that was available. We have taken steps and we are in better shape for that going forward.

Q485 Alberto Costa: I asked this question at our last encounter. Can you give an assurance to this Committee about the supply chain that if there is to be a second wave—and we hope there will not be—that there will not be any obstacle in the Scotland-England border? Will the UK Government do everything possible to maintain the free flow of goods between Scotland and England to ensure that the supply chain is maintained for the benefit of all the nations of the United Kingdom?

Mr Jack: I can 100% guarantee that. The borders between England and Wales and England and Scotland are geographical borders. They are not physical borders. There will be no physical infrastructure. The UK Government would not support any physical infrastructure whatsoever. We had nonsense over the summer with protestors telling Englanders to keep out and all these banners that went up. We saw it at airports as well. It was disgraceful behaviour.

As we saw, and as Gillian mentioned earlier, the virus shows no respect for boundaries or borders and its prevalence is as high in Scotland as it is anywhere else in the UK at the moment. We have to tackle this on a one United Kingdom basis. We certainly do not want any more of that nonsense at the border saying people are not welcome. If it is medicine supplies—and 2,500 lorry loads of medicine supplies come across the channel weekly, bound for the Republic of Ireland, Northern Ireland, Wales and Scotland, as well as England—we want those medicine supplies to keep flowing freely.

Alberto Costa: Thank you for confirming not just in an earlier answer that we are absolutely one country but the importance of maintaining that flow of trade between all nations of our United Kingdom. Thank you, Secretary of State.

Q486 Douglas Ross: Good morning, Secretary of State. I also welcome Minister Stewart to his new role and agree with what the Chair and Secretary of State said about Gillian McGregor's service to the Scotland Office and her long career in the civil service. I was very grateful for the help and support, Gillian, you gave me in my time in the Scotland Office.

I will start by picking up on a couple of points. First, I thought the Chair rather aggressively shouted over you when you were giving a response about what the First Minister had said about the rate of infection in Scotland being five times higher. Unfortunately, I could not hear your answer because the SNP Chair of the Committee spoke over you. Could



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you outline what you were saying about that assertion from the First Minister and the response from the UK Statistics Authority?

Mr Jack: Yes, I would like to clear that point up. I thought it was disgraceful on many occasions over the summer, when the First Minister was not helping the situation at the border, with people standing with banners. We saw on social media and television all that what went on, saying the English were not welcome. That was slightly inciteful and the idea was that the virus was all but suppressed and gone in Scotland. But it was the prevalence, to quote her, she kept saying was five times higher in England. That statistic was repeated many times. It was totally untrue, totally unhelpful and it was reported to the UK Statistics Authority, an independent body, which came back and said that there was absolutely no basis for it.

It is that sort of conduct that leads to bad feeling between us. We are one United Kingdom. We are all in this together. There has been huge support from the UK Government with the furlough scheme and other things. That is as it should be. Scotland pulls its weight as well, as does Wales and Northern Ireland. We are a Union where at different times in our history we have all done different things. But we should be in this together, supporting each other, and that is pointing the finger and saying, "You are doing a bad job and I am doing a good job", which turned out on the figures to be completely incorrect. I find that totally unhelpful.

Q487 **Douglas Ross:** I am grateful because I found it very unhelpful that we could not hear that part of your answer. I want to pick up on something Mhairi Black asked about, which is the evidence given on 11 June this year by the Scottish Government's Health Secretary, Jeane Freeman. In your response to Ms Black you said you had a long meeting with Ms Freeman in her office, I believe you said, in Edinburgh, at least an hour with just yourself and the Health Secretary and then you were joined by the UK Health Secretary. Either you have misled this Committee or Ms Freeman has misled this Committee because I am going to quote what she told the Scottish Affairs Committee on 11 June. She said she was "not aware and can recall no communication with Mr Jack." Who has misled this Committee?

Mr Jack: She has. I should point out that I said so at the time in a BBC interview, although BBC Scotland did not use the clip. No, she has. My officials attended as well and it was on, I think, 12 March, late in the evening and it went on very late into the evening. As I say, I was there for probably an hour before the Secretary of State, Matt Hancock, arrived and then the meeting went on for some considerable time after that.

Q488 **Douglas Ross:** I am grateful for that. Obviously, the Committee will have to discuss what we do when a witness comes to the Committee and potentially gives misleading evidence. We were told last week from Unison that during this pandemic Ms Freeman has been, to quote them, unaware of crucial information, and it also seems she has been slightly



inaccurate in what she has been saying to this Committee. Your clarification on that is very useful.

I will move back to a point you also raised about a letter you had sent to the First Minister, and the Scotland Office put this on social media so I have seen a copy of that letter. You said there has been no response so far from the First Minister. Given that she has not avoided commenting on the UK Internal Market Bill and the proposals in the last week, why do you think she had not responded to your letter correcting a number of false claims made by the Scottish Government?

Mr Jack: I don't know why she has not responded. I will be chasing her up for a response, because they are false claims and if she thinks otherwise, I would like to see it in writing and the evidence. I noted that the leader of the Scottish National party in Westminster, Ian Blackford, repeated some of those false claims on television on Sunday, on the politics programme. He should not have done that because, as I say, these things are not true. They are misleading the Scottish public on a piece of legislation that is absolutely critical to protect Scottish businesses, Scottish jobs and Scottish consumers.

I must emphasise the non-discrimination part of the Bill. Mutual recognition is one thing, but non-discrimination protects consumer prices and that is very important. We don't need to see decisions taken that could be taken a number of different ways, for instance, around the pesticides regime that would impact the price of barley or wheat or other crops, which would then impact on the production costs of certain foodstuffs. We don't need to see those costs go up.

Q489 **Douglas Ross:** It goes back to the respect agenda, doesn't it? We heard Mike Russell telling a Committee this week that the relationship between the two Governments had broken down. That is quite a severe breakdown if the First Minister and Scottish Government are asserting things that you as a UK Government Minister are quite clearly and publicly saying are wrong. We need to not just have respect between the two Governments but respect for the constituents we all serve. To put out misleading and false claims such as that on an important piece of legislation does not show respect to the people of Scotland either, does it?

Mr Jack: No, I completely agree. As I have said before, Mike Russell probably is the most exercised over this piece of legislation. Mike Russell says he was blindsided by it. In his own appearance in front of one of the Holyrood Committees—this is before the UK legislation was announced—he said that at best he felt that they could sign up to three frameworks.

Alongside the UKIM legislation is frameworks and we need in the region of 20 frameworks to make the UK internal market work. These are frameworks that currently exist in the EU. We have not been able to agree very many with the Scottish Government so far—I think three. Mike Russell said that he would only sign up to frameworks that were in



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Scotland's interests. That sounds very good, but it is not in the interests of Scotland. Mutual recognition and non-discrimination will help protect that and underpin it. The frameworks are by consensus and we are proceeding with them on that basis, but they do have an opt-out. In the event that there is an opt-out we still need to protect businesses and jobs.

I think where Mike Russell is concerned, he needs to recognise the importance of frameworks and the UKIM. He also needs to ask himself why in the spring of 2019 when UKIM, the United Kingdom internal market legislation, was first being proposed and worked up he disengaged the Scottish Government officials from having any involvement in it whatsoever. That is utterly irresponsible for what matters to the Scottish economy and is important to Scottish businesses and jobs.

Q490 Douglas Ross: I quite agree. Finally, to finish on Mr Russell, in evidence he gave this week he said that UK Government spending in Scotland done in opposition to the Scottish Government would be "a shocking waste of public resources". First, why should UK Government funding in Scotland be seen as a shocking waste of resources? Surely, we should all welcome increased investment in our communities? Is it not the case that the city and growth deals that Minister Stewart mentioned earlier have proven successfully that UK and Scottish Governments can both invest in Scotland in communities such as Moray and the length and breadth of the country?

Mr Jack: I don't understand this problem with the UK Government investing money in Scotland. It is this thing where it is Brussels over Britain from the Scottish Government the whole time, whether it was Mike Russell going out to discuss with Barnier's team softening up our position on the negotiations—as has been highlighted in the press and not refuted—on the common fisheries policy and undermining Scottish fishermen and undermining the Scottish Government's negotiations. This idea that the EU can spend money in Scotland, but the UK Government can't is, to me, frankly bizarre.

Douglas Ross: Thank you very much.

Q491 Chair: Again we are getting back to this idea of some sort of equivalence between the UK and the EU. I am very interested on your view on this. Do you acknowledge that this is the first time ever, with clause 46 of this Bill, that the UK Government will have the authority and the right to invest in areas that are clearly the responsibility of the Scottish Parliament? Do you acknowledge that?

Mr Jack: These powers are there because the powers existed before with the EU and the EU is no longer going to have that money to spend and we have committed to carrying on spending it so we are putting—

Q492 Chair: I think you misunderstand the question. I am not bothered about the EU. The EU had a particular way of doing things for structural funding



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and state aid. What I am asking is: do you acknowledge that this is the first time that the UK Parliament will have the authority to invest priority spending in areas of devolved responsibility? Do you acknowledge that?

Mr Jack: No, I don't acknowledge that at all.

Q493 **Chair:** Has it happened before?

Mr Jack:? No, I am afraid we spend through the city and growth deals—

Q494 **Chair:** They are partnership arrangements with the Scottish Government, these are consultations. I am asking you for an example where the UK Government, without consulting the Scottish Government, can directly invest their priorities in areas of devolved spending. When has that happened before?

Mr Jack: It is not happening now. You are confecting a grievance that does not exist. I use the word "collaborative" with the Scottish Government and with local authorities and I remain that it will be collaborative, as it is with the EU at the moment. We are not spending in devolved areas without the Scottish Government's permission. I have made that quite clear. This is a completely confected grievance, which is totally untrue. It doesn't matter how many times you bring it up in this meeting, I will not concede that point because you are wrong.

Q495 **Chair:** Can I suggest to you that, looking at the best efforts of Douglas Ross and the Scottish Conservative leadership, there is no chance whatsoever that the Scottish Conservatives will win next May's election, so instead of going to the bother of winning an election you are just going to circumvent and get around the Scottish Parliament by directly investing in areas that you want? Is that what is going on?

Mr Jack: No, that is not what is going on. I think it is arrogant of you to think that the next elections in Holyrood are a foregone conclusion. You may laugh but there is—

Q496 **Chair:** Okay, we will see what happens next May anyway then.

Mr Jack: Chair, I remember the SNP telling me what was going to happen when you supported a general election last year at the end of October with the Liberal Democrats. You said that Boris Johnson was going to be swept away. Well, quite the contrary happened.

Q497 **Chair:** Scottish Conservatives lost more than half their seats, but we will maybe just leave that one there.

Mr Jack: Boris Johnson came back with an 80 majority. Yes, he has been swept away.

Q498 **Chair:** We will maybe just leave that one there. I know Mr Stewart was keen to come in, but you have gone on quite a lot about city deals, which we think are great. They are done in partnership and co-operation with the Scottish Government and they are an example of two Governments working together. There is an issue around the Tay cities deal. Wendy



Chamberlain has projects within the Tay cities deal and there is a real sense that there is something going wrong. We have asked repeatedly for meetings on the Tay cities deal with Minister Stewart and I hope he will turn around just very quickly and tell us that he agrees to those meetings and we can discuss some of the serious issues that we have with the Tay cities deal. All I am looking for is a, "Yes, I will" to me, Minister Stewart?

Iain Stewart: Yes, I will. In fact, I have a meeting with Wendy Chamberlain later today to discuss this very issue.

Q499 **Chair:** It might have been useful to have all the Tayside MPs at that meeting, but I am sure Wendy will be able to pass on to me what has happened at that one.

Iain Stewart: If I may return to the point I was just going to make as an example of where the additional spending could work in everyone's interest, the example I will cite is if we decide it is a good idea to reopen the rest of the Borders rail link from Tweedbank to Carlisle, that is investment that will cover both Scotland and England. This Bill will allow the UK Government to complement the investment in Scotland so that this valuable transport link is completed. That is an example where the spending powers could be used in everyone's interests.

Q500 **Chair:** Okay, thank you. You could, of course, just give the money to the Scottish Government so they could get on with, given it is within their devolved responsibilities. We will leave that one aside just now.

Iain Stewart: This project crosses the border; it goes to Carlisle so there is an English element to it as well. This is a project that has to be done in collaboration with both Governments.

Chair: Thank you.

Q501 **Sally-Ann Hart:** Good morning, Secretary of State, Minister and Gillian. I want to have a look at the economy. I have listened to everything that has been said this morning. I want, in my own mind, to clear up exactly which parts of the economy are devolved to Scotland. I understand the economy to some extent is devolved to Scotland but is it that employment and trade and industry are reserved matters? Is that right? I would like some clarity on that before I ask some questions about the economy.

Mr Jack: There are elements of employment, like the apprenticeship scheme, which are devolved. It is not clear-cut, to be fair, Sally-Ann, I am afraid. It is interwoven. But ask your questions and we will answer them. There are parts of employment devolved and there are elements of trade and industry devolved and on it goes.

Q502 **Sally-Ann Hart:** So it is not clear-cut?

Mr Jack: It is not clear-cut, no. That is the straight answer. It is not clear-cut but I think in the time we have available to rattle through how it all knits together would probably not be a good use of our time.



Q503 Sally-Ann Hart: We will go straight to the questions then. In May you said you had not yet carried out an impact assessment of the effects of the pandemic on the Scottish economy. Have you managed to do something yet? Is it something you are planning to do and how will you work with the Scottish Government to do that plan?

Mr Jack: We haven't done an impact assessment and now we have no intention of doing one, for the simple reason that things have moved so quickly with the economic decline. The GDP figures were published yesterday, and the Scottish economy has contracted by 19.4% in the second quarter of 2020. The GDP across the UK as a whole is 20.4%. The numbers really speak for themselves. We know what has happened, we can see what has happened and we need to put in the measures to sort that out.

I talked earlier about the 930,000 jobs that have been supported by the Treasury through the furlough scheme and the self-employed support scheme. There has been £2.3 billion loaned to Scottish business, and the Treasury has given the Scottish Government an additional £6.5 billion for Covid funding, which has been topped up on to the Barnett formula.

Other things have cut across the whole of the UK. For instance, the Treasury announced the VAT cut for tourism, there has been the very successful eat out to help out scheme for hospitality and there have been some various plans for jobs done with the Kickstart scheme, which again is a UK-wide, Treasury-delivered scheme. But with the £6.5 billion that the Scottish Government have they are able to take other initiatives should they wish to, and we would encourage them to do so. That money is devolved and the decisions the Scottish Government takes with that money are entirely a matter for them.

Q504 Sally-Ann Hart: Looking at the job retention scheme, which is UK-wide, I am not going to try to work out how much of employment is devolved but is that something that the Scottish Government would expect a UK Government to do or is it something that the UK Government did throughout the UK because they needed to do it?

Iain Stewart: I will answer that one. When the lockdown started and it was clear that there was going to be very severe economic disruption, the Government had to move very quickly and put in a comprehensive job support package at pace. A scheme that in normal times would take months, if not years to put together and work out all the complexities, we did in literally a few short weeks. It was always intended to be a countrywide, all-sectors support scheme. I think that was the right intervention at the time. Of course, it was extended back in the early summer. It included more flexibilities in its second phase, for example allowing some people to come back part-time when a full-time job was not sustainable at that point.

It was the right intervention at the time, but we are now in the phase where we need to move into rebooting the economy, getting people back



to work. The job retention scheme was just one of a much broader package of measures. We now have the job retention bonus. There is an enormous amount of capital support through grants and loans to businesses across the UK. The Chancellor has already demonstrated his ability to intervene in specific sectors that require additional support. I would point to the support package for the arts and entertainment sector back in July, which was around £1.6 billion. That was for England, but there were Barnett consequential and the Scottish Government pretty much did the same thing with their share of the money.

As the Chancellor indicated earlier this week, he will be looking constantly at innovative solutions to help those bits of the economy that will still need support as we go forward. The job retention scheme has done its role. It was necessary at the time, but we now need to be more creative and specific in the support we give.

Q505 Sally-Ann Hart: Are you having discussions with the Scottish Government on possible interventions to support business in Scotland in the medium to longer term? Is this something on which the UK Government or you will have discussions with the Scottish Government?

Iain Stewart: Yes, absolutely. One of the big challenges will be, hopefully soon, when we are out of the immediate health problem, there will be long-term changes to the structure of employment and business. Many companies, I know, are appraising—given that they have had a lot of people working from home—what will be the mix of home working and office space. If we get to the point that companies decide this has worked quite well and they do not need the same quantum of people in their offices, what does that mean for the city centre/large town centre economies?

We are still at a very early stage and we do not know what those implications will be. If we get to the point that there is a loss of employment in the city centres, that will require working from UK Government, Scottish Government and local authorities to look at how we can best redesign the city centre economies. I have already had some initial discussions with Cabinet Secretary Fiona Hyslop and other key partners in Scotland, like the Scottish Retail Consortium. We are starting to think about how we can address those big long-term issues.

Q506 Sally-Ann Hart: As a result of the furlough scheme coming to an end, we are bound to see some increase in unemployment. Is that something that the UK Government and the Scottish Government are discussing, looking at, working out what to do in these matters when it comes to unemployment?

Iain Stewart: Yes, and if I can refer back to your initial question on where the responsibilities lie, on that retraining agenda, particularly for young people, some schemes are UK-wide, like the Kickstart scheme, but the Scottish Government also have their tailored packages. I know the First Minister outlined that in her programme of government speech a few



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weeks ago. Yes, there will be interventions from both Governments on how we can support particularly young people, get them back into work and increase their skills training.

Gillian McGregor: Businesses and stakeholders in Scotland that we speak to expect both Governments to work together on these issues. I know that we have had very successful interactions with some of the business representative organisations, which have worked well because we have been able to have Scottish Government representation and UK Government representation at the table to give the full picture. In my experience, there is never a 100% dividing line between something that is devolved and reserved; there is always a bit of an overlap. Trade is reserved but that does not mean we are not having discussions with Scottish Government on trade. They have a team in Scottish Government who deal with trade, who we work with very closely.

This is an important point. We are expected—and it is right that people expect us—to work together on big issues like the economy and employment.

Iain Stewart: To give another example, I jointly host, with Cabinet Secretary Hyslop, the Scottish Business Growth Group, which brings together the two Governments but also key stakeholders like the STUC, CBI, the Scottish Financial Enterprise and a wide range of representative bodies representing Scotland's different economic sectors. That is a very useful forum for those groups to hear what we are doing but also to discuss the longer-term challenges and ideas that we could use to tackle them.

Q507 **Sally-Ann Hart:** My final question is about the economic support available to the Scottish Government when the UK-wide schemes end. We have the Barnett formula, which you increased to £6.5 billion to help out in Scotland and that is to do with health and so on. Looking at the UK shared prosperity fund, when we move forward—and the Scottish Government may well need further economic support moving forward—you are talking about a bid being made into that. Are you going to be looking at increasing the amount given to Scotland under the Barnett formula? Will the Scottish Government be able to apply to the shared prosperity fund? How will economic support be given moving forward?

Iain Stewart: There is already a number of schemes that continue beyond the end of the furlough scheme, like the job retention bonus and many other parts of the Chancellor's package of support that he announced in the summer economic update. But going beyond that, these are issues that will be decided in the upcoming Budget and comprehensive spending review. Some of those interventions will be UK-wide, some will be England only, for which there will be Barnett consequential for Scotland and the other devolved Administrations. It is a bit difficult to go into specifics of what those will be because that will be determined by the Chancellor at those two events.



Q508 **Sally-Ann Hart:** In discussion with the Scottish Government?

Iain Stewart: We are constantly feeding in our asks for what the Chancellor will decide in the Budget and spending review. I highlighted one earlier about potentially greater flexibility in the city and regional growth deals. That work is constantly ongoing. If the Chancellor announces support for England, that will have Barnett consequential and the Scottish Government would be free to replicate that exactly or tailor it in a different way as they see fit. That is how the Barnett formula works.

Q509 **Deidre Brock:** Good morning, Secretary of State, Minister and Director. Secretary of State, will you be following Lord Keen out the door now or do you still think that the internal market really works for Scotland?

Mr Jack: When I was thinking through who might ask that question, Deidre, you will not be surprised that I thought it might be you. The answer is that the UK internal market absolutely works for Scotland, as it will work for the Bill and work for the whole of the United Kingdom. I will be staying exactly where I am and continuing to press the case for Scotland within Whitehall.

Q510 **Deidre Brock:** I am sure you have seen the letter in which the Advocate General announced his registration. I wanted to quote a section because I think it is quite impressively waspish: "I have endeavoured to identify a respectable argument for the provisions at clauses 42 to 45 of the Bill, but it is now clear this will not meet your policy intentions". That is, of course, his letter to the PM announcing his resignation. That is pretty cutting stuff. You have worked together for a long time. Can you give us your views on his resignation, please?

Mr Jack: Since he resigned the situation has moved on. I enjoyed working with Lord Keen. He has a very fine legal mind and he was an excellent Advocate General. I am sorry that he has resigned but his resignation has come with the Government coming forward with two amendments to the Bill and those were things that he and others were suggesting should happen. I am very sorry that we have lost him. I have no doubt that he will be replaced by someone also very competent. There are a number of people who have made clear that they are interested in taking on the role. That is a very good thing. On balance, he has got his will in as much as there has been movement from the Government.

Q511 **Deidre Brock:** It is interesting you think there are so many people that are there to replace him. I note that the former Attorney General, Dominic Grieve, was suggesting it will be hard to find a senior Scottish lawyer prepared to replace Lord Keen as Advocate General. But we will see what happens.

Mr Jack: To comment on that point, like in many things he is completely wrong. There are some very fine people in the frame.

Q512 **Deidre Brock:** Yes, right, thank you very much. We look forward to that announcement.



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The Secretary of State for Northern Ireland seems to think that lawbreaking is grand as long as it is specific. Can I take it that you agree with him?

Mr Jack: We have to be clear about this and I am going to use the words that Lord Keen gave to me and the position I have taken in Government all along. It is quite simply that the Northern Ireland protocol has a Joint Committee attached to it, which is chaired in part, on our side of the balance sheet, by Michael Gove, the Chancellor of the Duchy of Lancaster. That is there to iron out the unresolved things from when the agreement was signed last year.

In the event that it is unable to iron things out in a timeless way and there are potential adverse impacts for the Good Friday agreement, what we were doing was putting in place a contingent power that allowed us to protect the Good Friday agreement, which is also an international agreement that we signed some 20 years ago, the Belfast agreement.

We feel very strongly about that. I want to make the point that the treaty obligations only become binding when they are enshrined in domestic legislation. This is a principle that was established by Gina Miller in the Supreme Court. Ultimately, Parliament is sovereign and the proposed amendment that has now come forward to the UKIM Bill does just that and makes Parliament sovereign. It gives Parliament the ultimate decision if we have to protect the Good Friday agreement and our international obligations there.

Q513 **Deidre Brock:** Your answer is that you are comfortable with that despite the fact that the most senior Law Officer for the UK Government in Scotland has resigned because he finds it untenable. Is that right?

Mr Jack: He has resigned but since then we have moved to the position I have just outlined, which is it makes Parliament sovereign with this proposed amendment. The people who were unhappy with that have now said that they will support the Bill and I think that is a welcome development.

Q514 **Deidre Brock:** We also have the senior Law Officer in the civil service for the UK Government having resigned over this issue, but there you are.

Mr Jack: Again that happened before this development.

Q515 **Deidre Brock:** Secretary of State, what input did you have directly into the Internal Market Bill?

Mr Jack: I have had a lot input into the Internal Market Bill, and I have been involved in the meetings with BEIS. As you know, it is not a constitutional Bill; it is an economic Bill that the Business, Energy and Industrial Strategy Department is bringing forward. I have had many meetings with them and with the Secretary of State, and I attended all the meetings when we were designing and constructing the Bill. If I could not be there, then one of my Ministers—so I have been heavily involved.



Q516 **Deidre Brock:** Good. You have clearly had more involvement than the Scottish Government had with any of this because it was announced as a bit of bombshell, both the White Paper and Bill being introduced to the UK Parliament.

Mr Jack: The Scottish Government were invited to engage in the Bill in I think it was early 2019, before I was Secretary of State. Cabinet Secretary Mike Russell decided he didn't agree that there was a UK internal market; he said he didn't believe one existed. He is on the record as saying that and he disengaged his civil servants, his officials, from the process. That is entirely an own goal on their behalf.

Q517 **Deidre Brock:** We will see. We have yet to hear about some of the issues behind that decision. Mr Russell has been quite circumspect. However, can I ask you to specify one or two clauses that you had direct input into, clauses that you got in there to improve Scotland's deal?

Mr Jack: You are asking me to specify?

Deidre Brock: Yes.

Mr Jack: I was involved in the discussions at clause 46 around spending powers. I think that is well known. In fact, I was involved in all the discussions. Rather than have the funds that previously came from the EU drying up, we have the Barnett formula and we have the grant but it was to create a formula where Governments, to strengthen the United Kingdom, could work collaboratively, as I said earlier, going forward and that was something that I felt was very important. My office was involved in bringing forward solutions. This Bill has been a long time in the planning and one of the problems we had was how we respected devolution and the ability for the Scottish Government, for instance, to still be able to put through legislation like minimum pricing alcohol or a plastic bag tax or many other things. All of things had to be respected.

It was difficult in looking at the Bill to find a way whereby we could respect the devolved settlement but still ensure a very smooth-running UK internal market. The solution we came up with was the Australian model, which you may be familiar with, of mutual recognition. That was also the principle that underpinned the original EU single market. Those discussions very much happened from this office and enabled us to come up with a solution that allowed the devolved settlement to be respected and work very smoothly within the UK internal market while protecting businesses, jobs and consumer prices.

Q518 **Deidre Brock:** I am glad you mentioned mutual recognition because, of course, the EU system of mutual recognition is quite a different beast from the one proposed by the UK Government. I want to quote a section of a briefing paper that has been released by a professor of European law at the University of Liverpool, Michael Dougan, who says in speaking about the mutual recognition proposed by the Government that: "An extensive system of mutual recognition (wide scope of application, limited scope for derogations) means that—whatever the competence of the



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devolved institutions on paper—the ability of English goods and services freely to access the markets in Scotland or Wales will make it much more difficult in practice for the devolved institutions to adopt or enforce different/higher regulatory standards of their own. Such standards will effectively disadvantage domestic producers/suppliers; while the potential scale of English imports would, in many circumstances, simply negate any prospect of Scotland or Wales delivering on their desired public interest objectives.”

If you will not take the concerns of the Scottish Government and many other commentators on this issue, would you at least acknowledge the concerns and the views of a respected academic?

Mr Jack: I have heard many academics and many theories, and I would say that is a double-edged sword of what you said. It is taken from one perspective. I will come to standards, but on the access of goods, it is very important that Scotland maintains her access to the rest of the UK because that is 60% of her trade. That is three times more than she does with the European Union and more than she does anywhere else in the world or the whole of the world combined. It is over £50 billion, and it is over 500,000 jobs and so on.

These are big numbers and that is from the Fraser Allander Institute, the job samplers, that rely on that. It is a double-edged sword. It goes both ways and it is important that there is access for the wonderful agri-food industry business that Scotland has—food and drink is hugely important to our economy—to still be able to access the markets around the UK.

I am more concerned about standards. I am a food producer myself. I have animals at home and on animal welfare and food production—our dairy milk goes to cheese production—I would like to ensure that Scotland has high standards and follows the UK Government’s high standards that we will set next year. These are words now, but they will be actions. We will set much higher standards outside the EU, we have said we will, and I am absolutely sure the Prime Minister will follow through on that.

If the Scottish Government choose, through their Continuity Bill, to mirror the EU’s lower standards, as they can in the devolved areas, Scotland will be the country bringing lower standards to the rest of the UK. I ask the Scottish Government to follow the UK’s higher standards in that situation.

Q519 Deidre Brock: I have to say, Secretary of State, sometimes I feel like I have walked through the looking glass and I am hearing an alternative point of view that does not match reality. There are many people concerned about standards and it is not simply Scottish Government or devolved Governments complaining about this—there are many people in the industry.

I can talk about the common framework approach, which as I understand it has always been understood to be an approach that should be agreed



not imposed and that has been supported by all of the NFUs—I am pretty confident in saying that—across the whole of the UK. We will leave that bit there. I am going to quote one more academic, if I may.

Mr Jack: I totally agree with you on frameworks: they are to be agreed by consensus. It is the case, though, that any of the devolved Administrations or even the UK Government can opt out of those frameworks, and this is why the UKIM legislation—you have just hit the nail on the head—is so important to protect the Scottish economy and Scottish jobs, because under mutual recognition and non-discrimination there is a safety net there for our economy and our businesses. That is the whole point of this.

The frameworks are very important, and we are endeavouring to get frameworks signed up as quickly as possible, but they are not being imposed upon anyone; they are entirely by consensus.

Q520 **Deidre Brock:** Indeed, but this Bill, of course, allows for the UK Government to impose their decisions on the devolved Administrations. As we know, there have been significant representations from—

Mr Jack: No, no, you must stop there. You have said something that is completely wrong. It actually allows the devolved Administrations to impose their decisions on each other through mutual recognition. This is the point. It is not a one-way horse; it is in both directions and, as I said earlier, it is to facilitate trade around the United Kingdom and protect all businesses.

Q521 **Deidre Brock:** Thanks. I am going to quote another academic to you. Aileen McHarg, professor of public law and human rights at the University of Durham, put up on Twitter—the modern world’s Encyclopaedia Britannica—“The UK Govt’s line that the UK Int Market Bill incs the powers of the devolved parls is simply a lie. Even ignoring the de facto effect of the Market Access Commitment, there’s nothing in the Bill that incs devolved competence, but there are things that explicitly reduce it.” Could you comment on that, please?

Mr Jack: I don’t agree. We have read that here and we have looked at it, and it is in my letter to the First Minister; we cannot see how that stacks up at all, I am afraid.

Q522 **Deidre Brock:** I note that you have a strong desire that everything is going to be very collegial and chummy in the future. There will be lots of consultation going on with different parties once this Bill is through. Have you noted that, very unusually, Ministers from the Scottish Government, the Welsh Parliament and the Northern Ireland Executive have written a joint letter, dated 16 September, to the Secretary of State for Transport, Minister Grant Shapps, deploring the fact that the UK Government’s connectivity review was announced without consultation by the Prime Minister on 30 June and warning him the review should not be used in any way to undermine or supplant our devolved powers across Wales, Scotland or Northern Ireland, either directly or indirectly? That letter



suggests mounting alarm in the devolved Administrations about the UK Government's intentions, perhaps prompted by the publishing of this Bill. Could you comment on that?

Mr Jack: The Prime Minister said that he wanted to have a connectivity review. The details of the review have not been announced yet, but I suspect that will happen very soon. You have to wait to see the detail of the review, but the idea that reviewing connectivity is in any way to do anything but good for the United Kingdom and our ability to get around the UK—we have huge opportunities in front of us. Minister Stewart is better on this subject than me, but it is the right time to have a review looking at improving our rail networks, how our airports operate and the new world we find ourselves in.

I was reading, just anecdotally, that the HS2 from Euston to Birmingham international airport would be 37 minutes. That takes away the need to build another runway at Heathrow. Maybe other things in our UK connectivity could be looked at and it should be done with an open mind. It will not be done in railroading over the devolved Administrations.

Q523 **Deidre Brock:** The fact remains, Secretary of State, that that review was announced by the Prime Minister without discussion with any of the devolved Administrations in a clearly devolved area. It does not seem to me to suggest—

Mr Jack: No, I disagree. He is the Prime Minister of the United Kingdom and he did not say who was going to be involved in the review or the details of the review. He said that we should review our connectivity across the United Kingdom. The build back better campaign, which is what he was referring to, is something he feels very strongly about. The details surrounding that—I understand why the devolved Administrations have written a letter—

Q524 **Chair:** Okay, thank you, Secretary of State. One thing that came up in the exchange with Ms Brock, and is quite interesting, is that you seemed to think it was all right or at least that you were reasonably relaxed about the fact that the UK Government may indeed break international law with the Internal Market Bill. How would you feel about the Scottish Government breaking domestic law in a specific and limited way? I think it was a Liberal Democrat colleague that raised this with the Prime Minister last week. What about an independence referendum; would that be all right?

Mr Jack: No, none of us should be breaking any laws, just to be quite clear. In my answer I did not suggest that breaking laws was a good idea. I was very clear on that. I talked about the conflict between the Belfast agreement, which is an international agreement, the Good Friday agreement, and the withdrawal agreement. I still believe it is right that Parliament should be sovereign and that remains the same for the question of the UK Parliament remaining sovereign on matters that are reserved or matters that are in domestic law. I was saying that



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Parliament should be sovereign, following through with the Gina Miller principle that was established in the Supreme Court. I don't want you to read it any other way.

Q525 **Chair:** It was the Northern Ireland Secretary who said that international law would be broken in a specific and limited way. I don't think we are getting around the fact that is going to happen and we have seen the reaction in the United States, which has obviously huge issues for Scotland concerning a trade deal.

Mr Jack: Last night we published additional clauses to the Bill, which come after that.

Q526 **Chair:** I do not know if that helps the issue very much at all. We will leave it there.

Thank you ever so much. That was a fantastic session, as always when we get you, Alister. We are very grateful for your time in coming along today. On behalf of all the Committee, we want to wish Gillian all the best for the future. I know we will not see her again. We have very much enjoyed and appreciated your support, assistance and help, Gillian, throughout the years. You have been very helpful to this Committee in the course of its work, so we wish you all the best.

We hope we see you again, Secretary of State. We know that there is a putative baroness coming the way of Westminster and we are hoping she does not usurp you and we will have you continuing to be Secretary of State for the foreseeable future. Thank you all very much.

Mr Jack: Thank you, Chair, for your time as well and for chairing the meeting. Hopefully, we will meet again soon.

Chair: Excellent. Thank you very much and all the best to you.