



HOUSE OF LORDS

Select Committee on the Constitution

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The Rt Hon Simon Clarke MP
Department for Levelling Up, Housing & Communities
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21 October 2022

Dear Secretary of State,

Government Response to the Lord's Constitution Committee report – *Respect and Cooperation: Building a Stronger Union for the 21st century* (10th Report, Session 2021-2022, HL Paper 142)

I write on behalf of the Constitution Committee following the Government's 2 September response to our report *Respect and Cooperation: Building a Stronger Union for the 21st century*.

As noted in the response, we have a shared desire to see the constituent parts of the United Kingdom working together for a better future. We were therefore concerned by recent reports that the outgoing Prime Minister had not made formal contact with the First Ministers of Scotland and Wales.¹ This is not in keeping with our mutual ambition to strengthen the Union. We trust that the next Prime Minister will contact the First Ministers promptly upon taking office.

We have both recognised that the UK's collective response to the COVID-19 pandemic demonstrated the continued strength and importance of the Union. As the country now embarks on a period of severe economic uncertainty, as with the pandemic, respect and co-operation between the UK Government and devolved authorities is of key importance. We believe our report provides a road map for achieving this.

It is in this spirit that I write to you to highlight several of our conclusions and recommendations that were not addressed in the response. In other cases we seek further clarification on recommendations to which the Government did respond.

¹ 'Nicola Sturgeon says lack of contact from Liz Truss "absurd"', BBC News (7 October 2022): <https://www.bbc.co.uk/news/uk-scotland-63175102> [accessed 20 October 2022]; 'Liz Truss: Mark Drakeford says PM has not called him yet', BBC News (13 October 2022): https://www.bbc.co.uk/news/uk-wales-politics-63241802?xtor=AL-72-%5Bpartner%5D-%5Bbbc.news.twitter%5D-%5Bheadline%5D-%5Bnews%5D-%5Bbizdev%5D-%5Bisapi%5D&at_custom3=%40BBCPolitics&at_custom2=twitter&at_custom4=twitter&at_medium=custom7&at_custom1=%5Bpost+type%5D&at_campaign=64 [accessed 20 October 2022]; Nicola Sturgeon (@NicolaSturgeon) tweet on 20 October 2022: <https://twitter.com/NicolaSturgeon/status/1583077586422595584?cxt=HHwVglDQ6ayrnPgrAAAA> [accessed 20 October 2022]

Sewel Convention

We recommended that on introduction of a bill to the House of Lords which engages the Sewel convention, the Government should submit a memorandum to the House about the devolution implications, explaining what engagement has taken place with the relevant devolved administrations (para 25). We note that the response does not address our suggestion that a memorandum of this nature should outline any relevant engagement with the devolved administrations and request further clarification as to the Government's views on this point.

In this chapter we made two observations that were not addressed in the response. The first was that the Sewel convention was undermined both if the Government refuses to seek, or chooses to act without, consent (para 123). The second was that there has been unanimous rejection of the Government's legacy proposals by political parties in Northern Ireland, indicating a clear lack of consent on that issue (para 148). We ask that the Government provides a response on these issues. On the latter, we refer you to the Committee's recent report on the Northern Ireland Troubles (Legacy and Reconciliation) Bill, which we have attached to this letter for ease of reference.

Intergovernmental relations

In our report, we recommended that the Prime Minister and Heads of Devolved Governments Council should meet at least twice a year (para 178). In the response, this was not rejected, but nor was it accepted. We reiterate our recommendation and ask for a response from the Government on this issue.

We also recommended that the Government make more time available in the House of Lords to hold a debate on its annual report on intergovernmental relations (para 207). While the response noted that the Government published its annual report on intergovernmental relations in March, there was no commitment to support holding a debate in the House of Lords on the report. We ask that you provide your views on this suggestion.

We concluded that while trade was a reserved matter there was value in consulting the devolved administrations in this area, particularly as they would be required to help implement future agreements (para 196). We ask for a response from the Government on this issue.

Interparliamentary relations

Our report recommended that the Ministerial Code should be amended to include an expectation that UK Government ministers will appear before committees of the devolved administrations (para 221). The Government's response to this recommendation appears contradictory. It said that the Government would "consider this recommendation for the next version of the Ministerial Code", while also saying that "given this existing practice [of ministers appearing before devolved committees], we do not think that it is necessary to revise the Ministerial Code." We ask that you provide further clarification as to the Government's position on this recommendation.

We also recommended that the UK Government should undertake to engage with the new Interparliamentary Forum (para 225). As you have highlighted in the response, the then

Minister for Levelling Up, the Union and the Constitution attended the first meeting of the new interparliamentary forum in February 2022 and held discussions with attendees. Neil O'Brien's informal contribution to the first forum was much valued by the Westminster participants and our devolved counterparts and was a key part of a successful relaunch. We anticipate that, as with the previous Interparliamentary Forum on Brexit, ministers of the devolved administrations will always attend parts of meetings when their respective legislature hosts. We would be grateful if you could confirm that UK Government ministers will always be prepared to attend future meetings of the forum when they are hosted by the Commons or Lords.

The Governance of England

We recommended that to facilitate further devolution to devolved authorities in England the Government should provide them with adequate resources and support to build the necessary capacity to exercise additional powers, as well as the capability to deliver them (para 264). The response helpfully outlined the funding available to Mayoral Combined Authorities and other local authorities. We fear that in the current economic climate funding for devolved authorities is at risk. We strongly reiterate our recommendation and ask that the Government provides a response.

Whitehall

In our report we endorsed two recommendations from Lord Dunlop's Review of UK Government Union Capability. The first was that a senior Cabinet position should have a duty to uphold the integrity of the constitution, including the operation of intergovernmental relations and the devolution arrangements more generally. The second was that a single Permanent Secretary should be established with responsibility for the Union, who would lead the offices of the Secretaries of State for Scotland, Wales and Northern Ireland. Neither of these recommendations were addressed in the response. We ask that you provide your views on these matters.

Yours sincerely,



Baroness Drake
Chair of the Constitution Committee