



House of Commons  
Justice Committee

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# The constitutional relationship with the Crown Dependencies

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**Second Report of Session 2023–24**

*Report, together with formal minutes relating  
to the report*

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## Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

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## Summary

The Justice Committee regularly examines the relationship between the Crown Dependencies and the UK Government, taking an in depth look at issues as they arise. Since our last inquiry, and the UK's withdrawal from the EU, trade policy for the Crown Dependencies looks significantly different, with the UK Government now undertaking trade negotiations on their behalf. Accordingly, this report focuses on the Crown Dependencies' experiences of these negotiations—specifically the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)—as well as examining their relationship with the Ministry of Justice and other UK Government departments.

In terms of trade negotiations, we found that all three Crown Dependencies had quite serious concerns about the Department for Business and Trade's approach to bringing them into CPTPP and other free trade agreement (FTA) negotiations. For future negotiations, improvements to the process for the Crown Dependencies can and should be made. We recommend that mutually agreed principles—underpinning, for example, communication, updates and timing—should guide effective engagement during the negotiation process. Overall, we recommend that the Crown Dependencies should be represented by specifically designated officials, either from the UK Government or the Crown Dependencies.

We note that the outcome of the CPTPP negotiations—inclusion for trade in goods from the outset, but not for services—was not the one that the service industry predominant Crown Dependencies had hoped for. The UK Government's aim for all future FTAs should be for the Crown Dependencies to be covered by services, as well as goods chapters, from the outset. Where this does not prove possible, we recommend that mechanisms to extend services chapters at a later date should routinely be sought.

Turning to the working relationship between the Crown Dependencies and the Ministry of Justice, we found this to be very positive, with good levels of engagement and communication. The relationship could be improved yet further by the establishment of regular contact with senior Ministry of Justice officials and a further increase in team staffing to manage the additional work associated with trade deals. We also found the Ministry of Justice to be very effective at supporting relationships which have developed between the Crown Dependencies and other UK Government departments. Where matters are urgent and require coordination between several UK Government departments, we put forward the suggestion that the Cabinet Office could potentially step in to provide additional support.

Relationships between the Crown Dependencies and other UK Government departments are generally good and we heard various examples of positive developments flowing from these. However, UK Government departments must make efforts to consult and engage with the Crown Dependencies on a particular issue as early as possible, and regularly thereafter, and we recommend that the Ministry of Justice emphasise this approach in their guidance to Whitehall.

The inclusion of a Permissive Extent Clause (PEC) in the Fisheries Act 2020, which concerned the Governments of Guernsey and Jersey, was one of the very few relationship

flashpoints in recent years. We consider this to have been extremely regrettable and contrary to the constitutional relationship and expect that the usual approach of consultation and consent with regards to all future PECs will now prevail.

Our inquiry renewed our deep appreciation for the Crown Dependencies and respect for their unique constitutional relationship with the UK. They are valuable members of the British family and their important cultural and economic contributions deserve greater recognition. The UK Government should grasp the real and very significant opportunity, which has been presented by taking responsibility for its own international trade policy, to make the most of its economic relationship with the Crown Dependencies.

# 1 Introduction

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1. The Crown Dependencies are the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man. They are self-governing entities with their own directly-elected legislative assemblies, legal, administrative and fiscal systems. They are not part of the United Kingdom but have a unique historical and constitutional relationship with the Crown, with King Charles III as their Head of State. The UK Government is responsible for the defence and international relations of the islands, while the Crown, acting through the Privy Council, is ultimately responsible for ensuring their “good government”.

2. The Ministry of Justice is the UK government department responsible for managing the UK’s constitutional relationship with the Crown Dependencies and its performance in so doing therefore falls within the remit of this Committee. We regularly examine the relationship between the Ministry of Justice and the Crown Dependencies, checking up every couple of years and taking an in depth look at particular issues as they arise, such as the response to the Icelandic banking crisis in 2008.

3. Aware that the UK’s withdrawal from the EU and the UK’s subsequent pursuit of its own trade policy has had a direct impact on the Crown Dependencies, we felt that an oral evidence session with the Crown Dependencies would be appropriate and timely, given their recent involvement in trade negotiations alongside the UK Government. Accordingly, in May 2023 we took oral evidence from Hon Alfred Cannan MHK, Chief Minister, Government of the Isle of Man; Deputy Jonathan Le Tocq, Minister for External Relations, Government of Guernsey; and Deputy Philip Ozouf, Minister for External Relations, Government of Jersey. Prior to this, we invited the Crown Dependencies to submit written evidence. After a slight delay, due in part to the difficulty of finding a mutually convenient time in Ministers’ diaries, in November 2023 we took oral evidence from Mike Freer, Minister for Courts and Legal Services, Ministry of Justice and the Rt Hon Greg Hands MP, Minister of State, Department for Business and Trade and their officials.

4. In the intervening period, in September and October 2023, we took the opportunity to visit Jersey, Guernsey and the Isle of Man to gather informal evidence from their ministers and officials, ask questions and, ultimately, add depth and colour to our thinking. We received a warm welcome, learnt a great deal and saw the islands at their best. We thank all those who contributed to our work.

5. In Chapter Two, we consider the administration by the Ministry of Justice of the relationship between the Crown Dependencies and the UK Government. In Chapter Three, we consider the relationships between the Crown Dependencies and other UK Government departments and the Ministry of Justice’s role in supporting and facilitating these. Chapter Four focuses on the Crown Dependencies’ experiences of recent trade agreement negotiations, as well as their relationship with the Department for Business and Trade, and Chapter Five considers legislation and legislative processes.

6. Throughout this Report, we make recommendations about the changes which we believe are required, in terms of both policy and process, to ensure the smooth and optimal functioning of the Crown Dependencies’ relationship with the UK Government. During the inquiry we were told that our work is of value to the Crown Dependencies,

helping them to “get [their] case heard”.<sup>1</sup> We were also pleased to hear that our previous reports have “made a real difference” and “helped in the constitutional evolution”,<sup>2</sup> and we hope that this one does too.

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1 Q55 [Jonathan Le Tocq, Philip Ozouf]

2 Q5 [Philip Ozouf]

## 2 Relationship between the Ministry of Justice and the Crown Dependencies

7. The Ministry of Justice—through its Crown Dependency team—is responsible for managing the UK’s constitutional relationship with the Crown Dependencies.<sup>3</sup>

8. The team has a variety of responsibilities, including examining insular legislation<sup>4</sup> prior to Royal Assent, ensuring good government in the Crown Dependencies, issuing Letters of Entrustment<sup>5</sup> and supporting the Crown Dependencies’ relationships with other UK Government departments in relation to substantive policy matters. The team also acts as a “central point”,<sup>6</sup> engaging with officials in the Crown Dependencies daily and facilitating contact and communications between them and other UK Government departments.

### Supporting relationships with other departments

9. UK Government departments are responsible for engaging with and consulting the Crown Dependencies on substantive policy matters and relevant legislation.<sup>7</sup> The Ministry of Justice’s role is to help establish that engagement and to support relationships and ensure their smooth functioning: “stand[ing] ready to assist in facilitating discussions and brokering solutions in the event of any disagreements”.<sup>8</sup> As part of this, the Ministry of Justice helps other UK Government departments understand the constitutional relationship and their responsibilities towards the Crown Dependencies and, as Minister Freer put it, “advocate[s] on [their] behalf”.<sup>9</sup> Alfred Cannan, Chief Minister, Government of the Isle of Man, told us that the Ministry of Justice plays a “key supporting role”.<sup>10</sup>

10. In practical terms, as well as facilitating communication, which we consider below, this involves the provision of ad hoc advice and guidance; online and in-person awareness-raising sessions, including during the cross-Whitehall ‘devolution week’; and provision of online guidance and relevant documents for UK Government departments.<sup>11</sup> Deputy Jonathan Le Tocq, Minister for External Relations, Government of Guernsey, made the point that, due to Ministerial and staff turnover, efforts to ensure that the constitutional relationship was understood needed to be ongoing: “It is a never-ending job, like painting the Eiffel Tower”.<sup>12</sup>

3 Ministry of Justice ([RCD0004](#)) para 2

4 The domestic legislation made by the Crown Dependencies’ own legislatures.

5 Authority is delegated to the Crown Dependencies through a “Letter of Entrustment” to negotiate directly with a sovereign state in relation to certain topics and sign an agreement, usually relating to tax matters.

6 Q3 [Alfred Cannan]

7 Ministry of Justice ([RCD0004](#)) para 2; Q50 [Minister Freer]

8 Ministry of Justice ([RCD0004](#)) para 3

9 Q7 [Minister Freer]

10 Q3 [Alfred Cannan]

11 This includes a Fact sheet on the UK’s relationship with the Crown Dependencies and ‘How To Notes’ on matters such as the extension of UK primary legislation and the extension of international instruments to Crown Dependencies.

12 Q4 [Jonathan Le Tocq]



## Contact, communications and visits

11. As described, communicating with the Crown Dependencies—either directly or to facilitate engagement between them and other UK Government departments—is a significant aspect of the Ministry of Justice’s work. We heard that the Crown Dependencies and the Ministry of Justice were communicating more than ever before.<sup>13</sup> There is regular planned contact, including one-to-one meetings between the team’s Grade 6 leader and senior officials in each of the Crown Dependencies every six weeks or so and monthly “contact group meetings” between officials in each of the Crown Dependencies and selected officials from other UK Government departments.<sup>14</sup> In addition, ad hoc communication relating to matters in hand or emerging issues takes place daily, initiated either by Ministry of Justice or Crown Dependency officials.<sup>15</sup> Visits to the islands occur “as necessary”, with nine having taken place between October 2022 and mid-September 2023 and three more planned for the rest of that year. Minister Freer told us that the “quality of engagement has improved”,<sup>16</sup> which was echoed by the Crown Dependencies: Alfred Cannan, Chief Minister, Government of the Isle of Man, for example, reported a “good, positive interaction”.<sup>17</sup> It was clear that this good engagement had fostered strong working relationships at official level,<sup>18</sup> and the sense that the Ministry of Justice Crown Dependencies team was supportive and proactive<sup>19</sup> and that “generally things [were] very good”.<sup>20</sup>

12. With regard to contact at Ministerial level, the Crown Dependencies were also broadly satisfied. Following a period of turnover in the Ministerial position responsible for the relationship, Minister Freer is now established in his role.<sup>21</sup> In the 12 months since his appointment, he met ministers of each of the Crown Dependencies in person and online several times and visited Jersey, the Isle of Man, Guernsey and Sark. The Government of Jersey said their relationship with him was “well-established” and that he was “continuously supportive and proactive”.<sup>22</sup> The Government of the Isle of Man found him to be “accessible”,<sup>23</sup> and we were pleased to hear that Crown Dependency ministers have his personal mobile number and can contact him directly.<sup>24</sup> We are grateful for Minister Freer’s own assurance to us that his “door is open”.<sup>25</sup>

13. As is to be expected, contact with the Lord Chancellor, the Rt Hon Alex Chalk KC MP, has been slightly less frequent. However, we were impressed to hear of the speed with which meetings took place following his appointment: he met ministers from the Government of Jersey within a “matter of days”<sup>26</sup> and ministers from all three Crown Dependencies within a month.<sup>27</sup>

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13 Government of Guernsey ([RCD0001](#)) para 2.1; Government of Jersey ([RCD0002](#)) para 2.4

14 Ministry of Justice ([RCD0004](#)) para 27

15 Ministry of Justice ([RCD0004](#)) para 29

16 Q5 [Minister Freer]

17 Q4 [Alfred Cannan]

18 Government of Guernsey ([RCD0001](#)) para 3.2

19 Government of Jersey ([RCD0002](#)) para 3.1. See also Q9 [Jonathan Le Tocq]

20 Q9 [Jonathan Le Tocq]

21 There were four Ministers with responsibility for the Crown Dependencies in three years.

22 Government of Jersey ([RCD0002](#)) para 3.1

23 Government of the Isle of Man ([RCD0003](#)) para 2

24 Q3 [Minister Freer]

25 Q4 [Minister Freer]

26 Q6 [Philip Ozouf]

27 Ministry of Justice ([RCD0004](#)) para 25

14. In contrast, we heard that contact with senior Ministry of Justice officials, such as directors, the director general and the permanent secretary, had been less forthcoming and that more would be appreciated.<sup>28</sup> Deputy Philip Ozouf, Government of Jersey, said that access to the director general and permanent secretary had been “very limited” and “only on extraordinary occasions [...] if anything at all”.<sup>29</sup> When we asked Minister Freer about this, he said that he was not aware that such access had been sought and that he was “sure the permanent secretary would be amenable if she got the request”.<sup>30</sup>

## Staffing and workload

15. The Crown Dependency team comprises eight officials: one grade six team leader, three senior executive officers, three higher executive officers and one executive officer. The team is overseen and supported by a deputy director.<sup>31</sup> Two additional members of staff were recruited to deal with the increase in work associated with the UK’s departure from the EU but have since been stood down. At the time of our oral evidence session with Minister Freer in November 2023, there was one vacancy at executive officer level and plans in place to recruit a new grade seven official.<sup>32</sup> The team has many combined years of experience and, rightly, sees itself as having expertise in the constitutional relationship with the Crown Dependencies.<sup>33</sup>

16. We asked Richard Mason, Deputy Director for Constitutional Policy, Ministry of Justice, roughly how many matters the team worked on at any one time. He told us that:

We deal with a range of Departments [...] we are dealing with DBT, obviously; we are dealing with the Home Office on some issues; we are dealing with DEFRA on some issues; and HMRC. There are always several matters running and several Departments that we are engaging with, alongside all the engagement we are doing with the [Crown Dependencies] on other matters [...] that they would request our help on.<sup>34</sup>

In addition to this, as highlighted by Alfred Cannan, Chief Minister, Government of the Isle of Man, following the UK’s withdrawal from the EU, there was “more to be done” to ensure that UK Government departments understood, respected and represented the Crown Dependencies’ positions and the constitutional relationship.<sup>35</sup> By our estimation, even with the new grade seven official in place, this is a substantial amount of work overall for a team of nine. Indeed, the Governments of Guernsey and Jersey said that the team was “understaffed”<sup>36</sup> and that its staff were “under pressure”<sup>37</sup> and “very overworked”.<sup>38</sup> Having heard this, we asked Minister Freer why the two additional members of staff

28 Government of Jersey (RCD0002) para 3.4; Q9 [Philip Ozouf]

29 Q9 [Philip Ozouf]. See also Q9 [Jonathan Le Tocq]

30 Q23 [Minister Freer]

31 Ministry of Justice (RCD0004) para 31

32 Q16 [Richard Mason]

33 Ministry of Justice (RCD0004) para 32

34 Q13 [Richard Mason]

35 Q11 [Alfred Cannan]

36 Q55 [Philip Ozouf]

37 Q10 [Jonathan Le Tocq]

38 Q9 [Philip Ozouf]

were not retained. He explained that they had been recruited specifically to deal with EU withdrawal work which had since fallen away and that extra resource was being recruited to help with the increase in work associated with trade deals.<sup>39</sup>

17. We wish to emphasise that the team’s commitment and the quality of their work, however, were not in question: Deputy Philip Ozouf, Government of Jersey, told us that they “work really hard in trying to deal with a big agenda”<sup>40</sup> and do “an amazing job”.<sup>41</sup>

18. **There is a very positive working relationship between the Crown Dependencies and the Ministry of Justice. Engagement has clearly improved in recent years with both planned and spontaneous contact and communications taking place much more frequently between officials, the Minister and the Lord Chancellor. *More regular contact should be established between senior officials in the Ministry of Justice, namely the director, the director general and permanent secretary, and the Crown Dependencies. This should be actively offered, rather than the Crown Dependencies having to request it, and become a routine part of Crown Dependency and Ministry of Justice engagement. The permanent secretary should meet her counterpart in each Crown Dependency at least twice a year.***

19. **The Ministry of Justice Crown Dependencies team has a substantial workload which is likely to increase in the coming years. We believe that the team is under pressure as a result and there is a risk that their work, which is currently extremely good, could suffer as a result. *While we welcome the recruitment of a new grade seven official to the Crown Dependency team, the Ministry of Justice should increase staffing yet further to manage the increase in work associated with trade deals. This would also enable team officials to undertake regular work placements in Crown Dependency governments, with reciprocal arrangements in place enabling Crown Dependency officials to spend time in UK Government departments.***

20. **We believe there is a good understanding of the constitutional relationship across Whitehall as a result of the Ministry of Justice’s awareness-raising work. *Nevertheless, to take account of turnover among officials and Ministers, the Ministry of Justice must ensure that these efforts are ongoing. Ahead of the general election, the Ministry of Justice should prepare a programme of education, guidance and awareness-raising on the constitutional relationship in case there is a new administration. The Lord Chancellor should write to each Minister in each UK government department as soon as possible after the general election to remind them of their responsibilities towards the Crown Dependencies.***

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39 Q14 [Minister Freer], Q15 [Richard Mason]

40 Q9 [Philip Ozouf]

41 Q52 [Philip Ozouf]

### 3 Relationship between other UK Government departments and the Crown Dependencies

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21. In Chapter Two, we described the Ministry of Justice’s role in supporting and facilitating direct relationships between the Crown Dependencies and UK Government departments. This is a fairly new and, we were told, “more effective” way of working<sup>42</sup> which arose during the UK’s withdrawal from the EU and the covid-19 pandemic, which both necessitated a significant increase in direct contact between the Crown Dependencies and other UK Government departments.<sup>43</sup> We heard that some UK Government departments now have teams with responsibility for Crown Dependency engagement, leading to “greater awareness of [their] issues”.<sup>44</sup> Prior to this, all official communication was channelled through the Ministry of Justice as a single point of contact. As our predecessor committee reported in 2010, this way of working led to the Crown Dependencies “often feel[ing] at a significant disadvantage and unable to put across their point of view effectively”.<sup>45</sup>

22. The Crown Dependencies gave us several recent examples of positive developments resulting from direct engagement with other UK Government departments. These included the Government of Guernsey working with the Department for Education to confirm that Crown Dependency students at English universities should have the same fee status as UK students, and with the Department for Health and Social Care to implement a new Reciprocal Health Agreement with the UK. We also heard about the Government of Jersey’s work with the Foreign, Commonwealth and Development Office to enable short-term working for Jersey officers on FCDO premises overseas, and with the Department for Energy Security and Net Zero on reporting requirements under the Paris Agreement and attendance at the COP summits as part of the UK delegation. All the Crown Dependencies reported having had extensive engagement with and support from the Department for Environment, Food and Rural Affairs (DEFRA) in relation to fisheries management since the UK’s withdrawal from the EU. The Isle of Man Government said they were “indebted to them”.<sup>46</sup>

23. However, we heard that, while difficulties were generally rare,<sup>47</sup> positive experiences had “not universally been the case”<sup>48</sup> and that, in some cases, engagement and outcomes had not met expectations.<sup>49</sup> Concerns were also raised by the Government of Guernsey in relation to its engagement with the Home Office on the Illegal Migration Bill,<sup>50</sup> which we discuss further in Chapter Five, and the Government of Jersey sought “improved and

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42 Government of the Isle of Man ([RCD0003](#)) para 7

43 Q11 [Jonathan Le Tocq]

44 Government of Guernsey ([RCD0001](#)) para 4.1

45 Justice Committee, Eighth Report of Session 2009–10, [Crown Dependencies](#), HC 56–I, para 20

46 Government of the Isle of Man ([RCD0003](#)) para 12

47 Government of the Isle of Man ([RCD0003](#)) para 8

48 Government of Guernsey ([RCD0006](#)) para 1.3

49 Government of the Isle of Man ([RCD0003](#)) para 9

50 Government of Guernsey ([RCD0001](#)) para 4.3

more regular engagement” with HM Treasury.<sup>51</sup> All three Crown Dependencies expressed concerns with the Department for Business and Trade in relation to the negotiation of trade agreements,<sup>52</sup> which we explore in depth in the next chapter.

24. The quality of engagement between UK Government departments and the Crown Dependencies had a significant impact on relationships and outcomes. The Government of Jersey’s positive experience of working with DEFRA was partly due to “early engagement [...] and regular check-in meetings”,<sup>53</sup> while concerns raised about the Department for Business and Trade were couched in terms of engagement during negotiations needing to be “more proactive and communicative”<sup>54</sup> and “more effective”.<sup>55</sup> Engagement came up frequently in discussions we had with ministers and officials during our visits to the islands, with emphasis on the need for early engagement to enable the islands’ own democratic processes to be followed, action to be taken and issues to be resolved in good time. There was also the sense among those we spoke to that the constitutional relationship was less well understood outside the Ministry of Justice.

**25. The advent of direct engagement between Crown Dependencies and other UK Government departments is a very positive step. It underlines the importance of the Ministry of Justice’s work in raising awareness across Whitehall of the constitutional relationship. To help reinforce relationships and further increase awareness, there should be greater use of secondments between the Crown Dependencies and UK Government departments. We recommend that, to start with, secondments of officials from the Department for Business and Trade and Her Majesty’s Treasury to the Crown Dependencies might be most fruitful. The first of these secondments should begin before the general election.**

**26. Working relationships between UK Government departments and the Crown Dependencies should be underpinned by early and regular engagement and consultation. This will ensure that they can properly consider what action they may need to take and have time to follow their own democratic processes. The Ministry of Justice should update its existing ‘How To Notes’ to include a specific emphasis of the need for UK Government departments to take the approach to engagement that we have just outlined.**

## The Ministry of Justice as advocate

27. In the sorts of situation described above, where relationships encounter difficulties, Minister Freer told us that the Ministry of Justice “advocate[s] on behalf of the Crown Dependencies”<sup>56</sup> or, put another way, “ensure[s] that the CDs’ interests are understood [...] not necessarily [...] delivered”.<sup>57</sup> This, we heard, might involve Ministry of Justice officials taking time to understand a particular issue and what a Crown Dependency was trying to achieve, talking to colleagues in other UK Government departments about it,<sup>58</sup> identifying gaps in understanding and how to close them and ensuring access at the

51 Government of Jersey ([RCD0002](#)) para 4.4.1

52 Government of Guernsey ([RCD0001](#)) para 4.3, Government of the Isle of Man ([RCD0003](#)) para 9, Government of Jersey ([RCD0002](#)) para 6.5

53 Government of Jersey ([RCD0002](#)) para 4.2.2

54 Government of Jersey ([RCD0002](#)) para 6.5.5

55 Government of Guernsey ([RCD0001](#)) para 6.8

56 Q8 [Minister Freer]

57 Q7 [Minister Freer]

58 Q2 [Minister Freer]

appropriate level.<sup>59</sup> We heard that the dialogue that results is important, enabling a Crown Dependency to have a “much better understanding as to why their particular ask cannot be delivered”<sup>60</sup> and, we assume in some cases, to enable them to get their ask delivered. However, Minister Freer emphasised that, as with all advocates, “there is a line that [the Ministry of Justice] cannot cross. [The Crown Dependencies] are independent and it is not our job to force the rest of Whitehall to bend to what [they] wish”.<sup>61</sup> Having detected uncertainty in our informal conversations with Crown Dependency ministers about the exact extent of the Ministry of Justice’s role, it was helpful to have this clarification. It had also been suggested to us in those conversations that it could potentially have a more ‘feisty’ or robust role.

**28. The advent of direct engagement between the Crown Dependencies and UK Government departments raises the question of the Ministry of Justice’s role in the event of a disconnect or dispute arising between a Crown Dependency and a department. We agree with Minister Freer that the Ministry of Justice’s role is to ensure that the Crown Dependencies’ interests are understood and to facilitate dialogue and understanding between the parties and enable them to move forward.**

### How ways of working could be adapted

29. Given that direct engagement has substantially changed how the Crown Dependencies interact with the UK Government, we wanted to explore whether any other consequential adaptations to ways of working might be needed. This section considers first whether the Ministry of Justice is best placed to facilitate engagement between the Crown Dependencies and UK Government departments, and, secondly, if it would be helpful for all concerned to confirm and document the now more complex set of roles and relationships.

30. With regard to our first issue, we were interested to hear from Deputy Jonathan Le Tocq, Minister for External Relations, Government of Guernsey, that several years ago the Cabinet Office—specifically the Paymaster General at that time—helped Guernsey to speed up agreement of a new reciprocal health agreement.<sup>62</sup> This approach showed “the benefits of the Cabinet Office being able to deal with things very quickly across Whitehall”.<sup>63</sup> Before the Cabinet Office’s intervention, the matter had been running for ten years. Alfred Cannan, Chief Minister, Government of the Isle of Man, also saw “common sense in taking a broader view in this post-Brexit environment”, but noted the Ministry of Justice was “well-placed” in terms of dealing with Crown Dependency legislation and interactions with the islands, and understanding the constitutional relationship and the unique characteristics of each island.<sup>64</sup> When we asked Minister Freer whether he thought the Cabinet Office might be better placed to represent the Crown Dependencies in Whitehall, he said that he thought the responsibility worked well where it was.<sup>65</sup> Nevertheless, *we recommend that the UK Government consider whether the Cabinet Office could potentially have a role, alongside the Ministry of Justice, in facilitating engagement on urgent matters requiring the involvement of several UK Government departments.*

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59 Q7 [Minister Freer]

60 Q7 [Minister Freer]

61 Q8 [Minister Freer]

62 Q11 [Jonathan Le Tocq]

63 Q12 [Jonathan Le Tocq]

64 Q13 [Alfred Cannan]

65 Q10 [Minister Freer]



31. Since 2007–2008, “International Identity Frameworks”, signed by each Crown Dependency and the UK Government, aim to clarify the constitutional relationship with regard to international relations.<sup>66</sup> They expressly acknowledge, among other things, that the UK will not act internationally on behalf of the Crown Dependencies without prior consultation and that it will seek to represent any differing interests when acting in an international capacity. We were interested to explore whether it might be helpful to clarify, confirm and document the relationships between the Crown Dependencies, the Ministry of Justice and UK Government departments in a similar way. Currently, apart from the Ministry of Justice’s ‘How To Notes’, there is no Act of Parliament or other document clearly setting out the relationship. During our visits to the islands, we heard several times that a memorandum of understanding or similar document between the Crown Dependencies and the UK Government, which recognised the constitutional relationship and defined the Ministry of Justice’s and other UK Government departments’ roles, could be useful. However, we also heard that attempts to do this “could get political”. We were interested to hear Minister Freer say he had discussed with the Lord Chancellor refreshing the formula or formal framework for how the constitutional requirements of the Crown Dependencies are represented and that this was something they were actively looking at.<sup>67</sup>

**32. The active consideration being given by the Lord Chancellor and Minister Freer to the framework for the relationship between the Ministry of Justice and the Crown Dependencies is welcome. *The Ministry of Justice should consult the Crown Dependencies on the feasibility of formalising such a framework and what it could usefully contain, building on the existing International Identity Frameworks. For example, we believe that it could usefully set out expectations for engagement and consultation and clarify the Ministry of Justice’s role in the event of a dispute.***

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66 [Framework for Developing the International Identity of Jersey, 1 May 2007](#); [Framework for developing the international identity of the Isle of Man, 1 May 2007](#); [Framework for developing the international identity of Guernsey, 18 December 2008](#)

67 Q11 [Minister Freer]

## 4 Participation in international trade deals

33. The UK is responsible for representing the Crown Dependencies internationally. Since the UK's withdrawal from the EU, the UK has pursued its own independent trade policy, undertaking trade negotiations on behalf of all parts of the UK as well as, in accordance with its constitutional responsibilities, the Crown Dependencies.<sup>68</sup> Reflecting a key theme of the evidence we received, this chapter focuses on the Crown Dependencies' experiences of recent trade agreement negotiations—particularly the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) negotiations—and the outcomes achieved.

34. The Department for Business and Trade leads on trade negotiations for the UK Government. Within the department, a constitutional affairs unit of eight officials with expertise relating to both the Crown Dependencies and the Devolved Administrations deal with trade matters.<sup>69</sup> Regular engagement at official level takes place with the Crown Dependencies in the form of a strategic six-weekly Senior Officials Forum (also attended by the Ministry of Justice), supplemented by sometimes daily communications—"a pick-up-the-phone and send-an-email type of relationship"—and more frequent engagement during negotiations.<sup>70</sup>

35. In their written evidence, the Department for Business and Trade set out what trade agreements had been agreed so far in respect of the Crown Dependencies:

- coverage in UK continuity trade agreements;
- coverage for the Crown Dependencies for trade in goods chapters in the UK-Japan Comprehensive Economic Partnership Agreement (CEPA); the UK Free Trade Agreements (FTA) with the Kingdom of Norway, Iceland and the Principality of Liechtenstein; the UK-Australia FTA and the UK-New Zealand FTA;
- accession to the CPTPP, applying to the Crown Dependencies for goods related chapters (1–8 and 26–30 inclusive) from entry into force of the UK Accession Protocol, and further CPTPP chapters (16, 17 and 19–25 inclusive) to apply 24 months after entry into force of the UK Accession Protocol.<sup>71</sup>

68 Before the UK's withdrawal from the EU, all three Crown Dependencies were outside the EU but within the EU Customs Union. As such, they were covered by the EU's free trade agreements (FTAs), but only in respect of provisions on goods. In addition, while they were not fully within the Single Market, they were effectively part of it as regards trade in goods under Protocol 3 of the UK's 1972 Treaty of Accession. When the Transition period ended on 31 December 2020, the Crown Dependencies left the EU Customs Union and joined a customs union with the UK. They also ceased to be effectively part of the EU Single Market as regards trade in goods. The UK-EU Trade and Co-operation Agreement includes the Crown Dependencies, but only in respect of goods trade and fisheries. Subsequent FTAs agreed between the UK and other states have been extended to the Crown Dependencies but generally only in respect of goods.

69 Q20 [Minister Hands]

70 Q21 [Gaynor Jeffery]

71 Department for Business and Trade ([RCD0005](#)) paras 3–5



This is a substantial list, representing a significant amount of work by the Department for Business and Trade and the Crown Dependencies. However, from the Crown Dependencies' point of view, it had “not always run smoothly”,<sup>72</sup> particularly in relation to the CPTPP.

## The Comprehensive and Progressive Agreement for Trans-Pacific Partnership

36. Following 20 months of negotiations, in July 2023, the UK formally agreed to join the CPTPP, an Asia-Pacific trade bloc made up of 11 other countries.<sup>73</sup> The UK will be the first new member since the bloc was established in 2018 and the first European member.

37. All three Crown Dependencies had quite serious concerns about the Department for Business and Trade's approach to bringing them into CPTPP, and other FTA negotiations. They told us there were “challenges in real-time communication throughout”,<sup>74</sup> engagement had “fallen short of our expectations”<sup>75</sup> and issues that arose “could have been ameliorated by more effective consultation / communication”.<sup>76</sup> These sorts of challenges had left the Government of Jersey in the position of having to make difficult decisions about participation at the latter stages of negotiations.<sup>77</sup> In contrast, the Department for Business and Trade said that it had “engaged closely” with the Crown Dependencies throughout the CPTPP negotiations,<sup>78</sup> providing “daily downloads” at the fast-paced end stage of negotiations.<sup>79</sup> Deputy Jonathan Le Tocq, Minister for External Relations, Government of Guernsey, gave us an insight into how the negotiations had unfolded:

Right at the end there was a stall in taking things forward, and for some time we could not work out what the problem was. We now know that it was a number of deadlines that the UK had set itself. Our concerns could not be represented as effectively as possible. That put on a huge amount of pressure, bearing in mind that we were not in the room for negotiations, and did not know what the questions or issues were, particularly.<sup>80</sup>

He went on to say that informal talks with Canadian officials and face-to-face formal meetings with negotiators on the other side were critical in helping to progress matters and resolve issues. Deputy Philip Ozouf, Government of Jersey, observed that having to find out what was going on from another party was “a little bit uncomfortable”.<sup>81</sup>

38. The outcome of the negotiations—inclusion in the CPTPP for trade in goods from the outset, but not for services—was not the one that the Crown Dependencies, whose economies are service industry based, had hoped for.<sup>82</sup> Alfred Cannan, Chief Minister,

72 Government of Jersey ([RCD0002](#)) para 6.5.2

73 Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam. The Government states that, among other things, CPTPP membership will bring a range of benefits for UK businesses, as well as giving the UK a new presence in the Indo-Pacific.

74 Government of Jersey ([RCD0002](#)) para 6.5.2

75 Government of the Isle of Man ([RCD0003](#)) para 9

76 Government of Guernsey ([RCD0001](#)) para 6.8

77 Government of Jersey ([RCD0002](#)) para 6.5.3

78 Department for Business and Trade ([RCD0005](#)) para 17

79 Q32 [Gaynor Jeffery]

80 Q14 [Jonathan Le Tocq]

81 Q14 [Philip Ozouf]

82 Government of Jersey ([RCD0002](#)) para 6.7.2; Government of the Isle of Man ([RCD0003](#)) para 14

Government of the Isle of Man, said “we had put a lot of effort into an all-inclusive goods and services position, and not to achieve that was disappointing”.<sup>83</sup> Nevertheless, a mechanism was secured to extend coverage for services to the Crown Dependencies 24 months after the entry into force of the UK Accession Protocol,<sup>84</sup> backed up by a joint political declaration committing the CPTPP parties to seek to commence discussions on this as soon as possible. Overall, the Department for Business and Trade believed that this was a “strong outcome”.<sup>85</sup> When we put it to Minister Hands that the Crown Dependencies were, in fact, disappointed, he said that the UK Government was trying to maximise the opportunities to extend services coverage to them, something only made possible by the UK’s withdrawal from the EU.<sup>86</sup>

39. He went on to outline particular complications with the CPTPP which presented difficulties for obtaining coverage for both goods and services for the Crown Dependencies.<sup>87</sup> First, it was an existing trade agreement, with an existing text and an onus on the UK to comply, which “gives us a little less discretion”, and secondly, that the 11 CPTPP countries at times “struggled to understand the differences between the Crown Dependencies” which affected the ease of negotiations.<sup>88</sup> Deputy Philip Ozouf, Minister for External Relations, Government of Jersey, also noted this: “the UK was effectively trying to join an existing trade bloc [...] that in itself presented a problem”.<sup>89</sup>

**40. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) was unusual in that the UK was joining an existing trade agreement and had to comply with an existing text. This had implications for the negotiation process and the outcome it was possible to achieve for the Crown Dependencies. However, the CPTPP negotiation process provides lessons for how the Crown Dependencies could be more effectively involved in negotiations in the future.**

**41. We acknowledge that, given their economies and ambitions, it was a disappointing outcome for the Crown Dependencies not to be covered by the Service and Investment chapters of the CPTPP from the outset. The UK Government’s aim for all future trade agreements should be for the Crown Dependencies to be covered by services as well as goods chapters from the outset. Where this does not prove possible, extension mechanisms should routinely be sought.**

## Improving the approach for the future

42. Based on their recent experience of trade negotiations, the Crown Dependencies made suggestions as to how the Department for Business and Trade’s approach could be improved for the future. They all placed a significant emphasis on the need for the processes involved in negotiations, namely consultation, engagement and information sharing, to take place as early as possible. According to Deputy Philip Ozouf, Minister for External Relations, Government of Jersey, this was “absolutely critical”.<sup>90</sup> This is because the Crown Dependencies have their own preparatory processes to follow prior to their taking part in

83 Q11 [Alfred Cannan]

84 Unless negotiating states other than the UK decide on a different time period.

85 Department for Business and Trade ([RCD0005](#)) para 18

86 Q24 [Minister Hands]

87 Q24 [Minister Hands]

88 Q24 [Minister Hands]

89 Q14 [Philip Ozouf]

90 Q14 [Philip Ozouf]

negotiations. For example, they might need to consider whether and how they wish the international agreement to apply; modify or implement domestic legislation, regulations or policies; and follow their own democratic consent and governmental processes.<sup>91</sup>

43. Emphasis was also placed on consultation needing to be “proper” as well as early,<sup>92</sup> and to have adequate time allocated to it,<sup>93</sup> enabling, for example, differences in interests to be identified and a constitutionally appropriate approach agreed in response. The Government of Guernsey was critical of the Department for Business and Trade’s approach to consultation, saying that it had on some occasions informed them of “what seems to be a *fait accompli*” or shared relevant negotiating texts, non-papers or draft legal text with potential trade partners which they had not seen, been consulted upon or consented to.<sup>94</sup> As referred to above, through the International Identity Frameworks, the UK Government has committed not to act internationally on behalf of the Crown Dependencies without prior consultation.

44. Information also needed to be shared as fully and early as possible,<sup>95</sup> and the Crown Dependencies given sight of relevant negotiating texts at an early stage. The Government of Guernsey also requested that reasonable time be given for the preparation of information requested from the islands, citing an occasion when they were given less than 48 hours to review new draft territorial extent text.<sup>96</sup> We note the Department for Business and Trade’s evidence stated that it shares its “strategic approach” with the Crown Dependencies prior to the start of negotiations and then relevant “draft text [...] as negotiations progress” to enable them to identify key priorities, reservations and review compliance.<sup>97</sup>

45. The Crown Dependencies, whose officials do not participate in negotiations, wanted reassurance that their specific interests and positions were being properly understood and represented during negotiations. They sought this through improved communication during negotiations, the ability to “input [...] at all appropriate stages”<sup>98</sup> and, ideally, some form of representation in the negotiating room.<sup>99</sup> We heard that the Government of the Isle of Man had needed to request “closer representation or a more positive presence” during the CPTPP negotiations to ensure their position was taken forward, leading to the suggestion by the Chief Minister that some form of representation, or joint representation, could be helpful in the future.<sup>100</sup> Deputy Jonathan Le Tocq, Minister for External Relations, Government of Guernsey, supported this view, suggesting that just having Crown Dependency officials present to answer questions or deal with issues would “help us and save an inordinate amount of time and pressure”.<sup>101</sup> In the end, at Minister Hands’ instigation, the Crown Dependencies did meet the 11 CPTPP countries to explain the nuances of their positions which, he noted, had been “very helpful”.<sup>102</sup> When we asked him about enabling representation for the Crown Dependencies in the future, he said that it might not be necessary for a more conventional trade agreement but that he was

91 Government of Guernsey (RCD0001) para 6.2

92 Government of Guernsey (RCD0006) para 3.1

93 Government of Jersey (RCD0002) para 6.5.4

94 Government of Guernsey (RCD0006) para 3.1

95 Government of Guernsey (RCD0006) para 3.3

96 Government of Guernsey (RCD0006) para 3.3

97 Department for Business and Trade (RCD0005) para 12

98 Government of Jersey (RCD0002) 6.5.5

99 Q29 [Alfred Cannan]

100 Q29 [Alfred Cannan]

101 Q30 [Jonathan Le Tocq]

102 Q24 [Minister Hands]

“open-minded”.<sup>103</sup> Although he warned that “adding additional layers of complexity is not always in the best interests of the UK, the Crown Dependencies or getting a deal done”.<sup>104</sup> We note the recommendation made by our predecessor Committee in 2010 that certain officials, either from the UK or from the Islands, should be specifically designated as representing the Islands in international negotiations.<sup>105</sup>

**46. We are very conscious that trade negotiations are complex, often extremely fast paced and, as Minister Hands pointed out, require the Department for Business and Trade to operate “in a corridor of what is deliverable and negotiable”. Nonetheless, improvements to the process for the Crown Dependencies can and should be made. Therefore, we recommend that for future trade agreement negotiations the Crown Dependencies, Ministry of Justice and Department for Business and Trade should work together to identify a set of principles to guide effective engagement during the negotiation process. We recommend that they should include early and comprehensive engagement from the outset to conclusion; early sight of relevant documents; real time updates; and reasonable timeframes for provision of responses and information. During particularly time-pressured periods, we recommend that there should be officials in the room acting as a conduit for information to and from the Crown Dependencies in real time.**

**47. Overall, we believe that the Crown Dependencies should be represented during negotiations by specifically designated officials either from the UK Government or the Crown Dependencies.**

## Other issues

### *Differing interests*

48. The UK Government is constitutionally required to represent the Crown Dependencies’ interests in international relations, even where they differ from those of the UK. The Government of Guernsey drew our attention to an apparent conflict between this requirement and statements in the Ministry of Justice’s evidence:

While the pressures of fast-paced and complex negotiations can sometimes make it difficult to align CD interests with the UK’s own trade interests, the UK Government is committed to working closely with the CDs to seek the best possible outcome for them during negotiations. This commitment does not however mean that the UK will always be in a position to represent the Islands’ views internationally where those views diverge from the UK’s own interests.<sup>106</sup>

The Government of Guernsey made two points in response to the above: firstly, that it was “not considered appropriate” to attempt, against a Crown Dependency’s wishes, to align interests and, secondly, that only “in exceptional circumstances—which should not include time constraints” should the UK Government not be willing to represent a Crown Dependency’s interests. This statement would also appear to put the Ministry of Justice

103 Q31 [Minister Hands]

104 Q32 [Minister Hands]

105 Justice Committee, Eighth Report of Session 2009–10, [Crown Dependencies](#), HC 56–I, para 92

106 Ministry of Justice ([RCD0004](#)) para 7

at odds with the International Identity Frameworks, within which the UK Government undertakes to “seek to represent any differing interest when acting in an international capacity”.<sup>107</sup>

49. Our predecessor Committee considered this same issue in its 2010 inquiry, finding a similar conflict of approach in the evidence given to them by the then Minister with responsibility for the Crown Dependencies. They concluded that his statement to them that “we represent the interests of the Isle of Man where it is appropriate to do so but we are part of Her Majesty’s Government, and of course that is our prime responsibility” suggested that the Government’s duties in respect of the Crown Dependencies’ international interests were subsidiary to those of the UK. Taking up our predecessors’ recommendation, *representation of the interests of the Crown Dependencies in international relations is not optional, according to whether or not their interests are in line with those of the UK: it is the UK Government’s duty. In cases of conflict, the Ministry of Justice must endeavour to find a mechanism for representation which will faithfully present and serve the interests of both parties. Having the Crown Dependencies represented during negotiations by specifically designated officials would go some way towards addressing this issue.*

## Compliance

50. Compliance is the fulfilment of international obligations under an international agreement by parties to that agreement through their domestic legislation, policies and practice. The approach taken in each case will necessarily differ depending on a party’s unique characteristics and circumstances. The Government of Guernsey raised concerns that Department for Business and Trade officials were not sufficiently taking this into account having “strongly expressed the view that pathways towards meeting compliance and any new measures should align with UK legislation or acts”.<sup>108</sup> Minister Hands, however, took a different perspective on compliance: “We cannot say to the Crown Dependencies, “You must be compliant with UK law.” Our position is that they must be compliant with the international treaty”.<sup>109</sup>

51. We heard that the UK Government determines whether or not a Crown Dependency is compliant.<sup>110</sup> The determination process requires a Crown Dependency to explain how their legislation meets the obligations set out in an agreement, which is then assessed by lawyers. In the event that there is a “mismatch”, the Department for Business and Trade and the Crown Dependency enter into a “detailed conversation”.<sup>111</sup> Our informal conversations with Crown Dependency officials suggested that those detailed conversations were not really taking place. One official told us of an occasion when, following completion of the extensive paperwork required, they received no feedback on whether or not they were deemed compliant.

**52. The Department for Business and Trade’s approach to the Crown Dependencies’ compliance with international obligations appears to be different at Ministerial and at**

107 [Framework for Developing the International Identity of Jersey](#), 1 May 2007; [Framework for developing the international identity of the Isle of Man](#), 1 May 2007; [Framework for developing the international identity of Guernsey](#), 18 December 2008

108 Government of Guernsey ([RCD0006](#)) para 4.2

109 Q34 [Minister Hands]

110 Q36 [Gaynor Jeffery]

111 Q36 [Gaynor Jeffery]



official level. The position outlined by Minister Hands that “they must be compliant with the international treaty” is correct. *The Department for Business and Trade should review the approach its officials are taking to ensure consistency with this. Measures taken by the Crown Dependencies to comply with international obligations are not required to mirror UK legislation but should instead reflect their unique characteristics. Furthermore, the Department for Business and Trade must ensure that comprehensive feedback on compliance assessments completed by Crown Dependencies is routinely and promptly provided so that they can take steps to become compliant, if need be.*

### Extension mechanisms

53. Bespoke clauses which allow for extension of additional chapters or parts of chapters—usually relating to services and investment—of specific trade agreements have been agreed for some of the Crown Dependencies. These “service extension mechanisms” have so far been secured in five trade agreements.<sup>112</sup> While recognising the value of the extension mechanisms secured,<sup>113</sup> the Crown Dependencies cautioned that the mechanism was “untested” and, for this reason, emphasised the importance of activating them,<sup>114</sup> which for the CPTPP should be as soon as practicably possible.<sup>115</sup> Minister Hands clearly shared this keenness to proceed,<sup>116</sup> emphasising, however, that the ability to do so depended on the Crown Dependencies being compliant at the point of activation.<sup>117</sup> He was reluctant to set out a timetable, saying that “it would be up to the CDs, and up to us, that we are satisfied that they are compliant”.<sup>118</sup>

54. *Extension mechanisms in several free trade agreements, including the CPTPP, have already been obtained by the UK Government. It is important to proceed with activating these mechanisms so that the approach can be tested and, if necessary, refined and improved. This should happen as soon as possible and the Department for Business and Trade and the Crown Dependencies should proceed immediately with the work necessary to ensure compliance.*

### Letters of Entrustment

55. The Crown Dependencies cannot sign international agreements under their own aegis, unless they have been authorised to do so by the UK Government, a process known as “Entrustment”. Authority is delegated through what is known as a “Letter of Entrustment” to negotiate directly with a sovereign state in relation to certain topics and sign an agreement, usually relating to tax matters.<sup>119</sup>

56. The Ministry of Justice leads the entrustment process in respect of the Crown Dependencies, consulting relevant UK Government departments, obtaining their approval and conveying the overall response. The Ministry of Justice drafts the text of

112 UK-Japan Comprehensive Economic Partnership Agreement, the UK-Australia FTA, the UK-New Zealand FTA, UK-Norway, Iceland and Liechtenstein (EEA-EFTA) FTA and the CPTPP.

113 Government of the Isle of Man ([RCD0003](#)) para 16

114 Government of Jersey ([RCD0002](#)) para 6.5.6. See also Government of the Isle of Man ([RCD0003](#)) para 16

115 Government of Guernsey ([RCD0006](#)) para 3.5

116 Qq27, 29 [Minister Hands]

117 Q27 [Minister Hands]

118 Q28 [Minister Hands]

119 Most commonly Double Taxation Agreements (DTAs), Tax Information Exchange Agreements (TIEAs), Bilateral Investment Treaties (BITs) and Asset Return Agreements (ARAs).

the letter, which is signed by the Lord Chancellor or another Ministry of Justice Minister once approval has been obtained. The Crown Dependency can then begin negotiations with the country in question. Once negotiations are completed, the UK Government must approve the proposed agreement text—usually done at official level—before the Crown Dependency may sign.<sup>120</sup>

57. The Government of Jersey reported the process as having operated to “good general effect” in recent years, while highlighting some “slower than first anticipated” responses on occasion.<sup>121</sup> Deputy Philip Ozouf, Minister for External Relations, Government of Jersey, used stronger terms in his evidence to us, saying that it sometimes took an “excruciating time” for an entrustment to be approved.<sup>122</sup> The requirement to consult all relevant UK Government departments means that the entrustment process is necessarily a lengthy one, not helped by the fact that it was “not well understood” across Whitehall.<sup>123</sup> Then, as Minister Freer explained, each letter has to be carefully drafted to reflect the needs of the Crown Dependency and country in question and checked for compliance with international obligations. He concluded, “it is frustrating and it is slow, but it is inevitably slow because it is a legal document and it has to be right”.<sup>124</sup>

58. There are two types of entrustment: Crown Dependencies may operate under a general entrustment which means that they may commence negotiations to enter into certain types of agreement without permission from the UK Government (but must obtain consent to enter into the eventual agreement); and individual, or one-off, entrustments for a particular agreement and specified organisation or country.<sup>125</sup> For example, Crown Dependencies operate under a general entrustment for Double Taxation Agreements and Tax Information Exchange Agreements, but must request individual entrustments for Bilateral Investment Treaties and Asset Return Agreements.<sup>126</sup> The Governments of Jersey and Guernsey both sought greater use of general entrustments,<sup>127</sup> with Deputy Jonathan Le Tocq, Minister for External Relations, Government of Guernsey, pointing to the Faroes and Denmark—similar in relationship to the Crown Dependencies and the UK—where the Faroes have a “general entrustment to negotiate treaties where the issue is not one for Denmark but is more for [them]”.<sup>128</sup> For him, an additional advantage of developing the practice on entrustment would be to enable matters to be conducted in a “timely and expeditious manner”.<sup>129</sup>

59. Minister Freer was sceptical of whether the Crown Dependencies could be granted a general entrustment for other types of agreement: “it is difficult to give a general letter of entrustment because of the legal complexities [...] I do not think [this] is somewhere we are ready to go”.<sup>130</sup> He was, however, willing to look at how the process could be improved.

**60. *Aware that time is often of the essence when negotiating international agreements, we recommend that the Ministry of Justice and the Crown Dependencies work together***

120 Ministry of Justice ([RCD0004](#)) para 11

121 Government of Jersey ([RCD0002](#)) para 8.3.8

122 Q52 [Philip Ozouf]

123 Q51 [Philip Ozouf]

124 Q37 [Minister Freer]

125 Ministry of Justice ([RCD0004](#)) para 12

126 Government of Jersey ([RCD0002](#)) paras 8.3.5–8.3.7

127 Government of Jersey ([RCD0002](#)) para 8.3.10

128 Q51 [Jonathan Le Tocq]

129 Q50 [Jonathan Le Tocq]

130 Qq 38, 39 [Minister Freer]

*to identify how the entrustment process could be streamlined, speeded up and improved, and adapt their ways of working where necessary to achieve this, with the objective of achieving a signed off letter within an ambitious timeframe. A useful first step in helping to speed things up would be to improve understanding of the process across Whitehall and, to this end, we recommend the Ministry of Justice publishes a 'How To Note' on entrustment, accompanied by awareness-raising training for UK Government departments on the topic.*

61. *In line with another of our predecessors' conclusions, we strongly support the increased use of Letters of Entrustment so that Crown Dependencies can enter into their own international agreements and further develop their international personalities. In particular, we recommend the extension of general entrustments to other types of international agreements. We understand that there are legal complexities in doing so but are not persuaded that they are significant enough to act as a barrier to issuing further general entrustments, especially when there are already two in existence.*



## 5 Legislation

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### Crown Dependency legislation

62. The Crown Dependencies make their own legislation, which is passed to the UK for scrutiny prior to the granting of Royal Assent. The Ministry of Justice performs this scrutiny function, assessing the islands' domestic legislation for potential conflicts with international obligations or fundamental constitutional principles so that the Lord Chancellor can determine whether a law should be recommended for Royal Assent.<sup>131</sup> In certain circumstances, UK legislation may be extended to the Crown Dependencies, and we consider this in more detail later on in this chapter.

63. Back in 2010, our predecessors found that the processing of Island legislation was a matter of considerable concern to the Crown Dependencies who were frustrated by multiple layers of scrutiny and the significant delays which resulted.<sup>132</sup> Following their encouragement, the protocols for the scrutiny of insular legislation were revised and the process speeded up, with typical clearance times now taking at most 20 working days.<sup>133</sup> Based on the little comment it received in the evidence gathered for this inquiry, we understand that the revised, streamlined process is working well for the Crown Dependencies almost a decade later and are pleased that this is the case.

64. Once processed, the time taken for domestic legislation to achieve Royal Assent did, however, attract comment from the Governments of Guernsey and Jersey. In the case of the Channel Islands, the Lord Chancellor advises the Privy Council whether the King in Council can be advised to make an Assenting Order, thereby granting Royal Assent. Deputy Jonathan Le Tocq, Minister for External Relations, Government of Guernsey, explained that having to wait for this to happen at the relevant quarterly meetings of the Privy Council was problematic when matters were urgent and was “a chunky system for the modern world”.<sup>134</sup> Since he spoke to us, significant progress has been made on reforming the process by which Royal Assent is granted to legislation from Guernsey, Alderney and Sark,<sup>135</sup> bringing the position into line with that of the Isle of Man, whereby the Lieutenant Governor signifies Assent to most primary legislation.<sup>136</sup> Although the Government of Jersey said it was keen to streamline legislative processes further,<sup>137</sup> they did not, according to Deputy Philip Ozouf, Minister for External Relations, Government of Jersey, want to “lose the link between the King [...] and the Privy Council”.<sup>138</sup> Instead, he suggested exploring virtual sittings of the Privy Council and the idea of extending Privy Council membership to Jersey.<sup>139</sup>

**65. We are pleased to hear that the process by which Royal Assent is granted to primary legislation from Guernsey is being streamlined, similar to that which already operates**

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131 Ministry of Justice ([RCD0004](#)) para 21

132 Justice Committee, Eighth Report of Session 2009–10, [Crown Dependencies](#), HC 56–I, para 53

133 Ministry of Justice, [Government response to Justice Select Committee's Report 'Crown Dependencies: developments since 2010'](#), March 2014, p 6

134 Q53 [Jonathan Le Tocq]. See also Q54 [Philip Ozouf]

135 Q52 [Minister Freer]

136 Legislation relating to the Crown and the UK's constitutional responsibilities for the Isle of Man requires approval of The King in Council

137 Government of Jersey ([RCD0002](#)) para 8.2

138 Q54 [Philip Ozouf]

139 Q54 [Philip Ozouf]

for the Isle of Man, and anticipate that, once implemented, it will avoid the delay which occurs during periods when the Privy Council does not sit. We note that a similar process could readily be implemented in Jersey, but this is obviously a matter for the Government of Jersey to determine. *In the meantime, we recommend that the Ministry of Justice explores with the Government of Jersey the potential options for streamlining their process of obtaining Royal Assent.*

## Extension of UK legislation

66. UK primary legislation rarely extends to the Crown Dependencies. Where legislation is extended, it is usually via an Order in Council made with the Crown Dependencies' agreement under an enabling provision contained in the relevant Act which provides for it to be extended to the Crown Dependencies.<sup>140</sup> An enabling provision for an Order in Council is known as a "permissive extent clause" (PEC) in a Bill.<sup>141</sup> A Crown Dependency may also request that the provisions of a UK Act are extended to them by activation of a PEC or inclusion of a PEC in a UK Bill.

67. The Cabinet Office's Guide to Making Legislation, which is written for bill teams in UK Government departments, sets out clear expectations with regards to consultation and consent prior to extension.<sup>142</sup> Teams must consult Crown Dependencies at an early stage if the content of a proposed bill appears relevant, and before any mention of them is made in a published bill. A PEC should not be included in a Bill without their prior agreement, save in exceptional circumstances<sup>143</sup> and then only after consultation with them and the Ministry of Justice Crown Dependencies team.<sup>144</sup> The guidance on extension of UK legislation issued by the Ministry of Justice is framed in similar terms.<sup>145</sup> In practice, early engagement, close working and communication between all parties and early sharing of drafts and explanatory notes is required.<sup>146</sup> Subject to these processes being followed and the two issues we go on to discuss, the Crown Dependencies were generally happy with the use of PECs and the system that accompanies them.<sup>147</sup>

## The Fisheries Bill

68. The inclusion of a PEC in the Fisheries Bill, now the Fisheries Act 2020, was one of the very few flashpoints in the relationship between the Channel Islands and the UK Government in recent years. The Act provides a framework for the UK's management of fisheries in accordance with international fisheries law outside of the EU Common Fisheries Policy, with the PEC potentially extending its provisions to Jersey, Guernsey and the Isle of Man. Despite explicit opposition from the Channel Islands which had said they could address any potential issues via their own domestic legislation,<sup>148</sup> and contrary

140 Ministry of Justice, [How To Note: Extension of UK primary legislation to the Crown Dependencies](#)

141 A Permissive Extent Clause could take the following form: "Her Majesty may by Order in Council provide for any of the provisions of this Act to extend, with or without modifications, to any of the Channel Islands or the Isle of Man".

142 Cabinet Office, [Guide to Making Legislation](#), 2022

143 Such as where a Bill engages the UK's constitutional responsibilities for the defence and international relations of the Crown Dependencies.

144 Ministry of Justice, [How To Note: Extension of UK primary legislation to the Crown Dependencies](#)

145 Ministry of Justice, [How To Note: Extension of UK primary legislation to the Crown Dependencies](#)

146 Government of Jersey ([RCD0002](#)) para 7.3, Government of the Isle of Man ([RCD0003](#)) para 23

147 Q39 [Alfred Cannan], Q46 [Jonathan Le Tocq]

148 The Isle of Man was content with the inclusion of the PEC in the Fisheries Act 2020.

to convention and guidance, the UK Government included a PEC in the Fisheries Bill by way of a late-stage amendment, saying it would only ever be used as a “last resort”.<sup>149</sup> In a statement shortly after, Deputy Jonathan Le Tocq, Minister for External Relations, Government of Guernsey, said that the PEC had been “a surprise, a disappointment and a serious concern”,<sup>150</sup> and Members of the House of Commons and House of Lords were vociferous in their criticism, with the Chair of this Committee calling it “truly unprecedented” and “a provocative step”.<sup>151</sup>

69. Several years on, the Channel Islands still feel strongly about the inclusion of the PEC. Responding to the Ministry of Justice’s evidence that it was “justifiable”,<sup>152</sup> the Government of Guernsey submitted further evidence which was highly critical of the UK Government’s approach, as well as calling it “disrespectful [...] superfluous [...] and paternalistic”, they said:

That [they were] willing to insert a PEC in UK legislation without consent on a matter within Guernsey’s domestic competence, and upon which the island was already committed, is possibly symptomatic of a bigger problem. There seems to be a political shift in the UK demonstrating a willingness to interfere with longstanding constitutional principles for short-term political gain. This has wider constitutional concerns which were not, in the view of Guernsey, considered or taken seriously by the UK Government at that time.<sup>153</sup>

In his oral evidence to us, Deputy Jonathan Le Tocq, Minister for External Relations, Government of Guernsey, highlighted the potential for a constitutional crisis: “there would be huge risks that the Assembly could refuse to register it [...] which would put us in a very difficult constitutional position”.<sup>154</sup>

70. The UK Government was steadfast in its defence of the PEC. Richard Mason, Deputy Director for Constitutional Policy, Ministry of Justice, told us that it was “soundly within the constitutional relationship” and “legitimate”.<sup>155</sup> We felt that Minister Freer’s depiction of the Channel Islands as “grumpy” was rather dismissive and minimised their very real concerns.<sup>156</sup> He wrote to us after the evidence session to set out the UK Government’s rationale for the PEC:

It is possible to envisage a scenario in which HMG may need to implement fisheries measures across the UK and the CDs to underpin international agreements or to ensure that the UK and the CDs (whose fishing boats are registered as British vessels) do not breach international law which prohibits illegal, unreported and unregulated fishing. Any breach of international fisheries obligations could have severe consequences for both the UK and the CDs’ fishing industries [...] It is reasonable for the UK to act to ensure it can meet its responsibilities and obligations in the event of such

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149 HL Deb, 12 November 2020, [col 1196](#) [Lord Chamber]

150 [Second Statement by Deputy Le Tocq](#), Lead Member for External Affairs, Guernsey, 25 November 2020

151 HC Deb, 13 October 2020, [col 265](#) [Commons Chamber]

152 Ministry of Justice ([RCD0004](#)) para 18

153 Government of Guernsey ([RCD0006](#)) para 5.2

154 Q43 [Jonathan Le Tocq]

155 Q48 [Richard Mason]

156 Q46 [Minister Freer]

circumstances and it remains HMG’s view that the decision to include the PEC within the Fisheries Act was within the bounds of the constitutional relationship.<sup>157</sup>

**71. The inclusion of a Permissive Extent Clause (PEC) in the Fisheries Bill was extremely regrettable and contrary to the constitutional relationship. We do not agree with the Government’s assertion that it was a “legitimate act” and “soundly within the constitutional relationship”, but rather consider it to have been a serious interference in long-established constitutional principles for short-term political reasons. We expect that the usual approach—mandated in the Ministry of Justice’s own guidance—of consultation and consent with regards to all future PECs will now prevail.**

### ***Illegal Migration Bill***

72. The other issue concerning legislation arose in relation to the Home Office’s approach to consulting Guernsey on the Illegal Migration Bill.<sup>158</sup> Deputy Jonathan Le Tocq, Minister for External Relations, Government of Guernsey, told us that, having been consulted on a draft of the Bill, the version that was eventually published was “significantly different”.<sup>159</sup> In the meantime, consultation with Home Office officials had “just stopped”,<sup>160</sup> contrary to process.

73. The Ministry of Justice’s guidance sets out the process to be followed when UK primary legislation is to be extended to the Crown Dependencies.<sup>161</sup> While emphasis is placed on the Bill team or legal advisors establishing contact as early as possible, provision of drafts and a proposed legislative schedule, the guidance could be clearer on the frequency and duration of expected communication and consultation. This is also the case for the Cabinet Office’s Guide to Making Legislation.<sup>162</sup> Minister Freer wrote to us providing the helpful clarification that the lead department is expected to “remain in touch”, but that, for complex, fast-moving Bills, engagement may not be as early or as frequent as the UK Government would wish. He went on to say that, following the Ministry of Justice’s involvement, the Home Office re-engaged with Guernsey, a PEC was added to the Bill at their (and Jersey’s behest) and regular contact was maintained thereafter. We note that, apart from on this occasion, the Home Office is reported to have engaged very effectively with Guernsey on legislative matters.<sup>163</sup>

***74. We note the concerns raised in the evidence about the extent of the Home Office’s consultation with the Government of Guernsey on the Illegal Migration Bill. The Ministry of Justice’s Crown Dependency team should initiate a dialogue as soon as possible between the relevant officials in the Home Office and the Government of Guernsey so that concerns can be discussed and addressed for the future. The Ministry of Justice should review its guidance on the extension of UK legislation to the Crown Dependencies with a view to ensuring that sufficient emphasis is placed on the need for ongoing consultation—or, as the Minister said, to “remain in touch”—throughout the passage of a bill and as new versions and draft clauses are published.***

157 [Letter from Mike Freer MP](#), Minister for Courts and Legal Services, dated 21 December

158 The bill received Royal Assent on 20 July 2023. It now an Act of Parliament.

159 Q34 [Jonathan Le Tocq]. A PEC was added later via a Government amendment with Guernsey’s prior consent.

160 Q36 [Jonathan Le Tocq]

161 Ministry of Justice, [How To Note: Extension of UK primary legislation to the Crown Dependencies](#)

162 Cabinet Office, [Guide to Making Legislation](#), 2022

163 Government of Guernsey ([RCD0001](#)) para 7.2

*75. We also recommend that the Parliamentary Business and Legislation Cabinet Committee and its Chair, the Leader of the House, should include, as part of its regular scrutiny of bills before their introduction to Parliament, consideration of the extent to which UK legislation would impact the Crown Dependencies, as is already done in relation to the Devolved Administrations.*

## 6 Conclusion: The future of the relationship

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76. We heard a great deal of evidence from UK Government Ministers, as well as the Crown Dependencies, about the value of the Crown Dependencies to the UK and the advantages of having them in the “British family”. While the relationship has always been of great importance, in the recent context of evolving international relations and trade policy, it has taken on new economic dimensions, moving beyond the purely constitutional. As Alfred Cannan, Chief Minister, Government of the Isle of Man, put it, the Crown Dependencies “are part of the economic success story moving forward”.<sup>164</sup> Minister Hands was of the same opinion, highlighting the opportunities for trade presented by Crown Dependency fish, agricultural produce and livestock and large businesses.<sup>165</sup> The Crown Dependencies’ formula for achieving this was closer working, ensuring that the wider benefits of the relationship were understood across Whitehall,<sup>166</sup> and taking a “forward look” and asking “what can we do better together in future?”.<sup>167</sup>

77. Further consideration by us of the economic aspects of the relationship is beyond the remit of our inquiry and the Committee. However, **we wish to emphasise that the UK’s taking responsibility for its own international trade policy affords a real and very significant opportunity to make the most of the economic relationship with the Crown Dependencies. They are valuable members of the British family and their important cultural and economic contributions deserve greater recognition. We recommend that the Department for Business and Trade formally assesses their contribution to the UK’s offer in trade negotiations and how their economic role can be better and more strategically promoted to potential trading partners, including the possibility of including them in the strategic approaches to free trade agreements that it publishes.**

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164 Q8 [Alfred Cannan]

165 Q55 [Minister Hands]

166 Qq 8, 55 [Alfred Cannan]

167 Q10 [Philip Ozouf]



## Conclusions and recommendations

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### Relationship between the Ministry of Justice and the Crown Dependencies

1. There is a very positive working relationship between the Crown Dependencies and the Ministry of Justice. Engagement has clearly improved in recent years with both planned and spontaneous contact and communications taking place much more frequently between officials, the Minister and the Lord Chancellor. *More regular contact should be established between senior officials in the Ministry of Justice, namely the director, the director general and permanent secretary, and the Crown Dependencies. This should be actively offered, rather than the Crown Dependencies having to request it, and become a routine part of Crown Dependency and Ministry of Justice engagement. The permanent secretary should meet her counterpart in each Crown Dependency at least twice a year.* (Paragraph 18)
2. The Ministry of Justice Crown Dependencies team has a substantial workload which is likely to increase in the coming years. We believe that the team is under pressure as a result and there is a risk that their work, which is currently extremely good, could suffer as a result. *While we welcome the recruitment of a new grade seven official to the Crown Dependency team, the Ministry of Justice should increase staffing yet further to manage the increase in work associated with trade deals. This would also enable team officials to undertake regular work placements in Crown Dependency governments, with reciprocal arrangements in place enabling Crown Dependency officials to spend time in UK Government departments.* (Paragraph 19)
3. We believe there is a good understanding of the constitutional relationship across Whitehall as a result of the Ministry of Justice's awareness-raising work. *Nevertheless, to take account of turnover among officials and Ministers, the Ministry of Justice must ensure that these efforts are ongoing. Ahead of the general election, the Ministry of Justice should prepare a programme of education, guidance and awareness-raising on the constitutional relationship in case there is a new administration. The Lord Chancellor should write to each Minister in each UK government department as soon as possible after the general election to remind them of their responsibilities towards the Crown Dependencies.* (Paragraph 20)

### Relationship between other UK Government departments and the Crown Dependencies

4. The advent of direct engagement between Crown Dependencies and other UK Government departments is a very positive step. It underlines the importance of the Ministry of Justice's work in raising awareness across Whitehall of the constitutional relationship. *To help reinforce relationships and further increase awareness, there should be greater use of secondments between the Crown Dependencies and UK Government departments. We recommend that, to start with, secondments of officials from the Department for Business and Trade and Her Majesty's Treasury to the Crown Dependencies might be most fruitful. The first of these secondments should begin before the general election.* (Paragraph 25)

5. *Working relationships between UK Government departments and the Crown Dependencies should be underpinned by early and regular engagement and consultation. This will ensure that they can properly consider what action they may need to take and have time to follow their own democratic processes. The Ministry of Justice should update its existing 'How To Notes' to include a specific emphasis of the need for UK Government departments to take the approach to engagement that we have just outlined. (Paragraph 26)*
6. The advent of direct engagement between the Crown Dependencies and UK Government departments raises the question of the Ministry of Justice's role in the event of a disconnect or dispute arising between a Crown Dependency and a department. We agree with Minister Freer that the Ministry of Justice's role is to ensure that the Crown Dependencies' interests are understood and to facilitate dialogue and understanding between the parties and enable them to move forward. (Paragraph 28)
7. *We recommend that the UK Government consider whether the Cabinet Office could potentially have a role, alongside the Ministry of Justice, in facilitating engagement on urgent matters requiring the involvement of several UK Government departments. (Paragraph 30)*
8. The active consideration being given by the Lord Chancellor and Minister Freer to the framework for the relationship between the Ministry of Justice and the Crown Dependencies is welcome. *The Ministry of Justice should consult the Crown Dependencies on the feasibility of formalising such a framework and what it could usefully contain, building on the existing International Identity Frameworks. For example, we believe that it could usefully set out expectations for engagement and consultation and clarify the Ministry of Justice's role in the event of a dispute. (Paragraph 32)*

### Participation in international trade deals

9. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) was unusual in that the UK was joining an existing trade agreement and had to comply with an existing text. This had implications for the negotiation process and the outcome it was possible to achieve for the Crown Dependencies. However, the CPTPP negotiation process provides lessons for how the Crown Dependencies could be more effectively involved in negotiations in the future. (Paragraph 40)
10. We acknowledge that, given their economies and ambitions, it was a disappointing outcome for the Crown Dependencies not to be covered by the Service and Investment chapters of the CPTPP from the outset. *The UK Government's aim for all future trade agreements should be for the Crown Dependencies to be covered by services as well as goods chapters from the outset. Where this does not prove possible, extension mechanisms should routinely be sought. (Paragraph 41)*
11. We are very conscious that trade negotiations are complex, often extremely fast paced and, as Minister Hands pointed out, require the Department for Business and Trade to operate "in a corridor of what is deliverable and negotiable". Nonetheless, improvements to the process for the Crown Dependencies can and should be made.



*Therefore, we recommend that for future trade agreement negotiations the Crown Dependencies, Ministry of Justice and Department for Business and Trade should work together to identify a set of principles to guide effective engagement during the negotiation process. We recommend that they should include early and comprehensive engagement from the outset to conclusion; early sight of relevant documents; real time updates; and reasonable timeframes for provision of responses and information. During particularly time-pressured periods, we recommend that there should be officials in the room acting as a conduit for information to and from the Crown Dependencies in real time. (Paragraph 46)*

12. *Overall, we believe that the Crown Dependencies should be represented during negotiations by specifically designated officials either from the UK Government or the Crown Dependencies. (Paragraph 47)*
13. *Representation of the interests of the Crown Dependencies in international relations is not optional, according to whether or not their interests are in line with those of the UK: it is the UK Government's duty. In cases of conflict, the Ministry of Justice must endeavour to find a mechanism for representation which will faithfully present and serve the interests of both parties. Having the Crown Dependencies represented during negotiations by specifically designated officials would go some way towards addressing this issue. (Paragraph 49)*
14. *The Department for Business and Trade's approach to the Crown Dependencies' compliance with international obligations appears to be different at Ministerial and at official level. The position outlined by Minister Hands that "they must be compliant with the international treaty" is correct. The Department for Business and Trade should review the approach its officials are taking to ensure consistency with this. Measures taken by the Crown Dependencies to comply with international obligations are not required to mirror UK legislation but should instead reflect their unique characteristics. Furthermore, the Department for Business and Trade must ensure that comprehensive feedback on compliance assessments completed by Crown Dependencies is routinely and promptly provided so that they can take steps to become compliant, if need be. (Paragraph 52)*
15. *Extension mechanisms in several free trade agreements, including the CPTPP, have already been obtained by the UK Government. It is important to proceed with activating these mechanisms so that the approach can be tested and, if necessary, refined and improved. This should happen as soon as possible and the Department for Business and Trade and the Crown Dependencies should proceed immediately with the work necessary to ensure compliance. (Paragraph 54)*
16. *Aware that time is often of the essence when negotiating international agreements, we recommend that the Ministry of Justice and the Crown Dependencies work together to identify how the entrustment process could be streamlined, speeded up and improved, and adapt their ways of working where necessary to achieve this, with the objective of achieving a signed off letter within an ambitious timeframe. A useful first step in helping to speed things up would be to improve understanding of the process across Whitehall and, to this end, we recommend the Ministry of Justice publishes a 'How To Note' on entrustment, accompanied by awareness-raising training for UK Government departments on the topic. (Paragraph 60)*

17. *In line with another of our predecessors' conclusions, we strongly support the increased use of Letters of Entrustment so that Crown Dependencies can enter into their own international agreements and further develop their international personalities. In particular, we recommend the extension of general entrustments to other types of international agreements. We understand that there are legal complexities in doing so but are not persuaded that they are significant enough to act as a barrier to issuing further general entrustments, especially when there are already two in existence. (Paragraph 61)*

### Legislation

18. We are pleased to hear that the process by which Royal Assent is granted to primary legislation from Guernsey is being streamlined, similar to that which already operates for the Isle of Man, and anticipate that, once implemented, it will avoid the delay which occurs during periods when the Privy Council does not sit. We note that a similar process could readily be implemented in Jersey, but this is obviously a matter for the Government of Jersey to determine. *In the meantime, we recommend that the Ministry of Justice explores with the Government of Jersey the potential options for streamlining their process of obtaining Royal Assent. (Paragraph 65)*
19. The inclusion of a Permissive Extent Clause (PEC) in the Fisheries Bill was extremely regrettable and contrary to the constitutional relationship. We do not agree with the Government's assertion that it was a "legitimate act" and "soundly within the constitutional relationship", but rather consider it to have been a serious interference in long-established constitutional principles for short-term political reasons. We expect that the usual approach—mandated in the Ministry of Justice's own guidance—of consultation and consent with regards to all future PECs will now prevail. (Paragraph 71)
20. *We note the concerns raised in the evidence about the extent of the Home Office's consultation with the Government of Guernsey on the Illegal Migration Bill. The Ministry of Justice's Crown Dependency team should initiate a dialogue as soon as possible between the relevant officials in the Home Office and the Government of Guernsey so that concerns can be discussed and addressed for the future. The Ministry of Justice should review its guidance on the extension of UK legislation to the Crown Dependencies with a view to ensuring that sufficient emphasis is placed on the need for ongoing consultation—or, as the Minister said, to "remain in touch"—throughout the passage of a bill and as new versions and draft clauses are published. (Paragraph 74)*
21. *We also recommend that the Parliamentary Business and Legislation Cabinet Committee and its Chair, the Leader of the House, should include, as part of its regular scrutiny of bills before their introduction to Parliament, consideration of the extent to which UK legislation would impact the Crown Dependencies, as is already done in relation to the Devolved Administrations. (Paragraph 75)*

### Conclusion: The future of the relationship

22. We wish to emphasise that the UK's taking responsibility for its own international trade policy affords a real and very significant opportunity to make the most of the

economic relationship with the Crown Dependencies. They are valuable members of the British family and their important cultural and economic contributions deserve greater recognition. *We recommend that the Department for Business and Trade formally assesses their contribution to the UK's offer in trade negotiations and how their economic role can be better and more strategically promoted to potential trading partners, including the possibility of including them in the strategic approaches to free trade agreements that it publishes.* (Paragraph 77)

# Formal minutes

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**Tuesday 26 March 2024**

## **Members present**

Sir Robert Neill, in the Chair

Dr Kieran Mullan

Edward Timpson

## **The constitutional relationship with the Crown Dependencies**

Draft Report (*The constitutional relationship with the Crown Dependencies*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 77 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Second Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoes copies of the Report be made available (Standing Order no.134).

## **Adjournment**

Adjourned till Tuesday 16 April 2024 at 2.00 pm.

## Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

### Tuesday 23 May 2023

**Hon Alfred Cannan MHK**, Chief Minister, Government of the Isle of Man; **Deputy Jonathan Le Tocq**, Minister for External Relations, Government of Guernsey; **Deputy Philip Ozouf**, Minister for External Relations, Government of Jersey

[Q1-56](#)

### Wednesday 15 November 2023

**Mike Freer MP**, Minister for Courts and Legal Services, Ministry of Justice; **Richard Mason**, Deputy Director for Constitutional Policy, Ministry of Justice; **Dr Gaynor Jeffery OBE**, Director for Core Policy, Delivery and European Region, Department for Business and Trade; **Rt Hon Greg Hands MP**, Minister of State, Department for Business and Trade

[Q1-58](#)

## Published written evidence

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The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

RCD numbers are generated by the evidence processing system and so may not be complete.

- 1 Department for Business and Trade ([RCD0005](#))
- 2 Government of Guernsey ([RCD0006](#))
- 3 Government of Guernsey ([RCD0001](#))
- 4 Government of Jersey ([RCD0002](#))
- 5 Government of the Isle of Man ([RCD0003](#))
- 6 Justice Select Committee ([RCD0007](#))
- 7 Ministry of Justice ([RCD0004](#))

## List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the publications page of the Committee's website.

### Session 2023–24

Number	Title	Reference
1st	Appointment of HM Chief Inspector of Probation	HC 397
1st Special	Whiplash reform and the Official Injury Claim Service: Government Response to the Committee's Ninth Report of Session 2022–23	HC 317
2nd Special	Public opinion and understanding of sentencing: Government and Sentencing Council responses to the Committee's Tenth Report of Session 2022–23	HC 442

### Session 2022–23

Number	Title	Reference
1st	Women in Prison	HC 265
2nd	Pre-legislative scrutiny of the draft Victims Bill	HC 304
3rd	IPP sentences	HC 266
4th	Fraud and the Justice System	HC 12
5th	Open justice: court reporting in the digital age	HC 339
6th	Appointment of the Chair of the Judicial Appointments Commission	HC 925
7th	The role of adult custodial remand in the criminal justice system	HC 264
8th	Appointment of the Prisons and Probation Ombudsman	HC 926
9th	Whiplash reform and the Official Injury Claim Service	HC 1140
10th	Public opinion and understanding of sentencing	HC 305
1st Special	Court capacity: Government Response to the Committee's Sixth Report of Session 2021–22	HC 548
2nd Special	Covid-19 and the criminal law: Government Response to the Committee's Fourth Report of Session 2021–22	HC 644
3rd Special	The Future of Legal Aid: Updated Government Response to the Committee's Third Report of Session 2021–22	HC 698
4th Special	Women in Prison: Government Response to the Committee's First Report	HC 802
5th Special	Bailiffs: Enforcement of debt: Government Response to the Committee's Seventeenth Report of Session 2017–2019	HC 979

Number	Title	Reference
6th Special	Fraud and the Justice System: Government Response to the Committee's Fourth Report of Session 2022–23	HC 1020
7th Special	Open justice: court reporting in the digital age: Government Response to the Committee's Fifth Report of Session 2022–23	HC 1040
8th Special	Pre-legislative scrutiny of the draft Victims Bill: Government Response to the Committee's Second Report	HC 932
9th Special	IPP sentences: Government and Parole Board Responses to the Committee's Third Report	HC 933
10th Special	The role of adult custodial remand in the criminal justice system: Government Response to the Committee's Seventh Report	HC 1244

### Session 2021–22

Number	Title	Reference
1st	The Coroner Service	HC 68
2nd	Rainsbrook Secure Training Centre	HC 247
3rd	The Future of Legal Aid	HC 70
4th	Covid-19 and the criminal law	HC 71
5th	Mental health in prison	HC 72
6th	Court capacity	HC 69
1st Special	The future of the Probation Service: Government Response to the Committee's 18th Report of 2019–21	HC 475
2nd Special	Rainsbrook Secure Training Centre: Government Response to the Committee's Second Report of 2021–22	HC 565
3rd Special	The Coroner Service: Government Response to the Committee's First Report	HC 675
4th Special	The Future of Legal Aid: Government Response to the Committee's Third Report	HC 843
5th Special	Mental health in prison: Government Response to the Committee's Fifth Report	HC 1117

### Session 2019–21

Number	Title	Reference
1st	Appointment of Chair of the Office for Legal Complaints	HC 224
2nd	Sentencing Council consultation on changes to magistrates' court sentencing guidelines	HC 460
3rd	Coronavirus (COVID-19): The impact on probation services	HC 461
4th	Coronavirus (Covid-19): The impact on prisons	HC 299
5th	Ageing prison population	HC 304



<b>Number</b>	<b>Title</b>	<b>Reference</b>
6th	Coronavirus (COVID-19): The impact on courts	HC 519
7th	Coronavirus (COVID-19): the impact on the legal professions in England and Wales	HC 520
8th	Appointment of HM Chief Inspector of Prisons	HC 750
9th	Private prosecutions: safeguards	HC 497
10th	Sentencing Council consultation on sentencing guidelines for firearms offences	HC 827
11th	Sentencing Council consultation on the assault offences guideline	HC 921
12th	Children and Young People in Custody (Part 1): Entry into the youth justice system	HC 306
13th	Sentencing Council: Changes to the drugs offences definitive guideline	HC 751
14th	Appointment of the Chair of the Independent Monitoring Authority	HC 954
15th	Appointment of the Chief Inspector of the Crown Prosecution Service	HC 955
16th	Children and young people in custody	HC 922
17th	Rainsbrook Secure Training Centre	HC 1266
18th	The future of the Probation Service	HC 285
1st Special	Prison Governance: Government Response to the Committee's First Report of Session 2019	HC 150
2nd Special	Court and Tribunal Reforms: Government Response to the Committee's Second Report of Session 2019	HC 151
3rd Special	Transforming Rehabilitation: Followup: Government Response to the Committee's Nineteenth Report of Session 2017–19	HC 152
4th Special	Coronavirus (COVID-19): The impact on probation systems: Government Response to the Committee's Third Report	HC 826
5th Special	Coronavirus (Covid 19): The impact on the legal professions in England and Wales: Government Response to the Committee's Seventh Report	HC 898
6th Special	Ageing prison population: Government Response to the Committee's Fifth Report	HC 976
7th Special	Court and Tribunal reforms: Further Government response to the Committee's Second Report of Session 2019 and Coronavirus (Covid-19): The impact on courts: Government response to the Committee's Sixth Report of Session 2019–21	HC 1008
8th Special	Coronavirus (Covid-19): The impact on prisons: Government Response to the Committee's Fourth Report of Session 2019–21	HC 1065
9th Special	Children and Young People in Custody (Part 1): Entry into the youth justice system: Government Response to Committee's Twelfth Report of Session 2019–21	HC 1185

<b>Number</b>	<b>Title</b>	<b>Reference</b>
10th Special	Private prosecutions: safeguards: Government Response to the Committee's Ninth Report	HC 1238
11th Special	Children and Young People in Custody (Part 2): The Youth Secure Estate and Resettlement: Government Response to the Committee's Sixteenth Report of Session 2019–21	HC 1357