



HOUSE OF LORDS

Select Committee on the Constitution

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The Rt Hon. Pat McFadden MP
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By email

CC:

First Minister of Northern Ireland
Deputy First Minister of Northern Ireland
First Minister of Scotland
First Minister of Wales

29 January 2024

Dear Mr McFadden MP,

Thank you for your response to our recent report, *The Governance of the Union: Consultation, Co-operation and Legislative consent*. I am writing, on behalf of the Committee, to seek further detail on how you are planning to address our recommendations.

Firstly, our report recommended that the Devolution Guidance Notes (DGNs) should be updated as a matter of priority. Your response indicates that the DGNs remain in use as part of a wider set of guidance and publications available, despite the fact they are significantly out-of-date. Given their importance, can you confirm whether you intend to update them and, if so, on what timetable?

With regards to positive engagement with the devolved administrations, we welcome and encourage the examples set out in your response. We recommended that a “principle of positive engagement” be added to the intergovernmental relations principles, guiding the reciprocal engagement between the devolved administrations and the UK Government on both routine matters and the development of legislation. We would also expect these examples of positive engagement to be in tandem with regular meetings between the Prime Minister and Heads of the Devolved Governments. However, you have not responded to our specific recommendation: do you intend to update the intergovernmental relations principles to include a “new principle of positive engagement”?

We welcome your intention to work on a new Memorandum of Understanding (MoU) with the devolved administrations on legislation. Will this be accompanied by a review, with the devolved administrations, into the operation of the 2022 intergovernmental relations structure? Similarly, what is the timetable for this work, and when might we expect the new MoU to be operational?

In line with our recommendations, can you also confirm whether the MoU will include:

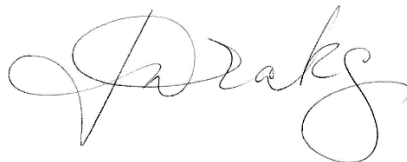
- criteria and guidance on the use of delegated powers in devolved powers in areas of devolved competence;
- a requirement for formal engagement with the devolved administrations on the use of delegated powers in areas of devolved competence;
- a requirement for a memorandum to be submitted to the House of Lords on introduction of a bill that engages the Sewel convention, which would set out the devolution implications of the bill and explain what engagement has taken place with the relevant devolved administrations; and,
- a process for ensuring that adequate time is built into the legislative process to allow for sufficient scrutiny as part of the legislative consent process in the devolved administrations and legislatures?

In addition, we would be grateful to receive a timetable for finalising and fully implementing all 32 common frameworks agreed between the UK Government and the devolved administrations.

Finally, we welcome your openness to discussing the contents of the Government's Intergovernmental Relations Transparency Reports. In our view, and we hope you agree, the reports would benefit from:

- greater qualitative analysis of the state of intergovernmental relations. This could be achieved by the publication of agendas, minutes, and action points from intergovernmental meetings;
- data on the legislative consent process (including on Legislative Consent Motions);
- headline data on the number of meetings that took place at Prime Minister-, Secretary of State- or Ministerial-level; and,
- links to the communiques published following intergovernmental meetings to aid access to this information.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Baroness Drake', written in black ink.

Baroness Drake CBE
Chair of the Constitution Committee