



Department for Levelling Up,
Housing & Communities



Pete Wishart MP
Chair, Scottish Affairs Committee
House of Commons
SW1A 0AA

28 September 2023

Dear Pete,

Response to Scottish Affairs Committee call for evidence on the inquiry; Intergovernmental relations: 25 years since the Scotland Act 1998

Since the advent of the Scotland Act 1998 and the transfer of powers to the Scottish Parliament, the devolution settlement has changed and evolved to respond to a number of political, national, and global events. The Government's submission of evidence to this Inquiry traces the evolution of intergovernmental relations with the Scottish Government, reflecting the changes which have taken place in that time. It also looks at the current set of jointly agreed structures and how they have made operational an architecture for intergovernmental relations going forward.

The need for effective intergovernmental relations between the Government and the devolved administrations has never been greater. The UK's exit from the European Union, the COVID-19 pandemic, and more recently the conflict in Ukraine have all in different ways demonstrated the need for a strong, robust, and effective set of intergovernmental relations structures that delivers for all citizens.

The Government is committed to positive and effective working with devolved administrations. The publication of Intergovernmental Relations Review in January 2022, heralded a new architecture for effective governance of the UK's devolution settlements. As always all four governments are jointly responsible for upholding the spirit of intergovernmental relations and any structures which govern it. Significant progress has been made, as set out in this report. We look forward to continuing to work hard to further strengthen and evolve intergovernmental relations to ensure the Government delivers for people in Scotland and across the UK.

With every good wish,

Rt Hon Michael Gove MP
Secretary of State for Levelling Up,
Housing & Communities
Minister for Intergovernmental Relations

Rt Hon Alister Jack MP
Secretary of State for Scotland

Scottish Affairs Committee Inquiry on Intergovernmental Relations: 25 years since the Scotland Act 1998 ([call for evidence](#))

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1. How did the 1998 Scotland Act and subsequent intergovernmental bodies envisage the operational relationship between the UK Government and Scottish Executive?

[The Scotland Act 1998](#) established both the Scottish Executive (now the Scottish Government¹) and the Scottish Parliament. Within the UK Government (UKG), the Scotland Office assists the Secretary of State for Scotland in his or her functions and duties, including as custodian of the Scottish devolution settlement, representing Scottish interests within UKG, and advocating for the UKG's policies in Scotland.

The 1997 white papers on Scottish devolution envisaged non-statutory agreements (or Concordats) between the administrations that would set the ground rules for administrative co-operation. The first Concordats on EU and international issues, and on financial assistance to industry, were published on 1 October 1999 as part of a Memorandum of Understanding (MoU) between the UKG, Scottish ministers, and the Cabinet of the National Assembly of Wales. This also gave details of the Joint Ministerial Committee (JMC) which contained ministers from each administration. The MoU was updated and published in October 2013². This consisted of a series of agreements between UKG and the devolved administrations (DAs) setting out the principles underpinning relations between them.

In 2019 the Government commissioned the Dunlop Review which examined UKG capability with respect to the Union and devolution. It was published in March 2021³, and in response to its findings, the UKG worked closely with the DAs to build a more transparent and accountable system for intergovernmental relations to improve collaboration on matters of mutual interest to benefit citizens across the whole of the UK. This culminated in the publication of the Intergovernmental Relations Review in January 2022 which was a joint agreement across the four administrations. This introduced new intergovernmental structures that provide a flexible set of arrangements, building on the lessons and experiences of the JMC and its subcommittees, as well as the huge quantity of engagement that takes place at official and ministerial level.

Beyond the MoUs underpinning the devolution settlements, the Scotland Act 1998 also includes provisions that facilitate cross-government working in specific areas. This includes the ability to establish agency arrangements (s.93 Scotland Act 1998) which enables a UK minister and Scottish Government ministers to make arrangements to

¹ [As amended by the Scotland Act 2012](#)

² <https://www.gov.uk/government/publications/devolution-memorandum-of-understanding-and-supplementary-agreement>

³ <https://www.gov.uk/government/publications/the-dunlop-review-into-uk-government-union-capability>

exercise functions on behalf of each other. This regulation-making power, alongside non-statutory arrangements, contributes to the constitutional settlement which enables devolution to operate alongside the UKG and Scottish Government's respective duties and responsibilities.

2. How effectively have processes for managing intergovernmental relations evolved to respond to various political developments since 1999?

Approach to Intergovernmental relations

Since the 1998 Scotland Act the devolution settlements have developed and as a result, the ways of working between the UKG and the DAs have also evolved to respond effectively to matters of the day. In Scotland in particular, this has been reflected in the increase in powers devolved from the UK Parliament to the Scottish Parliament, as a result of the Calman and Smith Commissions (established in 2008 and 2014 respectively).

The current arrangements, as set out in the jointly developed Intergovernmental Relations Review, provide an up-to-date and fit-for-purpose system through which all governments can collaboratively address key issues and challenges. There is now a greater emphasis on bringing engagement under a set of formalised, jointly agreed structures, which includes a Prime Minister and Heads of Devolved Governments Council which meets at least annually, the Interministerial Standing Committee and the Finance: Interministerial Standing Committee. In addition, sixteen Interministerial Groups have been established at department level, providing flexible and nimble structures which allow for discussion on policy interests at any given time, and a consistent architecture for intergovernmental relations through changes in governments. The arrangements are kept under review to ensure that the governments continue to maintain an effective, transparent, and equal system for intergovernmental working.

These structures are supported by an independent IGR Secretariat that is responsible for ensuring the efficient and effective maintenance of inter-governmental structures with a view to improving engagement between the governments. The Head of the IGR Secretariat has been in post since May 2023.

These structures ensure that tackling challenges is a shared endeavour. They have been the means by which discussion on policy issues, such as the Deposit Return Scheme, have taken place and they have resulted in the announcements of energy and household support schemes across the UK, as well as Green Freeports in Scotland. These new ways of working have also been helpful in responding to widespread and cross-cutting challenges, for example supporting those affected by the war in Ukraine.

Devolution of further powers: The Scotland Act 2016 and the Fiscal Framework

Following the 2014 Scottish independence referendum, the then Prime Minister (the Rt Hon David Cameron) asked Lord Smith of Kelvin to establish a commission (known as “the Smith Commission”) of talks between Scotland’s five political parties, as represented in the Scottish Parliament, to take forward commitments made by the three principal UK-wide political parties (Conservative, Labour, and Liberal Democrats) during the referendum campaign. Lord Smith of Kelvin published his recommendations which had the agreement of Scotland’s five political parties.

The Scotland Act 2016 delivered the Smith Commission’s recommendations in full, making the Scottish Parliament one of the most powerful devolved administrations in the world. Through the Scotland Act 2016, a raft of powers were transferred to the Scottish Parliament, including on tax and welfare.

Since 2019, all of the provisions in the Scotland Act 2016 which increase the powers of the Scottish Parliament are now in force. The UKG remains committed to implementing the Scotland Act 2016 in full and works closely with the Scottish Government to do so. Both Governments publish annual reports on the implementation of the Scotland Act 2016, which outlines progress and our joint work for each year.

The Fiscal Framework agreement with the Scottish Government

The current Fiscal Framework was published in 2016 and underpins the powers devolved through the Scotland Act 2016. It was agreed by both the UK and Scottish Government and is consistent with the principles in the Smith Commission agreement. The Fiscal Framework includes access to substantial borrowing, in addition to the funding the Scottish Government receives through the Barnett formula. The UK and Scottish Governments have worked together to review the existing Fiscal Framework. In July 2022, they jointly launched a call for evidence on the design and operation of the tax and welfare Block Grant Adjustments made to the Scottish Government’s funding. This supported the jointly commissioned independent report, which also provided an invaluable assessment of the existing Block Grant Adjustments from leading experts.

Both Governments reached a fair and responsible agreement on the Fiscal Framework, working collaboratively to reach a compromise for the benefit of the Scottish economy while keeping fiscal objectives on track. The agreement provides certainty and flexibility for the Scottish Government and maintains the existing funding arrangements to account for tax and welfare devolution, while boosting spending through borrowing by £90 million in 2024/25. As a result of this agreement, the Scottish Government will be able to invest further in schools, hospitals, roads, and other key infrastructure that will help to drive better paid jobs and opportunity in Scotland - thereby growing the economy.

The UKG has listened to the Scottish Government's calls for more certainty and flexibility in the system to help them manage their budget. Those calls were answered by permanently doubling the Scottish Government's annual limit for resource borrowing and removing the drawdown limits on the Scottish Government's reserve, which will both rise in line with inflation. This means that the Scottish Government's annual and overall reserve borrowing limits will be maintained at £600m and £1.75bn in real terms respectively. The Scotland Reserve limit will be maintained at £700m in real terms.

EU Exit

The UKG engaged with the DAs to prepare for the UK's Exit from the European Union (EU). From 1 January 2021, when the UK left EU structures following the end of the transition period, new powers transferred to the DAs. Common Frameworks were established between the UKG and the DAs to establish a common approach with regards to powers that have returned from the EU and fall within devolved competence. UKG and the DAs have worked together to develop these Common Frameworks (in line with the Frameworks principles agreed by the Joint Ministerial Committee (EU Negotiations) (JMC(EN)) on 16th October 2017).

The Joint Ministerial Committee on EU negotiations (JMC(EN)) was set up as the primary forum for UKG and DA counterparts to discuss the progress of the UK's exit from the European Union JMC(EN), and first met on 9 November 2016. During the process of the UK exiting from the EU the JMC(EN) met on 28 occasions, with the last taking place on 29 December 2020.

After EU Exit, the Interministerial Group for UK-EU Relations was established via the jointly agreed structures set out in the Intergovernmental Relations Review and met for the first time in February 2022. This has enabled the UKG and the DAs to continue engagement on the new set of relations between the UK and the EU and the implementation of the UK-EU Trade and Cooperation agreement.

Examples of intergovernmental working

The collaborative working principles of Intergovernmental Relations⁴ are at the core of a number of projects and policies which UKG has recently delivered - and is delivering - jointly with the Scottish Government. A summary of some of these projects is set out below.

⁴ Review of Intergovernmental Relations (January 2022)

"Collaborative working will be founded on the following principles:

- maintaining positive and constructive relations, based on mutual respect for the responsibilities of the governments and their shared role in the governance of the UK
- building and maintaining trust, based on effective communication
- sharing information and respecting confidentiality
- promoting understanding of, and accountability for, their intergovernmental activity
- resolving disputes according to a clear and agreed process."

Freeports

On 13 January of this year, the UK and Scottish Governments jointly confirmed that Inverness and Cromarty Firth and Firth of Forth were each successful in their bids to establish a new Freeport in Scotland. Prior to this announcement, there was significant joint work to develop and codesign a model which worked for both governments. As set out in the Freeports Bidding Prospectus:

“The Scottish and UK Governments have worked together constructively to develop a Green Freeport model that reflects our joint values, the unique conditions in Scotland, and ensures businesses, ports and communities across Scotland can benefit from the Green Freeport opportunity.”⁵

The selection process was also jointly run by the UK and Scottish Government. As set out in the Freeports Decision Note⁶, the Scottish Government’s Deputy First Minister met with UKG’s Secretary of State for Levelling Up, Housing & Communities and subsequently the Secretary of State for Scotland to discuss the appointable bids.

Investment Zones

The selection of Glasgow City Region and the North East of Scotland to each host a new Investment Zone was the result of significant joint work between the UKG and the Scottish Government to co-develop a tailored approach to identifying Investment Zone areas in Scotland, reflecting Scotland’s specific geographical and economic landscape. The speed at which this work has progressed is testament to the strength of partnership between the UK and Scottish Government.

Engagement with the Scottish Government has been based on three core principles, established through previous joint working on programmes such as Freeports:

- **Partnership:** *the Scottish and UK Governments will play a joint role in co-design, decision-making and overseeing the delivery of Investment Zones;*
- **Parity:** *the overall offer in Scotland will be of equivalent value to the overall offer per Investment Zone in England;*
- **Strategic Fit:** *Investment Zones will align with the Scottish and UK Governments’ policy frameworks, including the Scottish Government’s National Innovation Strategy and National Strategy for Economic Transformation, and*

⁵<https://www.gov.uk/government/publications/green-freeports-in-scotland-bidding-prospectus/green-freeports-in-scotland-bidding-prospectus-delivered-in-partnership-by-the-scottish-government-and-the-uk-government>

⁶<https://www.gov.uk/government/publications/scottish-green-freeports-decision-making-note/scottish-green-freeports-selection-decision-making-note>

be a good fit for the regional economic and governance landscape and reflect devolution settlements. ⁷

The Investment Zones - Place Selection in Scotland document, published 18 August 2023, goes further in setting out the nature of this effective and collaborative relationship, including how the UK and Scottish Governments will continue to work together with the Glasgow City Region Economic Partnership and the North East of Scotland Regional Economic Partnership to co-develop Investment Zone proposals, and a reaffirmed commitment to partnership working. The document also sets out the details of the co-developed, bespoke approach to identifying Investment Zone areas in Scotland, again underpinned by a set of core principles agreed between the UK and Scottish Governments. As with Freeports, this joint work at official and ministerial-level enabled swift decision making and progress on pushing the policy forward in a way which recognises and respects the aims and ambitions of the UK and Scottish Governments, whilst both working together to deliver the best policy for the people of Scotland.

City Region and Growth Deals

City Region and Growth Deals are co-funded agreements between the UKG, Scottish Government and local partners which aim to unlock and boost local economic growth and prosperity in Scotland's towns, cities and surrounding areas. Overall, there are 12 deals covering the whole of Scotland to which UKG has committed almost £1.5 billion.

The UK and Scottish Governments have oversight through the Joint Government City & Growth Deals Delivery Board, which meets quarterly. This Board monitors comprehensive joint government governance and finance oversight arrangements.

The UK and Scottish Governments also sit together on communications working groups for each of the Deals and have jointly agreed and implemented communications protocols to help manage the complexities of communications involving multiple project partners. This collaborative approach, built on the principles of inclusion, no-surprises, and fair and balanced representation, has been a successful model for a respectful and productive relationship.

Scottish Seafood Industry Action Group

The Scottish Seafood Industry Action Group (SSIAG) is a quarterly forum where stakeholders can raise any cross-cutting challenges that emerge across the sector, flagging these for resolution with all parts of the UKG, the Scottish Government and the Scottish seafood industry.

⁷<https://www.gov.uk/government/publications/investment-zones-in-scotland-policy-model-place-selection-methodology/investment-zones-place-selection-in-scotland>

SSIAG members recently provided evidence on how energy costs were affecting businesses in Scotland. This helped ensure that “processing and preserving of fish, crustaceans and molluscs’ was included on the Energy and Trade Intensive Industries Scheme.

Covid -19

The Covid-19 pandemic necessitated regular intergovernmental discussions at all levels of government. Specific governance structures were put in place to support UK-wide delivery and collaboration. Throughout the Covid-19 pandemic DA involvement in ministerial conversations was through multiple channels, including: COBR, Ministerial Implementation Groups and a regular forum for First Ministers and the Chancellor of the Duchy of Lancaster (later the Minister for Intergovernmental Relations). The latter took place on a weekly or fortnightly basis as needed, giving space for coordination of policy areas, discussion of issues and concerns, as well as for information sharing.

Commemoration of Her Majesty Queen Elizabeth II

Similarly, in the immediate aftermath of the sad passing of Her Late Majesty The Queen, Operation UNICORN and Operation LONDON BRIDGE brought together the UK, Scottish and Welsh Governments, and the NI Executive Office to deliver one of the largest and most complex events the UK has held, at a time of huge national significance.

3. How effectively has the new intergovernmental relations framework operated since January 2022?

The IGR Review is a joint endeavour by the UK, Scottish, and Welsh Governments, and the Northern Ireland Executive. Whilst recognising political differences exist between administrations, all four governments worked closely to finalise this package and continue to work together to implement the Review.

The current focus has been on embedding a more systematic approach to engagement; focussing on making sure the right architecture is in place by helping departments operationalise the remaining Interministerial Groups and making sure the structures already in place support intergovernmental conversations of weight and substance.

In 2022 there were over 270 ministerial meetings between the UKG and the DAs (of which, over 150 involved the Scottish Government) on a wide range of key issues including; engagement on the successful implementation of the King's Coronation; Freeports; and the Homes for Ukraine Scheme. In the first two quarters of 2023 there were over 110 meetings, with over 70 involving the Scottish Government.

All four governments are jointly responsible for upholding the spirit and content of the IGR structures and ensuring productive intergovernmental relations. The continued success of intergovernmental meetings is therefore dependent on all parties remaining fully engaged and involved in the process. To support this, the IGR Secretariat, which was established in 2023, will provide governance for the top and middle tier of IGR engagements, as well as monitoring and implementing the nature of the IGR Review. The Secretariat will also be in charge of upholding and processing the IGR dispute resolution mechanism should any government have a desire to escalate an issue via that route.

4. To what extent has the new intergovernmental relations framework been fully implemented?

As noted above, since IGR Review publication in January 2022, UKG and DA counterparts have worked together to implement the Review. As the system matures, our focus is shifting to improving the quality and level of engagement.

With processes embedded across most UKG departments, the structures that were jointly agreed in the IGR Review has seen the establishment of 16 Interministerial Groups; four meetings of the Interministerial Standing Committee, five meetings of the Finance: Interministerial Standing Committee; and an inaugural meeting of the Prime Minister and Heads of Devolved Governments Council. Given that the system put in place by the IGR Review was never intended to be static, the Government will continue to set up new IMGs in discussion with the DAs, where there is a need to do so, to ensure the system evolves in response to changes in priorities and departmental structures. All departments have either now put in place formalised IMG structures or are in the final stages of agreeing IMG terms of reference. There are two IMGs with a focus on international related issues, the UK-EU Relations IMG and the Trade IMG, ensuring that the DAs have the opportunity to engage and feed into policy areas which are reserved but impact devolved competencies.

Alongside these formal structures, the Prime Minister held meetings and hosted a formal dinner with the First Ministers of Scotland and Wales at the British Irish Council in November 2022. He met with the previous First Minister of Scotland in Aberdeen, and spoke with the First Minister of Scotland Humza Yousaf MSP shortly after his appointment, subsequently meeting with him in London to discuss shared issues. In March 2023, the Prime Minister visited North Wales with First Minister Rt Hon Mark Drakeford MS, to announce two new Freeports in Wales which are being jointly delivered with the Welsh Government. The Secretary of State for Levelling Up and Minister for Intergovernmental Relations, Rt Hon Michael Gove MP, recently met the First Ministers in Jersey to discuss shared issues of interest such as legislation, environmental policies and local Welsh issues. He spoke with Shona Robison MSP bilaterally following her appointment as Deputy First Minister. He held weekly calls with the First Ministers of Scotland, Wales and Northern Ireland, including the deputy First Minister of Northern Ireland during the response to Covid-19, and further calls with the First Ministers of Scotland and Wales on the war in Ukraine. The Secretary of State also chaired the inaugural meeting of the Housing, Communities and Local Government Interministerial Group last May, with a focus on building safety.

5. To what extent has the new intergovernmental framework succeeded in developing an effective dispute resolution mechanism to resolve or mitigate conflict between the UK and Scottish governments?

The intergovernmental relations system contains a fair and operationalised dispute resolution mechanism which is overseen by the independent IGR Secretariat. To date there have been no formal disputes with the Scottish Government which is testament to the new IGR structures and the ongoing work by all governments to ensure the effective functioning of intergovernmental relations.

The IGR system and structures are designed to promote dispute avoidance and seek resolution at the lowest possible level. If resolution cannot be found, disagreements will be assessed by the impartial IGR Secretariat against jointly agreed criteria to determine whether they should be classified as a dispute and escalated.

The IGR Secretariat will report on the outcome of any dispute that reaches the final escalation stage, including the details of any third-party advice. This must be laid by each government before its legislature. The Secretariat will also prepare and publish an annual report including any resolved disputes, an executive summary of the Secretariat report on the outcome and associated third-party reports when relevant and appropriate.

6. How far does the new intergovernmental relations framework provide sufficient transparency and opportunity for parliamentary scrutiny, and how does this compare to previous arrangements?

The Government publishes IGR Transparency Reports every quarter which sets out how many times UKG ministers have met with DA counterparts. We also publish an Annual Report which brings together data and case studies from each of the quarters throughout the year. So far, the Government has published reports on nine quarters on gov.uk since March 2021. This includes two Annual Transparency Reports. The most recent Annual Transparency Report covering 2022 was published in March 2023.

These reports support the UK Parliament's capacity to scrutinise intergovernmental relations whilst not placing any obligations on other administrations to report to their legislatures, but instead by mirroring the approaches taken by the Scottish and Welsh Governments. The aim of enhanced transparency and reporting is to ensure openness and accountability to and scrutiny by the UK Parliament and the public on the quality and outputs of these meetings. This reflects the introduction of a new era for Intergovernmental Relations in terms of greater reporting, scrutiny, and accountability of intergovernmental activity.

It also reflects that the frequency of engagement varies between departments as appropriate in respect to their relevant roles and responsibilities, constitutional relationships with the DAs, and needs of policy areas to ensure UK-wide alignment and consideration. In November 2021, the UKG and the DAs agreed a Concordat on Statistics, setting out the agreed framework for co-operation between the UK Government (including the UK Statistics Authority and Office for National Statistics) and DAs, in relation to the production of statistics, for and within the UK, statistical standards and the statistics profession.