

## **Department for Levelling up, Housing and Communities – Written Evidence (GOU0006)**

### **1. How effective are the new intergovernmental relations structures—introduced in January 2022—at maintaining and improving relationships between the UK Government and the governments of the devolved nations?**

The current arrangements, as set out in the jointly developed Intergovernmental Relations (IGR) Review, provide a system through which all governments can collaboratively address shared 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, the Interministerial Standing Committee (IMSC) and the Finance: Interministerial Standing Committee (F:ISC). In addition, 16 Interministerial Groups (IMGs) have been established at department level, providing flexible structures which allow discussion on policy issues. While there will not always be consensus, the structures provide a framework for effective engagement across administrations. To facilitate greater accountability, the UK Government also publishes quarterly and annual transparency reports on intergovernmental activity. Additionally, IGR structures are supported by an independent IGR Secretariat that is responsible for ensuring the efficient and effective maintenance of IGR structures and support engagement between the governments.

The structures ensure that tackling challenges is a shared endeavour. Discussion on policy issues, such as community cohesion, have taken place via these structures and 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 during the IMSC on 19 October 2023, FCDO provided the devolved administrations with an update on the situation in Israel and Gaza.

#### **a. To what extent have the new intergovernmental structures provided a mechanism for the UK Government to effectively consult the devolved administrations, including on legislation affecting areas of devolved competence, and secure consent for such legislation?**

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 and that effective engagement does not always result in consensus, the UK Government, Scottish Government, Welsh Government and Northern Ireland Executive have all worked closely to secure the best outcomes for citizens.

The IGR structures are also not the only forums through which discussions in these areas are held. Engagement on policy or legislation takes place in a variety of ways, and ministerial engagement is underpinned by official-level engagement.

In 2022 there were over 270 ministerial meetings between the UK Government and the devolved administrations (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 three quarters of 2023 there were over 160 meetings. The Intergovernmental Relations Annual Transparency Report for 2023 is forthcoming.

This said, engagement on legislation regularly features within the IGR structures; all six IMSCs to date have discussed legislation. This included the most recent meeting on 12 March 2024 in which the IMSC discussed upcoming legislation being taken forward in the fourth parliamentary session. At portfolio level as well, and as an illustration, the Interministerial Group for Justice discussed the Post Office (Horizon System) Offences Bill in January 2024 and the Interministerial Group for Environment, Food and Rural Affairs discussed the UK Government's Retained EU Law Bill in May 2023, although it should be noted that individual pieces of legislation can apply differently across the UK depending on the devolution settlement.

**b. The UK Government and the three devolved administrations have committed themselves to "promoting collaboration and the avoidance of disagreements". How has this operated in practice and to what extent has the joint approach on common frameworks assisted that collaboration, if at all?**

Our position is that the principles on collaborative working jointly agreed between UK Government, Scottish Government, Welsh Government and Northern Ireland Executive as part of the IGR Review are the right approach and framework. If any disputes arise, we and the devolved administrations are committed to using the appropriate processes set out in the Review.

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 IGR Secretariat against jointly agreed criteria to determine whether they should be classified as a dispute and escalated. We recognise, however, that there is more to do on how we promote effective collaboration. For example, the issue of dangerous dogs was raised in IMSC and regularly corresponded on, but it took many months to achieve a joined-up approach across the UK.

But in terms of collaboration, there are currently 32 active frameworks at various stages of delivery - these agreements between the UK Government and the devolved administrations are ways of working that enable joint policy discussion, and decision-making on use of powers that have returned from the European Union and fall within devolved competence in 32 broad policy areas.

The Common Frameworks programme is grounded in the jointly-agreed Common Frameworks principles. The centrepiece of the principles is agreement to establish *common approaches* in certain areas where there is returning EU law in devolved competence. These common approaches consist of highly structured joint governance set out in a Framework Outline Agreement and often a concordat. In order to both deliver collaboration and manage disagreements, the Common Frameworks adhere to a standard format which requires the setting-

out of the structures which provide for joint discussion, decision-making, and information sharing. Many Frameworks include a 'no surprises' clause which requires timely sharing of information. Each Framework also includes a dispute avoidance and resolution mechanism which is guided by the principle of subsidiarity and which aims to resolve disagreements before they can turn into IGR-level disputes.

In practice a number of disagreements have been resolved through a Common Framework before they become an intergovernmental dispute. These will be reported to legislatures through the annual reporting on fully implemented Frameworks.

**c. How has the dispute resolution process operated in practice? Is it effective?**

The IGR system contains a fair and operationalised dispute resolution mechanism which is overseen by the independent IGR Secretariat. To date there has been one formal dispute (below). This is testament to the structures set out in the IGR Review as well as the ongoing work by all governments to ensure the effective functioning of intergovernmental relations and dispute avoidance.

For a disagreement to be escalated it has to be considered at portfolio level first before being assessed by the impartial IGR Secretariat. While every effort is made by the UK Government and the devolved administrations to work to resolve issues at the lowest possible level, disagreements can then be brought through each tier. If the dispute has not been resolved at these levels the remaining mediation option is to take impartial advice from a third party, facilitated by the Secretariat and agreed by the relevant governments.

The dispute resolution mechanism has been engaged once to date between the UK Government and the Northern Ireland Executive in relation to a scheme which sets out the payment of pensions to persons permanently disabled as a result of Troubles-related incidents.

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 is also committed to publishing 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. The IGR Secretariat is still in its formative stages of development and the UK Government looks forward to it being fully established with it consisting of officials from all of the governments.

**d. What are the implications of the restoration of the Northern Ireland Executive for the efficacy of the new intergovernmental relations structures?**

The UK Government welcomes the restoration of the Northern Ireland Executive and looks forward to positive engagement with Northern Ireland Ministers including through the formal intergovernmental relations structures.

At the time of writing, since the restoration of the executive, Northern Ireland Executive ministers have attended intergovernmental meetings including the sixth IMSC, the Interministerial Group on UK-EU Relations in March 2024 and the Finance: Interministerial Standing Committee also in March 2024.

Notably the first East-West Council also took place on 26 March 2024. The Council was established as part of the Safeguarding the Union Command Paper published by the UK Government in January 2024 ahead of the restoration of devolution in Northern Ireland. The Council will focus on trade promotion, connectivity, and culture and skills.

## **2. Is there scope to strengthen the role of the territorial departments (the Office of the Secretary of State for Scotland, the Office of the Secretary of State for Wales and the Northern Ireland Office) at official and ministerial level in order to improve communication and consultation between the UK and devolved administrations?**

The Territorial Offices play a significant role in joint working with the devolved administrations and supporting the delivery of Union objectives for the whole of the UK.

Ministers and officials within the Territorial Offices encourage and support early engagement between UK Government departments and the devolved administrations, helping to ensure that departments consider the whole of the UK in their work throughout the policy development process. The Territorial Offices also engage directly with the devolved administrations on specific issues.

For example, the Secretary of State for Wales chairs the Tata Steel / Port Talbot Transition Board, which was set up to support people, businesses and communities affected by Tata's decision to close their blast furnaces at Port Talbot. The Secretary of State for Levelling Up, Housing and Communities and the Cabinet Secretary for Economy, Energy and Welsh Language are Deputy Chairs of the Board. As such, the Wales Office works closely with DLUHC and the Welsh Government as part of the Board's work.

The Northern Ireland Office has been focused on the restoration of the Northern Ireland Executive and getting devolved government in Northern Ireland back up and running, upholding the Belfast (Good Friday) Agreement in all its strands. As an example of supporting engagement between UK Government and the Northern Ireland Executive, the Secretary of State for Northern Ireland is the deputy chair of the East-West Council, with the inaugural meeting taking place in March 2024 (see above).

The Scotland Office works collaboratively with the Scottish Government on Scotland Act Orders, which enable the effective functioning of the devolution settlements. A current high priority is the ongoing implementation of the welfare powers devolved in the Scotland Act 2016. The Joint Ministerial Working Group on Welfare is an important forum to support this work, bringing together Ministers and officials from the Scottish Government, the Department for Work and Pensions, and the Scotland Office. The Order made under Section 104 of the

Scotland Act 1998 on the Carer Support Payment is a recent illustration of how this collaboration delivers for people in Scotland.

**3. To what extent are the devolved administrations consulted prior to legislation being introduced in the UK Parliament that alters the executive competences of the devolved ministers? What impact has this had on the executive competences of the devolved ministers?**

For any bills which engage the legislative consent process, including those which alter devolved executive competence, UK Government officials work closely with their counterparts in the devolved administrations to discuss a bill's content along with the bill's devolution analysis prior to introduction. For example, the Tobacco and Vapes Bill was introduced in March 2024 and legislates UK-wide. The bill will help achieve a smokefree generation and protect children from vaping and other nicotine products across all four nations. It will save tens of thousands of lives and save the NHS billions of pounds and help level up the UK. The response to the UK-wide consultation overwhelmingly backed the measures and the excellent engagement between all four administrations on the development of the bill reflects that. The time available for engagement on different bills can obviously vary given the urgency or complexity of legislation. As might be expected, executive competence of devolved administration ministers has altered since the original devolution acts were passed and on various occasions their competence has been extended.

**4. Has respect for the Sewel convention eroded or strengthened in recent years? If so, what has been the cause of any such development?**

The UK Government is committed to the Sewel Convention and continues to work with the devolved administrations on all bills that engage the legislative consent process. We have legislated with the consent of the devolved legislatures on hundreds of occasions. Whilst the Government has reluctantly had to proceed without consent on occasion, we do not consider this indicates an erosion of respect for the Convention. Indeed the Convention allows for this – not normally does not mean never. The occasions where the UK Government has proceeded without consent are few and far between though and we do not take them lightly. The UK Government pursues this course of action only as a last resort following significant efforts to find agreement with the devolved administrations. Finding that agreement can only be achieved through committed, pragmatic and timely collaborative working between all four administrations.

**5. Is there any scope to strengthen the Sewel Convention. If so, how?**

The UK Government is committed to the Sewel Convention and will always seek consent from the devolved legislatures when the process is engaged. The Sewel Convention is a Parliamentary Convention and there are no plans to alter its status.

For all legislation that engages the legislative consent process, UK Government officials work closely with counterparts in the devolved administrations to discuss the bill's content and provisions, along with the bill's devolution analysis.

**a. Is there a case for updating the Devolution Guidance Notes? If so, which sections require updating and how?**

No, while the devolution guidance notes (DGNs) set out valuable advice on working relations with the devolved administrations, they should also be read as part of a wide spectrum of guidance and publications on intergovernmental working, such as the review of intergovernmental relations. They are supplemented by the extensive Civil Service wide devolution capability programme. This is an ambitious programme that has been in place since 2015 to enhance devolution knowledge and intergovernmental working skills of civil servants, enabling them to deliver more effectively when designing and implementing policies. In financial year 2023/24 the programme reached 22,233 civil servants across Government, who attended centrally run devolution training. Taken together, they enable civil servants to work across the UK Government, Scottish Government, Welsh Government and Northern Ireland Executive.

There is always scope to improve engagement and understanding of these processes and it is something the UK Government works to improve but it is not currently a priority to update the DGNs.

**6. The Sewel convention does not apply to delegated legislation. Within this context, what are the implications of the UK Government:**

- a. using delegated legislation in areas of devolved competence, with or without consultation or consent?**
- b. using Henry VIII powers to alter acts of the devolved legislatures?**

Powers for the UK Government to make statutory instruments in devolved areas are not new and have been used across a wide range of policy areas since the advent of devolution.

This is because it is often appropriate for the UK Government to amend existing or introduce new UK-wide regulations, including in devolved areas, as it can be more efficient, or to ensure coherence across the UK and make it easier for our stakeholders. In some cases, it benefits businesses and citizens to have consistency and coherence across the UK. Henry VIII powers should only be used when absolutely necessary.

The UK Government seeks the agreement of devolved administration Ministers for Statutory Instruments in devolved areas when there is a statutory requirement or an existing political commitment to do so. Whether or not to include statutory consent requirements is considered on a case-by-case basis as each policy area has a different legislative context.

It is sometimes necessary to make consequential amendments to acts of the devolved legislatures to ensure that laws work appropriately (and vice versa).

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