Dear Mr Jenkin

INQUIRY: INTER-INSTITUTIONAL RELATIONS IN UK

We are writing in response to the request by the Public Administration and Constitutional Affairs Select Committee for evidence on Inter-institutional Relations in the United Kingdom.

As the Committee will be aware, the Memorandum of Understanding (MOU) and Supplementary Agreements between the United Kingdom Government and the three devolved administrations sets out the principles which should govern inter-administration relationships. These are a commitment to communication, consultation, co-operation and exchange of information which will support the effective operation of government. The MOU also provided for the establishment of the Joint Ministerial Committee (JMC) as the principal forum for the co-ordination of the relationship between the administrations. The four administrations are also members of the British Irish Council which was established under the Belfast Agreement, and which provides a wider form for co-operation through its work streams on social and economic issues of shared interest. However, as BIC does not involve itself directly in issues concerning the relationship between the four administrations, we have concentrated our response on the operation of the JMC.

The JMC has developed since 1999 and we believe that all administrations have shown a willingness to adopt its structures and processes more closely to meet emerging needs and priorities. The original sub-committees of JMC have, with the exception of JMC(E), been stood down in the light of such priorities, while the creation of JMC (Domestic) was intended to provide a greater focus on areas of social and domestic policy of interest and concern to all administrations. The Committee will also have noted the commitment of the administrations to use JMC as
the vehicle for discussions on the UK’s future relationship with the EU and in particular, the decision to establish a new sub-committee: JMC (European Negotiations) (EN) for this purpose.

However, the effective operation of the JMC in practical terms can present challenges. The administrations have been collectively engaged in reviewing the principles which should govern relations between them and in considering a number of procedural and administrative measures intended to make the JMC a more effective forum for the discussion and management of inter-administration issues, including disputes. Progress was discussed at the recent JMC plenary and Ministers remitted further work on these issues to the JMC Secretariat.

We are also conscious of the difficulties inherent in scheduling meetings of JMC due to the competing demands on Ministers’ diaries across four administrations. We believe that there is scope for more frequent meetings of JMC in plenary format, and we were pleased that this view was shared and endorsed at the recent plenary.

In summary, we consider that inter-administration relationships continue to develop and that co-operation takes place on an ongoing and pragmatic basis. It is important to note that JMC was never intended as the sole channel for inter-administration relationships, and it is a strength of the current arrangements that the administrations can and do engage with each other in different combinations depending on the issue concerned. No arrangements will be successful, however, without the full participation of all administrations and a willingness to commit time and resources to engagement. It will be especially important to maintain effective relations while we collectively consider our future relationship with the EU over the coming months.

While aspects of the current arrangements could be improved, for example in relation to the role of the Joint Ministerial Committee in considering disputes between the administrations, particularly in relation to financial issues, our experience is overall probably no different from other administrations. There are examples of good engagement with Whitehall, but equally examples of inadequate consultation; short notice being given of announcements; and a lack of understanding of the internal machinery and decision-making processes of the Executive. We therefore welcome the resources which the Civil Service in Whitehall is devoting to promoting a greater awareness among its officials of devolution and the characteristics of each of the devolution settlements. We stand ready of course to support this work through advice and information about the Northern Ireland Executive.

On the question of a statutory underpinning for governmental relations, we believe that, while there are legislative frameworks for the operation of the British Irish Council and the North South Ministerial Council, legislation itself may not always
guarantee effective relations which are ultimately dependent on the good will and voluntary commitment of each government to make them work. It has been suggested that a statutory basis for intergovernmental relations should be introduced but we would be concerned that a codification of our obligations to one another risks the creation of a potentially litigious context for our relations and would also, in relation to JMC, remove the flexibility to adapt its operation quickly to meet emerging needs.

We note that the Committee’s terms of reference include inter-parliamentary relations and the Civil Service. We have for the purposes of this evidence confined our comments to the area of inter-governmental relations as the effectiveness of inter-parliamentary relations, for example through the British Irish Parliamentary Association, on which the Northern Ireland Assembly is represented, may be more appropriately addressed by those institutions. The Committee’s interest in the Civil Service may be principally focused on the Civil Service in GB, but we consider here has been long standing co-operation between the Northern Ireland Civil Service, as a separate entity, and the Civil Service, and we believe these relationships should be guided by the principles set out in the Memorandum of Understanding and by working to their shared values.

We hope that this assessment of the current state of inter-governmental relations is helpful to the Committee in its inquiry.

RT HON ARLENE FOSTER MLA
First Minister

MARTIN McGUIINNESS MLA
deputy First Minister