The Rt Hon the Baroness Taylor of Bolton  
House of Lords  
London  
SW1A 0PW

2 March 2018

Dear Ann,

Following last week's evidence session with the Constitution Committee I offered to write on a number of points raised during the session. Before I turn to those I wanted to say that I thought the session was a useful and important moment to consider the Government's approach to constitutional issues so thank you and the Committee for the time to do so.

Lord Judge asked how many lawyers in my department work on constitutional issues. His question arose in the context of the Committee's questions about the role of the Cabinet Office in scrutinising constitutional issues as they arise across government. That itself reflects the fact that the constitutionality of, say, policy or legislative proposals is often not solely a matter of legal judgement. Indeed, in many cases it is not a matter of legal judgement at all. That said, legal support on constitutional issues reflects the scale of work across government and the great variety of the issues that do arise.

Legal support to my department has a number of elements. Cabinet Office Legal Advisers (COLA) is led by a Director, supported by four SCS Deputy Directors, and currently comprises 27 lawyers. COLA's Constitutional Law Team is led by one of those Deputy Directors and currently comprises eight lawyers. That team has lead responsibility in Whitehall for the law relating to UK governance and devolution, electoral law (where not devolved) and constitutional law issues generally. Constitutional matters will often arise in other departments and their own legal teams will be the first port of call. However, the COLA Constitutional Law Team is a GLD "centre of excellence" and provides consultancy support in such cases, alongside web-based guidance and advice, and frequent Whitehall-wide training and development. Guidance is in place explaining when COLA should be drawn in.

As I explained to the Committee, UK Governance Group includes the Offices of the Secretaries of State for Wales and Scotland. The former has a legal team with a complement of three, also part of COLA and led by a Deputy Director. In addition, the Office of the Advocate General for Scotland (OAG), with a complement of 38 lawyers, is the UK Government's Scottish Legal team. It provides advice to all UK government departments on Scots law and the Scottish legal system. Those two teams are also the UK government's expert legal teams on the Welsh and Scottish devolution settlements respectively. The Northern Ireland Office is supported by its own legal team, located in Home Office Legal Advisers.
Those teams are not the only ones working on constitutional issues, at least from time to time. COLA also advises on matters including public appointments, public bodies, ministerial appointments, machinery of government changes and the civil service - all of which might give rise to constitutional issues. The Office of the Parliamentary Counsel, also based in Cabinet Office, provide advice on certain constitutional matters, including Ministerial appointments and machinery of government changes. Finally, the Attorney General, supported by lawyers at the Attorney-General’s Office, retains a cross-cutting interest, and provides input into constitutional matters from time to time.

Related to this, Lord Norton noted a flowchart on the consideration of constitutional reform issues, which I have now seen. On this, I would like to reiterate the points that I made at the committee. Whilst there is no longer a specific constitutional reform committee, constitutional matters which all agree are even more to the fore currently, are considered as necessary by a number of committees. The Chancellor of the Duchy of Lancaster sits on 17 of the 18 Cabinet Committees ensuring that appropriate consideration is given to constitutional issues no matter where they arise. Whilst the Government is focusing on the constitutional issues that arise as a result of exiting the EU, it would not be appropriate to limit consideration of constitutional issues to a single committee. As we have seen from the Withdrawal Bill, it has raised a number of important constitutional issues, and it is right that the Cabinet Office, and in particular officials from across the UK Governance Group have worked closely with the Department for Exiting the EU at all stages of its development. Lord Norton raised an interesting point as to the assessment of constitutional impact of legislative proposals which I will give further consideration to.

Finally I promised further details of the Devolution and You programme including our interchange week. The Devolution and You programme began in 2015 and is designed to improve devolution capability across the One Civil Service in collaboration with the Scottish and Welsh Governments. It seeks to increase civil service understanding of devolution and intergovernmental working through learning, communications and interchange. The programme is now in its third year and has made significant progress towards its aims and objectives.

The devolution learning programme encompasses introductory online learning, induction programmes in departments, fast stream workshops and SCS masterclasses, including a range of learning in partnership with Civil Service Learning. The workshops and masterclasses are delivered in conjunction with civil servants from the devolved administrations, giving people the opportunity to get a deeper understanding of the different experiences and points of view of other administrations. The team delivers devolution workshops and runs a marketplace stall at the annual Civil Service Live events. We also champion a Devolution Learning Week and promote this across all departments and administrations. In 2018 Devolution Learning Week will take place in the first week of June.

Our communications campaign underpins our learning programme. For example, we are currently promoting our refreshed online module to secure higher uptake across the Civil Service. In parallel to this the team is updating a set of learning resources for new starters and policy-makers to reflect developments brought about by EU Exit, the Scotland Act 2016 and Wales Act 2017. The team is working across Whitehall to champion the use of the module and these resources as part of induction programs for devolution professionals. This awareness raising work is carried out in conjunction with a new Devolution and You digital newsletter, blogs and Twitter.
The programme also runs three interchange weeks throughout the year - hosted by the UK Government, Scottish Government and Welsh Government. These are formal structures to encourage engagement and collaboration between civil servants across the One Civil Service and Northern Ireland Civil Service. The demand for these weeks has been so high that the Devolution and You team are now working with departments on specialist interchange programmes.

This year the UK Government hosted its third, and largest ever, annual Interchange Week from 5-9 March. 83 Civil Servants from the Scottish and Welsh Governments and the Northern Ireland Executive participated in work shadowing across nineteen UK Government departments. The week featured a learning programme to enhance understanding of how the UK Government and Parliament work through tours of the Houses of Parliament and workshops.

Thank you once again for your time last week.

Yours ever,

Chloe Smith

Chloe Smith MP