



Our Ref: MFC/0395

Lord Lang of Monkton
Chair
Select Committee on the Constitution
House of Lords
London
SW1A 0PW

17 January 2017

Dear Lord Lang,

I enclose the Government's response to the recommendations in the Lords Constitution Select Committee report entitled *Inter-governmental relations in the United Kingdom*.

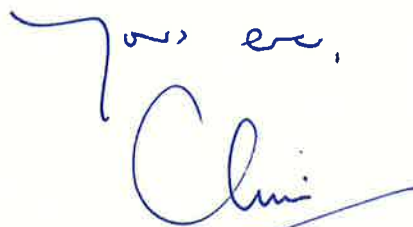
We welcome the Committee's scrutiny of inter-governmental relations and apologise for the delay in responding to the Committee. The Government is committed to continuing to strengthen relationships with the devolved administrations and working together to benefit people across the whole of the UK.

We agree with the Committee that the Joint Ministerial Committee structure should be used effectively to facilitate joint policymaking and that is why when the JMC met in Plenary (JMC(P)) format on 24 October 2016, they agreed to more frequent meetings, as well as the creation of a new sub-committee on EU Negotiations (JMC(EN)).

The four administrations are committed to a review of the workings of the JMC. The JMC(P) meeting on 24 October noted the progress made on this objective and agreed that it should be taken forward to reflect the new circumstances in light of the UK's vote to leave the EU.

The Government will continue to promote and improve transparency in the Joint Ministerial Committee and will update the Committee on any changes to the MoU in the future.

We thank you and the other members of the committee for your hard work in producing these recommendations and advice.

Yours ever,


CHRIS SKIDMORE MP

Response to Lords Constitution Committee

1. The House of Lords Constitution Committee published a report on Inter-governmental relations in the United Kingdom on 27 March 2015. The report made a number of recommendations on how to improve relations between the UK Government and the Devolved Administrations of Northern Ireland, Scotland and Wales.

The UK Government welcomes the Committee's scrutiny of inter-governmental relations. The four administrations continue to work closely together on a number of procedural and administrative measures to improve intergovernmental relations, and will now undertake further work to strengthen the basis for those relations.

Effective intergovernmental relations are vital to upholding our enduring constitutional settlements and ensuring that the governments of the UK can work together in the interests of all UK citizens. The structures that are established, based on extra-statutory principles and arrangements, are intended to deliver this.

As we prepare to leave the EU, these structures and processes will be a critical part of the process to ensure that the interests of all parts of the UK are protected and advanced, and in seeking to agree a UK approach to, and objectives for, Article 50 negotiations.

At the JMC (P) in October, the Prime Minister reaffirmed her commitment to the JMC and it was agreed that JMC (P) should meet more frequently, with a view to facilitating a further meeting in the New Year. It was also agreed that multilateral engagement through a new JMC Committee on EU Negotiations, known as JMC (EN), would be established.

Furthermore, in light of the UK's vote to leave the EU, we expect the JMC (P) to consider revisiting the Memorandum of Understanding (MoU).

In addition, strong bi-lateral relations are important and UK Government Ministers and officials continue to have effective engagement with their counterparts in the devolved administrations, on matters relating to leaving the EU and other issues.

The UK Government's responses to the report's recommendations are set out below.

2. **Formal bilateral forums co-ordinating the operation of the complex fiscal devolution settlements should continue the work of the Joint Exchequer Committees and the new UK-Scotland Ministerial Working Group on Welfare. We recommend that these be brought within the auspices of the JMC structure, to ensure that their work is co-ordinated as part of a wider inter-governmental relations strategy. (Paragraph 62)**

The UK Government believes that the JECs should continue to exist as bi-lateral forums for the Treasury to engage with the relevant devolved administration on fiscal matters. Separate terms of reference for JECs have already been agreed with the Scottish Government and the Welsh Government. These meetings have so far operated successfully outside the JMC structure which exists to facilitate multilateral engagement. No JEC exists in relation to Northern Ireland. Matters of common concern to each devolved administration are already dealt with through the regular meetings of the Finance Ministers' Quadrilateral.

3. **We recommend that the Cabinet Office, as part of its current review of intergovernmental structures, consider and report on how a revised Joint Ministerial Committee structure might best be used to facilitate joint policymaking and coordination. (Paragraph 70)**

The Government is already committed to facilitating joint policymaking and coordination across the devolved administrations, as well as from the UK Government. Through the Joint Ministerial Committee (JMC), the four administrations agree to promote good relations and pursue improvements to joint working. The government believes the creation of the Joint Ministerial Committee on EU Negotiations (JMC(EN)) demonstrates the way in which the JMC structure can respond effectively to facilitate cooperation between the UK Government and the devolved administrations.

The government also notes that there are already a number of joint coordination initiatives outside of the formal JMC structure in which departments and the devolved administrations coordinate policymaking and delivery, including for example the Joint Ministerial Working Group on Welfare, which is overseeing the transfer of welfare powers under the Scotland Act 2016.

- 4. We recommend that the Joint Ministerial Committee should be given the flexibility to create additional sub-committees on policy areas where regular four-way discussions are required, or temporary sub-committees on cross-cutting UK wide issues that are beyond the scope of bilateral co-operation between devolved administrations and individual UK Government departments. (Paragraph 71)**

The UK Government agrees with this point and that is why there is already the flexibility for JMC to meet in numerous formats such as JMC(Officials) and JMC (Europe) in addition to JMC(P). At the most recent JMC (P) in October 2016, the four administrations agreed to work together in a new JMC sub-committee on EU Negotiations (JMC(EN)). The Committee is chaired by the Secretary of State for Exiting the European Union; it will report to and be overseen by JMC (P). JMC (EN) held its first meeting on 9 November and released a joint communique on the Gov UK website. It has met monthly since. The UK Government believes this demonstrates the desire to strengthen JMC and discuss issues of fundamental importance to all administrations.

Furthermore, it is often the case that multilateral forums that sit outside of the formal structure of the JMC itself are more suitable for discussing specific issues such as the Joint Exchequer Committee, Joint Ministerial Working Group on Welfare, or the Finance Ministers Quadilateral. The British-Irish Council also provides for regular discussions on cross-cutting social and economic issues common to all administrations.

- 5. We do not recommend any form of external arbitration or mediation, given that many disputes are likely to be essentially political in nature. We do, however recommend that the Cabinet Office, in co-operation with the devolved administrations, consider how the process of dispute resolution might be made more independent of the UK Government. (Paragraph 76)**

The UK Government agrees with the Committee, although our focus is on dispute avoidance. While the circumstances of individual disputes will vary, all disputes should be dealt with in accordance with the Dispute Resolution protocol set out in the MoU. The Government is committed to the timely resolution of disputes to produce a satisfactory outcome wherever possible. The Government believes it is positive that there have been no referrals to the formal dispute resolution mechanism in over two years.

- 6. We recommend that Government should consider whether the framework of intergovernmental relations should be set out in statute. (Paragraph 86)**

The UK Government does not agree that placing intergovernmental relations on a statutory footing would be suitable for the UK context. Nevertheless, at the JMC (P) in October, the Prime Minister reaffirmed her commitment to the JMC and it was agreed

that JMC (P) should meet more frequently, with a view to facilitating a further meeting in the New Year. Many bilateral meetings between Ministers already take place and UK Government Departments have routine contact with the Devolved Administrations on subjects of mutual interest.

- 7. We recommend that the Finance Ministers' Quadrilateral should be included as a permanent fixture in any statute setting out the framework of intergovernmental relations, with the added exposure to scrutiny that this should bring, whether or not it becomes a sub-committee of the Joint Ministerial Committee. (Paragraph 89)**

The FMQ met alongside the JMC(P) on 24 October 2016. The UK Government does not agree that placing intergovernmental relations on a statutory footing would be suitable for the UK context.

- 8. We recommend that the that the Government consider tasking an independent body to provide the statistics and evidence on which to base decisions about the allocation of funding to the devolved administrations. (Paragraph 91)**

The UK Government welcomes this point, however believes that we already have an independent statistics body in the form of the Office for National Statistics (ONS) to base decisions on, and is already committed to reviewing statistics and data provision more generally. As demonstrated by the creation of a new Concordat setting out an agreed framework for cooperation between the UK Government (including the UK Statistics Authority and Office for National Statistics) and Devolved Administrations in relation to the production of statistics, for and within the UK, statistical standards and the statistics profession.

- 9. The UK Government should continue to chair JMC meetings. However, to mitigate the perception of UK Government dominance the hosting of the JMC plenary and subcommittee meetings should be shared on a rotating basis. (Paragraph 101)**

The Government notes the Committee's recommendation. The JMC(P) meeting on 24 October noted the progress made to date by officials to make JMC a more effective forum, and agreed that further work should be taken forward to reflect the new circumstances in light of the UK's vote to leave the EU. Any changes to the JMC structure are subject to agreement by all four administrations who are already committed to a review of the workings of the JMC.

- 10. We recommend a senior Cabinet minister become a member of the Cabinet Committee on devolution. (Paragraph 127)**

It is important that devolution issues and the future of the Union of the United Kingdom should always be at the forefront of the considerations of the UK Government. There is no single Cabinet Committee on devolution, however issues concerning devolution cut across a large swathe of Government business considered by different Cabinet Committees. The Secretaries of State for Scotland, Wales and Northern Ireland are full Cabinet Members and represent respectively the interests for each of the constituent parts of the UK within the UK Government.

In developing policies for which they are responsible, it is for all UK government Ministers to consider the interests of all the citizens of the UK and the impact of all policies on the whole of the UK.

The Minister for the Cabinet Office has specific responsibility for an overview of constitutional issues, supported by the Minister for the Constitution.

- 11. We recommend that the Government consider whether more formal structures are needed at a civil service level to manage these increasingly complex inter-governmental relations—particularly in the context of those departments which are most affected by the changes. (Paragraph 147)**

A specific team exists within the Cabinet Office to support this area. Indeed, specific devolution teams are already in place across UK Government departments. Furthermore, the UK Governance Group (UKGG) was established in June 2015 to lead the Government's work on constitutional and devolution issues. Under the leadership of Philip Rycroft (Second Permanent Secretary to the Cabinet Office) the Group brings together under one command the Cabinet Office Constitution Group, the Scotland Office, the Office of the Advocate General for Scotland and the Wales Office. Although not directly under the same governance structure, UKGG also works closely with the Northern Ireland Office. Philip Rycroft leads the Government's representation and coordination to the JMC Officials forum. In addition, the UK Governance Group supports a coordinated programme of work for improving devolution capability across UK Government Departments.

- 12. We recommend that the concordats setting out relations between UK government departments and the devolved administrations be reviewed at least once during each Parliament and, in particular, each time there is a change in the devolution settlements. Devolution guidance notes should also be reviewed and updated regularly. (Paragraph 162)**

The Government is already committed to this principle to revise and update the Concordats and devolution guidance notes so that they reflect the MoU. However, the Government believes that any revision is driven by changes to the working arrangements between administrations, which are not necessarily driven by direct changes to the devolution settlements. The concordats and devolution guidance notes will be reviewed by the four administrations in due course.

- 13. We recommend that Departmental concordats should set out clearly how the devolved administrations should be consulted on, and alerted to, forthcoming changes to UK Government policy that might have an effect on the devolved administrations. (Paragraph 163)**

The MoU already sets out how the devolved administrations should be consulted on, or alerted to, changes that might impact on them. The Government agrees that concordats should be revised and updated to reflect the principles set out in the MoU. The concordats will be reviewed jointly by the four administrations in due course.

- 14. We recommend that the Government sets out a strategy for ensuring that senior civil servants have either experience of, or training in, working with devolved administrations. (Paragraph 170)**

We recommend that the Government advises on suitable training on dealing with the devolved administrations. We would welcome clarification from the Government as to how training on dealing with devolved administrations is now provided, following the closure of the National School of Government in 2012. (Paragraph 171)

Learning for civil servants is provided via the Civil Service Learning. New learning on devolution and intergovernmental working will become available this year and includes a range of digital modules and a face to face workshop. The UK Governance Group also provides tailored seminars all parts of the Civil Service and these are available for senior leadership teams.

In addition, the One Civil Service Interchange scheme launched in 2015 providing opportunities for all grades to experience working in the 3 administrations supported by the UK Civil Service.

- 15. We recommend that the dates, venues and headline agenda items of Joint Ministerial Committee meetings be announced further in advance. (Paragraph 184)**

The Government is committed to promoting and improving openness and transparency, including through appropriate reporting to Parliament and the devolved legislatures where possible. In the main, transparency will be provided through the next report on the JMC. At the most recent JMC (P) meeting it was agreed that the next report on the key activities of the JMC is expected to be published in autumn 2017.

- 16. We recommend that the Government consider what additional information could be published following Joint Ministerial Committee meetings and meetings of bilateral forums such as the Joint Exchequer Committee, and in the Joint Ministerial Committee annual report. (Paragraph 185)**

The Government agrees with this and is committed to promoting and improving openness and transparency. This is including through appropriate reporting to our respective legislatures where possible. We commit to laying the next JMC report before both Houses of Parliament as well as publishing detailed communiqués at the conclusion of each JMC Plenary meeting, as evidenced by the most recent JMC (P) on 24 October. The Committee will also note the publication of a communiqué following the meeting of JMC(EN) on 9 November.

- 17. Were the Joint Ministerial Committee framework to be placed on a statutory footing, Parliament should ensure that the legislation requires adequate information to be published to enable effective parliamentary scrutiny of inter-governmental relations. We recommend that UK Government departments detail in their annual reports which areas of their work are devolved and which are reserved. They should also set out the forums and bodies through which they engage with the devolved administrations, reporting at a high level on their activity over the past year. (Paragraph 186)**

The UK Government does not agree that placing intergovernmental relations on a statutory footing would be suitable for the UK context. As mentioned previously, the UK Government already has routine contact with the Devolved Administrations. Regarding the Committee's recommendation of publishing annual reports on UK Government departments' areas of work, the JMC has agreed to publish a report on intergovernmental relations between the four governments of the United Kingdom in Autumn 2017. The report will cover the full range of intergovernmental relations between all UK Government departments and the devolved administrations. As such the Government believes it would be unnecessarily burdensome to ask departments to report again in their respective annual reports on the range of devolved and reserved activities.

- 18. We hope that common ground can be found on which to base some form of cross-parliamentary scrutiny of intergovernmental relations, although we make no specific recommendations as to how this might best be achieved. (Paragraph 198)**

The Government notes this recommendation and that it is for each of the legislatures to consider how best to scrutinise the activities of their respective Governments.

- 19. We repeat the recommendation we made in 2002: the Prime Minister should make an annual statement to the House of Commons after the plenary meeting**

of the Joint Ministerial Committee regarding that meeting and the conduct of intergovernmental relations in the United Kingdom generally over the previous 12 months. (Paragraph 202)

The Government is committed to improving transparency. In light of the interests shown by the legislatures and others, JMC(P) will agree and publish following each meeting a detailed statement setting out the matters discussed and outcomes. This was taken forward at the last meeting on 24 October 2016 by way of a joint communiqué, agreed by all administrations, as well as a joint communiqué following the meeting of JMC(EN) on 9 November.

20. We support proposals for an independent annual audit of intergovernmental relations. (Paragraph 203)

We agree with the Committee that the state of intergovernmental relations should be reviewed regularly. However, it is not clear what specific activity an audit would cover or how it might work in practice.

21. We consider that the Government, and the major UK-wide parties, need to devise and articulate a vision for the future of the state and its devolution settlements. (Paragraph 211)

The UK Government is committed to a strong United Kingdom. Recent changes to the devolution settlements have been introduced with cross-party agreement, following scrutiny by the UK Parliament, as well as the legislatures of the devolved nations. Firstly, the 1998 Scotland Act was amended in March 2016 introducing a range of new powers for the Scottish Parliament. Secondly, the Wales Bill is currently going through Parliament which aims to replace the current conferred powers model used by the National Assembly for Wales with a reserved powers model. Finally, it is one year on since the Fresh Start Agreement which aimed for the full implementation of the Stormont House Agreement and significant progress has been made on a range of issues.

I am grateful to the Constitution Committee for its thorough scrutiny of intergovernmental relations and I look forward to continued scrutiny of relations within the United Kingdom in light of recent developments and forthcoming joint working on the UK's exit from the European Union. I am copying this letter to the Prime Minister, the Chancellor of the Exchequer and the Territorial Secretaries of State for Scotland, Wales and Northern Ireland.