

# UK governance post-Brexit

February 2018



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National Assembly for Wales

**Constitutional and Legislative Affairs Committee**

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# UK governance post-Brexit

February 2018



# About the Committee

The committee was established on 15 June 2016 to carry out the functions of the responsible committee set out in Standing Order 21 and to consider any other constitutional, legislative or governmental matter within or relating to the competence of the Assembly or the Welsh Ministers, including the quality of legislation.

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## Committee Chair:



**Mick Antoniw AM**  
Welsh Labour  
Pontypridd

## Current Committee membership:



**Mandy Jones AM**  
UKIP Wales  
North Wales



**Dai Lloyd AM**  
Plaid Cymru  
South Wales West



**David Melding AM**  
Welsh Conservative  
South Wales Central

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The following Members were also members of the Committee during this inquiry:



**Dafydd Elis-Thomas AM**  
Independent  
Dwyfor Meirionnydd



**Nathan Gill AM**  
UKIP Wales  
North Wales



**Huw Irranca-Davies AM**  
Welsh Labour  
Ogmore

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## Chair's foreword

We started this inquiry in earnest early in 2017, following on from the decision of the UK to leave the European Union in June 2016 and just as the Wales Bill was to receive Royal Assent and become the *Wales Act 2017*. Both of the events featured strongly in the evidence we received and highlighted the greater importance that must be attached in the future to inter-institutional relations: between governments and between parliaments.

We received evidence from a wide range of people and organisations. In addition, we engaged with a Citizen Panel and are particularly grateful to members of that panel who gave their time freely to assist with our work.

The evidence has provided a fascinating insight into the actual and perceived operation of devolution since 1999, how it has developed, and where the challenges lie now and in the immediate future.

Our inquiry evolved over the course of 2017 and has been affected by many events including a UK General election and the process of the UK withdrawing from the European Union, including the publication of the controversial European Union (Withdrawal) Bill.

To avoid some of the evidence being overtaken by the rapid pace of events, we decided to produce a shorter report than originally intended, making recommendations on matters that need urgent attention, in order to help shape our constitutional future in the fairest and most effective way possible.

In reaching our views, we sought to learn lessons and, where we felt appropriate, endorse recommendations contained in other reports in this subject area, including those undertaken by parliamentary committees across the UK. Indeed, many of our observations and the themes that emerged during our work reflect and build upon the findings of those committees.

As our report demonstrates, the UK's constitutional arrangements are likely to be put under considerable pressure over the next decade. This Committee, in constructive collaboration with other parliamentary committees across the UK, is

playing an active role in helping to shape a constitutional framework fit for the new challenges we face, and in so doing, will help strengthen the voice of Wales in the family of nations that make up the UK.

I would like to thank all those who have contributed to our work. In this regard and on behalf of the Committee, I would like to express our deep sadness at the passing of The Rt Hon Rhodri Morgan. His appearance before us as part of our inquiry was his last before an Assembly committee. The fact that this Committee feels empowered and emboldened to examine our constitutional journey, where we have come from and where we may be headed, would not have been possible without the contribution Rhodri Morgan made as First Minister to building confidence in the then new devolved institution in Wales. The growth in public acceptance of devolution through that crucial early period owes no small part to the skill, the personality and the thoroughgoing but quite unique Welshness of Rhodri Morgan. It was as the former First Minister that he appeared in person to give evidence on this inquiry. He demonstrated not only his enduring commitment and relevance to the ongoing journey of devolution, but also his passion, his intellect, his warmth, his wit and his wisdom, built on years of experience serving the people of Wales. He will be sadly missed by all, but leaves a legacy as one of the greatest Welsh politicians of our time.

Mick Antoniw AM  
Committee Chair



## Recommendations

**Recommendation 1.** We recommend that, in the short term, the JMC is strengthened by:

- ensuring that the JMC(P) fulfils the functions of an annual Heads of Government Summit, as suggested in 2016 by the House of Commons Public Administration and Constitutional Affairs Committee (HC 839);
- adding new committees to the existing JMC format to cover the single market and trade, and in particular to agree on common frameworks.

.....Page 35

**Recommendation 2.** We recommend that the UK Government's European Union (Withdrawal) Bill is amended by the UK Government to place inter-governmental relations on a statutory footing as suggested in 2015 by the House of Lords Constitution Committee (HL Paper 146) and 2017 by the House of Commons Public Administration and Constitutional Affairs Committee (HC 484).

.....Page 35

**Recommendation 3.** We recommend that in the longer term, post-Brexit, the JMC is subject to fundamental reform so that it becomes a UK Council that:

- is a decision-making body;
- has an independent dispute resolution, arbitration and adjudication mechanism;
- is transparent and accountable in all of its functions and operations, in particular, in its decision-making. ....Page 36

**Recommendation 4.** We recommend that the MoU (subject to the UK Government's response to recommendation 2) and Devolution Guidance Notes should:

- be subject to a thorough overhaul involving collaboration between all governments of the UK with the aim of establishing shared governance around the machinery that supports the delivery of effective and fair inter-governmental relations;
- as part of that overhaul, be subject to full public consultation, enabling scrutiny by parliamentary committees across the UK, in the interests of

transparency, accuracy and good governance, as well as improving the understanding of inter-governmental relations across civic society; and

- be reviewed on a regular basis thereafter. ....Page 36

**Recommendation 5.** We recommend that the Llywydd seeks to establish with the other Speakers and Presiding Officers of UK legislatures, a Speakers' Conference with the aim of determining how best to develop UK inter-parliamentary working, particularly as a means of scrutinising the impact of withdrawal from the European Union on the constitutional framework of the UK. .... Page 42

**Recommendation 6.** We recommend that the Speakers' Conference we advocate in Recommendation 5 also assesses the state of inter-governmental relations, with a view to helping building consensus on reform, taking account of the UK Government's response to recommendations 1 to 4 in this report and recommendations contained in the reports of other parliamentary committees on this subject. .... Page 43

**Recommendation 7.** We endorse PACAC's recommendation in its 2016 report such that the House of Commons' Standing Orders are amended to allow more interaction between parliamentary committees across the UK, be this a systematic standing arrangement or on a more ad hoc basis. ....Page 46

**Recommendation 8.** We recommend that the Speakers' Conference we advocate in Recommendation 5 considers the issue of the appearance of Ministers before legislatures to which they are not directly accountable, and agrees appropriate guidelines. .... Page 50

**Recommendation 9.** We recommend that the Welsh Government enters into an inter-governmental relations agreement with this Committee to support the scrutiny of Welsh Government activity in this area. ....Page 55

# 1. Introduction

## The Committee's remit

- 1.** We have a wide-ranging remit relating to the scrutiny of new legislative proposals and constitutional matters.
- 2.** We scrutinise the quality of the primary legislation made in Wales – the Welsh Bills that are (in most cases) proposed by the Welsh Government and become Acts if passed by the National Assembly. We also scrutinise secondary legislation made in Wales by the Welsh Ministers, which adds more detailed laws in specific areas.
- 3.** We examine Welsh constitutional issues that impact on the role and functions of the National Assembly including any legislation and policies proposed by the Welsh Government or UK Government.

## The need for this inquiry

- 4.** The UK has been through a period of momentous constitutional change since the advent of devolution. The changes to the way we are governed have transformed the political and constitutional landscape, with devolution of power occurring in different ways – often described as “asymmetric devolution” – to Scotland, Wales and Northern Ireland, but also to the Greater London Authority, the Greater Manchester Combined Authority and to city regions. Furthermore, as a result of the vote in 2016 to leave the European Union (EU), the UK is in the midst of one of the most important and challenging constitutional reforms it has ever faced, with long-lasting implications for the operation and governance of the UK as a whole, and the individual nations and regions of the UK.
- 5.** This was the constitutional context for our inquiry. Equally, within our own recent work, we have recognised that inter-institutional relations, which form part of the constitutional framework, need to be addressed.
- 6.** During our scrutiny of the Wales Bill, a recurring concern was the effectiveness of the inter-governmental relations between the UK and Welsh Governments and how this had impacted on the development of the Bill. Our report on the Bill (now the *Wales Act 2017*) highlighted this point.<sup>1</sup> Our report

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<sup>1</sup> Constitutional and Legislative Affairs Committee, *Report on the UK Government's Wales Bill*, October 2016, for example, Chapter 13

also concluded that:

“... the decision of the UK to leave the European Union will impact on the National Assembly's ability to make laws. Disengaging the application of EU law from Welsh law will be a significant task and will probably be delivered through UK-wide constitutional legislation. The ability of the National Assembly and Welsh Government to engage with the development and scrutiny of that legislation will be vital.”<sup>2</sup>

**7.** As the UK prepares to leave the European Union, the way in which the various governments and parliaments of the UK work together has been brought into sharper focus.

**8.** In addition, our positive experiences of working with parliamentary committees on the Wales Bill, together with some of the recommendations arising from the Silk Commission,<sup>3</sup> encouraged us to consider how this success could be built upon.

**9.** The detailed terms of reference for our inquiry are available at Annex 1. Our objectives evolved over the course of the inquiry because of the evidence we received and particularly as more information emerged about the process for leaving the EU.

**10.** The people and organisations who gave written and oral evidence are listed at Annexes 2 and 3 respectively. We will publish a separate report summarising this evidence.

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<sup>2</sup> Constitutional and Legislative Affairs Committee, *Report on the UK Government's Wales Bill*, October 2016, paragraph 195

<sup>3</sup> Commission on Devolution in Wales, *Empowerment and Responsibility: Legislative Powers to Strengthen Wales*, March 2014

## 2. A Speakers' Conference

**11.** This report is different in style and extent from what we envisaged at the start of our inquiry, but that has been a necessary consequence of the fast moving events that are shaping the UK's withdrawal from the EU and the UK's constitution as a result.

**12.** Our report makes nine recommendations that we believe are necessary to improve inter-institutional relations in the UK. In addition, we believe they are essential to ensure that our withdrawal from the EU does not result in unintended constitutional consequences for the nations that make up the UK.

**13.** Our first two recommendations focus on strengthening the inter-governmental relations that currently exist through the Joint Ministerial Committee.

**14.** Our fifth and sixth recommendations focus on the use of a Speakers' Conference to help facilitate the delivery of change.

**15.** In the House of Commons, a Speaker's Conference has been used to reach all-party agreement on major constitutional issues.<sup>4</sup> As a result of devolution, we consider there is an opportunity to adapt this model to the Speakers of all UK parliamentary bodies. We believe a Speakers' Conference could be used as a means of reaching agreement on changes to the UK's inter-institutional relations, which will inevitably need to adapt, not only to the UK's withdrawal from the EU but also the changing relationship between the constituent nations of the UK as a result.

**16.** We consider the main role for a Speakers' Conference to be in relation to developing a framework for inter-parliamentary relations (recommendation 5). However, we also see merit in it having a role in relation to inter-governmental relations to assess how they are developing at this crucial period in the evolution of the constitution of the UK. This should include assessing, in particular, the UK Government's response to recommendations 1 to 4 of this report and the recommendations of other parliamentary committees on this subject (recommendation 6).

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<sup>4</sup> House of Commons Library, *Speaker's Conferences*, Standard Note: SN/PC/04426

## 3. How should governments work together?

### Introduction

**17.** Nearly twenty years ago the people of Wales voted in a referendum to establish the National Assembly for Wales. Since the First Assembly in 1999, the devolution settlement in Wales has evolved continually, alongside those of other home nations (including to some extent in relation to England, given the introduction of elected Mayors, the devolution of policing in some areas and the adoption of English Votes for English Laws in October 2015). How the governments of our nations work together—the machinery of inter-governmental relations—is clearly important. As the House of Lords Constitution Committee has said, such relations are “integral to the UK’s system of government”.<sup>5</sup>

**18.** We have set out to examine the existing inter-governmental relationships to see whether they are fit for purpose and to assess whether they need to change. Our inquiry took place not only in light of the last twenty years of devolution but also in the context of the UK’s withdrawal from the EU and our desire to ensure that Wales’ interests are not marginalised in the new constitutional framework and arrangements that emerge in the UK.

**19.** In Chapter 13 of our report on the Wales Bill, in light of our experiences and anticipating the need for legislation to address the UK’s withdrawal from the EU, we said:

“We believe that there needs to be a new approach to considering constitutional Bills that impact on the National Assembly, developed between the latter and the UK Parliament, and between the respective governments. Such an approach would involve:

- inter-governmental working on policy development and drafting of a Bill;
- all relevant National Assembly and UK Parliamentary committees considering the constitutional Bills either collectively or in joint sessions; and

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<sup>5</sup> House of Lords Constitution Committee, *Devolution: Inter-institutional relations in the United Kingdom*, 2nd Report, Session 2002-03, HL Paper 28, paragraph 12

- as appropriate, Ministers of the Crown, the Secretary of State and the First Minister to appear in public before all relevant parliamentary committees.”<sup>6</sup>

**20.** In our statement on the impact of exiting the European Union on the devolution settlement for Wales, we stated that:

“The UK Government’s Great Repeal Bill (and other Bills relevant to exiting the EU) must be informed by its clear vision for the constitutional construction of the United Kingdom. That vision must be published.”<sup>7</sup>

**21.** To date, the UK Government has not shown itself open to constructive proposals to improve the inter-governmental processes. There is an opportunity to make necessary changes, developed and agreed by the constituent parts of the UK, to enable the UK to respond to the new challenges for effective governance posed by our withdrawal from the EU. To ignore these challenges, and to fail to take this opportunity, will heighten the risk of the failure of inter-governmental machinery and relations, or of constitutional gridlock and crisis.

### Effective relationships between Ministers

**22.** In our first evidence session The Rt Hon Lord Murphy<sup>8</sup> told us that everything in the game of politics is about individual personal relationships.<sup>9</sup> The importance of these inter-personal relationships between senior members of government in Westminster and Wales—especially between the First Minister of Wales and the Secretary of State for Wales— subsequently emerged as a strong theme throughout our evidence sessions.

**23.** We received numerous examples of how these inter-personal relationships had impacted on the day-to-day work of government. We heard how regular,

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<sup>6</sup> Constitutional and Legislative Affairs Committee, *Report on the UK Government’s Wales Bill, October 2016*, paragraph 196

<sup>7</sup> Contained in a letter to David Rees AM, Chair of External Affairs and Additional Legislation Committee, *UK Government White Paper: Legislating for the United Kingdom’s withdrawal from the European Union*, 7 June 2017

<sup>8</sup> The Rt Hon Lord Murphy was Secretary of State for Wales from July 1999–October 2002 and January 2008–June 2009

<sup>9</sup> Constitutional and Legislative Affairs (CLA) Committee, 6 February 2017, RoP [35]

frank engagement—informal as well as through more formal meetings—could help ease difficulties and avoid unnecessary public confrontations.<sup>10</sup>

**24.** Ieuan Wyn Jones<sup>11</sup> felt that it was easier to do business where strong personal relationships existed between Ministers or civil servants.<sup>12</sup> He described how the change in the attitude of a Minister can bring about a change of attitude among the civil servants<sup>13</sup> and noted the difficulties that arose where devolution was not clearly understood.<sup>14</sup>

**25.** Individual personalities can—for good or bad—also affect inter-governmental working. The Rt Hon Rhodri Morgan<sup>15</sup> recalled a very abrupt sea change in inter-governmental relations (in 2007) after the election of Alex Salmond as First Minister in Scotland when Gordon Brown was Prime Minister, noting that animosity between them had an impact on relations with the Welsh Government.<sup>16</sup>

**26.** The Rt Hon Lord Hain<sup>17</sup> suggested that personal relationships may have affected decisions on references to the Supreme Court in respect of laws made by the National Assembly, saying:

“... I don’t think the Supreme Court references and things like that would necessarily have happened under a different Secretary of State, even a Conservative one.”<sup>18</sup>

**27.** In our view, we need to put in place structures that avoid the situation described by The Rt Hon Rhodri Morgan. We therefore agree with Ieuan Wyn Jones who told us that inter-governmental relations:

“...shouldn’t have to rely on a personal relationship. The structures should be in place to allow those discussions and negotiations to happen ...

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<sup>10</sup> For example: CLA Committee, 13 March 2017, RoP [6]; CLA Committee, 8 May 2017, RoP [47]; CLA Committee, 25 September 2017, RoP [18].

<sup>11</sup> Ieuan Wyn Jones was Deputy First Minister for Wales from July 2007-May 2011

<sup>12</sup> CLA Committee, 27 March 2017, RoP [7]

<sup>13</sup> CLA Committee, 27 March 2017, RoP [43-44]

<sup>14</sup> CLA Committee, 27 March 2017, RoP [7-8]

<sup>15</sup> The Rt Hon Rhodri Morgan was First Minister of Wales from February 2000-December 2009

<sup>16</sup> CLA Committee, 8 May 2017, RoP [155]

<sup>17</sup> The Rt Hon Lord Hain was Secretary of State for Wales from Secretary of State for Wales from October 2002-January 2008 and June 2009-May 2010

<sup>18</sup> CLA Committee, 8 May 2017, RoP [59]



So, if structures are in place that allow you to have meaningful discussion, then that, of course, can happen whatever the personal relationships involved are.”<sup>19</sup>

**28.** Whilst effective inter-personal relationships between Ministers can aid effective inter-governmental working, this must complement, and not be a substitute for, more formal, transparent and robust inter-governmental structures which can be scrutinised by the public and by parliaments.

**29.** The formal inter-governmental structures must be capable of resolving effectively any breakdown in Ministerial relations.

### Working collaboratively and with mutual respect

**30.** We heard repeated evidence on the need for the Welsh Government, the National Assembly and local authorities in Wales to be treated with greater respect by the UK Government, and with equal regard as given to representatives of other nations.

**31.** The Rt Hon Elwyn Llwyd<sup>20</sup> spoke about the current levels of respect between institutions. He said:

“It’s nothing like equality of respect, and that’s what it should be. After all’s said and done, it’s a form of partnership. Devolution is a form of partnership, isn’t it?”<sup>21</sup>

**32.** The Rt Hon Lord Hain expressed concern that Wales continues to be behind Scotland in terms of UK Government priorities,<sup>22</sup> a view echoed by The Rt Hon Rhodri Morgan:

“It goes very deep in British psychology that Scotland has got a kind of special status in which people in England regard it with a strange mixture of respect and loathing ... Wales has neither the respect nor the loathing—one is a bad thing, one is a good thing—but we’re trying to make sure that we get listened to. Scotland will get listened to, because of this status that it has always had in British society. Northern Ireland,

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<sup>19</sup> CLA Committee, 27 March 2017, RoP [20]

<sup>20</sup> The Rt Hon Elwyn Llwyd was MP for Dwyfor Meirionydd from 1992-2015 and Leader of the Plaid Cymru Parliamentary Group from June 2010-March 2015

<sup>21</sup> CLA Committee, 13 March 2017, RoP [130]

<sup>22</sup> CLA Committee, 8 May 2017, RoP [50]

again, has a totally special status because it's almost got far more devolution even than in Scotland."<sup>23</sup>

**33.** The Learned Society of Wales suggested that “the public statements of some Ministers in London show scant regard or knowledge of the UK’s constitutional arrangements”.<sup>24</sup> The Society added that devolution has increased the requirement for better functioning of inter-governmental relations but noted that:

“... the process of consultation and coordination has been patchy. The lack of a coherent strategic approach to devolution hampered progress from the beginning.”<sup>25</sup>

**34.** It is clear from the evidence we received, that there is real concern that Wales’ voice is too often marginalised.

## Current inter-governmental arrangements

The Memorandum of Understanding, Joint Ministerial Committee and Devolution Guidance Notes

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**35.** The principal agreement governing inter-governmental relations is the Memorandum of Understanding (MoU), which was first agreed in 1999. The latest version was agreed in October 2013.<sup>26</sup> It comprises a series of agreements between the UK Government and the devolved governments in Wales, Scotland, and Northern Ireland which set out the principles underlying relations between them. The MoU states that it “is a statement of political intent, and should not be interpreted as a binding agreement. It does not create legal obligations between the parties”.<sup>27</sup>

**36.** The MoU provides for a Joint Ministerial Committee (JMC), which is the subject of a separate agreement covered in Part II of the MoU.

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<sup>23</sup> CLA Committee, 8 May 2017, RoP [199]

<sup>24</sup> Letter from the Learned Society of Wales, *Constitutional and Legislative Affairs Committee Consultation – A Stronger Voice for Wales*, September 2017

<sup>25</sup> Letter from the Learned Society of Wales, *Constitutional and Legislative Affairs Committee Consultation – A Stronger Voice for Wales*, September 2017

<sup>26</sup> UK Government, *Devolution: Memorandum of Understanding and Supplementary Agreements*, October 2013

<sup>27</sup> UK Government, *Devolution: Memorandum of Understanding and Supplementary Agreements*, October 2013, paragraph 2

**37.** Part II of the MoU also includes three separate overarching concordats, which apply broadly uniform arrangements across government to the handling of:

- the co-ordination of EU policy and implementation;
- financial assistance to industry; and
- international relations touching on the responsibilities of the devolved administrations.<sup>28</sup>

**38.** The JMC is not a decision-making body. It seeks to act as a focus for the co-ordination of the relationships between devolved administrations.

**39.** Until October 2016, the JMC met in three configurations:

- JMC (Plenary) (JMC(P)) – an annual meeting between the leaders of each administration, which is chaired by the Prime Minister.
- JMC (Europe) – there is a JMC (Europe) meeting, chaired by the Foreign Secretary, prior to each European Council meeting, which is usually held four times a year.
- JMC (Domestic) – this format was introduced in 2008 to enable Ministers from the four administrations to discuss a range of issues and particularly those that straddle both devolved and non-devolved areas. Ministers meet in JMC (Domestic) format around three times a year.

**40.** On 24 October 2016, JMC(P) agreed to take forward multilateral engagement through a new Joint Ministerial Committee on EU Negotiations to be known as JMC(EN).

**41.** Bilateral concordats between individual UK Government departments and their devolved counterparts also supplement the MoU. The concordats “deal with the handling of procedural, practical or policy matters between them” and “are not intended to be legally binding, but ... serve as working documents”.<sup>29</sup>

**42.** As regards disputes between the UK and devolved governments, the MoU states that:

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<sup>28</sup> UK Government, *Devolution: Memorandum of Understanding and Supplementary Agreements, October 2013*, Explanatory Note

<sup>29</sup> UK Government, *Devolution: Memorandum of Understanding and Supplementary Agreements, October 2013*, paragraph 3

“Where a dispute cannot be resolved bilaterally or through the good offices of the relevant territorial Secretary of State the matter may formally be referred to the JMC Secretariat subject to the broader principles and arrangements for dispute avoidance and resolution set out at Section A:3 of this Memorandum of Understanding.”<sup>30</sup>

**43.** The MoU is also supplemented by a number of Devolution Guidance Notes (“DGNs”). They constitute advice for UK Government civil servants on working arrangements between the UK Government and the devolved governments. They provide an introduction to the main principles involved in the managing of the devolution settlements, bilateral relations, correspondence, parliamentary business, legislation and concordats.<sup>31</sup>

**44.** Philip Rycroft<sup>32</sup> summarised the role of the JMC machinery as:

“... there to provide a forum in which the four Governments can come together for an exchange of views about things that are of concern to them at the time.”<sup>33</sup>

## The UK’s withdrawal from the European Union

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**45.** On 13 July 2017 the UK Government introduced the European Union (Withdrawal) Bill.<sup>34</sup> The Bill sets out the procedures and processes by which the current body of EU law would be converted into UK law upon the UK’s exit from the EU. A Delegated Powers memorandum that accompanied the Bill stated:

“The Bill will replicate the common UK frameworks created by EU law in UK law, and maintain the scope of devolved decision making powers immediately after exit. This will be a transitional arrangement to provide certainty after exit and allow intensive discussion and consultation with devolved authorities on where lasting common frameworks are needed.”<sup>35</sup>

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<sup>30</sup> UK Government, *Memorandum of Understanding and Supplementary Agreements, October 2013*, paragraph 26

<sup>31</sup> **[UK Government website](#)**

<sup>32</sup> Philip Rycroft CB is Permanent Secretary, Department for Exiting the European Union and Second Permanent Secretary, Head of UK Governance Group in the Cabinet Office

<sup>33</sup> CLA Committee, 25 September 2017, RoP [296]

<sup>34</sup> European Union (Withdrawal) Bill, HC Bill 5

<sup>35</sup> UK Government, *European Union (Withdrawal) Bill: Memorandum concerning the Delegated Powers in the Bill for the Delegated Powers and Regulatory Reform Committee*, paragraph 68

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**46.** At a JMC(EN) meeting in October 2017, progress on negotiations on the UK's withdrawal from the EU was discussed. A Communiqué issued after the meeting said that "Ministers noted the positive progress being made on consideration of common frameworks and agreed the principles that will underpin that work".<sup>36</sup> A document entitled *Common Frameworks: Definitions and Principles* was attached to the Communiqué. The document sets out principles that will apply to common frameworks in areas where EU law currently intersects with devolved competence. It stated that "there will also be close working between the UK Government and the devolved governments on reserved and excepted matters that impact significantly on devolved responsibilities".

**47.** The First Minister wrote to us on 20 November 2017 about the outcome of the meeting.<sup>37</sup>

**48.** A further JMC(EN) meeting was held on 12 December 2017. According to a Communiqué published afterwards, the committee discussed progress on frameworks and priorities.<sup>38</sup> Mark Drakeford AM, Cabinet Secretary for Finance issued a written statement about the meeting on 13 December 2017.<sup>39</sup>

**49.** We are also aware that inter-governmental relations have featured during the scrutiny of the EU (Withdrawal) Bill in the House of Commons.<sup>40</sup>

**50.** We have also published our report on the Welsh Government's Legislative Consent Memorandum on the Bill.<sup>41</sup>

**51.** Our approach in deciding our recommendations on inter-governmental relations has therefore been to supplement the detailed evidence we took between February and September 2017 with as much of the emerging evidence as possible. Some of this evidence may be overtaken by events. Nevertheless, it is against this backdrop that we analyse and make recommendation about inter-governmental relations that we believe are necessary to help adapt the constitution of the UK to the challenges that lie ahead.

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<sup>36</sup> Joint Ministerial Committee (EU Negotiations) Communiqué, 16 October 2017

<sup>37</sup> Letter from the First Minister, 20 November 2017

<sup>38</sup> Joint Ministerial Committee (EU Negotiations) Communiqué, 12 December 2017

<sup>39</sup> Mark Drakeford AM, Cabinet Secretary for Finance, Written Statement, JMC(EN), 13 December 2017

<sup>40</sup> For example, HC Debates, 4 December 2017

<sup>41</sup> Constitutional and Legislative Affairs Committee, *The Welsh Government's Legislative Consent Memorandum on the European Union (Withdrawal) Bill*, December 2017

## Are the current arrangements working?

### Setting the scene

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**52.** Getting the inter-governmental arrangements right is vital to ensure efficiency in the delivery of services where there are mutual interests between governments, where disputes need to be resolved or, in the specific case of Wales and England, where there are benefits to working together on cross-border issues, for example.

**53.** Sir Derek Jones highlighted that a great deal of inter-governmental interaction happens successfully, across a range of policy areas such as security, civil-contingencies and between professional services in government, but goes largely unnoticed. He explained that “it’s when it’s politics and high policy that you do tend to hear about it...”<sup>42</sup>

**54.** Sir Derek Jones also spoke of the constitutional change that has occurred since 2012 and the impact it has had on the intensity of inter-government relations.<sup>43</sup> He noted that:

“I don’t think the inter-governmental relations or the machinery for it has transformed out of all recognition, whereas, arguably, the circumstances might have demanded greater adaptation, and that is probably yet to come.”<sup>44</sup>

**55.** The Rt Hon Lord Hain warned that:

“I think we’ve reached a point in our history where, unless you have a major radical change, there is deep trouble along the way... if you don’t reform your governance arrangements, there’s a lot of dissatisfaction out there amongst the average citizen, with their politicians, with their Government structures, and they express that time and time again ...

So, I think unless you stay ahead of that constitutionally and governmentally, it catches up with you and could bite you quite hard.”<sup>45</sup>

**56.** We heard how inter-governmental relations impact on organisations in Wales. For example, Universities Wales saw efficient inter-governmental relations

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<sup>42</sup> CLA Committee, 15 May 2017, RoP [7]

<sup>43</sup> CLA Committee, 15 May 2017, RoP [9-11]

<sup>44</sup> CLA Committee, 15 May 2017, RoP [12]

<sup>45</sup> CLA Committee, 8 May 2017, RoP [99]

as crucial to understanding different policy contexts within the Higher Education sector,<sup>46</sup> while the Open University argued that “announcements should not be made that impact on devolved areas without prior discussion with the relevant administrations and a full consideration of the exact scope of any policy decision”.<sup>47</sup>

**57.** The evidence we received from the Learned Society of Wales (see Box) highlights the importance of inter-governmental relations, particularly in the context of the UK’s withdrawal from the EU.<sup>48</sup>

**58.** The effectiveness and outcome of inter-governmental relations in relation to specific policy areas will have implications for stakeholders who operate within them. We therefore sought views from stakeholders in a round table session about these issues (and matters related to inter-parliamentary co-operation).<sup>49</sup>

**59.** While we took some evidence on the British Irish Council,<sup>50</sup> we have not come to any firm conclusions regarding its future role, particularly given the current political situation in Northern Ireland.

#### The overall effectiveness of the JMC

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**60.** The First Minister, The Rt Hon Carwyn Jones AM, explained how inter-governmental relations are governed by the workings of the MoU and JMC.<sup>51</sup> He felt the system had worked to an extent<sup>52</sup> but that the picture was mixed, reflecting the varying levels of understanding of devolution in Whitehall.<sup>53</sup>

**61.** The Rt Hon Lord Hain described his experience of the JMC as “underwhelming”.<sup>54</sup> He said that in the current political situation “especially post Brexit—the JMC has either got to work properly or you scrap it and start again”.<sup>55</sup>

**62.** Ieuan Wyn Jones felt the JMC needed an overhaul.<sup>56</sup>

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<sup>46</sup> Written evidence, IGP005, Universities Wales

<sup>47</sup> Written evidence, IGP007, The Open University in Wales

<sup>48</sup> Letter from the Learned Society of Wales, *Constitutional and Legislative Affairs Committee Consultation – A Stronger Voice for Wales*, September 2017

<sup>49</sup> CLA Committee, 19 June 2017, RoP [1-203]

<sup>50</sup> More information about the British Irish Council is available on its [website](#).

<sup>51</sup> CLA Committee, 20 March 2017, RoP [20]

<sup>52</sup> CLA Committee, 20 March 2017, RoP [20]

<sup>53</sup> CLA Committee, 20 March 2017, RoP [22]

<sup>54</sup> CLA Committee, 8 May 2017, RoP [27]

<sup>55</sup> CLA Committee, 8 May 2017, RoP [27]



**Box: Evidence from the Learned Society of Wales**

A functioning system of intergovernmental relations is urgently needed. The present constitutional arrangements within the United Kingdom are complex and difficult to navigate. Moreover they are becoming increasingly sensitive as provision is made for the UK's exit from the EU. That departure raises very substantial issues as to how laws applying within the UK are to be made in areas currently within EU competence. There will be a need to preserve an internal market within the UK when we have left the EU internal market. But this will have to be ensured with due regard for the distribution of powers between the four governments and legislatures. Real economic and political interests are involved and will need to be factors considered in the formulation of policy and legal solutions.

Best practice will be relevant but more important is the recognition that putting in place policies to substitute for current EU policies and obligations will impose a substantial burden on the technical capacities in the four capitals. As an example, the Common Agricultural Policy will be replaced by new support arrangements in the four nations. This will be a huge task and immediately raises questions of commonalities and differences and how the arrangements in Wales will reflect Welsh interests, be part of a UK internal market, be financially sustainable, and meet the UK's evolving international obligations in new trade agreements. This example, one of many, underlines why consultation will be essential, and should extend into areas reserved for the British Government such as international trade.

Any mechanism for inter-governmental cooperation must be based on mutual respect and understanding and involve a real commitment by the parties to discuss challenges and seek outcomes as acceptable as possible to the parties involved. As a minimum interest should be set out, representations heard, and every effort made to find solutions. This requires a mix of the formal and informal, and at different levels. The JMC arrangements have a particular role, either to endorse policy or set strategic goals. Meetings should be more frequent and focussed to make a reality of the British Governments avowed intention, amplified in the last Queen's Speech, to have real consultations with the devolved administrations.

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<sup>56</sup> CLA Committee, 27 March 2017, RoP [52]



**63.** This sense of the UK Government being in control was also reflected in observations by Sir Paul Silk.<sup>57</sup> He noted how in relation to the JMC:

“... the agenda is very much driven by London, ... the meetings have been short, ... they haven’t been as productive as they might have been.”<sup>58</sup>

**64.** Sir Paul Silk also noted that the Public Administration and Constitutional Affairs Committee (PACAC) had found<sup>59</sup> that the Scottish Government was happier with the way in which the JMC operated than Ministers were in Wales.<sup>60</sup> He noted that PACAC had suggested that that might be because more attention is paid to Scottish issues by Ministers in London than is paid to Welsh issues.<sup>61</sup> He imagined that this resulted in our being “the poor relations inside the JMC”, suggesting perhaps that this is the case in “other manifestations of inter-governmental working”.<sup>62</sup>

**65.** The Secretary of State for Wales, The Rt Hon Alun Cairns MP (the Secretary of State) reported that since 2015 work has been undertaken on reviewing the MoU and indicated that more work was needed in light of the UK’s withdrawal from the EU and the *Wales Act 2017*.<sup>63</sup> He did say however that:

“The constitutional make-up of the UK has changed so much. Simply having one document that is fixed is not necessarily a workable, practical model.”<sup>64</sup>

**66.** While expressing the view that “Wales is seen as being equal to Scotland and Northern Ireland”<sup>65</sup> in the JMC, the Secretary of State went on to make a very interesting observation:

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<sup>57</sup> Sir Paul Silk was Clerk of the National Assembly for Wales from March 2001-January 2007 and Chair of the Silk Commission on Devolution from 2011-2014

<sup>58</sup> CLA Committee, 6 March 2017, RoP [182]

<sup>59</sup> House of Commons, Public Administration and Constitutional Affairs Committee, *The Future of the Union, part two: Inter-institutional relations in the UK*, Sixth Report of Session 2016-17, HC 839, December 2016, paragraphs 19-26

<sup>60</sup> CLA Committee, 6 March 2017, RoP [182]

<sup>61</sup> CLA Committee, 6 March 2017, RoP [182]

<sup>62</sup> CLA Committee, 6 March 2017, RoP [183]

<sup>63</sup> CLA Committee, 25 September, RoP [71]

<sup>64</sup> CLA Committee, 25 September, RoP [71]

<sup>65</sup> CLA Committee, 25 September, RoP [82]

“Well, the JMC is a very important forum, but the truth is that meetings are held occasionally, and... the role of governance and delivery is far more dynamic than that. So, that isn’t the main forum, because, of course, decisions do have to be taken as policies are developed and outlined.”<sup>66</sup>

**67.** Philip Rycroft highlighted the flexibility of the JMC in the context of adapting to the UK’s withdrawal from the EU.<sup>67</sup>

### Resolving disputes in the JMC

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**68.** The First Minister told us that in the past, the JMC provided an opportunity for the devolved governments to express strong views on certain issues that were raised, but nothing would actually happen as a result of that.<sup>68</sup> He added that if:

“...there was disagreement, there is a system of dealing with that disagreement, but at the end of the day it’s the UK Government that makes the ultimate decision, so there’s no independent system to deal with any kind of dispute that arises between Governments.”<sup>69</sup>

**69.** The Rt Hon Rhodri Morgan also highlighted the issue of dispute resolution, saying that the problem with the JMC was that the Prime Minister was the final arbiter. He said:

“What I think you’ve got to try and solve is the missing parts of the original devolution settlement, namely the absence of an independent dispute resolution mechanism; an independent resource allocation mechanism; and, in particular, an independent mechanism for solving a dispute over resource allocation.”<sup>70</sup>

**70.** The issue of arbitration was also highlighted by Ieuan Wyn Jones in the context of funding.<sup>71</sup>

**71.** Professor Cairney<sup>72</sup> felt that disputes in relation to inter-governmental issues “have traditionally been resolved rather informally, and behind closed doors”.<sup>73</sup> He expanded on these views, offering a slightly different take on the JMC:

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<sup>66</sup> CLA Committee, 25 September, RoP [81]

<sup>67</sup> CLA Committee, 25 September, RoP [296]

<sup>68</sup> CLA Committee, 20 March, RoP [62]

<sup>69</sup> CLA Committee, 20 March, RoP [62]

<sup>70</sup> CLA Committee, 8 May 2017, RoP [171]

<sup>71</sup> CLA Committee, 27 March 2017, RoP [20]

“It’s been a while since I looked, but my impression of the JMC has generally been that it was set up as a way to be a potential route for dispute resolution between Governments. So, I think, when they were setting up these mechanisms, they anticipated more need for a formal dispute resolution, and found that, really, the UK and devolved Governments were far more inclined, for whatever reason, to deal with things informally. And, you know, if you compare it with, say, federal Governments with constitutions, there’s nothing like the recourse to the law to formal procedures.”<sup>74</sup>

**72.** When we asked the Secretary of State about concerns that the UK Government has the final say on dispute resolution issues and whether there was a danger as a result that Wales’s voice will be marginalised, he said:

“Well, I don’t see that the voice of Wales will be marginalised in any way. It will be given fair consideration, as everyone would expect.”<sup>75</sup>

#### The adequacy of the MoU and Devolution Guidance Notes (DGNs)

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**73.** Commenting on the importance of the MoU and DGNs in shaping inter-governmental relations, The Rt Hon Rhodri Morgan said:

“I don’t think we made a huge amount of use of them to be honest ... So, it was more how you played it in this relationship with Westminster and Whitehall that had greater impact, probably, than the wording of the memorandum of understanding about how the relationship should work. Now, I don’t say that my civil servants wouldn’t have made a lot more study of the memorandum of understanding than I did.”<sup>76</sup>

**74.** Ieuan Wyn Jones said the major problem with the MoU and DGNs “is that they’re all drafted in Whitehall and then considered by the devolved bodies, and Whitehall says, “Well, we’re willing to go this far but no further”, and there is no discussion between partners on common ground”.<sup>77</sup> He added that discussions

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<sup>72</sup> Professor Paul Cairney, Professor of Politics and Public Policy, University of Stirling

<sup>73</sup> Written evidence, IGP010, Professor Paul Cairney

<sup>74</sup> CLA Committee, 22 May 2017, RoP [36]

<sup>75</sup> CLA Committee, 25 September, RoP [90-91]

<sup>76</sup> CLA Committee, 8 May 2107, RoP [148]

<sup>77</sup> CLA Committee, 27 March 2017, RoP [22]

“should happen between partners, rather than between the Westminster Government that consider itself to be the mother body and the devolved”.<sup>78</sup>

**75.** When asked about the effectiveness of the MoU and DGNs in inter-governmental relations The Rt Hon Lord Hain said:

“They don’t play much of a part in it. They’re only really, sort of, pulled out of the drawer, as it were, if there’s a problem and tension and there’s a genuine stand-off in terms of interpreting the settlement or the way it’s working. In the end, personal relationships are more important than memoranda.”<sup>79</sup>

**76.** A Wales Office official told us that “the thing to remember about DGNs is that they are internal guidance notes for Whitehall departments, and I know Whitehall departments rely on them heavily”.<sup>80</sup>

## Reforming the machinery of inter-governmental relations

What needs to change?

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**77.** The evidence points to a consensus that the current JMC is not working satisfactorily, that it does not satisfy the changed circumstances in inter-governmental working that have flowed from devolution, and would risk collapsing under the challenges of EU withdrawal and the new UK frameworks which must now be agreed between the nations of the UK.

**78.** Most witnesses agreed that the JMC will have to change in light of the UK leaving the EU.

**79.** The Rt Hon Lord Murphy told us that the JMC has:

“... got to be a lot more significant to deal with the Brexit situation. It’s too formal, it’s too infrequent, and it’s too bulky, unwieldy, an institution to deal with it.”<sup>81</sup>

**80.** The Rt Hon Lord Murphy also felt there was a strong case for making the JMC more meaningful by having more committees to identify important issues,

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<sup>78</sup> CLA Committee, 27 March 2017, RoP [23]

<sup>79</sup> CLA Committee, 8 May 2107, RoP [54]

<sup>80</sup> CLA Committee, 25 September 2017, RoP [72]

<sup>81</sup> CLA Committee, 6 February 2017, RoP [83]

particularly in the context of Brexit.<sup>82</sup> He also made the case for more informal working committees at both political and official level.<sup>83</sup>

**81.** Sir Derek Jones told us that in his view the existing JMC “won’t be sufficient by way of machinery of Government for what lies ahead in the UK”.<sup>84</sup>

**82.** The Learned Society of Wales made the following observations in the context of the EU (Withdrawal) Bill (as introduced):

“... over matters which are devolved, the UK government is also acting as the government of England and therefore suffers from a possible conflict of interest. At times the interests of England and the rest of the UK will not necessarily coincide. There is no recognition of this in the Bill, and it marks therefore another missed opportunity to show a strategic approach to, and some respect for, the rights of the democratically-elected legislatures of the devolved nations and their respective governments. It threatens to be a further example of the sort of ad hoc constitutional intervention that has marred the progress of devolution and harmed relations between the nations of the UK.”<sup>85</sup>

**83.** The First Minister noted what needed to change, particularly as a consequence of the UK withdrawing from the EU:

“... a lot of work will need to be done, not just in terms of finalising the UK’s relationship with the EU—we know that—but also in terms of finalising the relationship between the nations of the UK. In the absence of the European Union as the single market, in the absence of the European Court of Justice as the trade court, something has to replace that. It can be done. To my mind, it can be done fairly easily, but it does involve quite a substantial change of mindset at Whitehall and in Westminster, because, ultimately, the driving force of the constitution for many centuries has been parliamentary sovereignty. I don’t subscribe to that anymore; I think sovereignty is best shared. Canada does it well. You have stability, you have prosperity. It doesn’t lead to chaos. For there to be a JMC, of course, there would have to be an acceptance that parliamentary sovereignty is, at the very least, diluted,

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<sup>82</sup> CLA Committee, 6 February 2017, RoP [32]

<sup>83</sup> CLA Committee, 6 February 2017, RoP [30]

<sup>84</sup> CLA Committee, 15 May 2107, RoP [72]

<sup>85</sup> Written Evidence, EUWB10, The Learned Society of Wales

and that the devolved administrations are seen as partners rather than subordinates.”<sup>86</sup>

**84.** In an evidence session on the EU (Withdrawal) Bill, Robin Walker MP<sup>87</sup> told us that:

“... it's important to recognise there is the JMC process, which is in place to discuss the powers that are returning, where we need to preserve common frameworks, and, crucially, also where we will not need to.”<sup>88</sup>

**85.** When questioned about whether there would be a joint approach to agree common UK frameworks, in a similar way to which agreements are reached on EU frameworks, Robin Walker MP said:

“I think we would say that UK frameworks after we leave the European Union will continue to show respect to the position of the devolved administrations and legislatures.”<sup>89</sup>

**86.** We asked Philip Rycroft if the process of the UK exiting the EU has highlighted any weaknesses with the JMC as an inter-governmental mechanism. He replied that the creation of this “new manifestation around JMC(EN) ... demonstrates the flexibility of the JMC machinery”.<sup>90</sup> In so doing, he noted that:

“... the JMC itself is a valuable vehicle for the expression of those views, demonstrated by the fact that we have faced a lot of calls through the summer from the Welsh Government and the Scottish Government for the JMC(EN) to be reconstituted and to be held on a regular basis—and indeed, it will meet again next month.”<sup>91</sup>

**87.** Philip Rycroft indicated that officials had presented a set of proposals to the JMC(P) in 2016 to revise the MoU and JMC that “unfortunately, could not be agreed by all the administrations round the table”.<sup>92</sup> He added that officials are

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<sup>86</sup> CLA Committee, 20 March 2017, RoP [89]

<sup>87</sup> Robin Walker MP is Parliamentary Under Secretary of State at the Department for Exiting the European Union

<sup>88</sup> External Affairs and Additional Legislation Committee and CLA Committee, 6 November 2017, RoP [68]

<sup>89</sup> External Affairs and Additional Legislation Committee and CLA Committee, 6 November 2017, RoP [152]

<sup>90</sup> CLA Committee, 25 September 2017, RoP [296]

<sup>91</sup> CLA Committee, 25 September 2017, RoP [296]

<sup>92</sup> CLA Committee, 25 September 2017, RoP [303]

“formally charged to keep that process moving forward ... to make sure that the JMC works to the best possible effect as a construct for inter-governmental relations within the UK”.<sup>93</sup>

**88.** In a report produced by the Constitution Society, Professor Richard Rawlings suggested possible reforms to the JMC:

“Sitting comfortably with the Prime Minister’s declared policy lines, reform could sensibly include the establishment of a new and more highly-g geared intergovernmental forum, called say ‘JMC (Domestic Single Market)’. As a determinedly multilateral arrangement, designed in part as a vehicle for building trust and confidence, such a body would help to fill an emergent institutional gap in the UK’s territorial constitution. Indeed, without this type of forum how can the four constituent nations collectively and individually make the best of the many market challenges and opportunities in a post-Brexit world? Further referencing the ‘Global Britain’ approach, ‘JMC (DSM)’ could go in tandem with a new ‘JMC (International Trade).”<sup>94</sup>

**89.** Professor Rawlings considered that JMC(DSM) could cover the development of common frameworks.<sup>95</sup>

**90.** In looking ahead, the First Minister said that:

“... the memoranda have worked to date, but I don’t think that the model of memoranda is an appropriate model for the future. For me, it’s a model of having a joint council or a joint committee of Ministers, and I think that is the way ahead once we leave the European Union.”<sup>96</sup>

**91.** Chapter 7 of the Welsh Government’s *Brexit and Devolution: Securing Wales Future* sets out how a UK Council of Ministers would work.<sup>97</sup> It includes views on how decisions should be made and implemented, how disputes should be resolved and how such a Council should be supported.

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<sup>93</sup> CLA Committee, 25 September 2017, RoP [303]

<sup>94</sup> The Constitution Society, *Brexit and the Territorial Constitution: Devolution, Reregulation and Inter-governmental Relations*, Professor Richard Rawlings, 2017, page 31. In this report, the JMC (International Trade) is cited as a forum suggested in light of the Canadian experience by the Institute for Government, *Taking back control of trade policy* (May 2017).

<sup>95</sup> The Constitution Society, *Brexit and the Territorial Constitution: Devolution, Reregulation and Inter-governmental Relations*, Professor Richard Rawlings, 2017, page 31

<sup>96</sup> CLA Committee, 20 March 2017, RoP [57]

<sup>97</sup> Welsh Government, *Brexit and Devolution: Securing Wales’ Future*, June 2017



**92.** The First Minister suggested that a UK Council of Ministers would need to be in place “by the time the UK leaves the EU”<sup>98</sup> and summarised his position when he said:

“If we could move the JMC to a position where it was a proper council of Ministers, where there was a decision-making process, where there was a dispute-resolution process that was independent of one of the Governments, which it isn’t at the moment, then we have the makings of something that I think would work very, very well. We need then to look at those areas of policy that will return from the EU. We’ve mentioned agriculture; we’ve mentioned fisheries, which is probably the most complicated of all. We then look at how the internal single market of the UK operates, but do it collaboratively rather than the UK Government seeing itself as the sole arbiter and constructor of the internal single market of the UK.”<sup>99</sup>

**93.** In correspondence with us, the First Minister re-iterated his view that the JMC’s role and working arrangements are inadequate for the future and that a new UK Council of Ministers is needed. He explained that, in the meantime he wanted to see a step change in the way in which JMC operates and acknowledged that a JMC(EN) meeting in October was more positive in tone than has hitherto been the case.<sup>100</sup> Subsequently, the Cabinet Secretary for Finance, Mark Drakeford AM, indicated that since the Autumn of 2017 experience of the JMC(EN) was considerably better than before then.<sup>101</sup>

**94.** Sir Derek Jones acknowledged that a Council of Ministers is sometimes used to “describe something more like a ministerial level decision-making body, rather than an exchange-of-views body”, adding that “the business would be done at portfolio Minister level, and by official groups supporting them as decision-making bodies”.<sup>102</sup> He thought that this should happen.<sup>103</sup> While setting up such a Council would in his view be “administratively possible”, he emphasised that “the absolutely crucial, inescapable thing is that there needs to be common political will for that to happen”.<sup>104</sup>

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<sup>98</sup> CLA Committee, 20 March 2017, RoP [80]

<sup>99</sup> CLA Committee, 20 March 2017, RoP [95]

<sup>100</sup> Letter from the First Minister, 20 November 2017

<sup>101</sup> External Affairs and Additional Legislation Committee, 8 January 2018, RoP [39-41]

<sup>102</sup> CLA Committee, 15 May 2017, RoP [79]

<sup>103</sup> CLA Committee, 15 May 2017, RoP [79]

<sup>104</sup> CLA Committee, 15 May 2017, RoP [84]



**95.** When questioned about the First Minister’s proposals for a UK Council of Ministers, the Secretary of State said it depended what was meant by such a body,<sup>105</sup> before going on to say:

“...I think, sometimes, people’s expectations are very different to what would ever be practically delivered, because of the policy work that needs to be done to grant or to recognise a shift in policy in any one particular direction. I therefore think that a particular focus on one meeting or one body is impractical and unrealistic.”<sup>106</sup>

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### Reform advocated by other parliamentary committees

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**96.** The House of Lords Constitution Committee noted in its 2015 report that “while some parts of the JMC structure work better than others, in the eyes of the devolved administrations at least the way the JMC system works at present is not satisfactory.”<sup>107</sup>

**97.** It called for “a revitalised JMC to create a more coherent structure and to improve accountability”<sup>108</sup> and highlighted the importance of greater transparency around the operation of the JMC.<sup>109</sup> Both PACAC<sup>110</sup> and the Devolution (Further Powers) Committee of the Scottish Parliament<sup>111</sup> also raised transparency as an issue that needs to be addressed.

**98.** The House of Lords Constitution Committee also considered a statutory basis for underpinning inter-governmental relations and concluded:

“The Government should consider whether the framework of inter-governmental relations should be set out in statute. Such a statute

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<sup>105</sup> CLA Committee, 25 September 2017, RoP [102]

<sup>106</sup> CLA Committee, 25 September 2017, RoP [104]

<sup>107</sup> House of Lords, Select Committee on the Constitution, *Inter-governmental relations in the United Kingdom*, 11th Report of Session 2014-15, HL Paper 146, March 2015, paragraph 50

<sup>108</sup> House of Lords, Select Committee on the Constitution, *Inter-governmental relations in the United Kingdom*, 11th Report of Session 2014-15, HL Paper 146, March 2015, Summary

<sup>109</sup> House of Lords, Select Committee on the Constitution, *Inter-governmental relations in the United Kingdom*, 11th Report of Session 2014-15, HL Paper 146, March 2015, paragraph 76

<sup>110</sup> House of Commons, Public Administration and Constitutional Affairs Committee, *The Future of the Union, part two: Inter-institutional relations in the UK*, Sixth Report of Session 2016-17, HC 839, December 2016, paragraphs 68-78

<sup>111</sup> The Scottish Parliament, Devolution (Further Powers) Committee (Session 4), *Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations*, 8th Report, 2015, SP Paper 809, October 2015, paragraph 60

could set out the existence and membership of the Joint Ministerial Committee and its core sub-committees, along with the core principles governing relations between administrations. This legislation could provide a basic framework, within which the Memorandum of Understanding and departmental concordats would continue to detail how inter-governmental interactions would function in practice.”<sup>112</sup>

**99.** It also highlighted arbitration as a concern and while not believing that “any form of external arbitration or mediation would be feasible”, recommended that the Cabinet Office consider how the JMC’s dispute resolution process might be made more independent of the UK Government.<sup>113</sup>

**100.** PACAC have recently supported placing the UK’s inter-governmental machinery on a statutory footing. It noted a consensus in the evidence it received for the desirability of this approach and said:

“This would mark a very important step forward as it would help generate the trust that has been hitherto lacking in inter-governmental relations in the UK.”<sup>114</sup>

**101.** PACAC’s predecessor Committee had previously noted in its 2016 report that with increases in devolved powers and the outcome of the EU referendum, “it is clear that the JMC, while not without its merits, is not, as it is currently organised, set up to cope with this increasingly significant responsibility”.<sup>115</sup> It added that “to be fully effective, the JMC needs to enjoy the confidence of all four Governments” and “it is crucial that a multilateral forum such as the JMC engages with, and treats, the three devolved administrations with respect and as valued partners”.<sup>116</sup>

**102.** It went on to recommend that:

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<sup>112</sup> House of Lords, Select Committee on the Constitution, *Intergovernmental relations in the United Kingdom*, 11th Report of Session 2014-15, HL Paper 146, March 2015, paragraph 86

<sup>113</sup> House of Lords, Select Committee on the Constitution, *Inter-governmental relations in the United Kingdom*, 11th Report of Session 2014-15, HL Paper 146, March 2015, paragraph 76

<sup>114</sup> House of Commons, Public Administration and Constitutional Affairs Committee, *Devolution and Exiting the EU and Clause 11 of the European Union (Withdrawal) Bill: Issues for Consideration*, First Report of Session 2017-19, HC 484, November 2017, paragraph 38

<sup>115</sup> House of Commons, Public Administration and Constitutional Affairs Committee, *The Future of the Union, part two: Inter-institutional relations in the UK*, Sixth Report of Session 2016-17, HC 839, December 2016, paragraph 25

<sup>116</sup> House of Commons, Public Administration and Constitutional Affairs Committee, *The Future of the Union, part two: Inter-institutional relations in the UK*, Sixth Report of Session 2016-17, HC 839, December 2016, paragraph 26

“... the ongoing review into the MoU should examine the idea of evolving the JMC (P) into an annual Heads of Government Summit, analogous to meetings of the Council of the European Union. Under this model, responsibility for hosting the JMC would rotate among the four administrations, with the host Government given the responsibility for setting the agenda for the plenaries. The four Heads of Government would meet in this consultative body and the communiqué should, wherever possible, be agreed unanimously. This would provide the devolved administrations with greater opportunity for involvement, and responsibility, in the JMC.”<sup>117</sup>

**103.** More recent parliamentary reports have also highlighted the impact of the UK’s withdrawal from the EU on inter-institutional relationships. A report by the House of Lords European Union Committee, *Brexit: devolution*,<sup>118</sup> reflects and encapsulates many of the concerns we have heard.<sup>119</sup>

**104.** As we have already noted, last November, PACAC published its report *Devolution and Exiting the EU and Clause 11 of the European Union (Withdrawal) Bill: Issues for Consideration*. Its conclusions resonate with us:

“Our witnesses noted that there was a clear lack of understanding of the territorial aspects of the UK’s constitution, both in the design of, and debate around Clause 11. However, the main source of disquiet and disagreement between central and devolved Government, derives from the lack of communication and established mechanisms for both proper consultation and shared decision making between governments.

The predecessor Committee’s report *Future of the Union, part two: Inter-institutional relations in the UK*, highlighted the importance of investing in stronger inter-institutional relations. The Committee recommended several achievable first steps in resuscitating these relations, which would have aided these relations in the year following the publication of that report. An effective system of inter-

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<sup>117</sup> House of Commons, Public Administration and Constitutional Affairs Committee, *The Future of the Union, part two: Inter-institutional relations in the UK*, Sixth Report of Session 2016-17, HC 839 December 2016, paragraph 50

<sup>118</sup> House of Lords European Union Committee, *Brexit: Devolution*, 4th Report of Session 2017-19, HL Paper 9, July 2017

<sup>119</sup> House of Lords European Union Committee, *Brexit: Devolution*, 4th Report of Session 2017-19, HL Paper 9, July 2017, paragraphs 142, 236, 271 and 272

governmental relations is the missing aspect of the current UK constitutional arrangements and the dispute around Clause 11 brings this issue into sharp focus. A set of effective relationships based on mutual trust and effective communication and consultation are essential for the internal governance of the UK, following its departure from the European Union.”<sup>120</sup>

## Delivering change – our view

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**105.** We agree with all those who gave evidence that there is a need to strengthen inter-governmental relations, not just between Wales and England, but as part of a four nation approach, where each nation is treated with parity.

**106.** We have noted the evidence of the Secretary of State regarding the infrequent nature of the JMC and also the conclusions of parliamentary committees advocating its reform.

**107.** We have also noted that amendments proposing changes to the machinery of inter-governmental relations and in relation to common frameworks were tabled to the EU (Withdrawal) Bill during its passage through the House of Commons, but that no such amendments were passed.<sup>121</sup>

**108.** Overall, the evidence we have heard (including that in relation to the Civil Service) has left us with a firm view that Wales has too often been regarded as less important by the UK Government.

**109.** It indicates that successive UK Governments have not sufficiently renewed the machinery of government to respond to the changed relationships between governments after devolution, leaving question marks about how it will deal fairly with the emerging challenges for UK frameworks after EU withdrawal. Whilst this may not be intentional, it is nevertheless an issue that needs to be addressed quickly, not least because of the inter-governmental discussions that will be needed to discuss important issues on common frameworks that will have a significant impact on Wales as the UK leaves the EU.

**110.** The need for fundamental reform is clear and pressing, reflecting the considerable internal constitutional change of the last decade or more and the likely changes that will emerge as the UK leaves the EU and redefines its

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<sup>120</sup> House of Commons, Public Administration and Constitutional Affairs Committee, Devolution and Exiting the European Union (Withdrawal) Bill: Issues for Consideration, First Report of Session 2017-19, HC 484, 29 November 2017, paragraphs 42-43.

<sup>121</sup> For example, HC Debates, 4 December 2017 Col 703

relationships with the rest of the world. Decisions taken within areas of shared governance must be transparent. As the evidence suggests, we believe there is also a real need for an independent dispute resolution, arbitration and adjudication mechanism.

**111.** In our view the best option would be to adopt a completely new approach to inter-governmental relations in order to provide the institutional strength and durability needed to face the challenges ahead.

**112.** The First Minister's proposal for a UK Council of Ministers to replace the JMC has considerable merit to it and would address many of the concerns we have heard in evidence. In effect it would be a forum of national governments working collectively in the best interests of the United Kingdom. In our view, it would provide the shift required to ensure we have proper shared governance, including over areas that have been co-ordinated at a European level.

**113.** We consider the First Minister's proposal to be the most coherent, long-term solution to resolving concerns about inter-governmental relations.

**114.** However, an essential and pragmatic first step would be to strengthen the existing JMC structure.

**Recommendation 1.** We recommend that, in the short term, the JMC is strengthened by:

- ensuring that the JMC(P) fulfils the functions of an annual Heads of Government Summit, as suggested in 2016 by the House of Commons Public Administration and Constitutional Affairs Committee (HC 839);
- adding new committees to the existing JMC format to cover the single market and trade, and in particular to agree on common frameworks.

**Recommendation 2.** We recommend that the UK Government's European Union (Withdrawal) Bill is amended by the UK Government to place inter-governmental relations on a statutory footing as suggested in 2015 by the House of Lords Constitution Committee (HL Paper 146) and 2017 by the House of Commons Public Administration and Constitutional Affairs Committee (HC 484).

**Recommendation 3.** We recommend that in the longer term, post-Brexit, the JMC is subject to fundamental reform so that it becomes a UK Council that:

- is a decision-making body;

- has an independent dispute resolution, arbitration and adjudication mechanism;
- is transparent and accountable in all of its functions and operations, in particular, in its decision-making.

**115.** We note the comments of witnesses regarding the MoU and DGNs. In our view the MoU would benefit from a thorough review, and it would likely need to be replaced should the JMC be placed on a statutory footing in line with recommendation 2.

**116.** If Whitehall departments rely heavily on Devolution Guidance Notes as was suggested to us, and they aid understanding of devolution, then not only should the handling of the Wales Bill have been better, but the piece of constitutional law that resulted from the process—the *Wales Act 2017*—should have been fairer, more coherent and more reflective of the existing boundaries of Welsh devolution.

**117.** Alternatively, DGNs are not used as heavily as suggested to us or they are neutered by political imperatives. Either way, we remain unconvinced by the effectiveness and usefulness of Devolution Guidance Notes in their current format.

**Recommendation 4.** We recommend that the MoU (subject to the UK Government's response to recommendation 2) and Devolution Guidance Notes should:

- be subject to a thorough overhaul involving collaboration between all governments of the UK with the aim of establishing shared governance around the machinery that supports the delivery of effective and fair inter-governmental relations;
- as part of that overhaul, be subject to full public consultation, enabling scrutiny by parliamentary committees across the UK, in the interests of transparency, accuracy and good governance, as well as improving the understanding of inter-governmental relations across civic society; and
- be reviewed on a regular basis thereafter.

## The understanding of devolution by civil servants in Whitehall

**118.** As part of our evidence gathering we considered the understanding of devolution by civil servants in Whitehall.

**119.** Numerous witnesses pointed out the poor knowledge and understanding of devolution that exists in parts of Whitehall, despite some laudable efforts to remedy the situation by successive administrations. Based on the extensive evidence we heard, we believe that it is simply unacceptable that the level of understanding of devolution across Whitehall is often poor, that understanding of Welsh devolution is particularly poor in certain key departments, and that attempts to remedy this have been inadequate.

**120.** Sir Derek Jones told us that:

“knowledge and understanding of devolution in Whitehall departments is not good enough, and is not good enough after 17 years of experience.”<sup>122</sup>

**121.** PACAC have expressed similar views.<sup>123</sup>

**122.** These comments serve to highlight the conflict that currently exists with the existing constitution of the UK, where the Civil Service, in effect, supports the UK Government in its role as the executive for the UK and England.

**123.** The approach of Whitehall civil servants was perhaps best captured by Professor Cairney when he said:

“I should say that I’ve never thought that there was a sort of malevolent reason to ignore Scotland and Wales. I think it was just more of a benign neglect.”<sup>124</sup>

**124.** The internal Civil Service apparatus supporting devolution as described to us appears complex and muddled.<sup>125</sup> The staffing structure does not appear to mirror the political structure, with both Wales and Scotland having Secretaries of State but not Permanent Secretaries, while Northern Ireland has both. We acknowledge that this may be a Whitehall solution to the complexities of devolution. However, to the outsider it may suggest that the prominence given to the political role of Secretary of State for Wales within the Cabinet is not matched by the Civil Service structure that supports that role. It seems in our view problematic that the head of the Wales Office with the most direct contact with the Secretary of State for

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<sup>122</sup> CLA Committee, 15 May 2017, RoP [32]

<sup>123</sup> House of Commons, Public Administration and Constitutional Affairs Committee, *The Future of the Union, part two: Inter-institutional relations in the UK*, Sixth Report of Session 2016-17, HC 839, December 2016, paragraph 111

<sup>124</sup> CLA Committee, 22 May 2017, RoP [27]

<sup>125</sup> CLA Committee, 25 September 2017, RoP [176-308]

Wales and potentially knowledge and understanding of devolution, may not be involved in important discussions at Permanent Secretary level that may impact on Wales.

**125.** The rationale for this approach is unclear and is a matter we intend to take up separately in correspondence with the UK Government.



## 4. How should parliaments work together?

### Introduction

**126.** We have identified in chapter 3 the need for more effective working between governments. However, the same rationale applies to the engagement between the parliaments that form an integral part of our constitutional machinery. It is clear that there is a need to extend the engagement between committees, and between parliaments. If these parts of our democratic institutions work better together as part of a maturing family of nations, then there is a better chance that the voice of Wales will be heard across the UK, our collective views acted upon and the fabric of the UK constitution strengthened.

**127.** Chapter 13 of the Silk Commission’s report, *Empowerment and Responsibility: Legislative Powers to Strengthen Wales*<sup>126</sup> highlighted the importance and benefits of strong inter-parliamentary relations and co-operation. We support and welcome the recommendation that:

“there should be improved inter-parliamentary cooperation to increase mutual understanding of the work of the National Assembly and both Houses of Parliament, especially in terms of committee-to-committee cooperation (including attendance by Ministers from each administration at Committees of the other legislature); information-sharing should be improved...”<sup>127</sup>

**128.** Our predecessor Committee looked at inter-parliamentary working as part of its Fourth Assembly legacy considerations.<sup>128</sup> Our inquiry has provided us within an opportunity to build on this work. In October 2016, we met with the Constitution Committee of the House of Lords to discuss and exchange views on the Wales Bill. We have started to extend our engagement with committees in Scotland on matters where we share common concerns or interests. We are also working closely with other National Assembly committees, in particular the External Affairs and Additional Legislation Committee which focuses on Brexit. In short, we are

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<sup>126</sup> Commission on Devolution in Wales, *Empowerment and Responsibility: Legislative Powers to Strengthen Wales*, March 2014

<sup>127</sup> Commission on Devolution in Wales, *Empowerment and Responsibility: Legislative Powers to Strengthen Wales*, March 2014, Recommendation 54a

<sup>128</sup> Constitutional and Legislative Affairs Committee, *Fourth Assembly Legacy Report*, March 2016, page 38

seeking to work with and through other committees to have our voice heard clearly during this period of constitutional change.

**129.** There are already mechanisms in place to support inter-parliamentary relations such as the British-Irish Parliamentary Assembly.<sup>129</sup> However, we wanted to consider how parliamentary relations could be improved and strengthened in light of the changing constitutional situation.

## Joint working between parliaments

### The big picture

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**130.** Many of our witnesses emphasised that relationships between parliaments were just as important as those between governments<sup>130</sup>, and also that they are crucial to the effective scrutiny of government.<sup>131</sup> This point was highlighted by the RSPB:

“I think there is a challenge around centralisation as we go through this Brexit process, but also there’s a great threat that Brexit leads to an emergence of a governance gap and a transfer of power from democratic institutions, including Parliaments across the UK and executive Governments, whether that’s either in London or, to be honest, Governments in the countries as well ... .if you look at something like the repeal Bill, where basically all those powers may just go straight to a Minister either in London or in Wales, then I think that’s a real concern of ours.”<sup>132</sup>

**131.** We considered the role of Speakers and Presiding Officers in inter-parliamentary relations. Elin Jones AM, the Presiding Officer, or Llywydd, of the National Assembly told us:

“You will be aware, of course, of the quadrilaterals between the Speakers and Presiding Officers of the various Parliaments and Assemblies, and we can use that forum to discuss issues and learn lessons from each other.”<sup>133</sup>

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<sup>129</sup> More information is available on the British-Irish Parliamentary Assembly [website](#).

<sup>130</sup> For example, CLA Committee, 13 March 2017, RoP [72]; CLA Committee, 27 March 2017, RoP [74]

<sup>131</sup> For example, CLA Committee, 6 March 2017, RoP [155]; CLA Committee, 3 July 2017, RoP [13];

<sup>132</sup> CLA Committee, 19 June 2017, RoP [64]

<sup>133</sup> CLA Committee, 3 July, RoP [5]

**132.** She reported that:

“There has only been one of those quadrilaterals since my election as Presiding Officer, and that perhaps is a reflection of the fact that there has been a UK general election recently, and also that there is no Assembly sitting currently in Northern Ireland ... generally speaking, the meeting is relatively informal and we are learning lessons from each other, rather than contributing, perhaps, to the development of a more structured relationship. That’s the nature of the meeting that I attended at least.”<sup>134</sup>

**133.** She felt there was “room for improvement” in the context of links between Speakers and Presiding Officers, suggesting that:

“... Brexit gives us an opportunity to look at whether it is time for us to formalise that relationship between our Parliaments.”<sup>135</sup>

**134.** Adrian Crompton<sup>136</sup> noted that for such arrangements to begin there needed to be “political will” and “a common purpose and a focus rather than just being a structure in its own right”.<sup>137</sup>

**135.** In looking to see how this need for greater, formalised co-operation could be taken forward, we asked whether a device like a Speakers’ Conference could be useful as a first step. The Llywydd agreed:

“I think if fellow Speakers feel that their Parliaments are up for looking finally at how we can make inter-parliamentary work—how we can formalise it—whether there are opportunities to do that in the context of what’s likely to happen in possibly the creation of a council of Ministers at a UK level, intergovernmental co-operation and co-decision-making—that needs to have a parallel process.”<sup>138</sup>

**136.** She did however highlight a challenge that would arise in this context:

“... if there is to be any move towards formalising inter-parliamentary work ... the challenge will be that the four Parliaments do that equally

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<sup>134</sup> CLA Committee, 3 July 2017, RoP [9]

<sup>135</sup> CLA Committee, 3 July 2017, RoP [13]

<sup>136</sup> Adrian Crompton is the Director of Assembly Business in the National Assembly for Wales Commission

<sup>137</sup> CLA Committee, 3 July 2017, RoP [15]

<sup>138</sup> CLA Committee, 3 July 2017, RoP [21]

and see it as something that they sign up to doing properly, that it adds value and doesn't detract from the proper accountability to the home Parliaments. I don't think there's a perfect model out there at this point, but I think it's a conversation that does need to be had ... But I certainly wouldn't want it to duplicate effort by creating joint committees when altogether separate committees would work just as well, and I wouldn't want it to be a talking shop of the kind that we may have already in some contexts. So, I think it's right to investigate ... whether there is an appetite from all Parliaments for it."<sup>139</sup>

**137.** During our stakeholder session, the RSPB highlighted why closer co-operation between parliaments would be so important, particularly as inter-governmental relations developed:

"If you have a UK council of Ministers that's potentially taking decisions behind closed doors with no parliamentary scrutiny, either at Westminster or devolved level, and then those Ministers come back to their countries and effectively deliver a *fait accompli*, then I think that's very bad for (a) good policy making, but (b) public trust in our democracy and our decision-making institutions. So, I do fundamentally believe that, in the context of Brexit, we do need to reinvent our democracy and the way that parliaments work together."<sup>140</sup>

**138.** We welcome the Llywydd's positive response to our suggestion of a Speakers' conference. We believe it would provide significant impetus to strengthening inter-parliamentary co-operation at a crucial time in the UK's constitutional development.

**Recommendation 5.** We recommend that the Llywydd seeks to establish with the other Speakers and Presiding Officers of UK legislatures, a Speakers' Conference with the aim of determining how best to develop UK inter-parliamentary working, particularly as a means of scrutinising the impact of withdrawal from the European Union on the constitutional framework of the UK.

**139.** We consider the main role for such a Speakers' Conference to be in relation to developing a framework for inter-parliamentary relations. However, we also see merit in it having a role in relation to inter-governmental relations to assess how they are developing at this crucial period in the evolution of the constitution of the UK. This should include assessing, in particular, the UK Government's response

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<sup>139</sup> CLA Committee, 3 July 2017, RoP [75]

<sup>140</sup> CLA Committee, 19 June 2017, RoP [179]

to recommendations 1 to 4 of this report and the recommendations of other parliamentary committees on this subject.

**Recommendation 6.** We recommend that the Speakers' Conference we advocate in Recommendation 5 also assesses the state of inter-governmental relations, with a view to helping building consensus on reform, taking account of the UK Government's response to recommendations 1 to 4 in this report and recommendations contained in the reports of other parliamentary committees on this subject.

**140.** The Llywydd spoke about improving the process of how the outcomes of votes in the National Assembly on Legislative Consent Motions<sup>141</sup> are dealt with in the UK Parliament.<sup>142</sup> Adrian Crompton explained what may be needed:

“At the Westminster end, our consenting, or not consenting, as the Llywydd said, triggers a formal notification process, but nothing else procedurally, in parliamentary terms. It is left to the Governments to sort that out. So, I think that's the element that needs addressing ...”<sup>143</sup>

**141.** The Speakers' Conference we recommend may also usefully address the issue of how Legislative Consent Motions, whether agreed to or not, are processed and actioned by the UK Parliament.

**142.** Such a Conference could also address the future role of the British-Irish Parliamentary Assembly.

**143.** During our evidence sessions, we heard The Rt Hon Lord Hain call for a new, more federal constitutional settlement for the whole of the UK,<sup>144</sup> while The Rt Hon Rhodri Morgan spoke of his support for a written constitution for the UK.<sup>145</sup> The Speakers' Conference we envisage may therefore be a pre-cursor to a wider re-evaluation of the constitutional framework of the UK.

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<sup>141</sup> When the UK Parliament wishes to legislate on a subject matter that has been devolved to the National Assembly for Wales, or on changing the powers of the Assembly, convention requires the consent of the Assembly to be given before the UK Parliament may pass the legislation in question. Such consent is given by the National Assembly through Legislative Consent Motions.

<sup>142</sup> CLA Committee, 3 July 2017, RoP [62-4]

<sup>143</sup> CLA Committee, 3 July 2017, RoP [89]

<sup>144</sup> CLA Committee, 8 May 2017, RoP [22]

<sup>145</sup> CLA Committee, 8 May 2017, RoP [108]

## Working between committees

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**144.** Sir Paul Silk told us that:

“...committee is the place where the real work is done. So, it is that inter-committee work that I would see as something that could be developed in the future.”<sup>146</sup>

**145.** The Llywydd expressed her support for joint working. She said:

“I am responsible for ensuring that the Assembly’s business is done in an effective manner and that this place has the capacity to do its work effectively and efficiently. Therefore, allowing officials from this place, be they the clerks of various committees, to be discussing the work of this place with representatives of other Parliaments and officials and clerks in other Parliaments in an informal setting, and also allowing the committees of this place and the politicians who are members of those committees to be, where appropriate, doing joint work, carrying out joint scrutiny, joint policy development, if that is appropriate and if that is how they wish to work.”<sup>147</sup>

**146.** Adrian Crompton outlined the current position:

“Amongst committees, we have seen varying degrees of joint committee work, usually, again, at a relatively informal level, but that is becoming more prevalent and more necessary in the context of Brexit...an important thing to note too is that we and Westminster are the only pairing of the various Parliaments of the UK that have a formal, procedural basis for our engagement as well...and, I think, is potentially something to build on if we wanted to formalise these relationships a little more.”<sup>148</sup>

**147.** In response to our consultation exercise, the Health, Social Care and Sport Committee told us:

“It is our view that strong inter-parliamentary working and liaison between Parliamentary Committees is essential for effective scrutiny and can enable the free exchange of ideas and improved policy

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<sup>146</sup> CLA Committee, 6 March 2017, RoP [157]

<sup>147</sup> CLA Committee, 3 July 2017, RoP [5]

<sup>148</sup> CLA Committee, 3 July 2017, RoP [11]

learning...this is particularly the case for example in respect of cross-border health and social care issues.”<sup>149</sup>

**148.** The External Affairs and Additional Legislation Committee said:

“In terms of inter-parliamentary relations, we are engaged in a range of activity with colleagues in other legislatures. This includes participation in a conference of the ‘Brexit’ committees in the devolved legislature and the London Assembly and through my membership of the EC-UK Forum.”<sup>150</sup>

**149.** Support also came from public organisations, such as Universities Wales, who advocated the use of joint committees to scrutinise matters related to the legislative consent process.<sup>151</sup>

**150.** In the Fourth Assembly, our predecessor Committee held a concurrent meeting<sup>152</sup> with the House of Commons Welsh Affairs Select Committee<sup>153</sup> (WAC) in Cardiff as part of each committee’s scrutiny of the draft Wales Bill. This session was very successful, with positive feedback from both committees. As a consequence, our predecessor Committee wrote to the Chair of WAC supporting his desire to explore further how the procedures at Westminster can be amended to facilitate more joint working between the two legislatures.<sup>154</sup>

**151.** In its 2016 report, PACAC recommended that the House of Commons Standing Orders, which enable the Welsh Affairs Committee to hold joint evidence sessions with committees of the National Assembly for Wales, should be extended to enable all committees of the House of Commons to meet jointly with any specified committee of any of the three devolved legislatures.<sup>155</sup>

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<sup>149</sup> Written evidence, Health, Social Care and Sport Committee, IGP002

<sup>150</sup> Written evidence, External Affairs and Additional Legislation Committee, IGP003

<sup>151</sup> CLA Committee, 19 June 2017, RoP [145-147]

<sup>152</sup> Standing Order 17.54 permits committees of the National Assembly to meet concurrently with any committee or joint committee of any legislature in the UK.

<sup>153</sup> 9 November 2015

<sup>154</sup> Letter from Chair, Constitutional and Legislative Affairs Committee, Fourth Assembly to David Davies MP, Chair of Welsh Affairs Select Committee, House of Commons, 19 December 2015

<sup>155</sup> House of Commons, Public Administration and Constitutional Affairs Committee, *The Future of the Union, part two: Inter-institutional relations in the UK, Sixth Report of Session 2016-17*, HC 839, December 2016, paragraph 96



**152.** They added:

“for such a reform to be meaningful, PACAC calls upon the other three UK legislatures to examine where their Standing Orders, or relevant statutory provisions, inhibit greater inter-parliamentary collaboration and, where possible, to eliminate these barriers. This collaboration would not undermine the right of the devolved legislatures to form legislation independently of UK Parliament influence.”<sup>156</sup>

**Recommendation 7.** We endorse PACAC’s recommendation in its 2016 report such that the House of Commons’ Standing Orders are amended to allow more interaction between parliamentary committees across the UK, be this a systematic standing arrangement or on a more ad hoc basis.

**153.** As part of our work, we have considered whether there is a need for a forum akin to the EC-UK Forum, focused on the constitution. The Rt Hon Elfyn Llwyd remarked on the need for a pan-UK constitutional committee.<sup>157</sup> He said that “a strong, powerful, constitutional committee drawn from the various legislatures would be a very positive step forward”.<sup>158</sup> Sir Paul Silk made reference to the COSAC process in which scrutiny committees in EU Countries hold the EU to account to Member State Parliaments,<sup>159</sup> while the Llywydd envisaged the creation of a Committee for the UK’s Parliaments and Assemblies.<sup>160</sup>

**154.** There is a clear plea in the evidence we have received for a cohesive and structured forum for joint discussion between parliaments undertaking scrutiny, where information can be shared and respective governments can be held to account.

**155.** It is pleasing, therefore, that there appears to be a considerable support for improving joint working between parliamentary committees of different legislatures, sparked recently by the UK’s withdrawal from the European Union.

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<sup>156</sup> House of Commons, Public Administration and Constitutional Affairs Committee, *The Future of the Union, part two: Inter-institutional relations in the UK*, Sixth Report of Session 2016-17, HC 839, December 2016, paragraph 96

<sup>157</sup> CLA Committee, 13 March 2017, RoP [186]

<sup>158</sup> CLA Committee, 13 March 2017, RoP [186]

<sup>159</sup> CLA Committee, 6 March 2017, RoP [155]

<sup>160</sup> CLA Committee, 3 July 2017, RoP [13 and 18]; Press release, *Brexit could provide the catalyst to finally create a Committee for the UK’s Parliaments and Assemblies – Llywydd*, Elin Jones AM, 3 July 2017



**156.** On 12 October 2017, our Chair met with other chairs of European and constitutional committees from UK legislatures. The meeting arose as a consequence of a recommendation in a report by the House of Lords European Union Committee, *Brexit: devolution*.<sup>161</sup>

**157.** The meeting has initiated, by agreement with the chairs of the relevant committees, the Interparliamentary Forum on Brexit. It is made up of chairs, convenors and representatives of committees scrutinising Brexit-related issues in the National Assembly for Wales, the Scottish Parliament, the House of Commons and House of Lords (currently officials from the Northern Ireland Assembly attend as observers). A statement from the first meeting notes that “as parliamentarians in our respective legislatures we face common challenges: seeking to ensure the best outcome for the people and communities we represent; holding the UK and devolved governments to account for their role in the process”.<sup>162</sup> A second meeting was held on 18 January 2017 and a statement issued afterwards.<sup>163</sup>

**158.** The creation of the Interparliamentary Forum on Brexit is a welcome development on inter-parliamentary relations. We believe it has the potential to be a valuable pre-cursor to the strengthened parliamentary relationships that will be essential within the UK once it has left the European Union.

**159.** The intention is that the Interparliamentary Forum on Brexit lasts for the duration of the Brexit negotiations. However, we agree with and endorse the statement in the House of Lords European Union Committee’s report that in:

“the longer term, we also see a need for a strengthened forum for inter-parliamentary dialogue within the post-Brexit United Kingdom. The resourcing of this forum, and its relationship with existing bodies (notably the British-Irish Interparliamentary Assembly) will require careful consideration by the House and more widely.”<sup>164</sup>

**160.** We believe the strengthened forum suggested by the House of Lords European Union Committee would be a sensible development post-Brexit. It could learn from the experiences of the Interparliamentary Forum on Brexit and perhaps be the kind of body envisaged by The Rt Hon Elfyn Llwyd, Sir Paul Silk

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<sup>161</sup> House of Lords, European Union Committee, *Brexit: devolution*, 4<sup>th</sup> Report of Session 2017-2019, 19 July 2017, HL Paper 9 paragraph 297

<sup>162</sup> Statement on Interparliamentary Forum on Brexit, 1<sup>st</sup> meeting, 12 October 2017

<sup>163</sup> Statement on Interparliamentary Forum on Brexit, 2<sup>nd</sup> meeting, 18 January 2018

<sup>164</sup> House of Lords, European Union Committee, *Brexit: devolution*, 4<sup>th</sup> Report of Session 2017-2019, HL Paper 9, 19 July 2017, paragraph 298

and the Llywydd. In our view it would play an important role in holding to account inter-governmental relationships exercised through the existing JMC or any subsequent body. It is a matter that we would envisage being considered by the Speakers' Conference we recommend in this report.

**161.** This approach would not, however, be without its challenges. We recognise that it can be difficult for parliamentarians to meet given the pressures on their time, particularly in Wales where Assembly Members may sit on more than one Assembly committee and therefore can be committed to several meetings per week.

**162.** In the meantime, while contributing to the Interparliamentary Forum on Brexit, we will also continue to seek opportunities to work with other UK constitutional committees on an informal basis, and keep this approach under review.

### Ministers appearing before Committees of the UK's parliaments

**163.** Our Citizen Panel had a clear expectation that mutual respect should exist between institutions: not only between governments but also between parliaments.

**164.** The principle which we sought to examine is not that of direct parliamentary accountability, as that democratic imperative is satisfied (in part) by Ministers appearing before committees of their own legislature. The principle here, in a changed UK constitution still adapting to devolution, is that of the willingness of Ministers to appear before committees in other legislatures, and face scrutiny on decisions which may have wider implications on other parts of the UK. Proposed changes to constitutional policy, such as the *Wales Act 2017*, or the current EU (Withdrawal) Bill are obvious examples, though thematic policy issues may also carry implications which go wider than the boundaries of a single devolved nation and administration.

**165.** Alluding to Welsh Ministers appearing before Westminster committees and vice-versa, the First Minister said:

“It’s been fairly common practice for Welsh Government Ministers to give evidence to committees of both the Commons and the Lords. I’ve done it myself. It’s not an issue, as long as it is understood, of course,

that those Ministers are not answerable or accountable to the Westminster committees.”<sup>165</sup>

**166.** There is only one instance that we are aware of where a Welsh Minister refused to go to Westminster to give evidence.<sup>166</sup>

**167.** While there are examples of UK Government Ministers readily appearing before Assembly Committees, most recently in respect of scrutiny of the EU (Withdrawal) Bill,<sup>167</sup> our evidence highlighted that this is not always the case.

**168.** Reflecting on this issue, Ieuan Wyn Jones said:

“...when we were discussing the future financing of Wales in the light of discussion around the Barnett formula, there was a massive reluctance by Treasury Ministers to even countenance coming to give evidence to Assembly committees.”<sup>168</sup>

**169.** The Health, Social Care and Sport Committee of the National Assembly felt there was scope for improvement in the way UK Government Departments co-operate with Assembly Committees in scrutinising policy matters that overlap in devolved and non-devolved areas. It said:

“It appears that such co-operation is often at the discretion of individual Ministers or civil servants rather than an accepted understanding that such co-operation is essential and has the potential to benefit all those involved.

We understand, for example, that there were challenges experienced by our predecessor Committee in engaging the relevant Home Office Minister and officials in its inquiry into new psychoactive substances in respect of some non-devolved policy areas of direct relevance to the inquiry. Whilst the issue was eventually resolved, and oral and written evidence was received, this was only following repeated efforts by

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<sup>165</sup> CLA Committee, 20 March 2017, RoP [154]

<sup>166</sup> Wales Online, *New Wales-Westminster row breaks out after Edwina Hart snubs Commons committee*, 22 June 2011

<sup>167</sup> External Affairs and Additional Legislation Committee and CLA Committee, 6 November 2017, RoP [1-163]

<sup>168</sup> CLA Committee, 27 March 2017. RoP [62]

Committee staff and correspondence from the then Committee Chair.”<sup>169</sup>

**170.** Our predecessor Committee experienced difficulties when seeking evidence from a senior Whitehall official on the draft Wales Bill.<sup>170</sup>

**171.** During our consideration of the UK Government’s Wales Bill, the Secretary of State declined an invitation to give evidence to us about the Bill.<sup>171</sup> We therefore asked him how he believes he should engage with our committee on constitutional matters affecting Wales. He said:

“... I strongly believe that the Secretary of State for Wales is there to be scrutinised by Parliament and by the Welsh Affairs Select Committee, and I think that the crossover between Assembly committees scrutinising Ministers in Parliament—it can happen, and will happen, but I don’t think it should necessarily be the norm. And likewise for, say, the Welsh Affairs Select Committee, or any other committee, to scrutinise a Government Minister from here in Wales, because, obviously, it’s the role of the Assembly Members to scrutinise Welsh Ministers, and it’s the role of Parliament to scrutinise the Secretaries of State. But I would add to that, there are exceptions that take place, so it shouldn’t necessarily be the rule.”<sup>172</sup>

**172.** We would normally expect government Ministers to appear before other legislatures’ committees as required and as is practical. We are not convinced by the argument that this should not be the norm because the benefits of cooperation between institutions have been clearly highlighted throughout our findings. They are also supported by the views of the Silk Commission<sup>173</sup> and more generally the expectations of the public. This is particularly the case when considering legislation that will have a significant constitutional impact for Wales.

**Recommendation 8.** We recommend that the Speakers’ Conference we advocate in Recommendation 5 considers the issue of the appearance of

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<sup>169</sup> Written evidence. Health, Social Care and Sport Committee, ICP002

<sup>170</sup> Fourth Assembly, Constitutional and Legislative Affairs Committee, *Report of the UK Government’s Draft Wales Bill*, December 2015, paragraph 24.

<sup>171</sup> CLA Committee, *Committee’s “serious concern” at Secretary of State no-show*, 1 July 2016

<sup>172</sup> CLA Committee, 25 September 2017, RoP [118]

<sup>173</sup> Commission on Devolution in Wales, *Empowerment and responsibility: legislative powers to strengthen Wales*, March 2014, Chapter 13, paragraph 13.3.25

Ministers before legislatures to which they are not directly accountable, and agrees appropriate guidelines.

## 5. Holding the Welsh Government to account

**173.** Whatever intergovernmental changes or adaptations emerge in the future it will be important for the National Assembly to hold the Welsh Government to account.

**174.** In Scotland, the Devolution (Further Powers) Committee<sup>174</sup> made a number of recommendations about inter-governmental relationships in its report, *Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations*.<sup>175</sup>

**175.** As part of our inquiry, we wrote to Bruce Crawford MSP, Convenor of the Finance and Constitution Committee at the Scottish Parliament seeking his Committee's views on inter-parliamentary working and experience of building and maintaining relations in the UK.<sup>176</sup>

**176.** In response, Mr Crawford shared with us the recently established inter-governmental relations written agreement<sup>177</sup> between the Scottish Parliament and Scottish Government. This written agreement, arising as a result of the Devolution (Further Powers) Committee's report, now represents the agreed position on the information the Scottish Government will, where appropriate, provide the Scottish Parliament.

**177.** The agreement aims to establish the principles suggested in the report. The scope of the agreement "applies to the participation of Scottish Ministers in formal, inter-governmental structures"<sup>178</sup> and is "intended to support the Scottish Parliament's capacity to scrutinise Scottish Government activity and to hold the Scottish Ministers to account in the intergovernmental arena only".<sup>179</sup>

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<sup>174</sup> Scottish Parliament's Devolution (Further Powers) Committee (Session 4)

<sup>175</sup> Scottish Parliament's Devolution (Further Powers) Committee (Session 4): *Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations*, 8th Report, 2015, SP Paper 809, October 2015

<sup>176</sup> Letter to Bruce Crawford MSP, Convenor, Scottish Parliament's Finance and Constitution Committee, *A stronger voice for Wales: engaging with Westminster and the devolved institutions*, 6 April 2017

<sup>177</sup> Inter-governmental relations written agreement between the Scottish Parliament and Scottish Government

<sup>178</sup> Inter-governmental relations written agreement between the Scottish Parliament and Scottish Government, paragraph 9

<sup>179</sup> Inter-governmental relations written agreement between the Scottish Parliament and Scottish Government, paragraph 10

**178.** In summary, the agreement includes:

- Advance written notice of relevant meetings to enable the relevant parliamentary committee to express a view in advance of that meeting. This notice will include agenda items and key issues to be discussed.
- A written summary of the issues discussed as soon as is practicable after the meeting.
- The text of any inter-governmental agreements, MOUs or other resolutions made on a multilateral or bilateral basis by the Government.
- A commitment by the Scottish Government to record all relevant formal agreements the Scottish Government has entered into and publish these to the Government's website.

**179.** The agreement also includes the publication of an annual report on inter-governmental relations by the Scottish Government, to summarise key outputs from activity subject to this agreement, and any work undertaken including dispute resolutions.<sup>180</sup> The report for the period April 2016-March 2017 has been published.<sup>181</sup>

**180.** The Devolution (Further Powers) Committee commented in its report that there was no ideal model to adopt from internal comparators to facilitate parliamentary scrutiny of inter-governmental relations.<sup>182</sup> However it said that it “agrees with the view of the House of Lords Constitution Committee that effective scrutiny of inter-governmental relations requires both greater transparency than currently exists, and the necessary structures and desire in Parliament and the devolved legislatures to scrutinise those relationships”.<sup>183</sup>

**181.** We agree with this position and welcome the recent developments in inter-parliamentary relations that have begun to address this issue.

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<sup>180</sup> Inter-governmental relations written agreement between the Scottish Parliament and Scottish Government, para 16

<sup>181</sup> Scottish Government, Inter-governmental relations: annual report (April 2016 - March 2017), June 2017

<sup>182</sup> Scottish Parliament's Devolution (Further Powers) Committee (Session 4): *Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations*, 8th Report, 2015, SP Paper 809, October 2015, paragraph 50

<sup>183</sup> Scottish Parliament's Devolution (Further Powers) Committee (Session 4): *Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations*, 8th Report, 2015, SP Paper 809, October 2015, paragraph 50

**182.** We also support the observation made in the report that the “effectiveness of Parliamentary scrutiny of inter-governmental relations will depend in part on its ability to be informed of the subject matter and timetable of the discussion between governments”.<sup>184</sup> This chimes with our view on the need for transparency around inter-governmental relations and the mechanisms used to facilitate these.

**183.** We note the progress already made with this agreement in the Scottish First Minister’s letter<sup>185</sup> to the Scottish Parliament’s Finance and Constitution Committee to report on the outcomes of a JMC meeting, along with the Scottish Government’s publication of its annual report.

**184.** We note the suggestion in the Devolution (Further Powers) Committee that other legislatures in the UK may wish to consider similar arrangements that best suit their procedures.<sup>186</sup>

**185.** We commend this approach which enables the Scottish Parliament to hold its Government to account through this robust scrutiny model. We believe the written agreement is an effective tool and is an example of best practice that should be followed in Wales.

**186.** In Wales, the First Minister has either issued a written or oral statement after a meeting of the JMC.

**187.** In correspondence with us noting a positive JMC(EN) in October, the First Minister said:

“We now expect to see this progress maintained with regular JMC (EN) meetings which are genuinely collaborative in nature, and we also need a further meeting of JMC(P), as we approach the anniversary of the last meeting which we hosted in Cardiff. As matters go forward, I anticipate that there will be regular reporting to the Assembly and/or its Committees on the outcomes of JMC(EN) and JMC(P) meetings.”<sup>187</sup>

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<sup>184</sup> Scottish Parliament’s Devolution (Further Powers) Committee (Session 4): *Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations*, 8th Report, 2015, SP Paper 809, October, paragraph 63

<sup>185</sup> Letter from the First Minister, The Rt Hon Nicola Sturgeon MSP to the Convenor Bruce Crawford on the Joint Ministerial Committee, 4 February 2017

<sup>186</sup> Scottish Parliament’s Devolution (Further Powers) Committee (Session 4): *Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations*, 8th Report, 2015, SP Paper 809, October 2015, paragraph 64

<sup>187</sup> Letter from the First Minister, 20 November 2017



**188.** We believe that the approach adopted in Scotland between its Parliament and Government should be replicated between the National Assembly and the Welsh Government, with this Committee taking the lead role for the National Assembly given its constitutional remit.

**Recommendation 9.** We recommend that the Welsh Government enters into an inter-governmental relations agreement with this Committee to support the scrutiny of Welsh Government activity in this area.

# Annex 1 – Terms of reference and the inquiry process

## Terms of reference

### Strand I: Constitutional matters

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The first strand looked specifically at inter-institutional relations as they relate to constitutional matters. To review how inter-institutional relations have influenced development of Welsh devolution since 1998. This included looking at:

- How inter-governmental mechanisms have impacted on the development of the devolution settlement.
- How inter-governmental relations have developed and evolved, what worked well and the impact these relations have had on the devolution settlement.
- How inter-parliamentary relations have evolved, the current state of these relations and how they could be further developed in relation to the development and scrutiny of constitutional legislation.

### Strand II: Policy matters

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The second strand considered how inter-institutional relations impact on policy development, and how the effectiveness of these relationships and mechanisms impact in relation to policy. By building on the work previously undertaken across the UK to explore within the Welsh context this strand focussed on:

- The nature of relationships between the Welsh and UK Government, how these relationships function and how they can be improved.
- Improving opportunities for improved policy learning between Governments and Parliaments.
- Best practice in inter-institutional relations from across the UK which could be imported into the Welsh context.
- The nature of the relationship between the Welsh and UK legislatures and to identify opportunities for effective inter-parliamentary working.

- Any other matters that relate to inter-institutional relationships, including relevant implications of the UK leaving the European Union (EU).

## The inquiry process

In October 2016, we agreed to undertake an inquiry into inter-government and inter-parliamentary working.

We engaged two experts in the field, Professor Michael Keating, from the University of Aberdeen and Dr Bettina Petersohn from Swansea University to support us in developing the terms of reference.

From the outset we were clear that the objectives for the inquiry were:

- To produce best practice principles for inter-institutional working for constitutional legislation.
- To reflect and build on the work of other legislatures on inter-institutional working as it relates to broader policy areas.
- To seek, establish and promote opportunities for inter-parliamentary working, including promotion of citizen engagement.

We issued a call for written evidence on 15 December 2016. A list of those who responded to the consultation exercise is available at Annex 2. Further details of the consultation and responses can be found on our Committee page within the National Assembly webpages.

We held 13 oral evidence sessions over the course of the inquiry. Details are available at Annex 3.

In February 2017, we hosted the first Citizen Panel. The purpose of this reference group was to test early in the inquiry process participants' perceptions and expectations of inter-institutional working and relationships, and discover their thoughts on learning from other institutions. We held a second session with the panel on 11 December 2017.

In June 2017, we held a roundtable session with stakeholders from a cross section of organisations representative from a number of devolved policy areas to consider how the UK is working together internally and are public bodies having to consider the wider UK context in light of the UK withdrawing from the EU.

Following the evidence gathering process, we shared our initial findings with an expert panel:

- Professor Richard Rawlings, on research leave from University College London;
- Dr Betina Petersohn, Swansea University; and
- Professor Laura McAllister, Cardiff University

The panel considered our draft recommendations and reflected on the evidence received using their expert knowledge and experience in the field. Their invaluable insight has informed the preparation of the final version of the Committee's report.

We are very grateful to all those who have contributed to our work.

## Annex 2 – List of written evidence

The following people and organisations provided written evidence to the Committee. All written evidence and related correspondence can be viewed in full on the Committee’s webpage.

Organisation	Reference
Anonymous	IGP001
Health, Social Care and Sport Committee	IGP002
External Affairs and Additional Legislation Committee	IGP003
The Country Land and Business Association	IGP004
Universities Wales	IGP005
Children, Young People and Education Committee	IGP006
The Open University in Wales	IGP007
Elfyn Llwyd (Submitted in Welsh only)	IGP008
The Legal and Constitutional Affairs Committee, The Senate, Australia	IGP009
Professor Paul Cairney	IGP010
Professor Thomas Glyn Watkin	IGP011

## Annex 3 – List of oral evidence sessions

The following witnesses provided oral evidence to the Committee on the dates noted below. Transcripts of all oral evidence sessions can be found on the Committee's webpage.

Date	Witness
6 February 2017	The Rt Hon Lord Murphy of Torfaen, Secretary of State for Wales, July 1999-October 2002 and January 2008-June 2009
6 March 2017	Sir Paul Silk, Clerk of the National Assembly for Wales, March 2001-January 2007; Chair of the Silk Commission on Devolution, 2011-2014
13 March 2017	Baroness Randerson, Welsh Minister for Culture Welsh Language and Sport, 2000-2003; Acting Deputy First Minister 2001-2002; Parliamentary Under-secretary, Wales Office, September 2012-May 2015  The Rt Hon Elwyn Llwyd, MP for Dwyfor Meirionnydd, 1992-2015; Leader of the Plaid Cymru Parliamentary Group, June 2010-March 2015
20 March 2017	The Rt Hon Carwyn Jones AM, First Minister of Wales  Desmond Clifford, Welsh Government  Hugh Rawlings, Welsh Government
27 March 2017	Ieuan Wyn Jones, Deputy First Minister for Wales, July 2007-May 2011
8 May 2017	The Rt Hon Lord Hain, Secretary of State for Wales, October 2002-January 2008 and June 2009-May 2010  The Rt Hon Rhodri Morgan, First Minister of Wales, February 2000-December 2009
15 May 2017	Sir Derek Jones, Permanent Secretary, Welsh Government, 2012-2017
22 May 2017	Professor Paul Cairney, Professor of Politics and Public Policy, University of Stirling

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<b>19 June 2017</b>	Stakeholder session Ben Arnold, Universities Wales Ben Cottam, Federation of Small Businesses Dr Nick Fenwick, Farmers Union of Wales Stephen Hinchley, RSPB Nesta Lloyd-Jones, Welsh NHS Confederation Jon Rae, Welsh Local Government Association Huw Thomas, National Farmers Union of Wales Sharon Thompson, RSPB Cymru Wales
<b>3 July 2017</b>	Elin Jones AM, Llywydd Adrian Crompton, Assembly Commission
<b>25 September 2017</b>	The Rt Hon Alun Cairns MP, Secretary of State for Wales Geth Williams, Wales Office Michael Dynan-Oakley, Wales Office Sophie Traherne, Special Adviser Philip Rycroft CB, Permanent Secretary, Department for Exiting the European Union and Second Permanent Secretary, Head of UK Governance Group in the Cabinet Office Geth Williams, Wales Office

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