

**PARLIAMENTARY BUREAU**

**CONSTITUTION, EUROPE, EXTERNAL AFFAIRS AND CULTURE COMMITTEE:  
REQUEST TO APPOINT ADVISERS**

**Background**

1. In Session 5, constitutional developments arising from Brexit formed a major part of both the Culture, Tourism and External Affairs Committee (CTEAC) and the Finance and Constitution Committee's (FCC) workload and this is expected to remain the case for the Constitution, Europe, External Affairs and Culture Committee (CEEACC). The previous Committees appointed a number of independent Advisers who played a key role over the session in supporting effective scrutiny.
2. The FCC appointed a number of standing Advisers in Session 5 including on constitutional law, inter-governmental relations and the UK internal market. In its report<sup>1</sup>, the Legacy Expert Panel commissioned by the Session 5 Finance and Constitution Committee recommended that its successor committee "continues to adopt this approach to increasing its capacity."
3. The CTEAC adopted a range of measures in order to enhance the capacity of the Committee. This involved the appointment of Committee Advisers, establishing an external expert panel to provide advice to the Committee and the commissioning of external research. It recommended in its legacy paper that its successor Committee will need to monitor EU policy and legislative developments in order to assess the extent to which a future Scottish Government is remaining aligned with EU law and the implications of the policy approach being taken. The legacy paper also anticipated that scrutinising the new EU-UK relationship in the next session of Parliament will also be a significant challenge and therefore strongly recommended the use of these methods in order to build capacity and obtain expert advice in Session Six.

**Appointment of Advisers**

4. At its meeting on 2 September 2021 the CEEACC considered its initial work programme and agreed that it wished to appoint up to four Advisers to support its work in relation to constitutional issues arising from the impact of the UK leaving the EU on devolution.
5. It is proposed that the Advisers be appointed at a standard day rate, initially for two years, until the end of June 2023, with the option of renewal subject to the agreement of the Committee and Bureau.
6. The Committee agreed the specification set out below.

---

<sup>1</sup> [https://archive2021.parliament.scot/S5\\_Finance/General%20Documents/Legacy\\_Finaldoc\(1\).pdf](https://archive2021.parliament.scot/S5_Finance/General%20Documents/Legacy_Finaldoc(1).pdf)

## **Adviser Specification**

### *Adviser duties*

7. The role of the Advisers will be to provide expert, technical advice to support the CEEAC Committee in delivering its work programme. The key elements of the Adviser's role will relate to scrutiny of constitutional issues arising from the UK leaving the EU. In particular, providing advice on taking forward relevant recommendations in the legacy papers of the previous Europe and Constitution Committees. This includes in relation to the following –

- The impact of the UK leaving the EU on devolution including the impact of the UK internal market Act (UKIMA) on devolved competences;
- The governance of the UK internal market including common frameworks;
- The impact of the EU-UK Trade and Cooperation Agreement (TCA) and other international agreements on Scottish devolution;
- Inter-governmental relations within the UK;
- The impact of the Protocol on Ireland/Northern Ireland on Scottish devolution;
- Levels of continuing alignment with EU law within Scotland and/or the UK;
- Constitutional issues related to the governance of the UK shared prosperity fund.

### *Main Duties*

8. The main areas on which the Adviser will be expected to provide support are as follows—

- Proposals/legislation relating to the governance of the UK internal market including common frameworks;
- Any other relevant primary and secondary legislation relating to the constitutional arrangements within the UK;
- The role of the Office of the Internal Market (OIM);
- The governance of the TCA and other international agreements;
- High level monitoring of the EU policy-making and legislative programme including the level of policy divergence between Scotland and the EU, Scotland and the UK and the UK and the EU;
- The Scottish Government's use of the keeping pace powers within the European Union (Legal Continuity) (Scotland) Bill and other legislative powers to "keep pace";
- Inter-governmental relations;
- Inter-parliamentary relations both within the UK and with the European Parliament.

9. Candidates for the Adviser role are not expected to have expertise in all of the above areas. However, they are expected to have expertise in at least one of the following areas:
- EU law;
  - UK constitutional law;
  - The TCA including the Ireland/Northern Ireland protocol;
  - Inter-governmental and inter-parliamentary relations;
  - The impact of the UK leaving the EU on devolution.
10. The main duties of the Adviser(s) are to provide expert analysis of the issues outlined above both through written and oral briefings. In doing so, the Adviser will work closely with the clerks and the Scottish Parliament Information Centre (SPICe) and any other relevant Advisers appointed by the Committee.
11. An Adviser may also be appointed for a specific inquiry and/or specific area of work which the Committee has agreed to prioritise.

#### *Person Specification*

- **Skills/Abilities** – The Adviser must have proven analytical skills, particularly in relation to constitutional issues arising from the UK leaving the EU. Excellent communication skills, both oral and written, and an ability to distil technical or complex issues are essential.
- **Experience** – The Adviser will have considerable experience of matters relating to constitutional issues with regard to devolution as outlined above. Experience of working with politicians and committees would be a distinct advantage.
- **Knowledge** – As well as knowledge of the work, powers and procedures of the Scottish Parliament, the Adviser will be able to demonstrate a good understanding of the role and remit of the CEEAC Committee

#### **Work plan**

12. The role and workload of the Adviser is anticipated to be an average of up to four days per month.

#### **Decision**

13. The Bureau is invited to approve the appointment of four Advisers to assist the CEEAC Committee to support its work in relation to constitutional issues arising from the impact of the UK leaving the EU on devolution.

#### **James Johnston**

Clerk to the Committee  
Room T3.40

[James.Johnston@parliament.scot](mailto:James.Johnston@parliament.scot)