



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Constitution, Europe, External Affairs and Culture Committee

**Thursday 9 June 2022**

**Session 6**



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Pàrlamaid na h-Alba

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**CONSTITUTION, EUROPE, EXTERNAL AFFAIRS AND CULTURE COMMITTEE**  
**15<sup>th</sup> Meeting 2022, Session 6**

**CONVENER**

\*Clare Adamson (Motherwell and Wishaw) (SNP)

**DEPUTY CONVENER**

\*Donald Cameron (Highlands and Islands) (Con)

**COMMITTEE MEMBERS**

\*Alasdair Allan (Na h-Eileanan an Iar) (SNP)

\*Sarah Boyack (Lothian) (Lab)

\*Maurice Golden (North East Scotland) (Con)

Jenni Minto (Argyll and Bute) (SNP)

\*Mark Ruskell (Mid Scotland and Fife) (Green)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Dr Paul Anderson (Liverpool John Moores University)

Dr Coree Brown Swan (Queen's University Belfast)

Kate Forbes (Cabinet Secretary for Finance and the Economy)

Stuart McMillan (Greenock and Inverclyde) (SNP) (Committee Substitute)

Angus Robertson (Cabinet Secretary for the Constitution, External Affairs and Culture)

Jess Sargeant (Institute for Government)

**CLERK TO THE COMMITTEE**

James Johnston

**LOCATION**

The Robert Burns Room (CR1)



## Scottish Parliament

### Constitution, Europe, External Affairs and Culture Committee

Thursday 9 June 2022

*[The Convener opened the meeting at 09:01]*

### Decision on Taking Business in Private

**The Convener (Clare Adamson):** Good morning, and a warm welcome to the 15th meeting in 2022 of the Constitution, Europe, External Affairs and Culture Committee. Stuart McMillan will join us slightly late, at 9.30, as a substitute for Jenni Minto, and Dr Allan has indicated that he has to leave early, at 11 am.

Our first agenda item is a decision on taking business in private. Are members content to take item 4 in private?

**Members indicated agreement.**

## Scottish Government Resource Spending Review

09:02

**The Convener:** Item 2 is the Scottish Government resource spending review. I welcome to the committee Kate Forbes, Cabinet Secretary for Finance and the Economy, and Angus Robertson, Cabinet Secretary for the Constitution, External Affairs and Culture. I also welcome from the Scottish Government Kirsty Whyte, team leader on the resource spending review, and Penelope Cooper, director of culture and major events. I thank them all for coming to the committee.

I will open with a question for Ms Forbes. Our submission on the spending review highlighted the need to reappraise the contribution of cultural activities to wider societal benefits, including health and wellbeing. The committee agreed with the evidence from the Convention of Scottish Local Authorities, which stated the need for a whole-system approach. To what extent have you factored culture into the review as part of a whole-system approach?

**The Cabinet Secretary for Finance and the Economy (Kate Forbes):** It is great to be able to join the committee. For me, that question goes to the heart of one of the opportunities in the resource spending review.

We have talked at length over the past few years—certainly since the Christie report was published—about the importance of preventative spend. However, preventative spend requires reform. In essence, it requires us to be able to move budget lines over the longer term knowing that, if we invest up front in certain areas—such as culture, the environment and a few other examples—we ultimately relieve pressure at the more acute end. Over an annual budget process, that can be challenging to do. A resource spending review allows us to consider a three or four-year timeframe and try to shift that.

I emphasise that the resource spending review is the beginning of the process. It is not the final budget for subsequent years, but it sets out spending parameters for us. I am sure that we will get into the discussion about some of the challenges that we face right now in the spending review, particularly in the culture budget lines. However, the review allows us multiyear reform. The fact that we have worked extremely hard to protect the culture lines—albeit in cash terms rather than real terms, because there is no way round the fact that inflation is eating our spending power—demonstrates that we are serious about trying to shift the balance.

**The Convener:** On the back of Ms Forbes's answer, I will ask Mr Robertson a question about the cost of living crisis and what is happening with inflation. I am interested in the national performance framework data on participation in cultural activity, particularly the lower participation of people from more deprived areas. Do you have any view on how we could increase participation, given the challenges ahead?

**The Cabinet Secretary for the Constitution, External Affairs and Culture (Angus Robertson):** That is an apposite question, because it is a consideration for not only the Scottish Government but National Museums Scotland and the National Galleries of Scotland, whose trustees I met yesterday. That is one of the matters that we talked about, and the trustees made observations about the changes that they have seen over the past 25 years. There has been a change towards a much broader representation of people attending the national museum of Scotland and other museums. However, there is still a gap to be bridged.

I echo what my cabinet secretary colleague said. Embarking on the resource spending review approach will encourage all of us to ensure that we think about those things. One of the potential ways to deal with times of constraint is to increase the number of people of all backgrounds who attend and use our cultural institutions. How do we ensure that there is more school participation in museums, galleries and other cultural institutions, which could help to increase the attendance numbers of children from deprived backgrounds, for example?

Those considerations are very much on our minds in the Scottish Government and on the minds of the institutions, which see it as part of the task in the years to come. We will work collegiately to try to work out how we can help and how they will be able to manage to do it themselves.

**Donald Cameron (Highlands and Islands) (Con):** I have a general question for Angus Robertson first. The Scottish Parliament information centre briefing with which we have been provided shows that there will be an estimated real-terms fall of 7.8 per cent in your budget between 2022-23 and 2026-27. Within that, the funding for culture and major events will fall in real terms by an estimated 4.7 per cent. You will know well how scarred the culture sector, in particular, has been by the pandemic. The committee has done a lot of work on funding in the sector. There is a major concern, particularly in the more organic, informal parts of the sector, about funding. I would like to get your response to that predicted cut in funding.

**Angus Robertson:** Getting through the Covid period has been an immense challenge not only

for that part of the cultural world but across the whole cultural world. It was, I think, the second-worst impacted part of the Scottish economy. For people working in the cultural and arts community, it was an extremely testing time and I am proud of the level of resource that the Scottish Government made available to individuals and cultural organisations to ensure that they could get through it.

Now, we are faced with the resources within which we will have to live in the years to come and we will have to work very closely with all parts of the cultural community to ensure that we are able to protect and foster it as best we can, given those constraints. Whether one is in a smaller, organic, community-based cultural organisation or involved in a very large project that requires a lot of funding, everybody will be looking at the bottom line and will try to work out how they can manage, given the resource constraints that exist. We will all have to be innovative within the means that are at our disposal to ensure that we are able to deliver the level of cultural provision that we all want to see.

**Donald Cameron:** Historic Environment Scotland has a 2022-23 figure of £61 million, which is decreasing to £48 million in 2026-27. Why is that line in the review?

**Angus Robertson:** I underline the distinction that my cabinet secretary colleague made between a resource spending review and a budget—they are not the same thing. That is point 1. Point 2 is that Historic Environment Scotland is an organisation that is significantly better funded in global terms than other parts of the portfolio, and it is fair to say that everybody has to play their part in making sure that we are able to live within our means.

I am the first to acknowledge that HES is an organisation that has particular responsibilities. The specific nature of the estate that HES has to look after is an area of significant challenge.

Point 1 is that this is a spending review and not a budget. Point 2 is that this is the beginning of a process of working with all organisations, including HES, to work out how we can manage through the next years. We need to be imaginative about whether there is the potential for additional and parallel funding streams—I am extremely keen to explore that area—so that, we hope, not everybody will have to deal with the constraints that the resource spending review points to, as an envelope. I am highlighting the point that it is not a budget projection.

**Donald Cameron:** Is one of the reasons that the HES figure is decreasing to do with increased visitor numbers? Is the Government grant, as it

were, decreasing in the hope that visitor numbers will go up?

**Angus Robertson:** Yes, that is certainly part of the consideration. Committee members will realise that all our institutions that have a high throughput—a high number of visitors—have in recent years seen that income fall off a cliff. I do not have the HES numbers at the forefront of my mind, but I can share an example that I can remember. Yesterday, I was at the national museum of Scotland. Before Covid, its annual visitor numbers were 3 million, and in the past year, it managed to recover that figure to 1.5 million.

That is an illustration of the fact that there is still a way to go, but there is a huge opportunity if we—I say “we” in the royal sense, meaning the institutions, Government and everybody else that is involved in the culture and arts sector—can give people confidence to go back to museums, galleries and events. We should do what the convener highlighted, which is to make the most of the untapped and thus far not-included parts of the population who have not been able to make best use of things. Doing that will have an impact. I hope that for those whom the sector is an income stream, doing that will put them in a better financial position than they would have otherwise been.

**Sarah Boyack (Lothian) (Lab):** I will follow on from Donald Cameron’s question. I take your point about the hope that visitor numbers go up as we recover from the pandemic, but I am concerned by the properties that Historic Environment Scotland manages that are not reopening. The discussion paper asks what will happen to those properties. Should we let them face managed decline because of climate change? They are part of our history and culture. You say that we should not worry because it is only a spending review and not a budget. Is that a suggestion that capital investment might flow to Historic Environment Scotland so that it could repair and keep those buildings fit for purpose?

**Angus Robertson:** I am not saying that there is no reason to worry. I care passionately about our heritage—as do all the members of the committee, I suspect. Our built heritage, much of which is very old, is facing environmental degradation. That leads to instability and dangers, which lead to the requirement to maintain and support castles and other old buildings and all the rest of Scotland’s built heritage. That was going to be a challenge with or without a resource spending review, and would have been a challenge if we were sitting here discussing the budget line, which we are not.

09:15

I acknowledge that there is a major challenge for Historic Environment Scotland in general, because of the nature of the estate and the nature of the decline in the built infrastructure, so we will have to work very closely together to work out how we can maximise the resources that HES has, from us and from elsewhere, to make sure that we can protect our historic sites around the country. To stress a point that Kate Forbes and I have made already, I say that those issues are at the heart of discussions with cultural organisations, trade unions, trustees and so on. Those conversations are happening because of information that we now have from the resource spending review.

It behoves all of us to be as imaginative as possible in working out what we can do to protect the built heritage in Scotland, with the resources that we have in constrained circumstances. I am the first to acknowledge that it will not be a simple task; it will not be easy not just in a financial sense, but in relation to all other considerations, given the size of the estate for which HES is responsible. We could probably spend the whole evidence session just on HES and the nature of the challenge that it is facing. It is absolutely at the top of my inbox and is an area in which we in the Government need to work with our agencies and arm’s-length external organisations to ensure that they can do what they are supposed to do.

**Sarah Boyack:** Thanks for that. This is about the buildings and land, as well as the staff, so thinking about those budget lines is critical.

It has been said that this is about the whole Government responding. When we had the Cabinet Secretary for Health and Social Care at committee, there was a lot of talk about social prescribing, as the convener has said. One thing that has come out in relation to the resource framework is local expenditure on culture. Evidence from Audit Scotland said that, if we look at the local government benchmarking framework data, we see that culture and leisure services have taken the biggest cut—almost 30 per cent—over the past decade. In the local government budget, how will we fill that gap? There is a need for social prescribing, including using local community arts facilities. Who will pay for that, given the huge pressures on local authorities? Can the finance secretary comment?

**Kate Forbes:** That is an excellent question. Again, I will not sit here and say that the outlook is anything but challenging. I have been open and honest that there is a challenging outlook across the board. The only way to achieve our objectives on social prescribing, on preventative spend, on protecting culture and so on, is to ensure that we are not working at cross purposes in the public

sector landscape. We need to be as good as possible at joined-up thinking.

You will know that the local government budget lines that we have published are at level 2, which means that you do not see all the transfers that go from the Scottish Government to local government. Some of those are very substantial, including those for education and social care. However, a host of other lines across portfolios are transferred, which I know sometimes frustrates the Convention of Scottish Local Authorities. We are working with COSLA to look at how we can remove ring fencing from more of those lines. The challenge then will be that certain funding will not necessarily deliver the aims that we intend. There is a fine line between the Scottish Government determining funding for purposes including culture, leisure and so on, and giving maximum freedom and flexibility to local government.

Angus Robertson can speak more about how things join up from a policy perspective; my job is to ensure that thinking is joined up from a financial perspective. There is more that we need to do; the resource spending review provides us with a framework for doing that, because it does two things. First, it boils things down to our core objectives and asks us to ensure that we are actually achieving the objectives, and it asks the wider public sector to get better and more flexible at working together to achieve aims. That applies across public culture bodies, but it also applies across Scottish Government and local government. We must ask where we can be more joined up, rather than working at cross purposes.

**Angus Robertson:** There is the view through the other end of the telescope, which is of cultural organisations and institutions coming forward and saying that they have something to offer in this space. That can and, I hope, will come out of the exercise. We are having to rethink how we can deliver priorities across Government, which will be done by working in partnership with organisations. Sarah Boyack is absolutely right to highlight how important local government is in that, but it is also about what cultural organisations do.

I go back to my example of the meeting at National Museums Scotland yesterday and asking its trustees what they are thinking about. Our museums—they are not all in Edinburgh; they are in various parts of the country—lend themselves very well to providing services that social prescribing can offer. There are other institutions across Scotland that can do it, as well. That means that institutions will have to think about how they can make services accessible and understandable to practitioners who would prescribe them. Committee members will remember my evidence session with Humza Yousaf, at which we began to explore what we will

need to do next to ensure that people who are likely to want to use social prescribing know what facilities are available to them.

That is why we have exercises such as the review. It is not an unforeseen consequence—it is actually at the heart of the matter and makes everybody ask where we need to be more innovative. It is not necessarily about cash or constraints; it is about asking what we can do differently to ensure that we use the resources of our museums, galleries and so on to fulfil that purpose.

**Sarah Boyack:** I appreciate that. Are we at the point at which we need a strategy to pull things together so that people know what will happen next and the process is accelerated, given the points that the finance secretary made about the Christie principles? The evidence that we got from University College London included mention of the importance of access to the arts for children and people who have mental health issues, and use of the arts to reduce physical decline in older people.

**Angus Robertson:** We are working together on the matter. I am happy to give Sarah Boyack comfort on that; officials in the culture directorate and others are discussing how to take all this forward.

I took the opportunity to highlight something that should not be lost in all this: there are actors other than the Government, so we need to make sure that we involve all of them, and we need to do that at pace.

**Kate Forbes:** This goes back to the first question on preventative spend. Whenever I set out a budget or a spending review, all the focus is on lines that decrease. However, if we are serious about preventative spend—for example, in relation to what Sarah Boyack touched on and ensuring that we are investing up front with a view to reducing pressure on acute care—it is inevitable that some lines will go down if other lines are going up.

That shift requires much more mature debate among politicians. As I have said in the Rural Affairs, Islands and Natural Environment Committee, members know what the debate would be like if I were to shift budget from, let us say, acute care to investing in parks, our environment or our culture.

This is as much about Government being scrutinised about getting it right as it is about having a more intelligent general debate about the issues that Sarah Boyack has touched on. That is the only way that we will get through the next few years, which will be challenging.



**Sarah Boyack:** I look forward to seeing the strategy and I hope that it is produced soon, and not far into the future.

**The Convener:** Ms Forbes mentioned that the shift is about a step change in attitudes. Although we have all accepted that the Christie principles are the right way forward, progress has been really slow. The spending review figures are at level 2 because of inflationary pressures, so it would not be tenable to go further at this stage. The review is also outcomes focused. How will you measure the outcomes on preventative spend, wellbeing and the Christie principles?

**Kate Forbes:** The review is intentionally outcomes focused. We have prioritised certain areas. You have heard me say what they are, but I will repeat them. They are tackling child poverty, transitioning to net zero, resilient public services and economic recovery. Three of those were included in the budget. We added resilient public services to the spending review because when we boil down priorities we see that there are areas in our public landscape that might not obviously lend themselves to being in the other three priorities, but we fund them because they are important.

We already have metrics in place to measure outcomes. The resource spending review is not independent of, for example, the tackling child poverty plan, which sets out clearly what we measure. That runs through the spending review. For example, the employability line in my economy and finance portfolio is going up because it is funding commitments that we have made in the tackling child poverty plan. We know what our metrics are for transitioning to net zero and we have set out measures for economic recovery in the Covid recovery plan.

That is how we measure outcomes. The spending review is about trying to align inputs with the outcomes that we have set out. Normally, in a budget, we start with the inputs—we start with the money that is available and we try to squeeze as many commitments as possible into that funding. In the review, we work backwards from our commitments and priorities.

That requires a lot of innovation. The culture sector has led the way in demonstrating effective innovation: think about commitments and objectives that I have set out on innovation and maximising value to the public from our assets, and think about efficiency. The culture sector can teach the rest of the public sector a lot about how to do that well.

**Alasdair Allan (Na h-Eileanan an Iar) (SNP):** I have a supplementary question about innovation. When Mr Yousaf was before the committee, we talked about how to ensure that there is buy-in to social prescribing and spending to save, not just in

Government—which there clearly is—but in agencies that deliver healthcare, not least the health boards. What work is being done to ensure that there is, in health boards, the cultural change that would facilitate that?

**Angus Robertson:** Forgive me: I should probably have mentioned health boards in my reply to Sarah Boyack about the partners that are part of the process. I go back to my telescope metaphor. Regardless of which way you look through the telescope, you are going to work back from the individual, to who thinks that an individual needs intervention or support in a form that has not conventionally been prescribed. That will involve a number of organisations—national Government, local government, health boards, the culture sector and individual general practices. There are probably other links in the chain that I have not mentioned. Everybody will need to play a part. Sarah Boyack's point on strategy was well made. For me, it is important to have confidence that all the links in the chain will play their part.

We can have as many strategies as we like, but social prescribing is relatively new, in terms of adoption of successful models that have made it happen. We are trying to introduce it as quickly as possible. However, making it work will involve a lot of organisations, institutions and—at the end of the day—individuals.

In the evidence session with Humza Yousaf, we talked about GPs in the Western Isles, for example, taking out their little contact books to tell patients the organisations that are available that they could make use of in social prescribing. We have to make sure that social prescribing is available everywhere and not just in some places. I acknowledge that a lot of links are needed in the chain to make it work and that there is a broad geographical spread. We need to make sure that it is available to all, because healthcare should be there for everybody, everywhere, at the point of need.

The point is well made that this is something that we need to get on with. However, there is also awareness that if it were simple it would have been done already. A mixture of pull and push will be required to make sure that it happens. To go back to the conversations that I was having yesterday, I note that people are very aware of that and are turning their attention to how they can play their part.

**Mark Ruskell (Mid Scotland and Fife) (Green):** Those have been interesting responses from you both on the prevention question. It is difficult to see, though, within the RSR, exactly how that preventative approach is being driven through. You talk about culture and about changing how public services are working, but it is

hard to see a budget line shifting within health towards culture or wellbeing or whatever.

Is part of the issue about the timescale that the budgets are addressing? It is hard to show the impact of preventative spend within one year; it is probably very hard to show it within three to four years as well. Is there something about needing to take a longer-term look at this, as we have with wider strategies? How do we then frame that within the short-term budgets that we always have to look at, including the RSR?

**Kate Forbes:** It felt challenging enough setting out a four-year spending review at a time like this, so setting out anything longer would be really difficult. However, the four-year period has allowed us not only to set out spending parameters but to have some very important conversations internally. As you can imagine, the process for getting to this publication is not simple.

We took a very different approach to the spending review than the approach that we normally take to budgets. A budget process, internally, is normally a case of telling people what their allocations are—based, presumably, on last year's allocation plus an inflationary uplift—and asking them how much they can achieve for that budget. With this, we said that before we get to the numbers, let us look at outcomes, at the need for reform, and at the post-Covid, post-Brexit landscape in relation to what we want to achieve. We started with those cross-ministerial discussions about outcomes and then built the budget around that.

There is a limit to that, because you still have to maintain public services. That is why I worked extremely hard to try to protect budget lines—in cash terms, I accept—across the board, but you will also see a particular focus on the core objectives. That is about starting the process. I hope that subsequent budgets will reflect that priority. I hope that future settlements—in other words, in advance of next year's budget—move in a more positive direction than we think. One would hope so, because we must remember that this spending review is based on the United Kingdom Government's spending review of autumn last year, when inflation was 3.1 per cent. It is now 9 per cent and, based on Bank of England forecasts, it is going up to 11 per cent.

I assume that the UK Government will have to take inflation into account, so there might be an uplift, although that uplift might not translate into spending power, because it would accommodate just the inflationary uplift. However, in that event, we will continue to invest along the lines of our objectives.

As you have heard more times than you can count, my appeal is that, when we get to that

point, we have the sort of intelligent debate in the Parliament that nearly always happens in committees. Let us accept that, if we are serious about preventative spend, that will mean budget lines moving. You might see acute services releasing some funding to elsewhere, because we know that, ultimately, that reduces the pressure on the acute line.

**Angus Robertson:** I am not sure that I have much to add to that. The logic is sound, but making it work in practice is the challenge and we will have to be mindful of that. This will be the subject of the committee's deliberations, as part of which the cabinet secretary and I will come back on a regular basis to look at whether the switch is beginning to happen. If we can see some bite or progress being made on those things, that will give the committee the confidence to say at what point a particular strategy or approach, which is certainly being pursued, is working. When will we begin to see that happen? That depends on how quickly we get up and running with doing some of those things.

Another observation that does not necessarily make things easier is that some things might take longer to change than some other things do. I do not know which those might be and how long they might take, but that echoes the point that Kate Forbes was making about having a mature debate about some of those things. If we are agreed in general terms that this is the best way to go forward—and I think that there is large-scale consensus that it probably is—we have to find our feet by working our way through the process. I know that I am committed to making it happen.

As I have said to the committee before, I am very interested in any ideas or pointers that you and other colleagues on the committee have about how we ensure that the Government thinks about how it can make some things work faster and some things work in different ways. Are any areas being missed as part of the process? It is one of the models of how the Scottish Parliament is supposed to be working. In that sense, we are a collegiate whole, which is trying to make sure that we are able to deliver, particularly on big cultural changes in how we do our business.

**Mark Ruskell:** For example, do you see a role for a future generations commissioner to take that very long-term view about wellbeing and investment, whether that is in culture or wider wellbeing?

**Angus Robertson:** I would not rule anything like that out. We need to be open to suggestions of how we make sure that we understand things as well as we can and that we are doing everything that we can. I would need to know more about the proposal but, as I said a moment ago, I am open to suggestions about ways in

which we can ensure that we are leading the change that we know is necessary.

**Mark Ruskell:** I have a couple of specific questions. One is about national cultural events. We are all looking forward to the world cycling championships coming to Scotland next year. Looking at the marketing for that, it is noticeable that there does not seem to be a contribution from the UK Government to an event that will still largely be seen as a GB sporting event. Can you give us some background on why that is the case? Has that been a conscious decision?

**Angus Robertson:** You have raised a question before about the Scottish Government playing a significant role in funding that from a public sector point of view. I would need to write to Mr Ruskell about where we are with UK Government funding in relation to that.

I would say, in general terms, that a great deal of work is going into the world cycling championships. The committee will be aware of this, but people watching the proceedings might not be: the event is the first example of a world cycling championship bringing together all the different cycling disciplines—I think that there are 13; please do not ask me to name them all—and it will take place at venues throughout Scotland. It is unprecedented in scale—I think that I am right in saying that it is of the order of the Commonwealth games. It is a huge event. A major part of the considerations around it involve how it is organised and how it is funded in these constrained times. However, an awful lot of thought is also going into what the societal benefits of such an event should be and what the event will do to make more of us use our bikes and change our attitudes to health and wellbeing. There are cash questions—absolutely—and I will write to you with the latest statistics on them. However—and this goes to the heart of the points that we have been making—there are health and wellbeing considerations that cannot be enumerated in cash terms.

**Mark Ruskell:** The Scottish Government and local government are constrained in the tools that they have to raise revenue. One tool that could be available to national parks and local authorities would be a visitor levy. I am interested to know what your thinking is on that and how such a levy could be used to invest in cultural assets and visitor experiences. I imagine that, for example, the hundreds of thousands of people who visit Skye each year would probably not baulk at paying a couple of pounds each to support car parks at the fairy pools, better toilet facilities or investment in cultural heritage on the island. What is the Government's thinking on that? In these straitened times, how do we get visitors who are

enjoying Scotland to make that contribution to our communities in a way that can help them to thrive?

**Kate Forbes:** I can give you an update on the visitor levy, and Angus Robertson might want to add something on the culture side.

Skye is an excellent example of the point that Sarah Boyack was making about bringing together community, local government and Scottish Government. With a little bit of investment in infrastructure and a requirement to raise revenue from parking facilities and so on, the infrastructure has massively improved, as has the visitor experience and the experience of locals, and there is now a revenue stream for the local community that it can invest in things such as, for example, the community bus that it has bought. That kind of thing is not necessarily covered in the resource spending review, but it is the smaller pots of money that can absolutely unlock community empowerment.

We are committed to introducing a visitor levy, and I set that out in the letter to local authorities about the budget that has just passed. We said that there were two caveats: we need to consult with industry; and we are conscious of the impact on the post-pandemic situation of the tourism industry. The visitor levy has to be a feature of the fiscal framework review that we take forward with local government. We have stated that the levy would be local. Local authorities, communities and businesses could use it to release a bit of funding for greater investment that would improve the experiences.

The bottom line is that we are still committed to introducing the levy along the lines that we have talked about, taking into account those two caveats.

**Angus Robertson:** If I, as the MSP for Edinburgh Central, can join the MSP for Skye in talking about Skye, I will say that I am strongly in favour of the visitor levy. Such levies are the norm in parts of the world that have significant tourist numbers. As people who travel, we are used to that, and I am perfectly content to make a financial contribution to the places that I visit to ensure that the visitor experience is everything that it can be and that the quality of life and the public services of the people who live in that place are as well supported as possible.

Obviously, this issue gets to the heart of the debate about empowering localities to make appropriate decisions for their locality and the extent to which there is national guidance around what are the good things to be thinking about in that regard. No doubt, we will be talking about these issues at greater length at another time, but I think that the literally millions of people who visit places such as Edinburgh will have little to no

difficulty in paying the kind of levy that they would be paying in any other capital as part of their overnight costs. I think that that revenue stream could be transformational in many ways. However, getting maximum benefit from such a funding stream will involve local decision makers having innovative ideas and focusing on the right areas.

09:45

**Maurice Golden:** Kate Forbes talked about increased UK Government public expenditure. Does she accept that there is a tricky balancing act in that regard, because increased UK Government public expenditure will also fuel inflation, which means that although it would be a benefit in cash terms, it could be problematic in real terms?

**Kate Forbes:** Yes and no. There is a principle there, which I understand. However, on the other hand, right now we are eating into our own budget to a greater extent because the UK Government's spending plans have not been updated in light of inflation. I think that it is inevitable that inflation will have an impact on UK Government capital initiatives and it might even have an impact on things such as pay policy. There is no avoiding the fact that citizens are struggling with the cost of living and that inflation is having an impact on spending. My difficulty is that our most recent information on UK Government spending plans came last autumn. It would be really helpful if we could have updated spending plans on which I could build a spending review.

We already have a bit of a challenge with different forecasters. The most recent forecast from the Office for Budget Responsibility was in March, which was on the cusp of the war in Ukraine, and the Scottish Fiscal Commission's most recent forecast, which is what we base our figures on, came out last week. The point that I am getting at involves the different timescales that we are looking at. It is inevitable that the UK Government will have to update its spending plans but, at the moment, all that I have to go on is something that is about nine months old.

I understand and accept the principle that you have touched on, but the UK Government will be contending with the same inflationary impact that we are, and it would be enormously helpful to know how that has changed its spending plans, which it will inevitably have done.

**Maurice Golden:** I will perhaps open up the issues more widely. On the issue of the potential for increased visitor numbers to ameliorate some of the cuts to cultural organisations, has there been any assessment of whether that is a realistic proposition, given the impact of the cost of living

crisis on consumer spending, which, in this case, is not driving inflation?

**Kate Forbes:** That issue shows why we have the right priorities in the spending review. With regard to our response to the cost of living crisis and the requirement to tackle child poverty, we have, for example, funded a fairer social security system. We are proud of our commitment to increasing the Scottish child payment and we have increased the employability line in my economy and finance portfolio in order to help more people into work. All those things are designed to try to alleviate some of the cost of living pressures—we cannot alleviate all of them, because we do not have control over things such as energy. We know that, if we can raise people out of poverty or prevent them from falling into poverty—that is, essentially, what you are talking about in terms of the cost of living crisis—that will reduce pressure on public services. Further, as I discussed with the Finance and Public Administration Committee on Tuesday, we know that those people will be more likely to spend, too. There is a balance to be struck in relation to targeted funding and the people who are likely to spend as opposed to those who are likely to save.

I am trying to carefully articulate the point that if we target our spending at those who need it the most and who are more likely to spend it, that not only protects them from poverty or takes them out of poverty, which is the intention, it also reduces pressure on public services and has an economic boost, because consumers are spending.

**Angus Robertson:** I will add to that. Maurice Golden has thrown a pebble in the pond. When I talked before about the visitor numbers for the national museum of Scotland being at 1.5 million rather than 3 million, a light went on for me—I do not know whether it did for anyone else. Given that we have not seen the full return of international visitors, it seems that we are seeing that domestic visitors have more confidence. We may call it a staycation, or it may just be people not travelling very far to go to different cultural institutions.

That gives us hope that part of the small-c cultural change that there has been because of the Covid pandemic is that people are more open to exploring what is on their doorstep. Perhaps there is an opportunity in that for us all in realising that that phenomenon is happening, and that it brings societal advantages if absolutely everybody is able to make use of cultural institutions. I thank Maurice Golden for asking the question in the way that he did, because it has made me want to understand that situation a bit better. It should not just be a passing fad; there is a way of keeping that change while also attracting people to come back. We are all beginning to see more international visitors on our streets, and they are

very welcome. The question is what we can do to ensure that people who have previously not visited cultural organisations and institutions close to home are indeed doing that.

Incidentally, people were queuing outside the national museum of Scotland yesterday before it opened, which I thought was a tremendous straw in the wind. Walking past, I could hear that there were international visitors, but also a lot of families and people who were clearly from here or not far from here and wanted to wait in the rain on Chambers Street to go to the museum. That is a good sign. There is something in Mr Golden's question that is definitely worth better understanding.

**Maurice Golden:** Thanks for that. I have a specific question for Angus Robertson. As you will be aware, one of the initiatives that is facing a funding reduction is the culture and business fund Scotland, which faces a 33 per cent cut in funding for 2022-23. It makes funding, which is matched by business, available to cultural sector organisations, so that cut is a double whammy for the cultural sector. Could the cabinet secretary explain the rationale behind that funding cut?

**Angus Robertson:** My colleague Neil Gray has been dealing with that matter, and internal communication is circulating on that. It would probably make more sense for me to write to the committee, because I am sure that Mr Golden is not the only member of the committee to want to understand the background to all that.

However, I make the general point that, over the coming years, funding constraints will impact organisations that do good work. Would I wish it to be so? No; I would far rather that we did not have the constrained circumstances that we have. I underline this point as we come towards the end of the evidence session, because it is important: we as the Government have to live within our means, because this Government does not have the normal levers at its disposal that other Governments do, such as the ability to borrow. Would I wish for us to be able to maintain our spending commitments as had been envisaged in less constrained times? Absolutely. Will issues come along where people, quite rightly, want to know whether the appropriate decision is being made? Yes; that is a perfectly legitimate approach to take, but I acknowledge the fact that difficult decisions will have to be made.

One of the challenges, which are also opportunities, on which we will have to be as good as we can be in Government is, if there is a traditional funding line that has supported a good organisation—Maurice Golden has highlighted one—how we ensure that there are other, parallel funding streams that might be able to bridge the gap. I am not necessarily saying that that is the

case in the instance to which Maurice Golden referred, but we need to ensure that we get maximum value out of the resources that we have in order to maintain and support the organisations that are operating. However, I commit to writing back to the convener on the specific case so that Maurice Golden and colleagues can have better insight into it.

**The Convener:** That is reasonable. The spending review, which we are discussing, does not go into the detail of Mr Golden's question, so we look forward to getting that response.

**Maurice Golden:** We have focused rightly in this evidence session on how cultural organisations can continue to do what they are already doing. However, business as usual is clearly not acceptable when it comes to achieving net zero.

Despite the climate of a reduction in expenditure, there is also a requirement for our cultural organisations to invest in energy efficiency measures, which will be extremely challenging. Could the Scottish Government assist with assessment of that expenditure for cultural organisations directly or through its agencies? Is consideration being given to exemptions for certain buildings or organisations, although that would need to be squared off as a whole with meeting our wider net zero targets? What are your thoughts on that, cabinet secretary?

**Angus Robertson:** That relates to the questions on Historic Environment Scotland that Sarah Boyack asked. It is much easier to retrofit a relatively recent building to reduce its carbon emissions. It is more and more difficult to do that the older a building gets. There is a sliding scale of challenge in that.

On whether different allowances should be given for that reality, I would want to be better advised about how we are doing that in the first place. I observe that—I had this conversation yesterday—many organisations that have begun to go down the path of making the changes that we will all have to make have started with the lowest-hanging fruit. There is a general understanding that the closer we get to the more testing targets that we have, the more difficult will be the decisions that we have to make as we go along.

That fits in part with the appeal that Kate Forbes made for us to try to protect a space to have a mature debate about how we do that. If all we do is retreat into our ideological trenches and not allow ourselves to think in new ways in all directions, we will probably not be able to answer some of those really big questions.

I am not sure that I have to hand the answer for the question that Maurice Golden asked but I

acknowledge that some buildings, specifically older buildings, will be next to impossible to upgrade to the latest environmental standards whereas most that are being, or have recently been, built are at it. I am content to consider how one accounts for that difference.

**Donald Cameron:** I will turn to the vexed question of spending on the independence referendum. This is neither the correct time nor the correct forum to talk about the rights and wrongs of that and I do not expect that we will agree on it. However, as a matter of fact, do you think that a referendum will happen by the end of 2023?

**Kate Forbes:** That is the intention and it is certainly what we are working towards.

**Angus Robertson:** Yes. I am sorry to take issue with you, Mr Cameron, but I am not sure that it is a vexed question. We can differ honourably—as we do—on how we would vote in such a referendum but I hope that, as democrats, all of us believe in having democratic votes. When a Government is returned in an election on a platform for a vote to be held, as democrats, we should all agree that that is what should happen.

10:00

There is a cost associated with a referendum, and there are costs associated with Scottish Parliament elections and UK Parliament elections. Is somebody reasonably suggesting that having Scottish Parliament elections is a vexed question? I hope not. Is somebody reasonably suggesting that having UK Parliament elections is a vexed question? Of course they are not. Those are democratic votes and, as a democrat, I respect the results of the Scottish Parliament elections last year, in which a majority of the parliamentarians who were elected believed that there should be a vote. The people voted for that.

The Government has set out its timetable. I gently suggest to Mr Cameron that it would be helpful if his UK Government colleagues were not just as amenable but as respectful of democratic election outcomes in Scotland as the former Prime Minister David Cameron was. That would be helpful, because it is not a vexed question. The decision has been made. The electorate has asked for a referendum, and that is what should happen.

**Donald Cameron:** On the back of that, there is a question about the timetable. We await a referendum bill, and we know that that has to be consulted on. Legislation takes time, and there is the potential for litigation. It is possible that the timetable will slip or that a referendum will not happen. If that transpires, will you redeploy the £20 million funding within the culture portfolio,

given the significant and severe challenges that that portfolio faces?

**Angus Robertson:** Of course, Mr Cameron left out the other option: that the UK Government respects the result of the Scottish Parliament election and the Prime Minister, Boris Johnson, acts in exactly the same way that his predecessor, David Cameron, did. As the Mr Cameron who is on this committee knows, Scottish politics is full of UK Governments saying no, no, no, yes. I invite him to work with me to persuade the UK Government to live up to its democratic undertakings. After all, the UK Government is particularly keen on going around the world saying that the UK is a democratic country that upholds the highest standards of human rights, democracy and the rule of law. It would be really nice if it did that in this case as well.

**Donald Cameron:** Will you redeploy the funding, cabinet secretary?

**Angus Robertson:** We are going to have a referendum, are we not?

**The Convener:** I do not think that we will take much more from that discussion this morning.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** For the record, I do not have any relevant interests to declare in this meeting.

I have one question for both cabinet secretaries. I am sure that, for anyone who read it, what the medium-term financial strategy said regarding the demographics of Scotland's population was quite stark. That is not a new issue; as we know, it has been around for quite some time. The medium-term financial strategy document states:

“by mid-2043, it is projected that 22.9% of the population will be of pensionable age, compared to 19.0% in mid-2018.”

We have had Brexit, with its severe implications for Scotland, particularly for migration and people going back home. Has there been any update, or has any progress been made, on discussions with the UK Government on helping inward migration to Scotland to help to deal with that really important issue, which will clearly have an impact on Scotland's economy?

**Angus Robertson:** Forgive me, convener, but we could spend a whole session on that. As part of my broad range of portfolio responsibilities, I chair the Scottish Government's population task force. I acknowledge that Mr McMillan will have a particular interest in the issue, given that the population statistics for Inverclyde in particular are of great concern for elected members there.

I will answer the question in a number of ways. First, the Scottish Government is very seized of that issue, as are, understandably, local

government leaders in authorities whose areas have suffered historical population decline especially. Traditionally, we in Scotland would have looked towards the north-west of the country—the Highlands and Islands—as an area in which there has been particular population decline challenges in the past, but we are now seeing those in other parts of the country, not least in Inverclyde.

That was observation one. Observation two is that we are heading towards population decline in the whole of Scotland. That is a huge challenge—and, frankly, totally unnecessary. Sadly, it is in significant part to do with UK Government policy and the restrictions foisted on us by the type of Brexit that we have, which has ended the free movement of people. Indeed, it is the single biggest contributor to our facing population decline. It could—and this goes to the heart of Mr McMillan’s question—be changed by Government policy. Our views are very well known and understood in Whitehall and Westminster and are totally ignored. The UK Government has shown no willingness thus far to be imaginative with different approaches to immigration policy or, indeed, taxation policy. There was, for example, the approach that we favoured to deal with refugees from Ukraine, which was not the same thing as immigration but was about giving people a place where they could stay and live. As we know, people in such circumstances often make a life decision to stay in the longer term, but we have a UK Government that is pursuing a refugee crisis as an immigration issue.

On all those levels, the UK is taking the wrong approach. Of course, the simple solution is to put Scotland’s Parliament and Government in charge of immigration in order to make better decisions and make Scotland an attractive place to come to and to live, work and study in. We are doing what we can. We are setting up a migration advisory service; we are doing everything we can to join up government at national and local levels to work out what we can do; we are running international marketing campaigns; we have policy ideas that we are trying to understand better; and we are working with other countries on these matters. Not long ago, I spoke to Spanish colleagues about this challenge, because it is being felt in parts of Spain. Lessons can be learned from other countries, perhaps primarily Norway, given what the Norwegians have been able to do to support population numbers in the west and north-west of their country.

There is a lot in your question, and I could give a lot more answers. Indeed, I think that the issue would be worthy of an entire evidence session. I am keen to keep up my attendance rate at the committee, convener, because it has been pretty good thus far and now that other colleagues from

Government are attending with me, I do not want to slip down the batting average. I would want to have an exchange on where things are with population decline in Scotland, because it is such an important issue that brings with it very damaging economic and social consequences.

**The Convener:** We have exhausted our questions, so I thank both cabinet secretaries and their officials for their attendance this morning.

I suspend the meeting for five minutes while we change over witnesses.

10:08

*Meeting suspended.*

10:13

*On resuming—*

## Intergovernmental Relations

**The Convener:** Item 3 is intergovernmental relations. This is our third session in a series of meetings that are focused on post-EU constitutional issues. We are joined by Dr Paul Anderson, senior lecturer in international relations and politics, Liverpool John Moores University; Dr Coree Brown Swan, lecturer in comparative politics, Queen's University Belfast; and Jess Sargeant, senior researcher, Institute for Government. A warm welcome to you all. We are also joined by the committee's adviser, Professor Michael Keating, emeritus professor of politics, University of Aberdeen, who might contribute during the meeting.

We have four main themes to explore and about an hour in which to do so. If everyone could be concise with their questions and answers, that would be helpful.

10:15

I will start off by asking about some of the committee's work on IGR mechanisms following the review by the UK and devolved Governments. We have received a lot of evidence that that process has done little to improve the transparency with regard to the UK internal market and common frameworks. Other devolved Parliaments have also shared that comment, as have other committees. What is your view on that? The UK Parliament is perhaps seen to be paramount in the hierarchy. How can the Scottish Parliament push for more visibility on what is happening at intergovernmental relations at that level? I will call each witness in turn. I can see that Jess Sargeant is smiling at me, so I will go to her first.

**Jess Sargeant (Institute for Government):** The IGR review included measures to try to improve transparency, including producing quarterly and annual reports on all intergovernmental relations. It was intended that the IGR secretariat would publish that, and we have seen a couple of those reports so far. I was a little bit disappointed that they are UK Government branded—they have the logo of the Department for Levelling Up, Housing and Communities on them and the foreword is by Michael Gove. I do not know whether that is just because the IGR secretariat has not been set up yet and whether there will be a move to a format in which reports are jointly published. It would be nice to see that as an agreed measure.

In terms of some of the communiqués that we see come out of various IGR meetings, the top-

level forum, the middle-level forum, comprising the interministerial committees, and the lower-level forum, comprising interministerial groups, all produce communiqués and the level of detail in them varies incredibly. Some of the reports have been useful. For example, the report of the interministerial group for environment, food and rural affairs—a quadrilateral meeting of the environment ministers—has been quite helpful. We saw in its report that the forum had agreed to an exclusion to the United Kingdom Internal Market Act 2020 for single reusable plastics. That is useful information to know. However, in other areas, the format of the reports is to set out that X, Y and Z were discussed, with no substance of what went on.

There is a question as to what the main barrier is to providing information. Confidentiality is one of the reasons why we do not see some of the information. Perhaps an underrated reason is that any communiqué must be agreed to before it can be published. I think that, sometimes, there is a risk that people get bogged down arguing about the particular wording of various communiqués, which means that they end up with less detail. That is also a barrier. That is the responsibility of all four Governments—they all have a tendency to object to particular wording, which makes it more difficult to agree to the communiqués. However, the IMG EFRA example shows that we could get to a position in which more information is published, if the four Governments co-operate.

The picture on the transparency of the various intergovernmental meetings is very mixed. I hope that the Governments will be moving towards a position in which more information, rather than less, is published.

**Dr Paul Anderson (Liverpool John Moores University):** There is recognition in the new arrangements that transparency is an important issue and, to some extent, they address some of the main critiques that were levelled at the previous joint ministerial structures, in which transparency was an issue.

It is also important to say that intergovernmental relations across all systems throughout different countries are inherently opaque anyway. As Jess Sargeant has pointed out, that is for good reasons, such as confidentiality. You cannot always reach agreement. At times, meetings take place behind closed doors, so there is an element of needing to maintain confidentiality and transparency becomes more difficult.

Where the new arrangements might signal a change—they signal a change in this direction, at least on paper—is a commitment on the part of the different Governments to engage more with publishing information and, in particular, to engage more with Parliaments in terms of submitting



reports, with the onus placed on particular committees in Parliaments to effectively scrutinise what is coming out of the forums.

As Jess Sargeant has said, detail is important. From what I have seen so far, the detail is not what I would expect from the new structures, given what it says on paper about that. That could be due to teething problems or attempts to get into a rhythm in relation to what information we should be teasing out. However, the commitment to increase transparency is important, and the independent secretariat plays an important role in that. One of the main critiques of the previous structures was not only that there was not any transparency and information was not shared in a timely manner but that, even post meetings, information was scarce. For example, there is no place where you can go to get all the information, because different Governments publish it in different places.

There is a commitment to transparency, but the proof of the pudding will be in the eating. We will see whether the Governments continue to commit to publishing information in a timely manner and to sharing that information, as has been agreed, with the public and parliamentary committees.

**Dr Coree Brown Swan (Queen's University Belfast):** That centralisation, or having a clearing house or central spot for those details, is very important. We see mechanisms and processes for that elsewhere. Jess Sargeant mentioned the exclusion from the United Kingdom Internal Market Act 2020 for single-use plastics. It took quite a long time after that was agreed for the communiqué on it to come out.

Paul Anderson is right that there is an issue with teething and that this is a new process, so there needs to be engagement and commitment. There are good-faith efforts, so I hope that it will work out over time and we will see the timely publication of communiqués and reports. I am less convinced about the importance of annual reports. It is helpful to have everything consolidated but, for your scrutiny function as a committee, it is difficult to scrutinise and engage with something 12 months after the fact. You have a lot on and your agendas are quite full, and that scrutiny can become more difficult if the information is released only annually.

**Alasdair Allan:** Please do not take this question as unduly loaded or cynical, but it relates to some of the things that the committee has been looking at. Just on the context, is any dispute mechanism that is designed to fix the problems unduly hampered if the UK can fall back on residual powers simply to legislate in devolved areas to solve a problem that it sees? I do not expect you to solve that issue but, given that there has been a debate about the circumstances in which that can

and should be done and about what constitutes normal circumstances, how does that context impinge on this whole discussion?

**Dr Anderson:** The issues around Sewel have created an atmosphere in which interaction between the Governments is undergirded by mistrust. The movement in the new arrangements towards dispute resolution is good because it recognises that there is a problem, in that the UK Government should not be judge, jury and executioner in these arrangements, and that the independent secretariat should play an important role. That significantly improves the way in which disputes should be handled. Of course, the issue is whether the devolved Governments believe that that will necessarily lead to more effective relations or a dispute mechanism in which they will have faith.

The UK Government naturally deals with devolution hierarchically, and a unitary mindset still exists in Westminster and Whitehall. On paper at least, the UK Government is saying that it is going to move away from that slightly, but that unitary mindset persists, notwithstanding that we have had two decades of devolution. That will always be an issue, but the important point is that it comes back to trust. The Governments have agreed to move forward on intergovernmental relations and, as Coree Brown Swan said, they should enter into the negotiations in good faith.

It is important to point out that, although the UK is unique in having Sewel, under which the UK Government is still able to legislate in devolved areas, politics is a not-so-harmonious business in many multilevel states. Of course, the UK also has four separate Governments formed by four separate parties, which makes intergovernmental relations complicated but not impossible—it happens elsewhere.

The difference is that you need to enter into negotiations with a willingness to compromise and work out problems and at times—certainly in recent years, since Brexit—that has not been the case with legislation, particularly on the part of the United Kingdom Government, where the onus has been to set the benchmarks a bit higher than they have been set in the past.

It is not impossible to resolve these disputes. There are, of course, still issues around financial disputes, which are the most important ones as far as devolved Governments are concerned, and the most frequent. However, there has been a step in the right direction, although the proof of the pudding will be in the eating and whether that step works.

**Dr Brown Swan:** I go back to Paul Anderson's point about trust. What we have seen during the past 20 years of devolution is the disuse of

intergovernmental processes, and it is hard to trust people who you do not know or do not see. There is a contentious and partisan dynamic at play, and again, that is not unique to the United Kingdom. Perhaps a more formal and routine system of intergovernmental relations in which people meet each other, build relationships, and learn how to trust each other would be a positive step forward. Can that overcome the inherent power imbalances in the UK? No, it cannot fix that system, but I hope that it can allow for more productive working relationships. Every time you see an agreement or a positive negotiation in process, that is a positive step and it can build over time.

**Jess Sargeant:** I agree with Paul Anderson that the dispute resolution mechanism is an improvement on what was there before. The problem that you are speaking to is a fundamental problem of the UK constitution in that it has no strict rules. Parliamentary sovereignty with a majority in Westminster is able to change legislation that can alter the constitution.

Traditionally, the UK constitution has operated quite well as a political constitution on the assumption that all actors will act rationally. One of the reasons why the Sewel convention worked so well before the Brexit period is that the threat of consent being withheld was enough to extract concessions when the UK Government and the devolved Administrations were in discussions. That appears to have broken down and I guess that there are two options for doing something about it. One is to restore that traditional sense of political constitutionalism, to ensure that there are those negotiations and concessions, and that give and take that makes the constitution function, but inevitably some people are also thinking about the possibility of a different system in which rights are more entrenched. That would require some kind of codified constitution because, even if you codify elements of the devolution arrangements such as the Sewel convention, they can still be overruled by parliamentary majority.

That is something that people are looking at now, including the Welsh Government and the Labour Party, but it would be quite a radical change, so there is a question over whether there would be the political will to overhaul the whole of the UK's constitutional system.

**Alasdair Allan:** My next question might also be a loaded one. You have pointed to history and said that, in the past, people at the UK level would not want to have been seen not to care about the view of devolved legislatures, so how do we cope with it when they do not?

**Jess Sargeant:** That is a difficult question, and I do not think that there are any easy answers. It requires a change in culture and approach, and it is difficult to encourage anyone to do that, other

than by just saying that that is the way to approach it. There are no mechanisms that we can use to force people to think in a certain way.

The Brexit process created particular dynamics, which lent themselves to the slightly adversarial approach—I say “slightly”, but it was quite adversarial—between the UK Government and the devolved Administrations. The fact that there was a referendum complicated the picture.

There is now an opportunity to return to more normal working. I hope that some of the disputes relating to the Sewel convention that there were during the Brexit period might be avoided in future and that we can return to a system in which there are behind-the-scenes negotiations and discussions on legislation. There is no easy answer to how you encourage people to work together. That applies to all the Governments, because the risk is that, at times, there is an incentive for the devolved Administrations to object, because that can be quite helpful for them politically. All sides need to come back together to try to fix the situation.

10:30

**Donald Cameron:** I want to ask about international comparators, which all the witnesses have spoken or written about. There are the federal or quasi-federal European systems through to the systems that are used in Australia, India and Canada. What are the witnesses' observations on those systems? Does any of them provide an IGR model for Scotland?

**Dr Brown Swan:** We have done a significant amount of comparative work. We have looked at formal federations and quasi-federations. In 2015, when I talked to your colleagues about scrutiny and transparency in relation to intergovernmental relations, someone asked me whether there is a system in which intergovernmental relations work well. Intergovernmental relations are always very difficult, because there are partisan disputes about power and many other issues. However, some countries use more co-operative systems in which there is buy-in and faith that people are working together.

In Canada, there is significant formalisation of the system of intergovernmental relations, which is supported by a secretariat that brings people together regularly. There is a formal mechanism for dispute resolution, and the provinces feel that they have an important voice when it comes to the management of internal markets. Therefore, there are examples of intergovernmental relations working.

In Spain, there are sectoral conferences. Given the dispute over Catalonia, intergovernmental relations at the executive level are very difficult,

but sectoral conferences take place regularly, bringing together ministers and civil servants on issues that are outside the domain of the constitutional debate.

Among such models, there are cases in which the constitutional dynamics are similar to those of the UK. There are contentious debates about the constitutional future of each state, but some issues can be put aside at sectoral and ministerial levels in order for there to be co-operation on key issues, such as the economy and the Covid response.

There is no perfect model or blueprint for Scotland and the rest of the UK, but we can look at whether we can borrow approaches from other states where things work better.

**Jess Sargeant:** I will be brief, because Paul Anderson and Coree Brown Swan have done a lot more detailed research on international examples, and my point might be less helpful than what they will say. However, I want to point out the unusual nature of the UK's constitution. One of the barriers to adopting systems that are used elsewhere is the UK Government's dual role as the Government of the UK and the Government of England. That complicated dual role makes it very difficult for the UK Government to make decisions for the whole of the UK on a neutral basis and to act as a convener or as a central part for the other member states.

I give a note of caution about borrowing too many examples from other places. As I said, that point is not necessarily helpful, but there are things that make it more difficult to implement such systems.

**Donald Cameron:** Dr Anderson has also made that point.

**Dr Anderson:** Yes. I echo what Coree Brown Swan said. There is no perfect model of intergovernmental relations, as they are conditioned by political context and culture. You can have the most perfect structure, but that does not mean that intergovernmental relations or interactions will work.

I will pick up on what Coree said about Canada. In the new arrangements, you can clearly see that lessons have been taken from elsewhere. The sectoral conferences in Spain work well, notwithstanding interregional issues, particularly around Catalonia and secessionism. Those conferences happen and agreements are made, and there is clear commitment on behalf of most Governments.

It might be more difficult in the UK, because the UK has three devolved Governments and the UK Government has a double role. In Canada, there are 10 provinces and in Spain, there are 17 autonomous communities. Where

intergovernmental relations work really well, the big difference is the federal way of thinking. In countries such as Switzerland, Canada and Germany, where the second chamber is a federal representative second chamber, a culture of compromise and co-operation is built into the arrangements.

The UK will probably never become a fully fledged self-identified federation, although it has been moving in that direction over the past two decades, but lessons can be learned from those other countries about how political culture can inform relations. That is sometimes more important than having the perfect structure.

The other thing to remember is that intergovernmental relations are also effective when they happen informally. I found that in my research, when I spoke to ministers in this Parliament and elsewhere. They said, "We go to these meetings, which can be contentious, difficult and not harmonious, but I can phone the minister in Westminster because I know who they are, and I have their mobile number. We deal with things informally." Civil servants play an important role in that as well.

Formal structures are good. They are a step in the right direction and they are needed, but they are not necessarily required to have the most effective relations. That is the case in all multilevel systems.

**Donald Cameron:** My final question is about internal market comparators, because the internal market has been at the forefront of minds recently. I was struck by something that Dr Coree Brown Swan wrote in her submission about the comparison between Australia and Canada. She said:

"There are two modes of thinking about the internal market in these two states—in Australia, there is comparatively minimal state level resistance to processes of harmonisation, whilst in Canada, barriers to trade are, to a degree, considered an acceptable cost to maintain provincial autonomy."

Do you want to develop that?

**Dr Brown Swan:** Current work is looking at finding lessons for the UK internal market from how those very developed federations, which have a Westminster-style system, have managed their internal markets.

In Australia, there is a significant power imbalance, because the federal Government—the Commonwealth—has all the money. Because the vertical fiscal imbalance is so extreme in Australia and the centre holds the purse strings, states often go along with things. That is very different from Scotland.

There is also a political culture aspect as well. In interviews with people in Australia, they repeatedly said, “We need to tidy up the federation. It doesn’t make sense that there is this policy diversion. We need to have things the same throughout.” There is not a lot of tolerance for policy diversions.

The situation is very different in Canada, especially in provinces that have distinct political and national identities, where there is a sense that people will accept some barriers to the internal market in comparison to other federal states. The Canadian internal market is very fragmented, but that is expected, because provincial autonomy is very important. The ability of the federal Government to intervene to harmonise or reduce barriers to trade is much more limited.

The Canadian free trade agreement to reduce barriers to trade was brought about at the impetus of the provinces themselves. They agreed to the general baseline for the agreement, then brought it in the federal Government. I do not know whether that has worked, but the agreement has very clear regulation practices and practices for reconciliation, in order to reduce barriers to trade and so that things can be agreed to between the provinces.

Those are very formalised structures with a fragmented internal market but, politically and culturally, that is accepted and considered to be a worthwhile compromise.

**Mark Ruskell:** I was struck by the comments about sectoral conferences, and I note that Belgium has ministerial conferences. I am interested in that sort of wider conversation; I am not suggesting that we dilute the role of politicians and ministers, but a lot of the legislation that we deal with comes in the form of statutory instruments, which are very technical and are perhaps more for discussion between Government agencies and stakeholders, with agreements made before the legislation is introduced and gets near politicians. How does a wider approach or conversation that has politicians in the mix but which also involves civil servants, agencies and others work, and do we have it in the UK and across these islands?

Jess, do you want to go first?

**Jess Sargeant:** A lot of work goes on at official and public body level between the four nations. For example, in some of the areas that are covered by common frameworks, there is the work of the Food Standards Agency, which works closely with Food Standards Scotland, and the work of the Health and Safety Executive, which is responsible for a lot of chemical regulation. When you speak to a lot of these regulators, you find that they do not really think that the potential for regulatory divergence is that much of a problem.

Sometimes, they have regulation-making powers, and they also make recommendations to ministers in all four nations on the basis of the evidence, which is actually very similar in each part of the UK. There might be different circumstances in different parts of the UK, but it is not as if the economies are wildly different or the circumstances are so different that they necessitate having different food standards and so on.

Interestingly, a lot of those bodies were established before devolution and were therefore not necessarily set up to serve four Governments. Different regulators take very different approaches to the matter; some of them have formal representation from the four nations on their boards, while others have what are known as service level agreements, which are much more informal. Actually, the HSE has such agreements, under which it will agree with, say, the Scottish Government that it will advise on this or that little bit instead of looking at the whole picture.

Particularly post-Brexit, with some of the functions returning to the UK from the EU, we might need to think a little bit more about how that system works generally and whether with organisations such as the Competition and Markets Authority, which now has responsibility for subsidy control across the whole of the UK—and which houses the office of the internal market, which will advise on a lot of instances of regulatory divergence—more will need to be done to ensure that things happen on a four-nation basis.

A lot of stuff does go on behind the scenes, and that approach works quite well. Indeed, that is perhaps why we hear less about it. That said, the approach is a bit more piecemeal than it might be in other countries.

**Mark Ruskell:** Coree, do you want to say something more about the sectoral conferences? For example, I am aware that various sectors were very much involved with the EU-Canada comprehensive economic and trade agreement—including our own Scotch Whisky Association, which managed to carve some concessions out of it. Who knew?

**Dr Brown Swan:** Other federal states such as Spain, Belgium and Canada have sectoral conferences, which are often driven by the priorities of ministers and the Government as set out on an annual or perhaps biannual basis but are largely driven by civil servants with input from civil society, industry associations and so on. In Spain, upwards of 20 meet throughout the year. Some meet very frequently, either because they deal with matters that require people to be brought together to co-ordinate things or ahead of an agreement, when there is a greater degree or intensity of co-ordination, whereas others meet

less frequently, because there is not so much of a need for co-operation. Sports ministers, for example, do not really need to co-operate that much, but economy ministers do.

Such sectoral intergovernmental relations often work quite well both in forming co-operation agreements on certain areas, whether they be bilateral or multilateral, and for information sharing and policy learning. That co-ordination and those relationships tend to be quite important.

In Spain, they are very formalised. They have formal agreements and processes for decision making and voting. There is an emphasis on securing a consensus—that is the priority—but in the event that a consensus cannot be secured, there are formal decision-making processes. Again, the issue of the Government representing multiple entities or having the dual-hatted role involving England is not present in Spain. Belgium is always complicated, with its regional and community component, but there is a similar process there.

10:45

**Dr Anderson:** We should not underestimate the work of civil servants in keeping intergovernmental relations going. At times, intergovernmental relations are the glue that keeps states together, but they are also the oil that keeps things going. Even throughout the past five years of difficult intergovernmental relations in the media and public, they happen behind the scenes because civil servants are there to keep things going.

It is common practice across different states to bring in other agencies, particularly to take advantage of the niche expertise that those agencies have that Governments might not have. With no offence meant to politicians in the room, I do not think that intergovernmental relations are the top priority when people come into politics or want to be elected. You therefore have to rely on that niche expertise.

That is not to underestimate the fact that devolved Governments also have niche expertise. The joint ministerial committee on Europe worked very well because the devolved Governments were able to bring in niche expertise in agriculture and other areas that was not necessarily shared in the UK Government.

On the final point about sectoral conferences, intergovernmental relations are about interaction, co-operation and collaboration but, as Coree Brown Swan said, they are also about opportunities to learn from each other. It is about sharing information and best practice, and we see that happening in the UK, where things have been introduced by the Scottish Parliament that have been rolled out elsewhere, such as the smoking

ban and so on. As you can see, there are opportunities for policy learning, and sectoral conferences also offer an important lesson.

They also work at the horizontal level, which is Governments working together without the involvement of the central Government. Typically, that happens in Spain for all the reasons that I mentioned about policy learning and so on, and so that the devolved Governments can coalesce around a particular position to challenge the central Government. Coree Brown Swan mentioned the provincial Governments in Canada, and horizontal relations in Canada predate vertical relations with the federal Government, so it is easier for those Governments to come together and take a position on trade, for example, and then go to the federal Government. The UK is hampered by the fact that there are only three devolved Governments, and England does not have a devolved Government, although there are potentially devolved leaders in metro mayors and so on.

Sectoral conferences are not just about facilitating co-operation, although that is important; other things can be learned from Governments, Parliaments, civil servants, and the niche expertise of individual agencies and other organisations.

**The Convener:** I have a quick supplementary question about the stage that we are at, the changes after Brexit and building new systems. The Deputy Convener and I attended the Parliamentary Partnership Assembly in Brussels as observers. There is a meeting of ministers and the UK Government before that, but with the delegation made up solely of Westminster members of Parliament and members of the House of Lords, representatives of the devolved Parliaments attended as observers. No one was there from the Seanad because of Ireland's electoral cycle. The Northern Ireland protocol absolutely dominated the two days of proceedings.

Is there a similar situation elsewhere to that of the PPA in which parliamentary or federal arrangements are not mirrored? At the pre-meeting between the UK Government and ministers, there was no way for us to contribute to or be involved in the discussions as devolved nations. How does that work in other areas?

**Dr Anderson:** I will try to answer that. Potentially, one of the things that needs to be explored more in the UK is, as you have hinted at, the area of interparliamentary relations. Interparliamentary relations in the UK have been ad hoc. Similarly to what I was saying about sectoral conferences, there are opportunities to bring together Parliaments to share best practice and learn about processes within them, such as committee scrutiny.

There are interparliamentary relations in other systems. They are normally not as formalised as intergovernmental relations but they exist. That could help with what Coree Brown Swan was speaking about at the beginning—that is, bringing people together and building trust so that people work together.

One of the issues around intergovernmental relations in lots of systems is the difference between being listened to and being heard. In the case of the UK, that is about ensuring that the devolved Governments have a voice. That was not the case in the joint ministerial structures—with, potentially, the exception of the joint ministerial committee on Europe, which the devolved Governments attended and could input at pre-meets. There were certain caveats and limitations, but those structures worked more effectively because the devolved Governments were much more involved in them than they were in other structures.

I think that that is the case in other federal countries, including in quasi-federal countries such as Spain, where central Government still tends to have a key role at the apex of intergovernmental structures. That is not a great thing; it is not a good idea to have that centralised control. It is obvious why that exists, but it can taint relations.

I do not think that the UK is necessarily an outlier in relation to bringing Governments together. It comes back to the point about building trust and relations, and providing opportunities to share things—that might not necessarily be in the form of pre-meets, but there at least needs to be discussion. It is about Governments feeling that what they are saying is being listened to and being actioned or critiqued, with policy or agreements then being formulated on the back of that, as opposed to them grandstanding or what they are saying being interpreted as grandstanding. It is not an easy, linear process. It is not like that in any intergovernmental relations structure in other countries.

**The Convener:** I would definitely agree that the pre-meet is the key thing for us in that we do not have an opportunity to feed into that delegation before it meets.

**Sarah Boyack:** I, too, thank you for the submissions that we received in advance. It has given us a bit of depth when looking at the alternatives.

To broaden out the discussion about interparliamentary work, we briefly heard from Dr Anderson about horizontal relationships, which are not factored in or formalised, the scope for doing that in the UK and for learning from other countries. I am thinking about the horizontal relations between the UK Government and the

devolved Governments and between those Governments and local government, so it is about acknowledging that multitier set of relationships.

To kick off, can you say a bit more about where we are on that, Dr Anderson? We have met the Public Administration and Constitutional Affairs Committee—the UK Parliament's constitutional affairs team—and we have met the House of Lords team that is looking at constitutional change, and it feels as though there is an appetite for change. The issue is thinking through what priorities to push in terms of interparliamentary and intergovernmental relations, so that you do not miss out that potential radical change that could solve some of the challenges.

**Dr Anderson:** Interparliamentary relations are not as interesting as intergovernmental relations because the same tensions do not necessarily pop up—you will not find a meeting between Scottish Parliament and Westminster committees making front-page news. However, interparliamentary relations are important, particularly given that we have had devolution for two decades. We have Parliaments in Wales and in Scotland and the Assembly in Northern Ireland. Lessons can be learned from all three of them. In Wales, changes are currently being mooted around electoral systems and how to move forward. That is a sort of coming of age after two decades, and is about taking stock of where we are. That it is a good thing.

Over the past few years, committees in the Scottish Parliament have worked with committees in Westminster. That works, and it is a good thing. Given the interdependencies and overlapping competences that now exist in the UK post-Brexit, there needs to be more interaction between Governments. However, that does not mean that parliamentary committees cannot work together to seek to address the issues. They could coalesce around a particular issue to force Governments to interact.

For example, there seems to be consensus in the different Parliaments on how to address the issues that Jess Sargeant raised at the beginning about the Sewel convention. That is certainly the case with committees in the House of Lords, the House of Commons, the Welsh Parliament and the Scottish Parliament, so why not bring those committees together in a forum and take a position to try to perhaps not force change but encourage debate and conversation?

On local government, there is a contentious issue about the shared prosperity fund, how the money will be spent and whether the devolved Governments will be involved in those conversations or cut out of them. It is not normal to have central Government and local government co-operating in intergovernmental relations, but

why not bring local government into some of those conversations to work better with the devolved Governments? Having local government and devolved Governments work together is clearly a good thing. If the UK Government is involved in those conversations, that is fine, although that is with the caveat that local government is very different elsewhere.

I have one final point. One weakness of the new arrangements is to do with the elephant in the room, which is England and the fact that the UK Government has a double role as the UK Government and the English Government. I think that England potentially loses out a bit from that. There are nine metro mayors with significant policy responsibilities and, during the pandemic, some of them took on big roles and stood up to central Government when they were unhappy. Why does the Scottish Parliament or the Scottish Government not work with some of those institutions? Some exciting things are happening on transport in Liverpool and Manchester, so there could be lessons to be learned for the Parliaments and they could work together.

Horizontal relations could potentially address the imbalance and help England to gain a different voice from the UK Government, although the priorities are, of course, very different. There would also be an opportunity to learn and share policy ideas and so on.

**Sarah Boyack:** It is good to get on the record those points about change that could make a big difference. On your point about transport, lessons could also be learned from the work that has been done on transport in Glasgow and Strathclyde.

I have a follow-up question for Coree Brown Swan about that issue of different levels and relationships. You talked interestingly about relationships and agreements in Canada and the cross-border and intergovernmental work that is done there. Will you say a little more about that? That could be a way of strengthening the impact that we could make. I am thinking about intergovernmental work, but I am also focusing on interparliamentary work. Do you agree that there is a potential role for, say, the metro mayors to change the dynamic at the centre so that it stops thinking about running things and acknowledges multilevel Parliaments and Governments?

**Dr Brown Swan:** It is important to bring those voices into intergovernmental forums. We see that in Canada and Spain, where mayors, city councils or major urban areas have representation in the sectoral conferences. That is often helpful when the work impinges on their areas of responsibility. However, I wonder whether, in a formalised system of intergovernmental relations, the Welsh and Scottish Governments and the Northern Ireland Executive would be keen on being at the

same level as the metro mayors, because there are some sensitivities in that. There is also the perpetual issue about the UK's constitutional future, whether to carve up England into a federation and how that would work. No one has ever come up with a concrete answer to that.

The more voices that you have in the room, the better, particularly for policy learning, sharing, co-operation and co-ordination. That makes decision making more complicated, but we know that the forums for intergovernmental relations are not always decision-making forums—they are not forums that need to have a vote. Co-ordination is important at the interparliamentary level. We see less co-ordination within federal states, but there are committees in European member states that scrutinise European legislation, particularly on security and defence, so perhaps there are lessons to be learned in that regard.

11:00

It feels a bit silly to say that everybody needs to talk more, but they do, because that is how you gain ideas, co-operate and build trust so that, when it comes time to take the big, difficult and sensitive decisions, you are doing so from a place of trust. The constitutional elephant in the room will always be there, and there will always be partisan dynamics. However, it is helpful to be able to speak to issues, such as how to respond to an economic issue, how to improve transport and how to improve connectivity, from a position of trust in pre-existing relationships.

**Sarah Boyack:** On one level, civil servants have longevity—they might be there longer than the politicians—but on another level, ministers get reshuffled and the composition of Parliaments change. Parliaments have greater stability through committees, as well as through cross-party links. It is interesting to consider how to make that work going forward.

Dr Brown Swan, you made some comments about the memorandums of understanding. Will you say a bit about how those have worked? We had not had them for that long before Covid came along. Are there any lessons from the past couple of years about what we need to accelerate to make them work better?

**Dr Brown Swan:** The MOUs that were agreed between the Scottish Parliament and the Scottish Government to increase transparency and notify committees about relationships between Governments and when meetings take place have worked to a degree. That has been consistently achieved, and you can see that in the publication of the communiqués that have been mentioned, although they are often not very detailed. To come back to Jess Sargeant's initial point, the more

detailed those can be, the more helpful they are for broader transparency and for researchers who work on intergovernmental relations. They give us a sense of what is going on, which you need if you are to ask the right questions, figure out who to call as witnesses and tease out more data. There is always a question of confidentiality and whether things are sensitive but more detailed communiqués and outputs are always helpful.

**Sarah Boyack:** Jess Sargeant, do you want to come in on interparliamentary work and how to make it work better?

**Jess Sargeant:** Yes. I agree with a lot of what Dr Anderson and Dr Brown Swan have said. One key aspect to interparliamentary working is through the committee system, so I am pleased to hear about the work that this committee has been doing. We need to make sure that it is not just the reserve of people who explicitly look at intergovernmental relations and that it feeds through regular policy issues.

We set out some proposals for interparliamentary working in our report on the UK internal market. I am attracted to the idea of a chairs forum that mirrors the interministerial groups that will be set up. That model was used with the chairs of the Europe committees, when the JMC on Europe still existed. That would be helpful for information sharing and flagging potential instances of regulatory divergence.

I know that the committee has been considering the issue of scrutiny of common frameworks and regulatory divergence, and the Scottish Government's response to one of our recommendations is that the committee will have the opportunity to scrutinise any piece of legislation that might be part of a common framework. That is certainly true, but this committee would not necessarily have the opportunity to scrutinise a piece of legislation that is going through another Parliament, and vice versa.

The chairs forum could be useful for allowing people—without having to wait for the Governments to tell them that they have made an agreement and that something is happening—to recognise where there has been an agreement, to flag issues that are coming down the pipeline and, potentially, to make joint reports.

Fundamentally, the best way of influencing intergovernmental discussions and decisions is through interparliamentary working. If negotiations are held in the intergovernmental sector, once those have been concluded and the Governments have presented the conclusions to their Parliaments, they are very unlikely to want to go back and change those, because that would mean reopening the negotiations. However, if there is a

specific issue that all the committees or all the Parliaments flag as a particular problem, which they all commonly feel that their Governments need to address, that puts a lot more pressure on those Governments, which creates the potential to extract changes. Scrutiny for scrutiny's sake is very important but, fundamentally, the issue is what impact that could have.

**Sarah Boyack:** I think that we agree with that. [Laughter.] Whether we are talking about environmental and rural issues, economic issues or trade issues, we cannot be experts on all those areas. The question is how issues in those areas are flagged so that we achieve effective cross-parliamentary working. That is really important.

**The Convener:** Dr Allan has to leave us. Would you like to come in quickly before you do?

**Alasdair Allan:** No, thank you—I am afraid that I must leave.

**Stuart McMillan:** Dr Anderson, you said earlier that civil servants are the glue that keeps things going when it comes to IGR, which I am sure will have struck a chord with everyone in the room because, as has been mentioned, politicians move on.

This is the third parliamentary session in which I have been on a committee that has discussed IGR. I was a member of the Devolution (Further Powers) Committee way back in session 4, so it is a case of groundhog day, to say the least.

Looking through the submissions and the material in our papers, I was struck by the comments of Professor Nicola McEwen, who said:

“parliamentary committees in every UK legislature have called for greater transparency and greater oversight of IGR, not least in light of its increased importance in the context of both Brexit and Covid.”

She went on to say, with regard to the IGR review:

“there is no reference to parliamentary oversight or a requirement to engage the parliaments.”

Do you agree with Professor McEwen? Do you have any other thoughts?

**Dr Brown Swan:** I think that that is true. As we look at formalising intergovernmental relations, specific opportunities need to be provided for parliamentary scrutiny and oversight to take place. In other places, committees have been specifically charged with the task of examining intergovernmental relations. In the National Assembly of Québec, there is a committee that has the remit of looking at intergovernmental relations. I do not know whether that is necessary. It might be better for individual committees, such as the environment committee or the health committee, to engage in those scrutiny functions.



However, there is an opportunity and a need for that scrutiny and oversight to take place, not just in the Scottish Parliament but across the UK. It seems to be a bit of an oversight that such scrutiny is not already carried out, but we can perhaps understand the motivation behind that—there is an element of not wanting to tell Parliaments how to do their job. It is up to each individual Parliament to decide how it wants to exercise that scrutiny function, but it is crucially important.

**Stuart McMillan:** It is fair to say that the population tell us how we should do our job all the time, so you do not need to be shy about it.

**Jess Sargeant:** I certainly think that it is important for there to be scrutiny of intergovernmental discussions, but I think that one of the challenges is to do with the appetite of parliamentarians—especially in the UK Parliament—to carry out such scrutiny, particularly when it comes to scrutiny of IGR in the abstract. Although the House of Lords has done a very good job of scrutinising common frameworks, there has been very little engagement from the Commons. Many MPs do not think that such a highly technical and complex thing that has these little dispute resolution procedures is what they should be spending their time on, compared with being with constituents or working on policy issues.

However, there is a lot of potential for better scrutiny of intergovernmental relations on specific policy issues. In order for that scrutiny to take place, all Governments need to empower Parliaments to consider the IGR aspects of various policy proposals. That could be done through including information in explanatory notes about the intergovernmental discussions that have taken place. It could be done through discussion of the broader regulatory context, including what other Governments are doing, or by considering the resources that are given to parliamentarians when they are asked to look at legislation or policies.

Another great resource could be the office for the internal market, which can, at the request of Governments, look at the implications of a particular policy either before it is in place or afterwards. We have to rely on Governments, as the trigger, to ask for that advice, and parliamentarians should encourage Governments to use that option so that there is thorough economic and regulatory analysis.

Rather than just giving the role and saying, “You need to do this,” parliamentarians should push Governments to think about what resources and information they need to be able to carry out the role effectively. Rather than giving people another thing to think about at their committee meetings,

we should consider how the process can be meaningful, how it can make changes and how it relates to decisions that are made or policies that are taken forward.

**Dr Anderson:** On the point about civil servants, I am not saying that they do not do a great job, but a big problem in Whitehall is that they move on pretty quickly. Although civil servants in the devolved Parliaments understand devolution, that is not always the case with civil servants in Whitehall. That might be why there are so many misunderstandings about what the devolved Parliaments do—we saw that clearly during Covid. When civil servants change, they have to be educated or re-educated on what the devolved Parliaments do. Civil servants are important, but there needs to be a lot more education for them, particularly those in Whitehall, on devolved Governments.

I agree with what Professor McEwen said about parliamentary oversight. It is not surprising that there are not comments on parliamentary oversight, because of what Coree Brown Swan said and because the different Governments interact with Parliaments in different ways. The onus is on the devolved Governments to engage with Parliaments, to agree the terms for sharing information and to ensure that Parliaments have a scrutiny and oversight function. Why do the devolved Parliaments not come together horizontally to discuss how to do that? Could the devolved Parliaments, between them, learn how to do that?

The memorandum of understanding between the Parliament and the Government represents good practice, although it might need to be updated in the light of the new arrangements, because I do not think that an annual report is enough. As Coree Brown Swan said, that annual report is examined 12 months after the relations, so that should potentially be changed to a quarterly report. That is important, because ministers who engage in intergovernmental relations would expect to be held to account by committees and would know that sharing information was important. That could be done in a positive, not a negative, way—committees could ask ministers to engage with them and share the information.

It is important to find the balance, because too much transparency might lead to ministers sending stock answers in response to requests. If a report needed to be submitted after every intergovernmental meeting, that report might be copied and pasted from the previous report, with a few words changed. We need to find the balance between creating the expectation that Governments will be held to account and scrutinised by Parliaments in relation to

intergovernmental relations and not creating an extra layer of bureaucracy and work that puts off ministers engaging properly with interparliamentary structures.

**Stuart McMillan:** Notwithstanding the points that have been raised regarding civil servants, it is fair to say that anything that happens from now on will certainly be an improvement, because the previous IGR process was not fit for purpose in any way, shape or form. It was very much a failure.

I welcome the fact that progress has been made on the new process, which is no longer ad hoc, but there is no statutory provision for it—it seems to be somewhere in between. Should the process be on a statutory footing?

11:15

**Dr Anderson:** I am neither convinced nor unconvinced by the statutory footing. I think that the Sewel convention shows some of the distrust surrounding what it would mean to place intergovernmental relations on a statutory footing. One of the things that UK politics did well, until Brexit, was to keep things out of the courts and to try and deal with things politically. That is not the case, for example, in Spain, where there is a politicisation of the judiciary and a judicialisation of politics. I would be keen to avoid that in the UK.

Statutory footing has a symbolic importance. It is there to say that intergovernmental relations are important and that they should take place but, if we look at other federal or devolved systems, the most important intergovernmental mechanism is normally not grounded in a statutory footing. I noted in my briefing paper that India is an exception to that. In Spain, there is a more legal framework for intergovernmental relations, as well as a legal requirement that information is published and shared, but that does not necessarily mean that there will be effective relations. After the 2017 referendum, the Catalan Government did not want to engage in multilateral relations with the Spanish Government. If there is a legal provision saying that we have to do it, what is the punishment for not doing so? I can understand why the statutory footing is there, and I think that there is an important symbolic issue around it, but it does not mean that there will be effective intergovernmental relations.

**The Convener:** We are very quickly running out of time. We have only about five minutes left, so I will allow other witnesses to answer Stuart McMillan's question, but I ask you to limit it not to one word but to one sentence.

**Jess Sargeant:** Absolutely; I agree with Paul. We cannot return to a situation in which bodies such as the JMC just are not meeting, because

that is completely unacceptable. Fundamentally, it needs political will from all four Governments to continue to meet, and that is not an easy thing to fabricate. I certainly hope that, after this review, there will be renewed impetus on those structures.

**Dr Brown Swan:** Statutory requirements are symbolically important but, as Jess Sargeant said, it returns to political will.

**Maurice Golden:** In the interests of time, I will bundle my questions into one, so it will probably be in two parts.

First, we have discussed changing the culture. I used to work at the Murray-Darling Basin Commission in Australia. It was a tricky process of attempting to manage finite water resources between competing states and, indeed, competing actors within states. I want to explore your thoughts. We have also mentioned a sectoral conference or other body to look at a specific issue. Even with that, are the structures sufficient for when it is in political interests for intergovernmental relations not to work very well? Secondly, beyond the sectoral conferences, where sharing best practice on specific issues is a really good idea and would be welcomed—Wales has done fantastically on recycling, so that model could be rolled out in Scotland, although it would be more challenging in England—is there something beyond sharing best practice within those structures?

**Dr Brown Swan:** Beyond information sharing, intergovernmental relations work quite well when there is a specific project or need. In Canada, we see regional co-operation on environmental issues, such as pipelines and renewables. When you bring Governments together to work on a specific project that is in their shared interest and has cross-border implications, that is an important opportunity for intergovernmental relations. That takes it beyond the information sharing function and builds a record of trust, co-operation and collaboration. In Canada, we see quite a bit of specific co-ordination, particularly on the environment, which is, of course, a cross-cutting issue.

**Jess Sargeant:** There is potential for all four Governments to see the benefit of IGR on policy issues where they have a shared interest, such as climate change or food standards. That is happening. One of the post-Brexit freedoms that the UK Government mentioned in its paper was new action to prevent puppy smuggling. That is being implemented Great Britain-wide with the agreement of all the Governments even though it is a devolved matter. Similarly, adding folic acid to bread was recently agreed between the four Governments, because it was understood that implementing it in Scotland alone would not be effective as supply chains are UK-wide.

Those things are happening. The problem is that, sometimes, the big constitutional issues get in the way. Although Brexit is somewhat behind us, which will help to some extent, there will be a tough time ahead with the potential for a second independence referendum and continuing disagreement on the Northern Ireland protocol. It will be challenging but I hope that setting up the new interministerial groups will allow ministers to continue those discussions at a policy level even when high-level politics might be a bit more difficult.

**Dr Anderson:** Political culture is the main issue with getting more effective intergovernmental relations in the UK. Unlike federal states where there is a political culture of compromise and negotiation, that has not been the experience of intergovernmental relations in the UK since 1999. In the UK, a lot of the onus is sometimes on the devolved Governments, which perhaps have a different constitutional vision and, therefore, it could be said that they do not want it to work. However, it is in the interest of all Governments at least to co-operate.

At the same time, it is clear that UK Government ministers have attended intergovernmental meetings in the past because they were told to. There was debate about whether the Prime Minister should chair the main committee in the new arrangements. There seemed to be reticence about whether that would be the case, but of course the Prime Minister should be involved in such meetings.

The issue is the political culture about whether Westminster, as well as the devolved Governments, thinks that intergovernmental relations are important. It is also the need to build up the political culture of trust, good-faith negotiations and willingness to come together and work on common issues. If intergovernmental relations are going to improve, there needs to be a change in the mindset with which Governments approach them. On paper, there is. Whether it happens at a practical level remains to be seen.

It is important to say what the mood music was when the arrangements were published. Michael Gove said that they would be great and would revolutionise relations, but those were not the words of any of the representatives from Stormont, the Welsh Government, the Scottish Government or the Northern Ireland Executive. They were much more cautious and said, "We will see."

Political culture is the main issue. It should and will have to change if intergovernmental relations are to improve and become more effective.

**The Convener:** I am afraid that we will have to call it a day on this agenda item. I thank all the

witnesses for attending. It has been an interesting evidence session.

I close the public part of the meeting. We have a further agenda item in private, so I ask people who are not staying in the room for that to exit as quickly as possible. I am sorry to do that, but it is because of parliamentary timetables on a Thursday.

11:23

*Meeting continued in private until 11:33.*



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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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