WEDNESDAY 28 JANUARY 2015

10.30 am

Witnesses: Bruce Crawford MSP, Laurence Robertson MP and Ian Davidson MP
Fiona Hyslop MSP
Graham Pendlebury, John Robbs and Lindsey Whyte
Members present
Lord Lang of Monkton (Chairman)
Lord Brennan
Lord Crickhowell
Lord Cullen of Whitekirk
Lord Foulkes of Cumnock
Lord Goldsmith
Lord Lexden
Baroness Taylor of Bolton

Examination of Witnesses

Ian Davidson MP, Scottish Affairs Committee, House of Commons, Laurence Robertson MP, Northern Ireland Affairs Committee, House of Commons, and Bruce Crawford MSP, Devolution (Further Powers) Committee, Scottish Parliament

Q55 The Chairman: Good morning and welcome to our three witnesses. We are very pleased to have you here today. We have Ian Davidson, Chairman of the Scottish Affairs Select Committee, Laurence Robertson, who is chairman of the Northern Ireland Affairs Committee, and Bruce Crawford MSP, who is Member of the Scottish Parliament for Stirling and formerly a civil servant, I believe.

Bruce Crawford MSP: For my sins, yes. It was a good job.

The Chairman: That adds a dimension to the evidence that we will seek from you.

Bruce Crawford MSP: I probably worked for you at one stage.

The Chairman: And you are convener of the Scottish Parliament’s Devolution (Further Powers) Committee. I should also mention that Lord Foulkes of Cumnock, who is not a member of the Committee, is entitled to attend under standing orders and has asked to do so—and we make him welcome. I have explained to him that we will bring him in for questions if there is time, but he understands that we are on a tight timetable today because we have a link-up by conference with the Minister in Edinburgh shortly. So we will get under way without further ado. I shall start with a broad general question to let you let off a little steam, if that is appropriate. How effective is the current system of intergovernmental relations? Does anything cry out to you as being really good or really bad about it? Do you have any sense of how these things can be put right, if they can be?

Ian Davidson MP: I am not aware of anything particularly wrong. I have other things to do with my time, so I have not paid any attention—and nor have my staff—to intergovernmental relations. We have been much more focused on outcomes rather than issues of process.
Laurence Robertson MP: I am afraid that I have to agree with my colleague.

The Chairman: That is fine.

Bruce Crawford MSP: Thank you very much for asking us along this morning. First, it is not an issue that my committee has taken any evidence on. We are at the beginning of the work on examining the output of the Smith commission proposals. Obviously, there was a good deal of emphasis in Lord Smith’s report about the need for improved intergovernmental relations. He was a very busy man with a very significant task to take in a very short time, so I do not think that he would have made these comments unless they were worth making, and I happen to share his view that there needs to be a bit of an improvement here. I shall give an example of what I mean by that. There is an important issue about how we adjust in future the Scottish Government’s block grant, particularly if we take into account the revenue-raising powers that the Scottish Parliament will have in future, with devolved taxes. One of the most recent ones, stamp duty land tax, has already been devolved—and, frankly, it was about getting an agreement between the two Governments on that issue. Other issues in the future will be vital. That point was made by both Wendy Alexander, the former convener of the Scotland Bill Committee, and Linda Fabiani in 2011, because it took four years until the end of 2014 for the two Governments to reach agreement on that critical matter. That was much to the frustration of the Scottish Government’s Finance Committee and the view is that the two Governments will have to co-operate better and the systems will need to be more transparent to aid parliamentary oversight. That is certainly something that I agree with. If I may I will read out a short note about what the Finance Committee said: “there needs to be much greater transparency from both governments and the Scottish Government should consult with the Parliament prior to the agreement of future adjustments to the block grant arising from the devolution of further fiscal powers. The Committee also emphasises that sufficient time is made available to allow effective parliamentary scrutiny of the adjustments to the block grant prior to implementation”. That is very much about relationships between Parliaments and Governments, but there are other issues out there as well about the area of employment and job creation, on which we have taken evidence from individuals such as Ross Martin, Chief Executive of the Scottish Council for Development and Industry and Stuart Patrick, the Chief Executive of Glasgow Chamber of Commerce. They were able to tell us their experience in areas such as the UK Trade and Investment department and Scottish Development International about why they need to improve working there, as well as about Skills Development Scotland and the job centres along with the Department for Business,
Innovation and Skills and Scottish Enterprise. So there are plenty of examples of where better work could be done.

Q56 The Chairman: Thank you. We will come to those shortly. You have identified that there are difficulties, but our purpose in looking at this does not reflect a personal view on the part of any Committee member. You will find as many different views about devolution generally around this table as there are members of the Committee. If it is going to operate with increasing complexity arising from the Smith commission proposals, it is clear that the machinery has to be in place and working effectively. Can I ask, particularly those who have not focused on it, whether you see a need for more formality, and possibly a statutory basis? Would you welcome that as enabling the wheels to turn more effectively?

Laurence Robertson MP: Just yesterday in the House of Commons we had the Second Reading of the Corporation Tax (Northern Ireland) Bill, which proposes the transfer of responsibility to raising corporation tax to the Assembly in Northern Ireland. Given the complexity of that, and given that it has to be EU compliant and is a completely new thing to do in the United Kingdom—only certain companies will be able to do it and some will not qualify—there is certainly the need for close co-operation in that kind of arrangement. Whether that is there or up and running is beyond my experience because I have never worked in Whitehall, but that is an example of how it will have to be carefully administered to bring the benefits to the people of Northern Ireland.

The Chairman: Do you want to add anything?

Ian Davidson MP: Who would not want better co-operation and working together and things to be effective and all that sort of stuff? However, there is a distinction to be drawn between lots of things that are politics and lots of things that are administration. One of two things that we have tended to see in Scotland over quite a period are the politics of process, and an obsession with the machinery, what powers there are going to be and how it is going to be handled. Very often, that is used deliberately to deflect attention away from product—outcomes and outputs. So you have a discussion about processes as an alternative to actually doing anything.

The other obsession that there has been in Scotland to a great extent is the politics of grievance. If you have a formal machinery for discussing process, the potential for the politics of grievance is enormous, and anybody worth their salt could manage to manufacture disputes out of any discussion at all that they wanted, saying, “We’ve been done down, this is cheating, they’re not paying proper attention, there is no respect here”, and all the rest of it. In many ways, I can understand why people want to do that if they do not want to focus on
outcomes, but having it out publicly is not necessarily in the best interests of the people that we serve. I am quite impressed by the way in which lots of our staff on the committee are able to deal with government departments and people in the Scottish Government and, when we went to Wales, people in the Welsh Government, to get things done. I did not need to be involved because there was no political dimension to it then; I was not trying to score points of anybody else—it was just being processed. That is a useful distinction to make.

The Chairman: Thank you very much. I think that some of the themes that we have all touched on will emerge in further questions.

Q57 Lord Lexden: Could you summarise for our benefit the current arrangements by which parliamentary scrutiny of intergovernmental relations are supposed to be secured both in the House of Commons and in the devolved legislatures? Do you think improvement is needed and, if so, how should it be obtained?

Ian Davidson MP: If you want a technical explanation of the machinery I think you should get a note from the staff. I am not particularly concerned about that. The reports that we have done in the Scottish Affairs Committee have been focused on outputs and outcomes and particular issues rather than examining the entrails of the machinery just for its own sake. We usually have our inquiries for a point, rather than simply to examine something for its own sake.

Lord Crickhowell: I wanted to come back on something Mr Crawford said about the Smith commission and the importance of intergovernmental relations. I am a mere Welshman, so I may have got it entirely wrong, but when I listened to the First Minister of the Scottish Government on the “Andrew Marr Show” on Sunday, she seemed to suggest that the translation into practice of the draft legislation from the Smith commission, which involves just that kind of joint discussion, was an attempt to interfere in Scottish Government affairs, although people have said that it is not a veto situation. Her remark was, “What are you doing having these discussions at all?” That seems rather different from the emphasis that you were putting on the importance of intergovernmental discussions of this kind.

Bruce Crawford MSP: I have a tricky role to play here this morning, because I am the convener of a Scottish Parliament committee and, as such, am here to represent the committee and not the Scottish National Party itself. I could quite easily in that regard talk about the specific clauses in Smith that have caused concern about what the word “agreement” means, but I am not here in that role. You will shortly have Fiona Hyslop here to do that; obviously, the First Minister has some very strong points on that. It would breach my responsibilities as a
convener in the Scottish Parliament to comment on that, but I will comment, if you do not
mind, on the informality issue.

**The Chairman:** Yes, please.

**Bruce Crawford MSP:** There is a place for both. Informal processes allow for a place where
mutual respect, understanding and trust can be built up. I can use an example from my own
time as a Minister. I had very good relationships with David Cairns, the former, and late,
Minister of State at the Scotland Office, as well as with David Mundell and Michael Moore
on the day-to-day business of government, passing Sewel motions, and so on, so that the
legislation being enacted in Westminster could be taken through properly in Scotland. It was
an effective relationship that worked. So these things go on underneath the undergrowth all
the time, every day, in an informal way. There will always be a place for formal relationships,
when disagreements have reached a stage where they cannot be resolved. Therefore, a formal
mechanism will be inevitable to allow that position to be resolved. However, formal processes
can stifle innovation and stop creative thinking, so we need to be careful when we use them
and use them only when we need them.

**Lord Brennan:** Why should departments have to deal with their counterparts in the devolved
Administrations? Should the relationship be scrutinised both as to process and as to outcome
by the departmental Select Committees of the Commons?

**Ian Davidson MP:** To what end? I can always see that there are things for us as a Select
Committee to do, but what is the point? Do we add value to scrutinising? Am I interested,
particularly, and are the members of my committee interested in scrutinising for the sake of
scrutiny, or would we rather spend our time focusing on things that get done? Yesterday, for
example, we had a joint meeting with the BIS committee, interviewing representatives of City
Link. We have had informal contacts with people in the Scottish Government about the
question of providing support to workers who were sacked. It did not cause any political
issues and did we did not need to have it formalised—we did not need to find out how it was
done. We just got the answers back and then moved on to the next business. If there is
evidence that the machinery is not working, we might want to scrutinise why. But you have to
remember that there are the two strands. One is the political, where there will inevitably be
clashes and conflicts on different principles, and the other is actually doing business. A very
valuable point was made by the previous speaker. A lot of this relates to the question of
respect. The Scottish Affairs Committee has had excellent relationships with the Welsh
Government. We asked to go there to meet them and discuss blacklisting and the bedroom
tax, and they let us hold meetings in the building and arranged a press conference for us. They
arranged guests for us—they could not have been more helpful. The Scottish Parliament would not allow us in the building; they would not allow us to have meetings there, would not let us meet the press there or do anything at all. That is not administration, that is politics. You can have all sorts of analysis about why it is done, and all the rest of it, but ultimately it comes down to politics. That is the problem.  

*Laurence Robertson MP*: We were very welcome in the Northern Ireland Assembly building on the part of the previous Speaker, Speaker Hay, so I hope that is helpful. We have never scrutinised the process, we have never scrutinised intergovernmental relations, but in an inquiry looking at the letters issued to the so-called on-the-runs, which we have not quite completed so there is a limit to what I can say, we detected questionable relations between Her Majesty's Government, the Assembly and the Executive, when it was suggested that the responsibility for the administrative scheme for on-the-runs should have been devolved to the Assembly, to the Justice Minister, and was not. So we uncovered something that could be said to be a breakdown in the relations there, but it was not done through scrutinising the relations as such; it was done through looking at a particular issue. This emerged from that inquiry.  

*The Chairman*: I had better give Mr Crawford a right of reply on the Scottish Government point.  

*Bruce Crawford MSP*: The Scottish Parliament point, as far as Mr Davidson’s point is concerned, is a matter for the Presiding Officer and the Deputy Presiding Officers. That has always been the case that is laid down. I know that there are ongoing discussions with the Speaker here, Mr Bercow, and the Presiding Officer of the Scottish Parliament—I think they met yesterday—to discuss how intergovernmental relations and interparliamentary matters could be improved. That is all I can really say on that matter. As for the issue under consideration that is specific to the question, I really think that is a matter for the House of Commons to decide itself. It is not for me to advise the House of Commons how to go about its business.  

**Q58 Lord Goldsmith**: It is very interesting to look at the extent to which your particular committees look at intergovernmental relations. Mr Robertson said that it may crop up, but it is not particularly on the agenda, at least as far as his committee is concerned. One of the things that the Smith commission said was that intergovernmental relations should be subject to more effective parliamentary scrutiny, and your committees would be a key part of that. What are your views on how that could be achieved and whether it is worth achieving it? The evidence that we have had included evidence from Professor Nicola McEwen, who said that there was a complete lack of transparency in the way intergovernmental relations worked.
There are reports, but they tell you very little. That is not unique in government; it is just that if you are in the same Government, although the reports may not be very illuminating there are other ways of discovering the state of play. That is more difficult between the devolved Administrations. What would be needed? More effective scrutiny?

*Ian Davidson MP:* I come back to my earlier point: what is the point? If we find a blockage on, say, the bedroom tax or the Work Programme, we ask, “What is the blockage? Why is that blockage occurring?”, rather than simply examining the entrails for their own sake. I can understand why academics want to look at these things, because academics have to do things, but those of us who are actually elected and who are interested in politics and want to see how we can improve the lot of the people we represent are much more interested in achieving things. If you want to have a seminar and discussion on how the Work Programme, for example, can best be devolved not only to Scotland but to local authorities, I think that is fruitful. If, as a result of that, you identify some administrative or organisational blockages, we should move to tackle those, rather than simply examine them in the abstract. What is the point?

*Lord Goldsmith:* It is not for me to say what the point is. I started by saying what the Smith commission had proposed, but I suppose that in the example Mr Robertson gave, if there had been consideration previously of what the relationship should be in relation to certain justice issues, there may have been less confusion about where the on-the-runs issue was being dealt with. I gave evidence to Mr Robertson’s committee—this was not during my period, because it was when justice was not devolved. That may be an example, I do not know.

*Laurence Robertson MP:* I am very grateful for the evidence Lord Goldsmith gave our committee, but if we had looked at it in the abstract—if we had had an overarching look at government relations—I am not sure that this issue would have emerged. I understand the theory behind the question: the danger would be that we would carry out our inquiry without really knowing what details we were looking at.

*Bruce Crawford MSP:* Another question is whether the current system of intergovernmental relations is transparent. Does it allow people to understand what is going on? I do not think it does. We could improve that. The system could be more effective. More information could be made available to parliamentary committees. In that regard, I agree with what the Secretary of State said when he appeared before our committee on 4 December. He said, “I would be open to that sort of suggestion with the caveat that experience teaches me that, when minutes are going to be published, they tend to be less revealing than they might otherwise be. If we are to be serious about this, we will need to find more robust and extensive mechanisms”. First, it is
in no one’s interests to say that when there are ongoing sensitive issues, intergovernmental relations necessarily need to be exposed. It could lead to arguments in the media that do not need to be there at that stage and to unnecessary political wrangle and not allow for a proper examination of the situation. I do not think there is an easy answer to how we go about it. I certainly think that we need to be more transparent though. We have had a certain degree of criticism from civic societies in Scotland about the Lord Smith process, how quickly it was done and the lack of transparency. I just use that as example.

In terms of the information that either the House of Lords or the Scottish Parliament committees get, it is probably too early in the life of my committee to give you a committee view, but I will give you another example. There is a need for government to speed up, return the processes and allow us to get information quicker. Alistair Carmichael appeared before our committee in the Scottish Parliament on, I think, 4 December. We wrote to him immediately afterwards with some issues that we wanted to raise. Two months down the road we have still not had a response. Therefore I think there is a responsibility on Governments, whether it is the UK Government or the Scottish Government, to respond more quickly to committees to allow that scrutiny to take place. There will be an issue when further powers are devolved to the Scottish Parliament, particularly in the welfare area, which will be the responsibility of the Department for Work and Pensions, which is going to have to up its game. It has been invited along a number of times to the welfare committee of the Scottish Parliament but has so far refused to attend it. That was a matter for Daily Record comment in Saturday’s media. So there is an issue there about the Department for Work and Pensions appearing in front of Scottish Parliament committees to give evidence.

In that way, we can scrutinise intergovernmental relations a lot more.

**The Chairman:** I want to bring in Lord Foulkes before we move on. There will be an opportunity to respond then.

**Lord Foulkes of Cumnock:** I want to ask a different question.

**The Chairman:** In that case, perhaps we had better hold it back until we get to it.

**Ian Davidson MP:** Can I just come back on this point about the DWP coming before the Scottish Parliament committee? That is not about process; that, as I understand it, is because Members of the Scottish Parliament want to kick a Tory Minister up and down the street for political reasons. That might or might not be justifiable, but it is nothing to do with administration, and we should not fool ourselves into thinking that that is what it is about.

**The Chairman:** I understand the point that both of you are making. The purpose of our Committee in choosing this subject was to choose a subject with a low political profile ahead
of the general election, so that we might contribute something useful to the mechanical operations of intergovernmental relations.

**Bruce Crawford MSP:** To be fair, there are a lot of things that we will have to resolve from the Smith commission outcomes in relation to how we make the welfare systems work in Scotland as well as in the rest of the UK. A lot of detail will be recorded, and the only way they are going to get that detail on some occasions will be by having Ministers in front of them. The convener of the welfare committee in Scotland is a Labour Member.

**The Chairman:** Absolutely. We agree with the need for machinery.

**Q59 Lord Foulkes of Cumnock:** My point follows on from that. The Scottish Parliament has a lot of powers devolved to it. After Smith, it is going to have a great deal more: very important matters to deal with. There are clearly grey areas where there are responsibilities at Westminster, and at Holyrood where Holyrood obviously has a role. But there are reserved areas where Holyrood has no responsibility whatever. This Committee has had evidence recommending that Scottish civil servants be banned from carrying out any work relating to reserved matters, that devolved Parliaments are banned from holding votes on reserved matters, and that the devolved Administration be banned from taking official positions on reserved matters.

I understand, Mr Crawford, that on Thursday in government time in the Scottish Parliament you are having a debate on Chilcot. That is clearly a reserved matter. Is this not bad for intergovernmental relations?

**Bruce Crawford MSP:** Again, I need to watch what I say because I am not here representing the Scottish National Party; I am here representing the committee as convener of the committee. But I will just ask you to look at history. The Scottish Parliament has had a long tradition of being involved in debates that are far-reaching and wide-ranging on many occasions, such as the war in Iraq.

**Lord Foulkes of Cumnock:** Is that a good thing, though?

**Bruce Crawford MSP:** If councils can have a debate on these sorts of things—and the Parliament of Scotland, I would argue, is equally the voice of the people of Scotland—it would be wrong to curtail the activities of the Scottish Parliament in that way. It would create great frustration.

**The Chairman:** I think the point has been made and answered. We will move on.

**Q60 Lord Crickhowell:** For more than a dozen years the idea has been around that it might be a good idea to create a single department that is responsible for devolution and to replace the three existing territorial departments. When I put this suggestion to our Welsh witnesses,
there was pretty strong hostility to the idea. The view was expressed pretty powerfully by the First Minister, and indeed by the chairman of the committee, that there was still a need for a Secretary of State to represent Welsh interests to the Government here. I think Mr David Melding, an AM, said that if you made such a move it would be vital to have all-party consensus. Perhaps as a former Secretary of State in a rather different world, my attitude to this is biased and irrelevant, but I would like to know your view as regards Scotland and Northern Ireland.

**Ian Davidson MP:** I would be totally opposed to any suggestion of a unified devolution structure. Again, I understand why academics might want to argue for that: because it looks neater and so on and so forth. But this is about politics, not just administration. Therefore if you are going to have political dialogue relating, say, to Scotland, Wales or Northern Ireland, you need to have someone who is focused on these geographical areas. Again, there is this dilemma between administrative neatness and the desire of academics in particular to have things harmonised and slotted into boxes and to write reports on it and so on, and the sometimes grubby deals that have to be done politically.

**Laurence Robertson MP:** When I looked at this initially, I thought that it was perhaps an attractive idea, but the more I thought about it, and for the reasons Ian gave, I thought that the amount of money that would be saved is negligible. The importance of having dedicated offices for Scotland, Wales and Northern Ireland outweighs any attraction of saving money. I have come round to the view that the offices should continue as they are.

**Bruce Crawford MSP:** I can give you a personal view. I am not attracted to the idea. I share the view of Professor Wyn Jones, who gave evidence to you previously, who thought that that sort of territorial office might be an impediment to good bilateral ties. I think there was also an argument that is the same for the Scotland Office and the Wales Office: that on many occasions better relationships can be achieved bilaterally between the Scottish Government and government departments directly. I have always been of the view that that is the way to do it, otherwise the Scotland Office or the Wales Office will always be seen by UK departments as the ones with the voice and the responsibility, and the UK departments might not necessarily take on the responsibility of mainstreaming into government in the UK issues to do with Scotland in that way. We could have a better relationship. That does not mean that I did not respect the work that I did with David Cairns, David Mundell or Michael Moore: that relationship was strong and real. I think things could be improved. But if you want to save money, that is a way to save money.
Q61 Baroness Taylor of Bolton: Just to take us back a moment, we have already heard that the Scottish Parliament thinks that it is fine to debate reserved matters; mention was made of the Chilcot inquiry. Yet post the devolution legislation there was a self-denying ordinance within Parliament here that we would not discuss devolved matters. The Calman commission said that there should be an annual debate on the state of Scotland. I think, Mr Davidson, that your committee supports that. Is it time that we moved on? What would be achieved? Would it help or hinder relationships between the two Administrations? Do we need to look at this whole area again? We have extra problems because of Smith. How will we define who should be debating what, or will it be a free for all?

Ian Davidson MP: I take the view that the Scottish Parliament should be free to debate whatever it likes, as we should. There is an extent to which the Scottish Parliament wants to debate UK national issues, because there is a core substantial bloc of people who want to run an independent country and therefore want a view on international issues. Secondly, there is the element of “Oh look, there’s a squirrel”. It is a distraction technique—to have a debate on Trident or Chilcot rather than have a good examination of the failings of the Scottish education system, for example. There is a clear element of that. Now, in Westminster, we should move away from our self-denying ordinance, which arose for understandable reasons. There was a feeling at the beginning that if Westminster continued to debate devolved issues, we would perhaps subordinate or undermine the Scottish Parliament, or some of my colleagues might very well indicate that they were in favour of abolishing it. Therefore we had to allow the Scottish Parliament to grow and develop free of advice from what would be seen as big brother or sister. I think that day is passed. There is a particular role, as I have discussed with some of my parliamentary colleagues who are chairs, in doing compare and contrast. I think that we should now look at, for example, the educational results of England, Wales, Northern Ireland and Scotland to see who has done best, and look at the successes or otherwise of the Work Programme. It was interesting that the Welsh had done much more progressive work in combating the bedroom tax than had the Scottish Parliament at that time. Feeding off each other is useful—but there was certainly a very strong feeling from some of my parliamentary colleagues that we could not do that lest it be seen as an attempt to undermine the Scottish Parliament. I think the Scottish Parliament should be seen as sufficiently mature and self-assured to allow these sorts of comparisons. Since it is not doing the comparisons itself, because very often it would not necessarily reflect to its greater glory, it may be the role of people like us to have a look at those sorts of issues.
Laurence Robertson MP: I think that the Scottish Parliament should be able to debate Chilcot or anything that it wants to debate. Similarly, in this place, we should debate devolved issues, because they affect the whole of the United Kingdom. I shall give you one example. I personally think that the single best thing that we could do in Northern Ireland to try to move away from the years of conflict is integrated education, where children are educated together. That is not an issue that we can discuss in this place—and that is ridiculous, because it has a big impact on the whole of the United Kingdom, and certainly on my constituents in the broadest sense. Yet we are not supposed to debate that. So I agree with Ian that we need to move forward from that situation. That is to some extent a criticism of the devolution settlement. I know that it perhaps goes a little bit beyond what you are looking at, but it is an important matter.

Lord Brennan: On the question arising from this freedom to debate, if the governing party of a devolved Administration in Parliament votes in a particular way on a reserved matter, can we then anticipate that that government party will mandate its Westminster MPs to follow that line?

Ian Davidson MP: I would imagine so. Let us live in the real world here. If the SNP has a majority in the Scottish Parliament and it is against X, it is not unreasonable to expect SNP MPs who are down here to vote for or against X as well, because it is stemming from the same route. I am entirely relaxed about that. Why should it not do that? But an SNP majority would not be able to mandate Scottish Labour MPs to vote the same way, nor should they. I would expect Labour MSPs to vote on most issues in the same way as Labour MPs would, on the basis that I am here not just because I am charming but as a representative of the Labour Party. Therefore, in those circumstances, you are entitled to expect that party representatives will have a consistent view.

Bruce Crawford MSP: I think Ian is always charming. But as far as this issue is concerned, in the past the Scottish Parliament has voted to say, for example, that it opposes Trident. That is a very clear position for a majority of MSPs in the Scottish Parliament. As for Ian’s description of the Scottish Parliament being “sufficiently mature” and grown up enough to do it, it would be surprising to the people of Scotland if the Scottish Parliament was unable to debate issues of the day that were important. They would think that it was irrelevant, in that respect, if it was not debating those sorts of issues. So it is absolutely appropriate—but I am not sent here to tell the House of Commons or the House of Lords what they should debate. It is entirely up to you what you do.
**Q62 Lord Lexden:** Mr Davidson, there is a growing interest in comparative studies. Would their expansion and value be enhanced by greater co-operation between your various committees? Would you welcome that?

**Ian Davidson MP:** If we decided to look at, say, educational results or the number of working class students going to university, I would very much welcome having the co-operation of the Irish and Welsh Select Committees, and also the relevant body in England. We would expect to have a degree of co-operation from the regimes in Edinburgh, Wales and Northern Ireland. That might be done by official relationships or by formal discussions. I anticipate, living in the real world, that those who thought that they were going to get good results out of it would be more inclined to co-operate fully as opposed to those who thought that they would look badly out of it. You would find a way to get it, even if you had to put in freedom of information requests. There would be a muddling through. Again, the importance is with outputs and outcomes and deciding things, rather than in examining the entrails of how you get there.

**Lord Lexden:** To what extent are your officials in touch with one another at the moment?

**Ian Davidson MP:** I do not know, I do not care, and I do not need to know. Anything that I ask them, they find out for me. As to how they do it, so what?

**Bruce Crawford MSP:** I am not sure whether I am part of the regime or not. We might have different political views, but that does not mean that we cannot share an agenda to make sure that our job is done properly. Some of what we do about how best we hold the Government to account is also about how they agree with each other and how we can examine what they do. I know that there have already been some good examples of inter-committee work between the Scottish Parliament and committees here, and I think that is something that we could build on. I know there is a fair bit of exchange of expertise, to answer your question directly. I think your clerk is Rebecca Davies, and I know that she and the clerk from my own committee are in regular touch. That is helpful—it helps to build relationships, creates trust and builds a bit of respect.

**Laurence Robertson MP:** As far as I know, the clerks are in regular touch and I do find that useful. My clerk has some experience of the Scottish Affairs Committee, as far as I know; beyond that, I do not know. But obviously dialogue and communication has to be helpful.

**Q63 Lord Cullen of Whitekirk:** In the past, some have suggested the creation of a Joint Committee between two or more Parliaments or Assemblies across the United Kingdom to scrutinise intergovernmental relations. What do you see are the advantages or disadvantages of such an arrangement? Perhaps you do not think that it is a good idea at all.
Laurence Robertson MP: I have the honour of co-chairing something called the British-Irish Parliamentary Assembly, which gets people together from the UK and Ireland, which gets people together from the UK and Ireland but also from the devolved Administrations, the Isle of Man, Guernsey and Jersey. I am looking to try to move the organisation, as far as I can, to make it a little bit more analytical and politically active than it is. Possibly that comes back to the point that Ian made—is it possible to look at things in an overarching way, or is it not better to look at them issue by issue and in a more detailed way? Certainly, that is one body that already exists and, as I say, I am trying to make it a little bit more relevant to the modern day.

Lord Cullen of Whitekirk: A committee of that sort could sit wherever it wanted, in London, Edinburgh or wherever.

Laurence Robertson MP: You have the plenary sessions but you also have four sub-committees, which do work together. I am sure that that is beneficial.

Ian Davidson MP: I must confess that my overwhelming reaction is that I would find other things to do. MPs have a limited amount of time, and I can think of absolutely no reason why this should be one of my top priorities. If there was a point to it, maybe I would do it, and I can see why, drawing up a structural diagram might be a good thing to do. But someone else can do it.

Bruce Crawford MSP: Smith talked about improving intergovernmental relationships. That is certainly going to have to be true in the areas of taxation and welfare in future, as more is devolved to Scotland. How do we achieve that where it is appropriate? It is difficult to see how it would fit and work. Inevitably there will be committees in the House of Lords and the House of Commons that have a particular, distinct role, and committees in the Scottish Parliament with that sort of distinct role. That does not meant that we cannot work more closely together, where appropriate, to make sure that we are scrutinising the Ministers properly with regard to where this journey ends in terms of the Smith commission proposals on welfare and taxation.

The Chairman: Thank you very much. You have given us some extremely informative and revealing answers in what has been a lively session. Do any of my colleagues wish to ask any further questions? Have you left anything unsaid that you would like to say before you go?

Bruce Crawford MSP: Lots, but I may be here for a long time.

The Chairman: You have done very well, Mr Crawford.

Ian Davidson MP: If this is described as a lively session, you have obviously not been along to the Scottish Affairs Committee much.
**The Chairman:** We are the House of Lords and not the House of Commons—but some of us remember the House of Commons in the good old days. Mr Robertson?

*Laurence Robertson MP:* No.

**The Chairman:** Thank you very much indeed—we are most grateful for your concise answers and for what you have contributed to the Committee.
Examination of Witnesses

Fiona Hyslop MSP, Cabinet Secretary for Culture, Europe and External Affairs, Scottish Government

Q64 The Chairman: Minister, good morning. Can you hear us?
Fiona Hyslop MSP: Just. I shall try to adjust the sound up a bit, if I can.
The Chairman: Right, we will try to turn the sound up a bit.
Fiona Hyslop MSP: I can hear you now. That is good.
The Chairman: Good morning. We are starting a little before schedule. I am most grateful to you for being available at all. I know how busy Ministers are. I think that I see you sitting in the Balmerino walnut-panelled room that I occupied myself about 20 years ago. Would I be right?
Fiona Hyslop MSP: This is now the Permanent Secretary’s room. It is used to be Jack McConnell’s room when he was First Minister.
The Chairman: And it was the Secretary of State’s room before. How have the mighty fallen? We are very grateful to you for taking part in this discussion session with us this morning. You have been a MSP since 1999, throughout the life of the devolved Parliament. You are currently in the Cabinet as Secretary for Culture, Europe and External Affairs. I think you understand the nature of our inquiry. It is not a party-political inquiry; it is very much concerned with the machinery of government and the intergovernmental relations that enable the machinery to operate smoothly and possibly unnoticed by Members while it delivers the capacity for government to run smoothly. I would like to start by asking you from your perspective—can you hear me?
Videolink lost.
Clearly the intergovernmental machinery has not been operating very well this morning. Can you hear us?
Fiona Hyslop MSP: I can. Third time lucky.
The Chairman: I apologise for this. I could blame it on the Scottish line, but I think that it is just as likely to be the Westminster line. Let us fire on and hope for the best. I was asking a broad opening question. What do you see as the purpose of intergovernmental relations, and how do you think they operate?
Videolink lost.
Fiona Hyslop MSP: I can see you and I can currently hear you. It seems to suddenly break off, and then I cannot.
The Chairman: Let us press on quickly before it happens again. I hope that it will not. Did you hear the question?

Fiona Hyslop MSP: Yes. In intergovernmental relations, the main purpose is to build relationships of trust and understanding to ensure that there is continuity and co-operation in areas of mutual interest. I have attended Joint Ministerial Committees as a Minister over the past seven years, primarily on the Joint Ministerial Committee on Europe, most recently, but also prior to that. Can you hear me?

The Chairman: Yes, we can.

Fiona Hyslop MSP: I think the main purpose is to make sure that we can anticipate opportunities and deal with disagreements, trying to get as much dealt with at official level, where at all possible, and to leave ministerial discussion for strategic interests and purposes. This is about co-ordination. It is a movable feast. Obviously, a great deal of experience has been built up since 1999. We are in a different position even from when I started being a Minister seven years ago. There is always room for improvement. I hope that, particularly with your inquiry—I do not know when you are due to report, but obviously the Westminster election is looming—whatever configuration of party is in government, it is a good opportunity to try to baseline a higher level of co-operation from the start of that new Government and those new Ministers.

The Chairman: Thank you. We are hoping to report before the end of March, before the House rises for dissolution. That is why we have to have these rather short interviews, unfortunately.

Can I ask one very quick supplementary? Does your answer mean that you and your Government are committed to improving the machinery of government, and is this an area to which you give a considerable amount of attention?

Fiona Hyslop MSP: Absolutely, because it is mutually important. You probably hear more about our disagreements than our levels of agreement, but we are always looking for improvements. One thing that I have asked our officials to look at is the experience in relation to Europe and the European Union. We are in the process of producing a table of problem areas but also positive experiences. I met Shan Morgan, the UK Permanent Representative in Brussels and suggested that we do that to demonstrate where we have good experiences and where there have been problems and to try to iron them out.

Videolink lost.
The Chairman: I am so sorry. This has never happened before. We will move swiftly on. I got the thrust of your answer, and I shall now bring in Lord Brennan. I should explain that the camera will sweep round to him. You may hear him before you see him.

Q65 Lord Brennan: Minister, last week the First Minister for Wales told us that intergovernmental relationships should be put on a statutory basis. Do your Government agree?

Fiona Hyslop MSP: I think that certain elements should be put on a statutory basis. I would be particularly keen to have participation, representation and the ability to speak at the European Council, for example, on a statutory basis. But we have to get the balance right between the need for statutory relationships and quick, rapid and informal relationships. So there needs to be a balance between that. The JMCs should be statutory in terms of what they do, but they are not the be all and end all of our relationships, and we need to improve things at the operational level earlier on. Early engagement is really important. On the point about the principle, we need to make sure that the co-operation is prompt and proactive. I am not sure that making it statutory would resolve that. It should involve respect and trust, which I am not sure you can legislate for; it is more about culture and behaviour. But we also need to have speed and common sense. Some issues arise quite quickly and promptly, and the test of good relationships is being able to deal with them speedily. That is about values as much as statutory legislation, which is required to protect that intergovernmental space.

Q66 Lord Cullen of Whitekirk: Cabinet Secretary, I would like to ask you about the Joint Ministerial Committee and perhaps, to set the scene, refer very briefly as to some of the evidence that we have heard. Some have said that it may be difficult for devolved Administrations to raise issues for discussion in that forum, while others have described the committee as being an opportunity to air grievances and resolve disputes rather than being a vehicle for co-operation. Last week, the First Minister of Wales said that the committee was not a proper forum for the four Administrations to come together to discuss issues of mutual interest, as he felt that it should have been. Any comments?

Fiona Hyslop MSP: His point about how it should be a forum for mutual interest is one where everyone comes to the table with an equal perspective. The issue that the time and the agenda are quite often controlled by the chair, who is always a UK Government Minister, is something to look at. The British-Irish Council, which I also attend, has a rotating chair, and that might provide a different balance. JMC (Domestic) has met less frequently and tends to be one more where grievances are formed, unfortunately. It should be an area where we can try to deal better with some issues. Bilateral relationships are absolutely key.
Videolink lost.

The Chairman: Minister, I am so sorry about this. We lost the videolink again. If it happens again we will have to draw stumps. It is not fair on you to keep you sitting while we constantly reconnect.

Fiona Hyslop MSP: Well—

Videolink lost.
Q67 The Chairman: Good morning. I welcome our three witnesses for the final session of this morning. It is a shortish session, but we are very grateful to you for coming along because what you have to say to us will fit into a bigger picture, which is gradually emerging. We have had a lively session already this morning with three politicians, a chaotic session with a Scottish Government Minister simply because the line broke down four, or was it five, times before we gave up on it—she sitting in Edinburgh very patiently. Now, in these calmer waters, with officials from three departments, I hope we will find the search for truth a little easier.

I welcome you all. We know you are, so I will not go over that again. I will simply ask the first question, to give you a chance to open up the subject a little, by asking you what your departments’ individual experience has been in dealing with devolved Administrations. As a little PS, has it given you any strong views about how good or how inadequate the arrangements are?

Lindsey Whyte: The first thing I would say is that the Treasury has really embedded day-to-day engagement with devolved Administrations on a very wide range of issues. That has only continued to strengthen as the work on the referendum and the significant moves into further tax devolution, and in the future through the implementation of the Smith agreement into welfare. That has only served to reinforce the fact that engagement with the devolved Administrations is core to the vast majority of Treasury roles now. Of course, we operate in both reserved and devolved policy spaces, so we have slightly different interactions in different parts of the Treasury. It might be helpful if I explain a bit about my team’s role within that and my personal experience.

The Chairman: Just briefly, yes.

Lindsey Whyte: My team is responsible for the Treasury’s work on implementing existing devolution and in preparing for further devolution. As part of that, we play a central role within the Treasury in co-ordinating across all the policy teams and making sure that they understand the current status of the devolution settlements and how they are evolving. Ministers look to us to pull advice together across the department to reflect that. We also manage the interactions of the devolved Administrations. A large amount of that goes through
my team where it deals specifically with budget and finance matters; my team is also the spending team for the devolved Administrations. We also play a role in facilitating a wider role in engagement with specific policy teams. Infrastructure UK, for example, now has very positive relationships with some of the capital experts in all the devolved Administrations and uses those, for example, to explore the opportunities for the devolved Administrations to take advantage of the infrastructure guarantees.

I would characterise our engagement as continual and really very regular. I think we have very constructive and positive relationships at all levels through the organisation. Our Ministers talk very regularly to their counterparts in each of the devolved Administrations. The vast majority of the time we can resolve issues bilaterally and through our informal processes. We also, of course, have a more formal structure, which sits underneath the Joint Ministerial Council. My team is responsible for the Treasury’s role in supporting those structures: the Finance Ministers’ Quadrilateral and laterally the Joint Exchequer Committees for Scotland and Wales. We have found those to be very useful.

Q68 The Chairman: Thank you. Because you are the Treasury and because money is involved, we would expect your context to be more extensive in departmental terms and more frequent. Perhaps we might hear a slightly different story from the departments.

John Robbs: If I may, I will first explain why you have me. It is not solely because I am responsible for marine and fisheries, which is an area where we have extensive contacts with the devolved Administrations; Defra’s small devolution unit also comes under me, and that carries out a co-ordinating role across the department. In terms of Defra’s relations with the devolveds, like the Treasury we have extremely extensive working relationships across pretty much our entire range of business. You could divide it into two broad categories. One is EU and international business, which of course is reserved in the case of Defra. However, the common agricultural policy, the common fisheries policy, all the EU directives and so on amount to a wide-ranging agenda in which the devolved Administrations have a very strong interest. On those dossiers, where we are negotiating, Defra is the lead UK department but with full and detailed involvement with the devolved Administrations, which you can explore later if you like.

The separate category is domestic business, where responsibilities are devolved. However, that does not mean to say that we stop talking to each other. We retain a very strong interest in making sure, for example, that we make the best use of the resources available between us, so that we do not do the same thing four times differently. We ensure that we take account of knock-on effects on each other, so we do not cause each other problems. This occurs in a
whole range of business. For example, we work together on animal disease outbreaks, because evidently they and plant diseases are not just going to stop when they hit a territorial boundary. We work together on things like the Marine Science Co-ordination Committee, which is pan-UK, where we are all wrestling with pretty similar questions and we discuss what the priorities are: “You do that, I’ll do that, we’ll compare results”. We share the resources and work together. There are also a number of UK bodies, such as the Joint Nature Conservation Committee, which all four Administrations appointed. So you have EU business and areas of domestic policy, even though devolved, where we still want to work together.

In addition to that sort of subject cutting, there are layers—it is a multilayered relationship. You have Ministers, senior officials, working-level officials, and stakeholders—we have quite a lot to do with Scottish stakeholders. You can come at it either way.

The Chairman: Understood. Thank you.

Graham Pendlebury: Good morning everybody. I have a very similar story to John’s, so I will keep it as brief as I can. My day role, if you like, is local transport in England, but I also have a small devolution unit in DfT that sits under my authority. We would very much expect the individual policy and modal teams within the department to have their own bilateral relations with their counterparts in the different devolved Administrations. Indeed, I would see it as a failure if everything came through me, because that would suggest that the bilateral relationship was not really working. In DfT, most transport matters are already very substantially devolved, and there is a bit more devolution to come under the recent command paper and parallel provisions in Wales. Just as John said, our engagement does not just stop at reserved matters; we also very much exchange ideas, information and best practice about matters that may be devolved to the different Administrations. We have very constructive, professional relationships and networks, which seems to work fine. I would never say that everything is perfect and that we get everything absolutely right. Clearly there will be cases where that does not happen.

I think we have a slight advantage in that much of what we do in transport is not desperately politically contentious. If you are interested in how you maintain your roads and keep your maritime workers safe—things like that—these tend to be areas where there is broad consensus, and we are very much in the space of making sure that we share each other’s good practice and setting common standards where we can.

The Chairman: Thank you. That sets the scene.

Q69 Baroness Taylor of Bolton: Thank you for your answers. Perhaps I should say that when we have talked to some people from the devolved Administrations they have not always
seen the relationship as being quite as smooth as you are implying, and departments have been mentioned as not having the kind of relationships with them that you are talking about. Others have said that other things are going well, however, which is good to hear.

Can I press you a bit on policy development? You have talked about contacts and talking to people. We have heard that these are often on the basis of individuals rather than formal structures, which might be something that you could comment on. When there is a new area of policy development, the way you have been talking it is as if that comes from Whitehall and then you consult people in devolved Administrations. I would like you to take us through the mechanisms for that. Also, to what extent can devolved Administrations come to you with ideas for policy development that then lead to something that is implemented by both Administrations or by more than one Administration?

**Graham Pendlebury:** Shall I kick off? Obviously there is a basic set of principles, which are set out in various concordats and guidelines, but you are right that a lot of this is down to individual personal relationships. I would not deny that, because we do have extensive professional networks and so forth, but I would certainly like to think that we have extensive consultation, bearing in mind that the same would apply to local government in England. There are multiple stakeholders who we would try to involve where it is going to directly affect their interests. I would even hope that we would try to do that where the effects might be a little more indirect. I can give you a specific example. It is our practice in DfT—I am not sure what the practice is in other departments—that every time there is a change in the EU presidency, we have an extensive process of discussion with the devolved Administrations about the different dossiers that are coming forward and our Ministers write to their opposite numbers in the devolved administration; we wrote on 20 January this year about the Latvian presidency, setting out the range of issues that we expect to be progressed and actively inviting the devolved Administrations to participate in the establishment of our policy positions or our negotiating positions in that area. That is one example that is reasonably formalised. We do that every six months and there are lots of accompanying tables and dialogues that go on that we send out to people, and staff in the department will go to Edinburgh, Belfast and Cardiff to make sure that we are bringing in everybody’s views.

I will give one other brief example. I chair the UK Roads Liaison Group, which sounds a bit boring but it sets common standards of best practice for maintaining bridges, dealing with winter resilience and so forth. That has a series of structures and involves not just the devolved Administrations but Scottish, Welsh and English local government, Transport for London, the Highways Agency et cetera. Two of the four boards are chaired by devolved
Administration personnel. Our delegate to the World Road Association is from Transport Scotland, and we meet about quarterly. That is a very fertile exchange. We say, “This is what we are doing in our different areas”.

Baroness Taylor of Bolton: You have just prompted a question in my mind. In Scotland they have recently changed the drink-drive limits.

Graham Pendlebury: Correct, yes.

Baroness Taylor of Bolton: That could have been used as an initiative to suggest that we did it throughout the UK. Was there any discussion? Was there an initiative from Scotland that was rejected? That was something that they did by themselves, but it could have led to a UK-wide policy.

Graham Pendlebury: It could have led to a UK-wide policy, but our Ministers took the view that for the time being they wanted to retain at least the current level, so there was dialogue and discussion. Of course, one of the things that we will look very actively at is how this plays out in Scotland. It was one of those quite iconic things, because there is one very visible difference now between the two countries that you do not often see, which is the different limit. There was a lot of publicity on that, with signs and police and so forth on the borders to make sure that there was common understanding. That is very much discussed. I believe Philip Rycroft was here in front of you a few days ago. He mentioned the areas of research that we do jointly with Transport Scotland, such as seatbelt usage and mobile phone usage, to see whether the penalties are having any effect on behaviour. We had the same dialogue on the drink-drive issue, but there was a policy difference and we will now see how the two systems pan out and which is the better.

Lord Crickhowell: Can I put a specific example to you, which is rather different from these general issues? At what level and who is involved—I suspect the Treasury is heavily involved—in a decision like the electrification of the Great Western Railway, which is currently a major issue because of the question of where the railway starts, in England or in Wales, because, whichever way you like to look at it, it crosses the border?

Graham Pendlebury: Rail electrification is broadly speaking an issue for the Secretary of State for Transport and DfT Ministers, but a very good example is the electrification in south Wales. The Prime Minister announced a joint arrangement with the Welsh Government back in November, I think, through which the UK Government will contribute £125 million overall towards electrification on the Welsh sections of the Great Western service and the Welsh Government will provide the parallel investment for the electrification of the valley lines that spin off that. So there is a sort of joint agreement between the two Governments, led by the
DfT. Obviously ultimately money is an issue where our friends from the Treasury get involved. But on the actual detail—

**The Chairman:** I think we should move on, because we have lots of other questions to ask first.

**Q70 Lord Lexden:** You have made clear, as we expected, that relationships are, for the most part, conducted informally. Could you give us a sense of the balance between the formal and the informal, at both official and ministerial level if you are able to, and perhaps indicate whether you think the balance should be shifted in any way perhaps to greater formality, particularly in view of the pretty substantial new devolved powers that will be made available in Scotland and in Wales?

**Lindsey Whyte:** Shall I start? I would characterise the current situation by saying that the vast majority of our interaction is informal, and also bilateral with individual devolved Administrations. Particularly when we are dealing with spending issues, in a negotiation we have generally found that we can resolve issues on the vast majority of occasions through informal routes, through officials and then through ministerial conversations that happen very regularly. In addition to that, we have a sort of structure of formal processes that sit underneath the Joint Ministerial Committee. If it is helpful, I can explain a little bit about it.

**Lord Lexden:** Just very briefly.

**Lindsey Whyte:** Okay, so we have the Finance Ministers’ Quadrilateral meeting, which is primarily used as a forum to bring forward finance issues that are common across the devolved Administrations. That has been a useful forum in developing the statement of funding policy which, as I am sure you are aware, is the document that sets out the principles that govern the Treasury’s relationship on behalf of the UK Government with the devolved Administrations. We have in the past been able to use the Finance Ministers’ quad to reach agreements on some quite technical issues, but very important ones—for example, around the nature of budget exchange for the devolved Administrations.

Going slightly to the previous question about policy development, that was a good example of where the proposal came from the devolved Administrations, and we were able to use that process to implement that. We also now have for Scotland and Wales a bilateral Joint Exchequer Committee and structures that have been used to take the policy decisions associated with implementation of the Scotland Act 2012, which will also be used for the Wales Act 2014. We have found those very useful, and the structures underneath have enabled us to develop the operational detail that needs to underpin that. I think there will certainly be lessons from those structures, where they have worked well, that we would like to
take forward. As you say, particularly in the case of Scotland with the Smith commission announcement, we are going into much more extensive tax devolution and now into welfare, so I imagine there will have to be supplementary structures there. That will be something that we need to consider as part of the review of the memorandum of understanding, which I think that Philip Rycroft and Helen MacNamara talked about in their evidence session. There will always be a question about the right balance between the formal structures and the more informal official structures underneath that. I do not think that we have a prior about what the correct model is going into that, but in some of the discussions that we have had with stakeholders, both ahead of the publication of the command paper last week and immediately afterwards, they have certainly made clear the value that they attach to being able to have conversations at the right level of technical detail. We would certainly want to be able to find a way whereby we can still do that; not everything is necessarily within the implementation—we need to go up to a formal ministerial process.

The Chairman: Could you keep your comments fairly concise, because we will run short of time otherwise?

John Robbs: I will briefly add that, as with Treasury colleagues and Transport colleagues, the ministerial engagement tends to be the tip of the iceberg, as you would expect. Most of the policy discussions in Defra territory are about EU negotiations; you have a very full process from the moment when a proposal or working paper comes out in Brussels, with automatic sharing, working through and resolving issues with only a few or a very small number or possibly none needing to go to ministerial level. We tend to resolve them either by correspondence or at Council meetings. We have very frequent meetings in Brussels and Luxembourg. It is routine for one, two or possibly three Ministers from devolved Administrations to attend. This week in Brussels, we had a Minister from Scotland and one from Wales. Before the Council starts, we meet as a delegation and any outstanding issues are resolved then, informally really, with the Ministers in the room.

Graham Pendlebury: Can I make one brief comment, Chairman? On your question of whether we should move towards more formalisation, that is something that we perhaps need to revisit in the light of the evolution of the devolution arrangements—but for me, the more you formalise it, the more you fossilise the relationship. Those of you who have been government Ministers will know that what then happens is that your officials prepare you formal briefs and the discussions become a kind of negotiation from prepared positions rather than a conversation, sharing expertise and things. Of course, you can have formal arrangements for high-level discussions of strategy, maybe, and perhaps should it be needed
some sort of dispute resolution process, but I would worry that you could find yourself making everything locked down—and that would be a less open relationship, paradoxically. I also find that, with officials, when you have formal policy events, it becomes “death by PowerPoint”. So in the end we let those die away, and we prefer more informal relationships.

**Q71 Lord Cullen of Whitekirk:** Dr Rycroft gave us evidence that the campaign for Scottish independence and the referendum shone a “very harsh light” on the understanding of devolution and the relationship between different parts of the UK and Whitehall. How did that campaign affect your department’s relationship with the Scottish Government and other devolved Administrations? It may have been a difficult time, but was it a useful experience?

**John Robbs:** I think it is my turn to go first. I am not sure that it was a particularly harsh light, in our case. It certainly highlighted issues and it was the occasion in our department and, I am sure, other departments to make sure that everybody was right up to the mark on the rules and procedures that we are supposed to follow. So it was a good opportunity to remind people of the guidance and the ways in which to operate with devolved colleagues, in case there were newcomers or others who had slipped into perhaps less than perfect ways. So it drew attention to the issues more than was the norm. In our case, business continued from day to day. We could not just wait for the vote to get out of the way because, as I have said before, most of our policy discussions are on the EU agenda, and that was not going to pause. So it was very largely business as usual.

**The Chairman:** Thank you very much. We are going to ask a couple of Treasury questions now for Ms Whyte, but after she has dealt with them the two of you might be bursting to add something or subtract something. That is usually the case with the Treasury.

**Q72 Lord Brennan:** Ms Whyte, it is a political necessity for devolved Administrations and Whitehall to understand each other’s financial and Treasury policies. Without committing yourself to any position, could you explain to us how it works or should work in future? Are budgets going to be synchronised in terms of preparation and publication? If not, how do you balance them out? The second point is that there is a matter of real concern about the balance of tax across the country. Let us suppose that there is the ability to have different rates of income tax in Scotland, within its devolved powers, and let us suppose that you have corporation tax in Northern Ireland at 10% and not 20%. How is that going to be balanced nationally, and which Minister will be responsible for that?

**Lindsey Whyte:** I shall do my best to cover everything that you have asked. I absolutely agree that it is critical to ensure that the UK Government and the Governments in each of the devolved Administrations understand their respective budgets and how they fit together. We
have the statement of funding policy, which sets out the overarching principles that govern those relationships. It is certainly the case, as has been set out in the Smith commission report and the Government’s command paper last week that we will need to review the funding arrangements and, indeed, the wider fiscal framework within which the funding model sits, in the light of further devolution. We have reinforced our commitment to ensure that we do that in partnership with the Scottish Government. As you say, we will also need to look at the funding model to support the devolution of corporation tax to Northern Ireland, subject to the passage of the Bill before Parliament. With Wales, we will also be working out a funding model to sit along the tax powers within the Wales Act. We are in a good starting position to work through the various funding models and the implications of tax devolution, particularly through the Smith commission. Unlike with previous rounds of devolution, the Smith commission process has agreed a clear set of principles that will need to underpin that, and there has been cross-party agreement on the outcomes that any model will have to achieve. Of course, we will have to do a lot of detailed technical work and decisions about the ultimate funding model will be for Ministers to take, but we are committed to doing that alongside the implementation of the Scotland Bill that will come forward in the next Government. That will help us to learn some of the lessons from the Scotland Act for how we do that.

On the specific questions on the alignment of UK Government budgets with Scottish Government budgets, that would really be a matter for future Governments and Ministers to consider as part of this process—and similarly, in terms of ministerial ownership, although at the moment the work on the funding model and the fiscal framework is being led by the Treasury. The Chancellor is of course responsible for that.

**Lord Brennan:** Would you expect that the day-to-day stuff will be done at Chief Secretary level?

**Lindsey Whyte:** Under the current arrangements, the Chief Secretary has tended to manage the day-to-day relationships. He has tended to attend the Finance Ministers’ quad, although he and the Chancellor discuss the detail of what is being discussed in those meetings. But again, the assignment of ministerial roles in the Treasury in future is for Ministers to consider.

**Q73 Lord Crickhowell:** I have one final question. You have referred to the Finance Ministers’ Quadrilateral meeting. How do the Joint Exchequer Committees interact with the Finance Minister’s Quadrilaterals?

**Lindsey Whyte:** They are actually there for slightly different purposes. The quadrilateral meeting tends to deal with common issues and financial issues across the devolved Administrations. For example, the quadrilateral meeting reached an agreement on how we
dealt with budget exchange and, subsequently, how we would deal with financial transactions capital after the last spending round. That was something that all three devolved Administrations had a common concern about and wanted to raise in that forum. The Joint Exchequer Committees for Wales and Scotland are there to manage and oversee the implementation of the devolution involved in, respectively, the Scotland Act 2012 and the Wales Act 2014. So by nature they are bilateral forums. The Joint Exchequer Committee for Scotland has an official structure underneath that to support that process. We are still in the process of discussing with the Welsh Government what might be appropriate for them, so that we can support that. So while there may be occasions when one of the devolved Administrations would want to raise policy questions that had appeared through the Joint Exchequer Committee in the broader form of the Finance Ministers’ Quadrilateral, that has not tended to be the case. The quadrilateral has mostly focused on more detailed issues around the statement of funding policy, for example.

Q74 The Chairman: Thank you. We will give you a pass on the next question. To the two other departments, I would say that there is a forest of memorandums of understanding, concordats and guidance on devolution, and possibly other kinds of protocol, within each department, rather hidden from the outside world. How do you judge the relative importance of those and how do you relate your work to the existence of those documents?

John Robbs: We start, obviously, with the government-level memorandums of understanding, concordats and guidance notes. Then, as you have observed, there is certainly rather a lot below that level, and Defra makes its own very fair contribution to the quantity of other guidance in all sorts of different areas. But these have not been written because people felt there was nothing else they could do with their time; they were done because it was thought they would be useful. We have them on animal health and disease, biodiversity—very detailed stuff. Our internal audit function, for example, has a specification of how it works for devolved Administrations. They are done because the parties think it is useful to set down a shared understanding of how the relationship will work, but in my personal experience much of the value of these things comes in the writing of them. Then the trick is not to forget them. The process of clarifying areas of different interpretation can be very useful, and every now and again they need to be reviewed to make sure that they are working. Once you have written them and got that in your head, the vital thing, of course, is the working relationships and practice, not constantly referring to what is written down on paper. Those personal-level working relationships are what make it work or not. I think they have a role, but you cannot operate by constantly opening the reference work and reading the relevant sub-clause of the
relevant chapter, because that just stultifies everything. So use them, but keep them in perspective.

Graham Pendlebury: We have exactly the same in DfT. We have concordats with each of the three Administrations. Sitting below that are specific ones on the relationship with Network Rail or whatever it is. I have some of them here. They are quite lengthy, wordy, quasi-legalistic documents, and they provide a framework and an architecture, but if I were a young official thinking about how to engage with my opposite numbers in Scotland, or vice versa, I would probably be terrified of putting my foot wrong because I was breaching some sub-clause. I think the Cabinet Office devolution guidance is better. It is written in plain English and has handy hints on how to do some fairly common-sense things, so I would guide people towards that. In DfT, we have on our own departmental intranet guidance on relations with the devolved Administrations, and indeed with other tiers of government, and I would point people towards that as an instant reference, or suggest picking up the phone to me or one of my members of staff if they have concerns. I am not belittling them—it is very important that we have these formal structures. They are there for a reason. They need to be refreshed, I have to say. I would probably say that the DfT concordats are a bit long in the tooth and that we ought to engage with our colleagues around the UK, particularly in the light of the changes that are happening, and refresh them a little. The fact that they have not been refreshed probably signifies that there is quite a bit of dust gathering on them.

The Chairman: Do you think they need to be reinforced in some way, whether by statutory underpinning or some more rigid form of protocol? While you are thinking about that, to what extent do you seek to communicate with other departments the relative differences between the devolution settlements in different parts of the United Kingdom? Do you regard it as part of your responsibility to have a cross-departmental understanding and flow of knowledge?

Graham Pendlebury: I shall answer your first question first. It is a little like the previous question about formalising things. Personally, I would be very wary about going down some kind of statutory route, because then you build some inflexibility into the system, and every time there is a change of nuance or something you are then stuck with a statutory set of instructions or whatever. It is much better to have a more informal structure.

The Chairman: To save time, do the other two witnesses agree with that approach?

John Robbs: I do. That is my personal opinion.

The Chairman: Okay, let us press on with the other question about communication.

Graham Pendlebury: I think it is fair that we do not share practice with each other on a day-to-day basis about different elements or ways in which our various relationships are
conducted. Dr Rycroft chairs the senior officials devolution group. We get together about once a month, give each other talks and presentations and keep each other up to speed, but that is still a more informal testing of the waters and seeing what is working and what is not working, and things to watch out for, rather than discussing the detail of our individual concordats.

**John Robbs:** I agree. As Philip Rycroft said, more could be done and probably should be done.

**Lindsey Whyte:** Just to add to that, we do quite a lot of work through our spending teams and with Whitehall departments to make sure that the operation of the Barnett formula, for example, and the budget system on the spending side for the devolved Administrations is well understood and that both departments and teams within the Treasury understand the implications of policy decisions and recommendations for the devolved Administrations. We have increasingly embedded that into our structures to make sure that all the submissions that go to Ministers reflect that.

I would just say that we are moving much more into further tax devolution, as I said. That is becoming much more mainstreamed into wider parts of the Treasury, and we are certainly looking to continue to increase the role of my team in ensuring that across the Treasury people understand the differential devolution settlements and the different paces at which they are progressing, but also the overarching principles that should still guide those settlements so that they can understand what that means for their day-to-day operation as that becomes much more relevant for more people.

**The Chairman:** Have any of your departments had scrutiny from the House of Commons or House of Lords Select Committees on devolution issues?

**John Robbs:** Certainly Defra is a very regular customer on EU affairs, where there is a strong devolved Administration interest.

**The Chairman:** But not on the Scottish Government or the Welsh Assembly or the Northern Ireland Assembly?

**John Robbs:** Oh, I see. I have been to Edinburgh twice with different Defra Ministers to appear before Scottish committees, yes.

**The Chairman:** But not before UK committees?

**John Robbs:** No, not before UK committees on devolution issues.

**Lindsey Whyte:** We have had quite a lot of scrutiny. The Chief Secretary and the Financial Secretary have both appeared before Scottish parliamentary committees. There has also been scrutiny within the UK Parliament. Formerly the Exchequer Secretary and now the Financial Secretary...
Secretary has supported the Secretaries of State for Scotland, Wales and Northern Ireland on the Scotland Act 2012, the Wales Act 2014 and, just yesterday, on the Second Reading of the Corporation Tax (Northern Ireland) Bill. The Chancellor, as you may know, was before the Treasury Select Committee last week to talk about the Smith agreement.

Q75 Lord Goldsmith: This has been a very helpful session. We were keen in this Committee to understand not just the relationship between the Cabinet Office and the territorial offices in the devolved Administrations but how you work with the functional departments across the line. So it has been helpful to hear what you have to say. One practical question that we would like to know a bit more about is what the extent is of direct experience of your officials working in devolved Administrations, or of those from devolved Administrations working in your departments? Do you have exchanges and people moving from one to the other?

Graham Pendlebury: I did a quick trawl when I saw that that might be one of the questions to see whether any of our directors had ever worked in any of the devolved Administrations. Apart from a couple of people saying that when they were 16 they worked in a benefits office in Belfast for a couple of weeks, the answer is basically no. What is more common is when people have previously worked in the old government offices for the regions or in local government in England. So we do not have formal structures. In some ways, the traffic has tended to be the other way. We have had senior officials who have moved out to the devolved Administrations for career and, dare I say, quality of life reasons. They have found that it has been congenial. That does not mean to say that we do not have exchanges when it is practical. To give you a specific example, you may have heard that the department, jointly with stakeholders in the north, is preparing a transport strategy for the north of England, connecting the major cities there. We have seconded in a senior official from Transport Scotland to help us with that, because many of these east-west connectivity issues and connectivity issues up to Aberdeen are similar to the ones in the north of England—so why would we not bring somebody down for a few months to help us out with that process? That is a practical example. But we do not have a more systematic approach—you cannot get promoted unless you have done three years in a devolved Administration, or something like that.

The Chairman: You make it sound like Siberia.

John Robbs: I think it is a slightly opposite perception. Like Graham, at senior level we have tended to have rather one-way traffic of senior colleagues going to work for the Scottish or Welsh Governments and showing a marked reluctance ever to come back. London property
prices, commuting and so on are not always that appealing from a distance. So we have done that. We also have secondments, although in relatively small number, which tend to be more at working level, with more experts from core Defra and our network of arm’s-length bodies going in and out. The other place where the interchange happens is often in the UK Permanent Representation in Brussels, which we work with on all our EU business. There you tend to have devolved people coming in and working with us as part of the UK team and then going back. So we have it in different areas and do it in different ways.

Lord Goldsmith: Is it helpful when it happens?

John Robbs: Yes, it is. It always depends on the individual, but as a generalisation it is helpful.

Lindsey Whyte: We are very similar in that we have people who have joined the Treasury with previous experience from the devolved Administrations. Within my team, I have someone who has previously worked in the Northern Ireland Executive and I have just recruited somebody from the Scottish Government. We also have people who go out on secondment to the devolved Administrations, the territorial offices and the Smith commission secretariat or the Silk commission. We similarly do not have a central record, but it is very much encouraged within the department to do that sort of interchange, whether with the devolved Administrations, the private sector, international institutions or other government departments, as part of career progression in the department.

The Chairman: Do any of my colleagues want to ask another question, or do you feel that there is anything unsaid that you would like to say? No? All passion spent. Thank you very much—you have been extremely helpful in shedding light on these issues. You have given us the perspective that we needed, and it will play into the bigger picture very well indeed. Thank you very much for coming.