

Intergovernmental relations: Improving devolution capability in Whitehall



General comments

1. The Royal Society of Edinburgh (RSE) welcomed the Dunlop review into union capability, in particular with respect to its recommendations to improve capability in Whitehall and enhance more opportunities for civil servants to move between the four administrations of the UK.¹ However, there is little evidence to suggest that these recommendations have been fully implemented.
2. Against the backdrop of Brexit, and the UK Government's adaptations to it, there has been a deterioration of intergovernmental relations (IGR) in recent years. The recent reforms to the machinery of IGR do not appear to have made significant improvements, and are also still to be fully implemented. This suggests a continuing need for greater understanding of devolution and enhanced devolution capability within Whitehall.
3. The RSE is not in a position to comment on operational matters inside Whitehall (questions 2 – 6 within the consultation) – the lack of transparency on Whitehall structures and working practices suggests that these questions can only be properly addressed by the UK Government. Our response will instead focus on the missed opportunities since the Dunlop review and propose opportunities to do things differently, pointing to international examples of best practice.
4. There is an opportunity at present, which may not last that long, to change the structures at the centre of government in ways that reflect the union as it is, and recognise its territorial complexity. Historically, more attention has been given to matters of intergovernmental relations and devolution capability during boiling points for constitutional and territorial tensions, such as the Northern Ireland peace process or the Scottish independence referendum. However, the relative calm in the constitutional debate creates an opportunity to embed new cooperative practices that secure consent from the devolved administrations, and potentially lead to a corresponding shift in attitude and culture towards more constructive engagement across central and devolved governments.

¹ Lord Dunlop (2021). Review of UK Government Union capability. Available here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972987/Lord_Dunlop_s_review_into_UK_Government_Union_Capability.pdf

To what extent has the Dunlop review of union capability been implemented and what remains to be addressed?

5. The Dunlop review of union capability has only partially been implemented, with a new UK Intergovernmental Council (replacing the Joint Ministerial Committee), Interministerial Committees and Interministerial Groups. There are more intergovernmental meetings but most meetings between ministers take place outside of these structures, and it is not yet clear how far the new machinery has generated more constructive engagement.
6. The new IGR secretariat meets a need identified in an earlier RSE report.² It is, however, limited to a secretarial role, without the arbitral and research capacity envisaged in our report.
7. The recommendation to create a senior cabinet position with a duty to uphold the integrity of the constitution, including the operation of intergovernmental relations and devolution more generally, has thus far been rejected.³ Instead, the Prime Minister has retained ministerial responsibility for the Union while a new Minister for IGR has been created. During the premiership of Liz Truss, Nadhim Zahawi served as Minister for IGR alongside his roles as Chancellor of the Duchy of Lancaster and Minister for Equalities. In the current administration, Michael Gove has assumed ministerial responsibility for IGR, in addition to his broader responsibilities as Secretary of State for Levelling Up, Housing, and Communities, a ministerial portfolio that otherwise largely concerns England only.
8. The maintenance of the territorial constitution should be a core function at the centre of government⁴ rather than simply a departmental task in alongside another ministerial portfolio. The RSE believes that the fulfilment of a distinct office of state to champion intergovernmental and constitutional policy should be a priority.
9. Furthermore, by looking slightly further back before the implementation of the Dunlop review, a key force in addressing the weaknesses in devolution capability in Whitehall was the UK Governance Group, which has ceased to exist. The UK Governance Group was set up in 2015 following the independence referendum campaign to create a powerful unit at the centre of government with primary responsibility to advise the prime minister on constitution and devolution matters. This group brought together the cabinet office, constitution group, and Scotland and Wales office, in an attempt to establish a very visible centre of thinking on devolution capability in Whitehall and also to create career paths within Whitehall for people who wanted to specialise in various policy areas. The benefits of the group were always going to be reaped in the long term – possibly a couple of decades in Whitehall terms – and that potential has now gone, making it ever more difficult to rebuild momentum in the future.
10. Another key recommendation within the Dunlop review of union capability was that there should be more opportunities for loans and secondments between the UK, Scottish, and Welsh Governments, and greater interchange with the Northern Ireland civil service.⁵ Experience of working across governments can have a significant benefit for Union capability, enhancing understanding of devolution from the perspective of multiple administrations and political communities. Whilst we understand that mobility may be constrained by circumstances and there are potential equality, diversity, and inclusion issues that must be considered and accommodated, the RSE recommends that it should be a requirement for senior civil servants in Whitehall to have acquired meaningful experience (at least 2-3 years) in another tier of government - devolved government, local government, or local service delivery – to enhance their understanding of the UK's system of multi-level government. Cross governmental experience is a key strength in other systems such as Canada.

² The Royal Society of Edinburgh (2018). RSE Response to the Scottish Parliament Finance and Constitution Committee Consultation: Common UK Frameworks.

³ Lord Dunlop (2021). Review of UK Government Union capability. Available here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972987/Lord_Dunlop_s_review_into_UK_Government_Union_Capability.pdf

⁴ For example, in France, where L'aménagement du territoire is a key consideration at the centre of government.

⁵ Lord Dunlop (2021). Review of UK Government Union capability. Available here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972987/Lord_Dunlop_s_review_into_UK_Government_Union_Capability.pdf

11. There is a broader point to be made around the capacity for spatial thinking (understanding the significance of place and space for public policy making) in the UK and indeed the devolved administrations, which has almost disappeared. Spatial thinking capacity has, however, grown significantly in the big metropolitan areas of England, such as Manchester, Leeds, and London. These devolved metropolitan cities are where innovative thinking about economic development in Britain takes place.⁶
12. Overall, the recommendations of the Dunlop review have not been seen as a political priority. This is partly because the issue has gone off the boil and the threats to the union are less immediate. If a new government wants to make real changes without committing to overt spending, then improving this area should be a priority. Looking back into the history of devolution, one of the most effective offices of state was the Constitution Secretary in the Cabinet Office, which brought the UK Government through not just devolution, but human rights legislation, the Parliament Act and then Scotland Acts, the independence referendum legislation, and many more significant moments, which demonstrated there was capability there, which is now, withering away.⁷ Allowing that institutional knowledge to dissipate when the need for it will come back in the future is a big mistake.

How does “one civil service” for the UK, Scottish, and Welsh governments work in practice with the separate Northern Ireland civil service? Does this have any impact on knowledge sharing and cooperation between different administrations?

13. The RSE argues that the structure of the civil service has not been a barrier. Despite being formally separate from the ‘home’ civil service, officials in Northern Ireland maintain close cooperative relations with their counterparts and are not treated

differently. Likewise, being part of the same civil service structure has not prevented officials within the devolved administrations serving and being loyal to devolved ministers.

14. Despite sharing a civil service ethos, tensions at the political level can affect relations between officials working across governments. This means that they may not have sufficient political cover to share information or policy developments at the early stages - the most optimal time to ensure devolved considerations can be taken into account.

Are there any examples of international best practice from which lessons can be learned?

15. The RSE believes lessons can be learned from the Canadian system. The Canadian privy council office, which is their equivalent to the cabinet office, is a very well-rehearsed government machinery with the strength and ability to resolve conflicts between territories. Canada also has a very strong Minister for IGR.

Conclusion

16. The RSE argues that devolution capability in Whitehall remains a weakness at the heart of government. The lack of political will to implement the recommendations of the Dunlop review, as a bare minimum, will be a burden on the machinery of government for years to come. The urgent need to improve devolution capability is not an isolated issue. Instead, it nests within a wider set of issues about Whitehall capability, where there are concerns over the lack of policy development and a loss of confidence and authority. The relationship between failures in intergovernmental relations, political will, and poor civil service advice is something that could be explored further. Understanding the issues of devolution capability in Whitehall as part of that broader picture makes it more relevant.

⁶ See for example the ‘Economic Scenarios for the Northern Powerhouse Independent Economic Review Final Report. Available here: <https://transportforthenorth.com/wp-content/uploads/Economic-Scenarios-for-the-NPIER-Final-Report-for-Publishing.pdf>

⁷ The Constitution Unit (2020). The origins of the Cabinet Office Constitution Unit (1974–79): documenting the pitfalls of constitutional reform. Available here: <https://constitution-unit.com/2020/10/29/the-origins-of-the-cabinet-office-constitution-unit-1974-79-documenting-the-pitfalls-of-constitutional-reform>



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