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Chair, Finance Committee
Senedd Cymru
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By email

Dear Chair

Finance Committee's Inquiry into Intergovernmental Relations

Thank you for your letter of 19 March, and for taking my evidence before the Committee on 13 March.

Your letter asked me to respond to three additional questions. I do so below.

Question 1:

Do you feel the dispute resolution mechanism would be more equitable if it incorporated an independent adjudicator for dealing with fiscal issues including those arising from the fiscal framework?

As the committee is aware, the dispute resolution procedure now in place following the review of intergovernmental relations provides for the possibility of both an independent chairperson for stages of the process and for the provision of third-party advice and mediation. If utilised, these provisions should at least ensure that the facts of a dispute are set out clearly and fairly.

However, the outcome of these processes would not be binding on the participants to the dispute; the agreed procedures are clear that the independent chairperson would have no decision-making role. Incorporating an independent adjudicator would not add much to that mix, unless they were to have the power to impose binding decisions on the parties to the dispute. That is unlikely to be acceptable to the UK government at least, if not also to the devolved governments, as an outsourcing of decision-making which takes it beyond the immediate control of democratically elected governments.

While independent adjudication might be superficially attractive as a means to redress the balance of power between the UK and the devolved governments, in my view it would signify an important constitutional innovation which is unlikely to be politically acceptable.

Question 2:

The Commission's final report recommended the Westminster Parliament should legislate for intergovernmental mechanisms to secure a duty of co-operation and parity of esteem between the governments of the UK. How you would envisage this working and how would this ensure parity between all governments?

The Commission made this recommendation but did not develop it in detail. What follows are my views, rather than those of the Commission as a whole.

Part of the problem with the practice of intergovernmental relations since devolution has been ensuring sufficient and sustained attention in Whitehall. Putting intergovernmental mechanisms on a statutory footing would heighten their salience and importance; Whitehall is more likely to pay attention to something that is underpinned by a statutory duty.

To achieve that goal, the form the statute takes does not need to be complex. It could frame a duty of co-operation and an aspiration to parity of esteem, though, in my view, it would be difficult to so define either as to make them justiciable. It could make provision for an independent secretariat with adequate resources. It could establish a broad structure for the various levels of intergovernmental interaction and, critically, impose minimum requirements for frequency of meetings. That could ensure, for example, that the Prime Minister and Heads of Devolved Government Council should meet at a minimum once a year.

This might seem like a modest step forward, but given the recent history of intergovernmental relations, it would represent a big improvement. Statute could ensure that at least the structures were functional.

But structures alone are not enough. By enjoining a duty of cooperation, statute would also serve to remind all governments within the UK that it is in the interests of the people they serve to devote sufficient time and effort to working together to improve the policy outcomes which engage their collective responsibilities.

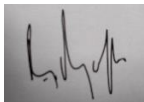
Question 3:

The Commission said a principle should be established that funding changes confirmed after an autumn fiscal event can be managed across financial years. How concerning is the unpredictability in funding for Welsh Government and how effective do you think this principle could be for financial management?

Managing government budgets is complex enough without having to accommodate late changes within year. Without the flexibility to manage the impact of such changes across financial years, there is a real risk of hasty expenditure which does not deliver good value for money. Allowing that flexibility would be straightforward and low risk; it is a simple matter of common sense. It will not of course address concerns about the quantum of funding that the Welsh government receives via the block grant, but it would at least make the job of managing budgets in the interests of the people of Wales somewhat simpler.

I hope these replies are helpful to you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Philip Rycroft', on a light background.

Philip Rycroft