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Rachel Minto  and Richard Wyn Jones 

ABSTRACT

This article contributes to scholarship on intergovernmental relations (IGR) and de-Europeanisation through analysis of IGR in the UK following devolution, pre- and post-Brexit. We argue that incommensurable understandings of the post-devolution state at the central and devolved levels – and related, contradictory expectations about how IGR should operate – precludes the existence of any mutually satisfactory IGR arrangements in the UK. The state's European Union membership nonetheless provided a means of partly mitigating the resulting tensions by underpinning a subset of IGR activity that was genuinely functional. Brexit has thus removed one of the means of ameliorating inter-territorial differences within the state.

KEYWORDS


Intergovernmental relations; United Kingdom; devolution; Brexit; European Union; sovereignty; de-Europeanisation

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1. INTRODUCTION

Any state containing a significant regional or meso-level of government requires means to mediate and manage regional-central government relationships. The mechanisms and practices of intergovernmental relations (IGR) vary considerably, reflecting in turn differences in state-form, constitutional organisation and political context. They have been explored in a vast scholarly literature spanning country-specific and more general contributions (including Benz, 1989; Bolleyer, 2002, 2009; Cameron, 2001; Cameron & Simeon, 2002; Elazar, 1965, 1987; Painter, 1991; Simeon, 1980; Stoker, 1995; Wallner, 2017; Watts, 2008; Wright, 1974, 2003).

The system of regional government established in the United Kingdom of Great Britain and Northern Ireland (UK) in the late 1990s is, famously, both partial and asymmetric (Bogdanor, 1998; Mitchell, 2009). It is partial as no equivalent of the devolved legislatures and executives established in Northern Ireland, Scotland and Wales exist for or within England (Henderson & Wyn Jones, 2021, pp. 167–194). In practice, therefore, across the most populous part of the state, the UK government remains the *de facto* English government in policy areas devolved to Belfast, Cardiff and Edinburgh. It is asymmetric as the powers devolved to Northern Ireland,

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Scotland and Wales (and the internal arrangements of the devolved institutions themselves) are all different. Whilst some of this variance has eroded over time – especially as Wales’ devolution dispensation has increasingly approximated Scotland’s – fundamental differences remain (Rawlings, 2022).

Reflecting the territorially distinctive processes by which the three sets of devolved institutions came into existence, little thought was given at the time as to how the state as a whole would operate post-devolution. A quarter of a century later, there remains no embedded, stable system of IGR in the UK. Thus, in 2022, not only was an entirely new institutional architecture of IGR committees introduced, but that new structure was rendered non-functional for several months, after which it was effectively relaunched (Drakeford, 2022; McEwen, 2022). While this was a particularly tumultuous year featuring – *inter alia* – three different UK Prime Ministers, the frailty of the state’s IGR arrangements has been a recurrent theme. In this article, we focus on those arrangements and the associated literatures to advance two novel arguments about their nature.

First, we argue that the widespread view that the UK’s IGR arrangements are ‘not fit for purpose’ overlooks a more fundamental point: that this serial disappointment is a function of incommensurable understandings of the nature of the post-devolution UK state at the central and devolved levels. Such incompatible starting positions preclude the existence of *any* intra-state IGR arrangements able to sustain the weight they are expected to bear. Here we build on and complement scholarship highlighting conflicting understandings of the state (e.g., Keating, 2021, 2022a; Wincott et al., 2022), providing the first sustained reflection on how this influences intergovernmental working within it.

Second, we argue that processes of Europeanisation initiated by the UK’s EU membership provided a framework to manage and (partly) mitigate these incommensurable understandings, as the EU context underpinned a subset of IGR activity that approximated the conception of the state embraced at the devolved level without impinging on the core interests of the central state. Here was a concrete example of the ways in which EU membership helped ‘served as an important external support system for the devolution settlement’ (Keating, 2021), thus helping to stabilise the wider state structure. Since the 2016 EU referendum – and with the Brexit process having reinvigorated the traditionalist view of parliamentary sovereignty – the gulf between the differing understandings of the UK state has only widened at the same time as post-2020 de-Europeanisation has removed some of the ways in which these tensions might be ameliorated.

Our discussion proceeds in five steps. First, we briefly outline the different understandings of the post-devolution UK state, identifying their very different implications for IGR. Secondly, we evaluate the operation of IGR within the UK from 1999–2016, drawing on a range of closely inter-woven primary and secondary sources including academic literature, the outcomes of a series of parliamentary enquiries and official reports, and interventions from think tanks. Here we highlight the way that the European context generated a unique example of sustainable formal IGR. The third section focuses on the post-2016 period, examining the impact on intergovernmental working of successive UK governments’ interpretations of the referendum mandate and the removal of the EU-facing elements of the UK’s IGR arrangements on 31 January 2020.

Fourth, we turn to Northern Ireland, highlighting the ways in which the (partial) internationalisation of that territory’s governance – primarily through the Belfast/Good Friday Agreement – renders its situation fundamentally different from Scotland and Wales, with IGR taking on a different character as a result. From the perspective of our overall argument, Northern Ireland is the exception that proves the rule.

We conclude by locating our analysis in the scholarship on both IGR and de-Europeanisation. Regarding the former, we argue that however well-intentioned, the current literature’s focus on potential revisions and reforms to IGR arrangements is unlikely to have the desired impact. It is incompatible views on state-form and sovereignty and the resulting disagreement on the

character and purpose of IGR – rather than the supposed deficiencies of particular individuals or structures – that explains why UK IGR arrangements have proven unsatisfactory. Further, by demonstrating how removing the European sub-set of IGR also removed a means to at least partially ameliorate incommensurable conceptions of the UK state, we contribute to the emerging de-Europeanisation literature, identifying one of the mechanisms by which Brexit has exacerbated inter-territorial tension within the UK.

2. THE NATURE OF THE UK AFTER DEVOLUTION AND THE IMPLICATIONS FOR INTERGOVERNMENTAL RELATIONS

It is widely recognised that devolution introduced a thus-far unreconciled contradiction into the heart of the UK's constitutional thinking and practice. According to Bogdanor, 'the most radical constitutional change' since 1832, 'national devolution' to Scotland and Wales – and the reintroduction of devolved government to Northern Ireland – has been seen by its advocates as representing a fundamental transformation of the state (Bogdanor, 1998, p. 1). In Scotland particularly, devolution reflected and reinforced a distinctive tradition of constitutional thinking at variance with that of the wider state's Anglo-British institutions (Keating, 2009; Kidd, 2010; MacCormick, 1998). But it was not only there that devolution was regarded as heralding the birth (or rebirth) of institutions with their own democratic legitimacy and dignity which Whitehall and Westminster would now be required to respect.

Nonetheless, save for some initial steps by the UK's Supreme Court that have subsequently been abandoned (as traced in Davies, 2024) the creation of new institutions of devolution was not accompanied by any adjustment in the state's thinking about the nature or location of sovereignty. Rather, all key devolution legislation doubled-down on traditional understandings of the state by including boiler-plate statements stressing that the existence or further development of devolved legislatures and executives in no way undermined the sovereignty of the Westminster parliament (Bogdanor, 1999). At the most fundamental level, whatever the differences between them, in the context of the UK's uncoded constitution, both the Scottish parliament and the lowest community council exist at the sufferance of the central state.

A significant academic literature has highlighted these fundamentally contradictory interpretations of the constitutional implications of devolution, especially post-Brexit (e.g., Douglas-Scott, 2023; Feldman, 2005; Keating, 2022a; Kenny, 2024; McHarg, 2018a; Walker, 2000; Wincott et al., 2022). While there is no consensus on how to label these differing positions, their respective contours are clear. Firstly, we have what might be termed a 'traditionalist' interpretation of the UK constitution which holds that, irrespective of devolution, the state is essentially unitary with the Westminster parliament sovereign. In contrast, we find the view that devolution has ushered in a different, more polycentric state in which political power and legitimacy are more widely shared than the traditional 'crown in parliament' formulation implies. With some exceptions and nuances, it is the former view that has tended to prevail in and around the organs of the central state, while the latter dominates in the devolved institutions themselves.

Less recognised – but central to the following analysis – is that these different understandings of the nature of the post-devolution state have different implications for IGR. The traditionalist view implies an approach to IGR where the needs and concerns of the central state are both paramount and determinant. By contrast, the alternative understanding, which posits a fundamental change in the nature of the state, implies an approach to IGR akin to that found in formally-federalised states. This means that intergovernmental interaction should be regular and regularised, with participants interacting on the basis of mutual respect (if not on the basis of parity), with the devolved level enjoying some genuine influence. While these may be regarded as 'ideal typical' representations, there is ample evidence that the latter is indeed the approach to IGR championed by the devolved governments (e.g., for vivid pre- and post-Brexit

referendum examples from Wales see Jones, 2013 and Welsh Government, 2021). However, as we demonstrate, much though not all of the practice of IGR since 1999 has approximated the former.

3. INTERGOVERNMENTAL RELATIONS 1999–2016: THE FORMAL, THE INFORMAL AND THE EUROPEAN

In surveying IGR between the establishment of Scotland and Wales' devolved institutions and the EU referendum, we differentiate between the *formal*, the *informal* and the *European* dimensions of IGR. Much academic literature contrasts the limited usefulness and relative weakness of multilateral structures with the extensive use of more informal (and usually bilateral) IGR mechanisms. This conventional account, however, often overlooks the formal intergovernmental structures associated with the UK's EU membership, which functioned well. By foregrounding this European dimension, we reveal the incentives driving the differing approaches to IGR of both the devolved and central governments.

3.1. The formal and the informal

Establishing a framework for IGR was 'something of an afterthought' (Trench, 2004, p. 1) when establishing the Scottish and Welsh devolved institutions.¹ Neither of the respective pre-legislation white papers mentioned any machinery for intra-UK working (Scottish Office, 1997; Welsh Office, 1997). Rather, reflecting reluctance to create quasi-federal structures (McEwen, 2017, p. 684), the UK government anticipated that intergovernmental working would be largely bilateral and the domain of officials, not politicians (Hazell, 2000; Trench, 2003). The first public mention of any formal intergovernmental structures appears to have come in a late-night House of Lords debate during which the junior government minister on duty noted that a Joint Ministerial Committee (JMC) would be created for the UK Government and the devolved administrations as 'an entirely consultative body' (Hansard, 1998b).

Following the first elections to the Scottish Parliament and the Welsh and Northern Irish Assemblies, the UK Government and the newly established executives agreed a Memorandum of Understanding (MoU) and various Supplementary Agreements setting-out the general principles underpinning intergovernmental working (since updated on various occasions and most recently in 2013 – see McGrath, 2015 for an overview). These largely preserved a pre-devolution culture of 'invisible', behind-the-scenes interaction (Laffin et al., 2002), through facilitating contacts at the official level rather than establishing new structures or modalities (Hazell, 2000; Trench, 2004). That said, the first Supplementary Agreement also established formal structures for IGR, namely a JMC that would meet either in Plenary or functional formats, chaired by the relevant UK Government minister.²

Figure 1 summarises the operation of that JMC system. As is clear, although the JMC initially met in both Plenary (JMC(P)) and various functional formats, after 2003 the formal machinery fell into abeyance. The SNP's entry into government in Scotland in 2007 – ending (predominant) party congruence in London, Cardiff and Edinburgh – as well as the restoration of the Northern Ireland executive after an extended hiatus catalysed a revival of the formal machinery (see e.g., McEwen et al., 2012; also below). The plenary format, JMC(P), met again on the agreed annual basis between 2008 and 2014, while JMC(D) (established to address domestic matters) met at least annually between 2009 and 2014. Another hiatus followed between December 2014 and October 2016, with JMC(D) ultimately falling into disuse. Thus, the only constant in the JMC firmament was the EU-focused JMC(E). Bar some disruption around the EU referendum, JMC(E) continued to meet regularly until the final months

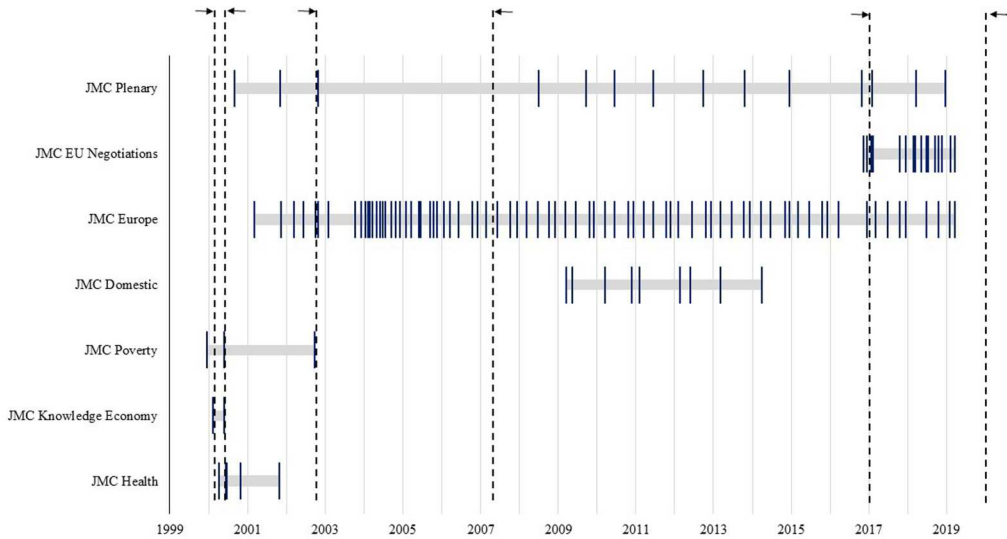


Figure 1. JMC meetings pre-Brexit. Periods between arrows indicate when power sharing was suspended in Northern Ireland.

Data: provided by the Institute for Government based on best records available.

Note: There is no centralised public record provided by the UK Government.

before the UK's ultimate withdrawal. Beyond this, every JMC formation either waxed and waned or disappeared altogether.

Given its role in convening these JMC meetings, the UK Government was clearly content with both this situation and its corollary: that intergovernmental working would continue to be largely informal and bilateral. From as early as 2002, however, it became equally clear that this view was not shared by parliamentarians let alone commentators and experts.

The House of Lords Select Committee on the Constitution inquiry into devolution and what it termed 'inter-institutional relations' (House of Lords Select Committee on the Constitution, 2002) was the first in a long line of parliamentary or government-sponsored inquiries into the operation of post-devolution IGR. These included reports by the House of Commons Justice Committee 2008–2009; the House of Commons Welsh Affairs Committee 2009–2010; the House of Commons Scottish Affairs Committee 2009–2010; the Commission on Scottish Devolution, 2009; the Commission on Devolution in Wales, 2014; the Smith Commission, 2014; the House of Lords Select Committee on the Constitution 2014–2015; and the House of Commons Public Administration and Constitutional Affairs Committee, 2016. Their overall conclusions were brutally if accurately summarised by members of another expert appraisal: 'Every review of devolution has concluded that ... the UK's inter-governmental machinery is not fit for purpose' (Bingham Centre, 2015, p. 9).

A number of specific problems were highlighted.

- Scheduling of meetings was wholly dependent on the degree of interest of the relevant UK Government minister meaning that goodwill effectively became 'a principle of intergovernmental relations' (House of Lords Select Committee on the Constitution, 2002, p. 15).
- Informal intergovernmental working was inherently opaque (House of Commons Public Administration and Constitutional Affairs Committee, 2016; House of Lords Select Committee on the Constitution, 2002; House of Lords Select Committee on the Constitution, 2015; Scottish Parliament, 2015). Even if some senior figures involved claim to have valued

- the resulting opportunities for free and frank exchanges (Horgan, 2004), it meant that wider public and parliamentary scrutiny could be avoided, undermining democratic accountability.
- The UK Government remained the final arbiter of any intergovernmental disputes (see, for example, House of Lords Select Committee on the Constitution, 2015; National Assembly for Wales Constitutional and Legislative Affairs Committee, 2018) – representing a ‘glaring gap’ in the IGR arrangements (McEwen et al., 2020, p. 637).

The suggested remedy was invariably that the UK should develop more formalised and regularised patterns of intergovernmental working. Yet the work of academics researching post-devolution IGR provided compelling reasons for believing that informal, bilateral working was always likely to trump cooperation via more formal, multilateral frameworks – this was because of both operational and political considerations.

Key among the operational factors was the asymmetric devolution settlements. So different were the initial constitutional dispensations that early devolution scholars predicted that ‘new centre-regional relationships ... [would] evolve in three different channels’ (Laffin et al., 2002, p. 323). Difficulties in finding issues for fruitful discussion in multilateral settings persisted such that it was seemingly impossible to build a coherent agenda for JMC(D), leading – ultimately – to its abandonment (McEwen, 2017; Swenden & McEwen, 2014).

Operational challenges extended to the revolving door of Cabinet Office officials at the helm of the JMC Secretariat, undermining multilateral working. The legacy of pre-devolution informal working between Whitehall departments and the ‘territorial offices’ (the direct precursors of the devolved institutions) – as well as civil servants in Scotland and Wales (though not Northern Ireland) remaining part of a unified Home Civil Service – further strengthened incentives to continue informal and bilateral working (Horgan, 2004; Swenden & McEwen, 2014).

Political incentives compounded these operational rationales. With Labour in power in Cardiff, Edinburgh and London until 2007, and with the Belfast executive suspended, intra-party channels were preferred to inter-governmental routes, not least because it reduced the risks of intraparty disagreements becoming public (Gallagher, 2012; McEwen et al., 2012). Although the SNP’s 2007 entry into government pushed intergovernmental working out of intra-party channels, revivifying the formal IGR machinery at least temporarily (McEwen, 2017; Swenden & McEwen, 2014), personal predilections remained centrally important. As Labour’s Welsh First Minister Rhodri Morgan’s memoirs state, Chancellor Gordon Brown’s ‘loathing of Alex Salmond – some of it loathing for Alex personally, some of it for the SNP’, meant that ‘Wales got it in the neck as collateral damage from Gordon’s desperate desire to scotch the Scottish nationalists’ (Morgan, 2017, p. 315).

3.2. The European

With many soon-to-be devolved responsibilities intersecting with EU competences, the need for some kind of IGR mechanism to co-ordinate EU engagement was flagged during the legislative passage of the Scottish devolution legislation (Hansard 1998a) and also discussed in the UK Cabinet Committee responsible for constitutional reform (Laffin et al., 2002). The result was JMC(E) which, following its first meeting in March 2001, met regularly to facilitate co-ordination of EU policy, becoming the formal and multilateral exception to the UK’s generalised practice of informal and bilateral IGR.

Early assessments of its operation were encouraging: ‘[JMC(E)] is widely considered to be effective as a means of sharing information and consulting about European issues’ (Trench, 2004, p. 2). Although later accounts suggested academic observers were more bullish about its effectiveness than some of the politicians and officials involved (McEwen et al., 2012, p. 335; McEwen, 2017), the JMC(E)’s longevity stands in stark contrast to other iterations of the JMC.

This comparative success story has several possible explanations. Operationally, the external driver of European business ensured that JMC(E) had a regular timetable – with meetings in advance of European Council meetings – and related agenda (Gallagher, 2012; McEwen, 2017 Paun & Munro, 2015;). Moreover, since the devolved governments were required to implement EU policies and thus deliver on the UK's member state obligations, the central government had a strong incentive to ensure their full engagement at the EU level. In the words of one former UK Government official, 'When intergovernmental processes absolutely have to work so as to avoid real operational problems or breaching conventions, they do' (Gallagher, 2012, p. 212). Relatedly, the UK's 'domestic political context' has been claimed as significant, encouraging 'cooperative regionalism' and 'insider participation' for the devolved level to avoid fallout around EU policy fuelling calls for independence (Bulmer et al., 2006, p. 81, 89). In the case of JMC(E), the operational and political combined to facilitate the operation of the formal IGR machinery.

But this is not the whole story. In addition to the fundamental fact that membership of the EU's single market created a framework for managed policy divergence across the UK, the EU level constituted a different kind of political space whose form suited the wider ambitions of actors at the devolved level. Although member states retained their dominant position in the EU, regional participation was normalised and taken seriously (Hooghe & Marks, 2001). Here, the devolved governments would be far less subject to the vagaries of particular (UK) ministerial agendas or interests and could pursue their various policy objectives and raise their profile as distinct actors (e.g., Copeland & Minto, 2021; Minto & Morgan, 2019; Minto et al., 2023). From their offices opposite the Commission's headquarters, the Scottish and Welsh Governments established relationships with EU institutions, cultivated bilateral relationships with partner regions (and states) and participated in multilateral networks, autonomously (though not entirely independently) from the UK centre (Minto et al., 2023).

EU-level engagements by the devolved governments were also of value to the UK Government. Because the role of regions in the EU is both limited and delimited (Wyn Jones & Scully, 2010), such interactions allowed devolved ambitions to be channeled without risking unpalatable precedents (cf., the international arena beyond the EU as discussed in Wyn Jones & Royles, 2012), thus buttressing the stability of the post-devolution state. Whilst most formal IGR machinery misfired, EU-focused intergovernmental working provided Scotland and Wales with a semblance of what federalism scholars term 'shared rule': they were able to participate in decision-making that impacted both themselves and the rest of the state. But because at that same EU level the pre-eminent status of the UK government was guaranteed, there was no obligation to face (let alone address) contradictory understandings of sovereignty that had developed alongside devolution. Each side could maintain their respective illusions that either everything or nothing at all had changed.

4. INTERGOVERNMENTAL RELATIONS 2016–2023: BREXIT VS 'THE PRECIOUS UNION'

It was widely recognised that a referendum on the UK's membership of the EU – and in particular a majority vote to Leave – had the potential to destabilise the state by calling into question its territorial integrity. The most notable public forewarning was made in a joint speech in Northern Ireland by former Prime Ministers Tony Blair and John Major warning that leaving the EU would jeopardise the Northern Ireland Peace Process (BBC, 2016). Even more telling, perhaps, was the admission in Boris Johnson's now infamous draft pro-Remain article that a Leave vote would lead to renewed calls for Scottish independence (Johnson, 2016).

It is therefore unsurprising that the post-referendum UK Government was concerned about the impact of both a *territorially* and a *nationally* differentiated set of results. Not only had

decisive majorities in Scotland and Northern Ireland voted to Remain in the EU but those who emphasised their Scottish, Irish and, indeed, Welsh identities voted to Remain, while those who felt English tended to be ardent Leavers (Henderson et al., 2016, 2017, 2020). Hence the establishment in October 2016 of the JMC (EU Negotiations) [JMC(EN)] – with terms of reference to ‘seek to agree a UK approach to, and objectives for, Article 50 negotiations’ (Joint Ministerial Committee (Plenary) 2016), and commitments to monthly meetings and information exchange – is best understood as an attempt to moderate centrifugal forces unleashed by the referendum. If new Prime Minister Theresa May was to realise her desired ‘one UK Brexit’ and preserve what she repeatedly referred to as the UK’s ‘precious union’ (e.g., May, 2017a, 2018), the devolved governments needed to be included in the negotiation process.

The reality of the JMC(EN) fell far short of its initial billing. Whatever the other differences between them, the Welsh and Scottish Governments were united in their dismay at the UK Government’s disregard for the newly established framework (e.g., House of Lords European Union Committee, 2017, pp. 68–71). Indeed, the account given by Wales’ future First Minister, Mark Drakeford, of the conduct of JMC(EN) suggests a level of indifference about its operation that bordered on the gratuitous:

We do not have simple things, like minutes of previous meetings, available to us at these JMCs ... At the last meeting, the work programme was produced at 8.30 in the morning, for a meeting to be held in the afternoon. It was deeply unsatisfactory, and essentially was so poor that it could not be discussed ... (Drakeford, 2017).

Neither did informal working fill the void created by the JMC(EN)’s failure. Far from helping to unify the state, the conduct of IGR in the aftermath of the 2016 referendum served to accentuate tensions across it.

Whatever Prime Minister May’s original intentions, the UK Government quickly became embroiled in internal Conservative party battles over the meaning of Brexit and then, following the June 2017 general election, faced the (ultimately insurmountable) challenge of securing a parliamentary majority for its preferred version. May’s unilaterally-decided Brexit ‘red lines’ (May, 2017b; UK Government, 2017) – including that Brexit must entail leaving the Single Market and Customs Union – meant that the preferences of the UK and devolved governments were diametrically opposed (Scottish Government, 2016; Welsh Government and Plaid Cymru, 2017). Not only was the UK Government determined to pursue a ‘hard Brexit’, but it was becoming increasingly apparent that the referendum result was being interpreted as validating a hard-line traditionalist interpretation of parliamentary sovereignty. Therefore, when the UK Government was confronted with the issue of its political survival, maintaining a meaningful dialogue with the devolved level was not a priority. Indeed, it was by no means a given that the Welsh and Scottish Governments were regarded as having any legitimate role to play in deliberations about the future of the state.

This attitudinal shift at the heart of the UK Government was paralleled and reinforced by a series of Brexit-related judgements by the UK’s Supreme Court (UK Supreme Court, 2017, 2018, 2019) that put the devolved level firmly in its place. While pre-referendum case law had suggested that the devolved governments enjoyed some degree of constitutional protection because of their origins in democratic plebiscites, post-referendum judgements rendered the constitutional protections that had supposedly been provided via the 2016 Scotland and 2017 Wales Acts – both of which had put the so-called Sewel convention on the statute book – as ‘non-justiciable’ (Davies, 2024; McHarg, 2018b).³ Bluntly put, so long as the UK Government enjoyed the support of the Westminster parliament, devolved institutions in Scotland and Wales had no constitutional means of resisting its diktats.

The reassertion of traditionalist understandings of sovereignty was evident in the eventual denouement of negotiations on the return of law-making powers from Brussels and the UK's internal market. To manage potential regulatory divergence across the UK following the removal of the European regulatory frame, the UK and devolved governments initially resolved to negotiate 'Common Frameworks' in areas where devolved and European powers intersected (Cabinet Office, 2019), to 'enable the functioning of the UK internal market, while acknowledging policy divergence' (JMC(EU Negotiations) 2017). Despite the tensions elsewhere in IGR, intergovernmental working around Common Frameworks was characterised by 'cooperation and consensus' (Horsley & Hunt, 2022; also House of Lords, 2021, 2022). However, any gains in goodwill and positive relations were short-lived as the UK Government pursued what became the UK Internal Market Act 2020 (UKIMA). UKIMA borrowed principles from the EU (specifically mutual recognition and non-discrimination [direct and indirect]) although in a piecemeal way (Horsley & Hunt, 2023) and, notably, without either the principles of proportionality and subsidiarity or the extensive exemptions contained in EU law. In so doing, it takes a 'sledgehammer' to the 'nut' of intra-UK policy divergence post-Brexit (McEwen, 2020), rendering goods produced in one part of the UK eligible for sale across all territories of the UK, regardless of whether they meet a territory's regulatory standards. It has thus left the powers of the Scottish and Welsh Parliaments ineffective in areas where devolved competence had previously been acknowledged. That it was imposed against the express wishes of both parliaments further evidenced their lack of constitutional and political leverage (Dugan et al., 2020).

The unprecedented public policy challenges generated by the COVID-19 pandemic further illuminated the fraught nature of UK IGR (Diamond & Laffin, 2022; Henderson, 2023). Particularly striking was the way that prominent figures in the UK Government came to treat policy differentiation across the constituent territories of the state – differences of degree rather than substance – as a negative, and even perhaps a threat to the union (Henderson, 2023). By November 2020, Boris Johnson (Prime Minister since the July of the previous year) was informing Conservative MPs that he regarded devolution as a 'disaster' in Scotland (BBC, 2020). It subsequently transpired that Johnson refused to meet with the Scottish and Welsh First Ministers during the crisis as he believed that 'It is optically wrong ... for the UK prime minister to hold regular meetings with other DA [Devolved Administration] first ministers, as though the UK were a kind of mini-EU of four nations and we were meeting as a 'council' in a federal structure' (Johnson cited in BBC, 2023a). Such sentiment reflects a wider context in which UK Ministers were warned that holding regular meetings with ministers from the devolved level could be a 'potential federalist trojan horse' (BBC, 2023a).

Yet even as the UK Government embraced so-called 'muscular unionism' (Kenny & Sheldon, 2021) and seemingly made a virtue of its *lack* of cooperation with – or even enmity towards – the devolved governments, there remained countervailing tendencies at work. In January 2018, a cabinet reshuffle had led to the appointment of David Lidington as Theresa May's de facto Deputy. An emollient figure, he was tasked with repairing the relationship with Cardiff and Edinburgh. In March 2021 – after Johnson's accession to the premiership and, relatedly, Lidington's disappearance from political life – the UK Government published the 'Dunlop Review of Union Capability', a report that sought to ensure that '[t]rust, respect and co-operation between governments would be ... built into our system of government' (Dunlop Review, 2021, p. 9). Its most eye-catching recommendation was that the post of 'Secretary of State for Intergovernmental and Constitutional Affairs' should be established with 'a status akin to the Chancellor of the Exchequer, Foreign Secretary or Home Secretary' (Dunlop Review, 2021, p. 9). In familiar fashion it also stated that, 'the IGR machinery is no longer fit for purpose and is in urgent need for reform' (Dunlop Review, 2021, p. 31).

Whilst all formal intergovernmental structures were dominated by Brexit following the EU Referendum, JMC(E) continued to meet into 2019 at which point it fell victim to the UK

Government's withdrawal from the EU's political apparatus in advance of 'Brexit day' on 30 January 2020 (Dickson, 2019). The resulting 'hard Brexit' would re-set the opportunity structure and incentives for EU-level engagement, with limited prospect for the devolved governments to enjoy a meaningful role in the new governance architecture underpinning the UK-EU Trade and Cooperation Agreement. After 2016, there was no place for any 'illusion of shared rule'. It was unambiguously clear that the devolved governments (and parliaments), on the one hand, and on the other hand, the UK Government, Parliament and – it transpired – Supreme Court, understood the nature of the post-devolution state in fundamentally different ways (McEwen, 2022). It was equally clear that only one of those views mattered constitutionally.

IGR was the site where these tensions played out. This was particularly apparent during 2022. In January, the UK Government presented a new architecture for IGR that would address many of the concerns of the devolved governments (UK Government, 2022). It comprised multiple 'tiers' of committees supported by a secretariat held jointly across the governments. It would include 'Interministerial Groups' (IGs) designed to foster regular, portfolio-level engagement across a range of policy areas; an 'Interministerial Standing Committee' (IMSC) to capture issues that fell outside the remit of established IGs; and time-limited 'Interministerial Committees' (ICs). A new 'Finance Interministerial Standing Committee' (F:ISC) would draw the finance quadrilateral into the ambit of the formal IGR arrangements (although serviced by a separate secretariat, confirming the UK Treasury's continued exceptionalism). A Prime Minister and Heads of Devolved Governments Council ('the Council') would sit above the whole edifice. Together with this new committee structure came a commitment to more transparency and parliamentary scrutiny, and a revised dispute resolution process aligned more closely to a 'co-ownership' model than had previously been the case. It was an approach promising greater clarity, predictability and 'parity of esteem', to co-opt one of the key tenets of the Northern Ireland Peace Process.

However, hopes that this structure would herald a new dawn for IGR were soon dashed (see Figure 2). In early September, Boris Johnson was replaced by Liz Truss. Within a few short weeks, relationships had plunged to what remains (so far, at least) an all-time nadir. Truss'

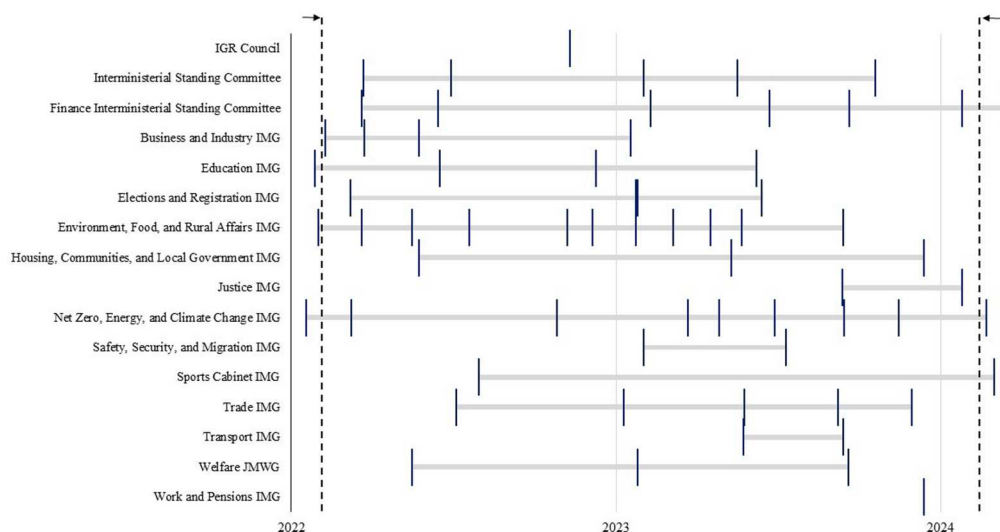


Figure 2. Intergovernmental meetings from January 2022 to April 2024. Periods between arrows indicate when power sharing was suspended in Northern Ireland.

Data: Provided by the Institute for Government based on a centralised record provided by the UK Government.

conspicuous refusal to talk directly with the devolved leaders in Cardiff and Edinburgh was part of a broader breakdown of relations. Wales's First Minister, Mark Drakeford, described the situation in the following terms.

There were 11 groups set up at a ministerial level under the review of inter-governmental relations. There have been 20 meetings of those groups between March and the start of September. Not a single one of them has met since the new Prime Minister took office ... [It's] a collapse of a set of arrangements that the last Conservative Government agreed, led and, to an extent, was making happen in the six months between March and September. (Drakeford, 2022)

While the structure had been changed and nomenclature revised, the problems that had bedevilled the JMC system had not only survived but were more apparent than ever. As stressed in a recent House of Lords report (House of Lords Select Committee on the Constitution, 2024), the success of these new structures in supporting effective IGR is largely dependent on the spirit in which they are approached by the central government. The report notes *inter alia* significant variation in central government engagement across policy areas.

Truss' premiership proved to be the shortest in the state's history. Following her ousting, replacement Rishi Sunak spoke with devolved leaders within hours of his appointment and called an early meeting of the IGR 'Council'. Yet, mood music aside, there remained significant evidence that an abrasive approach to relationships with the devolved governments has become engrained in London (e.g., BBC, 2023b; Bloom, 2023; Dougan et al., 2020). Meanwhile, the aggressive reassertion of traditionalist understandings of sovereignty post-referendum has clearly undermined faith in the current devolution system among some of its erstwhile defenders in Scotland and Wales (Morgan & Wyn Jones, 2023). The perceived failures of IGR is a widely cited problem. According to the Labour Party's Commission on the UK's Future, chaired by former Prime Minister Gordon Brown,

instead of promoting cooperation between the different tiers of government, successive Conservative administrations have allowed the institutions of intergovernmental dialogue ... to atrophy and ... has sought to disempower devolved governments. It is welcome that in some cases, individual officials and Ministers in London have tried to make the relationship between the centre and devolved governments work, but when if success or failure depends on individuals, it only underlines the need for fundamental reform. (Commission on the UK's Future, 2022, p. 41; for a similar critique see also the Independent Commission on the Constitutional Future of Wales, 2022)

In response, it recommended potentially far-reaching changes including the creation of 'a legal obligation of cooperation between the different levels of government and institutions across the UK' (Commission on the UK's Future, 2022, pp. 117–118). Tellingly, however, Labour's 2024 general election manifesto commits only to 'a new memorandum of understanding outlining how the nations will work together' as well as the establishment of a Council of Nations and Regions 'to bring together the Prime Minister, the First Ministers of Scotland and Wales, the First and deputy First Minister of Northern Ireland, and the Mayors of Combined Authorities' (Labour Party, 2024, 109, 113). Fundamental reform this is not, but rather – we would suggest – further evidence of the prevalence of different attitudes in centre and periphery.

The UK is a state in which 'sovereignty is contested'. But as Michael Keating goes on to note, even while devolution 'left this issue in abeyance', EU membership 'provided an external support system' (Keating, 2022b). As apparent in our account of the conduct of IGR since 1999, one consequence of removing this 'external support' is that, at the devolved level at least, the issue of sovereignty can no longer be avoided. In the pre-referendum period, EU-related cooperation was the only element of the JMC structure that functioned smoothly as all parties responded

to the demands of a supranational system with its own practices and timetables. Leaving the EU not only removed the one truly functional element of IGR, but decisively shattered illusions in Scotland and Wales about the extent to which the doctrine of parliamentary sovereignty had been modified by devolution. This has led to an increased willingness by devolutionists in both countries to challenge that doctrine head on.

5. THE NORTHERN IRELAND EXCEPTION

Thus far our discussion has focused primarily on Scotland and Wales. Here we turn to Northern Ireland to explain why it enjoys a privileged position in IGR compared to the other two devolved territories. Whereas the central state's relationships with devolved governments in Scotland and Wales have been and remain subject to the vagaries of political and even personal moods at the UK level, the executive in Belfast finds itself in a different position. This reflects the fact that the current iteration of devolution in Northern Ireland is umbilically linked to the Peace Process and the Good Friday/Belfast Agreement of 1998 serving to shape IGR in two ways.

First and most obviously, the enforced cross-community power sharing built into the arrangements for devolution in Northern Ireland has meant that successive crises and controversies over such issues as paramilitary decommissioning and, more latterly, the consequences of Brexit, have led to the suspension of arrangements for devolved government. This has meant that for extended spells since 1999, amounting to around 40% of the intervening period, the various multilateral structures designed to support intergovernmental working across the UK have operated without the presence of Northern Ireland's elected representatives. While Northern Irish civil servants have stepped into the breach to attend meetings as observers, they can contribute little of substance to proceedings.

Second and even more fundamentally, the origins of Northern Ireland's devolved institutions in Strand One ('Democratic Institutions in Northern Ireland') of the 1998 Agreement (The Belfast Agreement, 1998) means that the territory's internal governance arrangements have been partially internationalised in a way that simply does not apply in the cases of Scotland or Wales. The Agreement is, *inter alia*, an international treaty between the UK and the Republic of Ireland and was arrived at via a process in which the United States played a key facilitation role (Cox, 1998). In 1998, both signatories to the Agreement were members of the EU: a fact that observers regard as having formed a necessary if not sufficient condition for its achievement (Lagana, 2021, 2023). Since the UK's vote to leave in 2016, in part because of effective lobbying by Dublin, the EU's institutions have taken upon themselves the role of (in effect) guarantors of the Agreement and its associated institutional architecture (Laffan & Telle, 2023).

Even as it upholds the principle of 'consent' leaving open the possibility of change, the UK continues to claim sovereignty over Northern Ireland (Hadfield, 1998; Murphy, 2021). It retains the power to override its international obligations and amend or even abolish Northern Ireland's democratic institutions if it sees fit. Yet the political, economic and even military-strategic realities are such that it would surely have to pay an unacceptably high price for exercising its prerogatives in this regard. Not only would there be severe consequences for the UK relationships with its European neighbours and allies, but the UK would also incur the wrath of a hegemonic US. Thus – paradoxically enough – while local actors have the power to stop their operation, Northern Ireland's devolved institutions enjoy a degree of entrenchment to which their Scottish and Welsh equivalents can only aspire.

The privileged status of Northern Ireland's democratic institutions is apparent in the results of the UK-EU negotiations that have sought to ameliorate the impact of Brexit on the island of Ireland (Murphy, 2021; Murray, 2022; Murray & Evershed, 2022). The statutory instrument that ensures the 'democratic consent' of Northern Ireland for the agreement – arrived at via the Northern Ireland Protocol – which ensures that the territory's relationship with the EU is

different from those of the remainder of the state, guarantees roles for both Assembly and Executive as well as intergovernmental working between the latter and the UK Government (The Protocol on Ireland/Northern Ireland (Democratic Consent Process) (EU Exit) Regulations, 2020). The subsequent Windsor Framework agreement, again between the EU and the UK, also cements the position of Northern Ireland's devolved institutions, this time through the 'Stormont brake' mechanism which allows the Assembly to object to changes to EU rules being applied in the territory (HM Government, 2023; The Windsor Framework, 2023).

Comparing Scotland and Wales with Northern Ireland in the context of IGR serves to underline the extent to which the latter is the exception that proves the rule. In the case of Scotland and Wales, the existence of fundamentally different views of sovereignty has undermined intergovernmental working with the UK Government, with differences being further highlighted and exacerbated by developments since the 2016 referendum. In Northern Ireland, by contrast, devolved political institutions are recognised in international law and further buttressed by the exigencies of *realpolitik*. This helps underpin the leverage and influence of local actors even when the devolved institutions themselves are in abeyance. Here, moreover, developments since the 2016 referendum have served only to underline and undergird Northern Irish devolution's distinctive and (in these terms) privileged status. In short, not all devolved governments were created equal, with fundamental implications for IGR.

6. CONCLUSION

There has long been a recognition that UK IGR has not been 'fit for purpose'. Throughout their two decade-long formal existence, the multilateral structures of the JMC system operated fitfully. While it is too soon to reach definitive conclusions about the replacement structure, that it collapsed so soon after its introduction (as collateral damage to the chaos of the Truss premiership) should temper any undue optimism.

The sole exception to this rather bleak record was in those parts of intergovernmental working focused on the UK's EU membership. Here and only here, IGR operated consistently, regularly and relatively smoothly. We have argued that this reflects the political and operational incentives generated by the European governance framework that facilitated and supported formal multi-lateral working. This was complemented by an EU opportunity structure that allowed the devolved governments to engage in supra-state policy activity as distinct actors in ways that did not threaten the UK Government's sovereign privileges. From a devolved perspective, therefore, EU membership served to foster a semblance of 'shared rule' within the UK itself while creating opportunities to realise their international ambitions. This has now been swept away as a result of Brexit.

If we are right in our contention that it is incommensurable understanding of the state that stymied IGR in the past, then whilst these differences persist, there is no reason to suppose that *any* formal arrangement for intergovernmental working will prove more successful in accommodating them – at least over the medium to long term. A workable IGR structure will remain elusive unless agreement can be reached about the *purpose* of intergovernmental working. This in turn presupposes some agreement about the nature of the state itself and, in particular, the position and status of devolved governments and legislatures therein. In the context of the UK state, such an agreement seems destined to remain elusive. Indeed, following the events of the past few years, it is now more elusive than ever.

We can, of course, envisage periods in which formal and informal IGR are more functional. The circumstances of recent years have been particularly difficult. Caught between a UK Government seemingly doubtful about the very principle of devolution and a Scottish Government committed to the break-up of the state, it is no surprise to hear one former Welsh Government official claiming that 'Wales has been playing a team game on its own' (personal communication 2023). Yet, even if this were to happen, re-establishing the party congruence of the 1999–2007

period would be no panacea given significant differences in views about the nature of the UK state between different territorial branches of the British Labour party (Henderson & Wyn Jones, 2023, pp. 30–41). Tensions will remain, and IGR will continue to be the site where these tensions play out.

It is here that our analysis of IGR differs from that found in much of the literature. While the deficiencies of intergovernmental working is common ground, we stress that it is not the people or processes concerned that are at fault but rather incommensurable views of the state. The typical focus on identifying and exploring the various operational and political incentives that determine the ‘success’ of formal intergovernmental working is clearly well intentioned; but our contention is that these are secondary matters. The fundamental issue is the absence of consensus about the nature of the post-devolution UK state, reflecting different understandings of the nature of the state. The privileged situation of Northern Ireland’s devolved institutions – undergirded by international treaty and interest – emphasises the point. IGR should therefore be of particular interest precisely because it is here that these different views about the UK state (and their implications) become most apparent.

Our argument also speaks more broadly to work on the impact of the UK’s withdrawal from the EU. Scholars have stressed that the UK found in the EU, ‘an important framework for state rescaling and territorial management’ (Keating, 2013, 2022b, p. 505). We have focused on a little noticed part of this broader picture: the way in which the establishment of multi-lateral structures within the UK to coordinate EU policy ensured that the UK’s wider IGR structure contained within it at least one truly functional element. Specifically, we have noted that the combination of political and operational incentives (which encouraged the UK Government to engage seriously with devolved governments around elements of EU policy), and the normalisation of joint working and regional participation within the EU’s political system, created a context which masked (or at least mitigated) the different understandings of the UK state held by different governments.

Here is yet another dimension to what Milward termed the European ‘rescue of the nation-state’ (see Milward, 1992). As Milward argued more than 30 years ago, nation-states were able to respond more effectively to emergent policy problems through supranational-level cooperation, thus maintaining and indeed reinforcing the nation-state. As our research highlights, during the course of its 47-year membership of the EU, processes of Europeanisation within the UK’s multi-level context have shaped structures and norms of governance; specifically, in this case, those for intergovernmental relations. Crucially, through these Europeanisation processes the EU also helped to structure and channel regional tensions within states in ways that (also) helped buttress their territorial integrity.

This is relevant in the context of current research into and wider debates about Europeanisation ‘in reverse’ (Gravey, 2016) – or de-Europeanisation (e.g., Burns et al., 2019; Copeland, 2016; Gravey & Jordan, 2023; Minto et al., 2025). In focusing on the roll-back of Europe within a multi-level state, and in particular the implications for intergovernmental relations, we stress the significance of the EU for supporting mechanisms of de-centralised governance. Post-Brexit, the UK now has fewer options through which to manage these tensions. Outside the EU, squeezed between a rejuvenated ‘traditionalist understanding of sovereignty, on the one hand, and demands for independence/secession on the other, the ‘middle ground’ of devolution looks distinctly more precarious. In this way, de-Europeanisation has served to weaken the domestic union that underpins the UK.

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NOTES

1. The nomenclature used to describe some of the devolved institutions and roles within them has changed over time e.g., the National Assembly for Wales was renamed Senedd Cymru in 2020. We use the appropriate designators in their correct context.
2. Meetings between finance ministers – 'Finance Quadrilaterals' – were never part of the formal JMC structures but rather operated separately with the UK Treasury supplying its own secretariat-equivalent. We are not aware of any academic literature focused on their operation and have followed the usual practice of excluding these meetings from analysis.
3. The Sewel convention holds that the UK parliament will 'not normally' legislate on matters within the competence of the devolved legislatures in Belfast, Cardiff and Edinburgh without the express permission of those bodies.

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