

Institution: University of Edinburgh		
Unit of Assessment: 19 (Politics and International Studies)		
Title of case study: Strengthening UK Inter-Governmental Relations in an Era of Constitutional Change		
Period when the underpinning research was undertaken: 2007 – 2020		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting HEI:
Professor Nicola McEwen	Professor of Territorial Politics	2001 – present
Period when the claimed impact occurred: 2014 – 2020		
Is this case study continued from a case study submitted in 2014? No		
1. Summary of the impact		
<p>Against the backdrop of intense constitutional debates, McEwen's research raised awareness of the growing complexity of devolution and the inadequacies of the system of intergovernmental relations (IGR). This generated four key impacts. She improved parliamentary oversight of IGR, by informing the recommendations of parliamentary committees and co-designing an agreement between the Scottish Government and Parliament. She raised awareness of the effect that UK government legislation would have on devolution, shaping Bills during their legislative passage. She informed directly the official review of IGR undertaken by all four administrations, as well as the review commissioned by the Prime Minister, leading to reforms. And she reorientated the Scottish Government's policy on, and strategic approach to, IGR.</p>		
2. Underpinning research		
<p>When devolution was designed and introduced to Scotland, Wales and Northern Ireland in 1999, the focus was on 'self-rule' – those areas over which the devolved institutions were to be given autonomy. McEwen's research drew attention to, and examined, the neglect of 'shared rule' in UK devolution, and the limited opportunities afforded to the devolved governments to influence UK decisions in areas that interact with devolved competences (3.1, 3.2).</p> <p>As Co-Investigator on the ESRC Large grant project, <i>The Constitutional Future of Scotland and the United Kingdom</i> (Edinburgh value: GBP1,081,685), McEwen charted the changing nature of Scottish devolution in the wake of the cross-party Smith Commission and the Scotland Act 2016. She highlighted that new powers over social security and taxation increased the inter-dependence between reserved and devolved competences. This was problematic against the backdrop of under-developed processes and machinery that support relationships between the UK and devolved governments (referred to in the literature as 'intergovernmental relations', or IGR) (3.1, 3.3). She identified the relative weakness and lack of transparency in UK IGR when contrasted to comparable cases (3.3, 3.4), and analysed the political and institutional dynamics influencing the evolution of IGR, especially since 2007 (Scotland) and 2010 (Wales) when the UK and devolved governments have been led by competing political parties (3.5).</p> <p>The outcome of the Brexit referendum heightened the competitive nature of IGR. As a Brexit Priority grant-holder within the ESRC <i>UK in a Changing Europe</i> (UKiCE) initiative (GBP295,466), McEwen examined the effect of the repatriation of competences on the territorial constitution. Since 2019, she has held a Senior Fellowship with UKiCE (GBP571,560), carrying out real-time research on the consequences of Brexit negotiations, agreements and legislation for devolution and relations between the governments. Her research charted the progress of the EU Withdrawal legislation, examined its effects on devolved competences, and the 'soft power' devolved governments were able to exert to secure amendments to the legislation (3.2, 3.3). She studied intergovernmental processes set up to agree where EU regulatory frameworks with</p>		

application to devolved policy fields should be replaced by UK 'common frameworks', noting in particular the extent to which this frameworks process was cooperative, co-owned and one where the governments met as equals, despite political tensions surrounding Brexit (3.2).

McEwen also led research on inter-institutional relations within the ESRC large grant project, *Between Two Unions: The Constitutional Future of the Islands after Brexit* (Edinburgh value: GBP679,300). This work demonstrated how the intensification of formal and informal IGR during the Brexit process revealed both opportunities for, and obstacles to, more formalised co-operative working across the UK jurisdictions (3.2, 3.6). She found that non-constitutional resources helped the devolved governments to shape the domestic Brexit process but had little impact on their ability to influence the UK's approach to Brexit negotiations (3.2). She identified that overcoming barriers to more effective IGR required shared understanding of devolution, efforts to rebuild trust and empathy between the UK and devolved governments, and more effective and institutionalised intergovernmental machinery (3.6).

3. References to the research

- 3.1 McEwen, N and B Petersohn (2015), 'Between Autonomy and Interdependence: The Challenges of Shared Rule after the Scottish Referendum', *Political Quarterly*, 86 (2), 192–200. DOI: [10.1111/1467-923X.12162](https://doi.org/10.1111/1467-923X.12162)
- 3.2 McEwen, N (2020), 'Negotiating Brexit: Power Dynamics in British Intergovernmental Relations', *Regional Studies*, online first publication date: 3 April. DOI: [10.1080/00343404.2020.1735000](https://doi.org/10.1080/00343404.2020.1735000)
- 3.3 McEwen, N (2017), 'Still Better Together? Purpose and Power in Intergovernmental Councils in the UK', *Regional & Federal Studies*, 27 (5), 667–690. DOI: [10.1080/13597566.2017.1389724](https://doi.org/10.1080/13597566.2017.1389724)
- 3.4 McEwen, N, B Petersohn and C Brown Swan (2015), 'Intergovernmental Relations & Parliamentary Scrutiny: A Comparative Overview', *Report prepared for the Devolution (Further Powers) Committee*, September, 70 pages. https://web.archive.org/web/20210108082846/https://www.centreonconstitutionalchange.ac.uk/sites/default/files/migrated/papers/2015.09.30_IGR_External_Research_Report_FINAL.pdf
- 3.5 McEwen, N and W Swenden (2014), 'UK Devolution in the Shadow of Hierarchy: Intergovernmental Relations and Party Politics', *Comparative European Politics*, 12 (4-5), 488–509. DOI: [10.1057/cep.2014.14](https://doi.org/10.1057/cep.2014.14)
- 3.6 McEwen, N, M Kenny, J Sheldon and C Brown Swan (2018), *Reforming Intergovernmental Relations in the United Kingdom*, Research Report, 95 pages. <https://web.archive.org/web/20210105184732/https://www.centreonconstitutionalchange.ac.uk/publications/reforming-intergovernmental-relations-united-kingdom>

4. Details of the impact

McEwen's research on devolution and IGR provided vital input as parliamentarians and officials grappled with the unprecedented challenges placed on the UK's constitution since 2014.

Enhancing Parliamentary Scrutiny of Inter-Governmental Relations

McEwen informed parliamentary committees across the UK about the effect of constitutional changes on devolution and the interactions between governments. Between 2014 and 2020, she served as an expert witness 25 times: 8 in the Commons; 4 in the Lords; 11 in the Scottish Parliament and 2 in the Senedd. Her research and testimony was cited 90 times across 14 parliamentary reports (5.1). For example, McEwen's testimony fed into the recommendations of the Commons Public Administration and Constitutional Affairs Committee on changing the purpose and regularity of joint ministerial committees, enhancing bilateral IGR and improving transparency. Her written and oral testimony, including its comparative insights, featured 18 times in a Lords Constitution Committee report on IGR, informing its recommendations on changes to the principles, structures, purpose and reporting of IGR (5.1). Her evidence on benefit interdependence to the Scottish Parliament's Welfare Reform Committee was cited 6 times in its evidence session with the Cabinet Secretary Social Justice, Communities and Pensioners' Rights (5.2).

In her role as Advisor to the Scottish Parliament Devolution (Further Powers) committee, McEwen was central to directing the Committee's attention to deficiencies in parliamentary oversight of UK IGR, especially when compared to other countries, producing a paper [3.4 above] that was *"instrumental in shaping the Committee's thinking and approach with regard to the scrutiny of intergovernmental relations"* (5.3). McEwen worked with clerks to draft the Committee's report, and to negotiate and co-design a written *Agreement on Intergovernmental Relations* between the Scottish Government and the Scottish Parliament. Committee Convenor, Bruce Crawford MSP, testified that McEwen was:

"integral to the process of drafting and negotiating [the Agreement] ... which will strengthen and underpin the parliament's role in scrutinising the Scottish Government's participation in inter-governmental relations. The influence of your research and advisory work can be seen in the content and spirit of the Agreement" (5.3).

That Agreement led to more transparency in IGR within Scotland. It also generated a similar agreement in Wales in 2019, after the Senedd's Legislative and Constitutional Affairs committee recommended that *"the approach adopted in Scotland between its Parliament and Government should be replicated between the National Assembly and the Welsh Government"*. In 2020, the UK Government introduced a GOV.UK page for IGR reporting and committed to providing annual reports to parliament, after *"reflecting on Professor McEwen's research that the lack of transparency on intergovernmental activity can have implications for parliamentary and public accountability"* (5.4).

Securing Legislative Change

McEwen influenced understanding, scrutiny and development of three pieces of legislation that affected devolved powers:

- **Scotland Act (2016)**: As Advisor to the Scottish Parliament Devolution (Further Powers) Committee, she raised awareness among members of complexities and interdependencies resulting from the way new powers on tax and social security were to be allocated. She steered the committee towards proposing changes that would provide a clearer separation of reserved and devolved powers. As the Committee Convenor noted, McEwen's support in scrutinising the Scotland Bill influenced its recommendations *"especially on tax and welfare, in our interim and final reports, contributing to the improvements that we as a committee secured in our scrutiny of the Bill through its legislative passage"* (5.3).
- **European Union (Withdrawal) Act (2018)**: As Advisor to the Scottish Parliament's Finance and Constitution committee, McEwen briefed members on the implications of the UK Government's Brexit White Paper, the withdrawal legislation, and common frameworks. The Convenor noted that her expert advice was *"invaluable in generating understanding of these issues among Members at every stage of our Inquiry"*. She also *"contributed directly to the production of the Committee's Interim report on the Bill, which... strengthened the case for changes in the UK Government's approach to the devolution clauses of the Bill"* (5.5). The issues she raised in evidence to the Commons Public Administration and Constitutional Affairs committee and Scottish Affairs committee concerning the constraining effect of the devolution clauses and their effect on intergovernmental trust similarly fed directly into these committees' calls for a rethink (5.1). These cross-parliamentary recommendations contributed to the rewriting of the devolution clauses of the EU (Withdrawal) Act.
- **Internal Market Act (2020)**: Drawing on her Brexit research (3.2), McEwen wrote blogs, Twitter threads, gave evidence and media interviews, organised workshops with officials, and produced a co-authored briefing paper to draw attention to the impact of the United Kingdom Internal Market Bill on the authority and policy scope of the devolved institutions. The Deputy Director Constitution and Justice in the Welsh Government indicated that these interventions helped *"in shaping our response to and amendments strategy for the Bill"* (5.6). She was cited by 5 Westminster parliamentarians during debates on the Bill. One was Lord Wallace of Tankerness, who testified that her briefing paper was *"very helpful in teasing out the implications of the Bill on devolution"*, noting in particular that her analysis of its effects on common frameworks *"helped to inform many of the debates and contributions during the Bill's passage"* (5.7). As expert witness in committees in the Senedd, the Commons and the

Lords, she highlighted the Bill's potential to undermine the common frameworks programme and IGR review (5.1). Lord Wallace, a member of the Lords Constitution Committee, noted that her evidence "*was very pertinent in leading the Committee to make its conclusions on the importance of common frameworks*", which informed directly debates at all stages of the Bill (5.7). Lords amendments protecting the status of common frameworks were passed at Report stage, and again at 'ping-pong', prompting the UK Government to come forward with its own amendment giving statutory recognition to common frameworks in the Bill, as passed.

Informing Government Reviews of IGR

In response to the increasing parliamentary attention paid to the inadequacies of IGR, the Joint Ministerial Committee (made up of the leaders of the UK's four administrations) instructed officials to examine and recommend changes to make IGR 'fit for purpose' after Brexit. The 'Joint Review', initiated in March 2018 (not yet concluded), invited McEwen and colleagues to produce a research report to inform their deliberations, drawing on insights from comparative multi-level systems (3.6). This report, alongside regular engagement, briefing papers and blogs, has provided a "*continuing and extremely valuable contribution*" (5.6) to the review and each government's approach to it.

The Head of the IGR review in the Cabinet Office testified that the UK Government's policy development, practice and learning "*has been heavily influenced by the work of Professor McEwen, both through regular discussions with her at both official and ministerial level and through reviewing her reports, articles and blogs*". For example, policies on new machinery and dispute avoidance "*relied on her exploration of the role of an impartial, standing secretariat in facilitating meetings and disputes*". Practice has changed around chairing of meetings "*from UKG chair as the standard to a rotating system based on her reports*". And McEwen's research outputs are "*used as standard induction materials for new starters in my team as well as across Constitution Group*" (5.4).

The Welsh Government's Deputy Director Constitution and Justice noted that her research is "*regularly cited in working papers used by the governments to conduct the Review*". In particular, the Review's work on IGR principles and decision-making has been heavily influenced by McEwen's analyses. For example, citing her IGR report (3.6), he acknowledged that, although the Welsh Government had proposed introducing qualified majority voting, "*the governments have found more persuasive your conclusion...that 'Comparative examples suggest that co-decision by consensus is not an impediment to agreements being successfully concluded, even among governments with deeply-held divergent territorial interests'*" (5.6).

McEwen's research and subsequent engagement also informed the formal review undertaken by Lord Dunlop, on behalf of the Prime Minister. Lord Dunlop confirmed McEwen's IGR report provided a: "*robust analytical framework for considering the vexed question of IGR reform in the UK. I found this an invaluable source which helped to shape my understanding, my approach in the review, and the recommendations I made to the Prime Minister*" (5.8).

Shaping the Scottish Government's IGR Strategy

In 2019, McEwen was seconded to the Scottish Government as expert advisor on IGR. She raised awareness of how to develop a more strategic approach to IGR, and from interviews, in briefing papers, workshops and mentoring, she nurtured capability within the UK Relations Team. The Director, Constitution and Cabinet said, as a result, "*the team now exercises greater influence internally and in its dealings with the other governments*" (5.9). McEwen also reoriented the Scottish Government's approach to the Joint Review to ensure that "*reforms proposed by the Scottish Government match the strategic goals of the administration and are informed by academic research and knowledge about other systems around the world*" (5.9).

McEwen's research (3.2, 3.6) identified that lack of trust and empathy can negatively affect relations between administrations. This led her to initiate a project for senior officials, entitled *To See Ourselves as Others See Us*. She interviewed officials from other governments on their engagement experiences with the Scottish Government, aimed at nurturing empathy, awareness and officials' skills as interlocutors. The Director, Constitution and Cabinet noted the "*particularly valuable*" nature of this exercise, and its importance in "*informing my overall approach to the*

relationship with the other administrations, especially the UK Government, as well as to my handling of the specific issues that I face in that arena in the contexts of brexit, Covid-19 and constitutional policy, and in the further development of the IGR function here” (5.9).

The Scottish Government Cabinet Secretary for the Constitution, Europe and External Affairs, Michael Russell, testified that, during her secondment, McEwen “*brought in a rigorous, research-based and very well-informed approach, and helped officials to broaden both their knowledge and their skills*”. He noted that her policy report on the Scottish Government’s proposals for IGR “*underpinned our thinking on the process and helped in our conversations with the other devolved administrations and the UK Government*” (5.10). The Director, Constitution and Cabinet confirmed “*Professor McEwen’s impact has been crucial in the development of a new vision and purpose for the central UK relations function*” (5.9).

5. Sources to corroborate the impact

- 5.1 Summary document**, Committee appearances and citations, 2014-2020
- 5.2 Welfare Reform Committee**, *Official Report*, 13 January 2015
- 5.3 Testimonial**: Bruce Crawford MSP, Convenor, Scottish Parliament Devolution Committee. 9 March 2016
- 5.4 Testimonial**: Head of Intergovernmental Relations Review, UK Government Cabinet Office, 19 January 2021
- 5.5 Testimonial**: Bruce Crawford MSP, Convenor, Scottish Parliament Finance and Constitution Committee, 4 April 2018
- 5.6 Testimonial**: Deputy Director, Constitution & Justice, Welsh Government, 31 December 2020
- 5.7 Testimonial**: Lord Wallace of Tankerness, 13 January 2021
- 5.8 Testimonial**: Lord Dunlop, Independent Reviewer, UK Government Union Capability, 4 June 2020
- 5.9 Testimonial**: Director, Constitution and Cabinet, Scottish Government, 30 October 2020
- 5.10 Testimonial**: Michael Russell MSP, Cabinet Secretary for the Constitution, Europe and External Affairs, 7 July 2020