

RSE RESPONSE TO THE HOUSE OF COMMONS' SCOTTISH AFFAIRS COMMITTEE INQUIRY INTO SCOTLAND AND CORONAVIRUS

Summary

The severity of the outbreak of COVID-19 across the UK necessitated urgent public health interventions. There was a political intent across all four nations to control the pandemic through a unified approach. Intergovernmental cooperation in the early stages of dealing with the pandemic was achieved through meetings of the Civil Contingencies Committee. Existing intergovernmental structures, including the Joint Ministerial Committees (JMCs) were not designed to deal with such emergencies.

Over time, communication and coordination on the approach across the UK appears to have eroded. While there may be legitimate reasons for policy divergence across the UK, this has at times caused confusion and potentially posed a risk to public health. There have been occasions when UK Government announcements and subsequent reporting in the media have failed to clarify when new guidance or policies did not apply in the other nations. This has cast further doubt on the robustness and usefulness of intergovernmental structures and on the will and commitment of governments to coordination.

International comparisons demonstrate the importance of strong intergovernmental frameworks in responding to the pandemic. The Committee may find it useful to consider, in particular, the Australian National Cabinet approach. The success of the Cabinet in facilitating intergovernmental discussions during a time of crisis has led to it being agreed that this new approach will now become the primary vehicle for intergovernmental relations in Australia, replacing the Council of Australian Governments.

The level of financial support for businesses and workers across the UK provided by the UK Government was an unprecedented but necessary intervention. The urgency arguably limited the opportunity for the HM Treasury to engage with the devolved governments in designing the interventions. HM Treasury should now be engaging with devolved governments on both the sectoral and spatial implications of the plans for ending support and on measures for recovery.

Since the inquiry was launched, the UK and Scottish Governments have started to ease lockdown restrictions and to roll out their respective test, trace and isolate strategies. The inquiry should continue to consider the divergence between the UK and Scottish Governments' strategies and their respective effectiveness, as well as the continued coordination between the Governments.

To summarise, the coordination between the four nations on a joint UK approach to the pandemic has suffered from inadequate intergovernmental structures, which is exacerbated by a longstanding lack of understanding of devolution in certain Whitehall departments. This underlines the need for an intergovernmental relations system that is fit for purpose, particularly in the current and future context of COVID-19 and the UK's withdrawal from EU frameworks.

Introduction

- 1 The Royal Society of Edinburgh (RSE), Scotland's National Academy, welcomes the inquiry by the Scottish Affairs Committee into Coronavirus and Scotland, which is examining the impacts of the pandemic, the economic response and the approaches of both the UK and Scottish Governments. Since 1783 our core mission has remained the same, the advancement of learning and useful knowledge; our work is underpinned by two principles, a broad understanding of knowledge and application of that knowledge for public good – which translates into our mission, *knowledge made useful*.
- 2 As Scotland, and the rest of the UK, addresses the significant challenges posed by COVID-19 and begins on the road to recovery, the RSE, harnessing our multidisciplinary Fellowship and using our convening power, is well placed to provide evidence-based advice and support to governments and parliaments at both the UK and Scottish levels. Our Post-COVID-19 Futures Commission¹ brings together leading thinkers and practitioners from across academia, business, public service and the creative arts. The Commission will help identify and address the immediate policy implications and challenges arising from the coronavirus outbreak and support thinking around the longer-term issues it raises. The RSE will continue to contribute to parliamentary and government inquiries and consultations in those areas in which we can provide relevant expertise and experience.
- 3 The RSE welcomes the inquiry and its focus on intergovernmental relations across the four nations in their responses to the pandemic. The RSE has provided significant analysis of, and advice on, intergovernmental relations in the UK.^{2,3,4} This is also an area of activity where we continue to work closely with the Learned Society of Wales and the Royal Irish Academy, the National Academies for Wales and the island of Ireland, respectively.

- 4 This response was facilitated through an RSE working group of Fellows with expertise and experience in intergovernmental relations, constitutional affairs, economics and public health policy. We would be pleased to discuss our response with the Committee should this be considered useful.

General Comments

- 5 The questions seek to address the effectiveness of the UK response to the pandemic. While this is welcome, it is too early to provide a full assessment. The inquiry also focuses on the early stage government approaches and interventions. We urge that equal attention be given to intergovernmental cooperation in addressing the medium to long term economic and social impacts of the pandemic, which arguably could be more significant than the pandemic has been for mortality.
- 6 Since the inquiry was launched the UK and Scottish Governments have entered the beginning of their respective exit strategies. A key element of these strategies is testing, tracing and isolating. Understandably, there are no questions included in the inquiry which examine the effectiveness of both the UK and Scottish Governments' roll-out of their respective exit strategies; this is something the Committee may wish to consider as part of its future evidence sessions.

Questions

Question 1: How effective has the four-nations' approach been in tackling the coronavirus pandemic? What improvements could be made to formal intergovernmental structures, such as the Joint-Ministerial Committee, in light of the pandemic?

- 7 Governments across all four nations agreed that the severity of the outbreak of COVID-19 across the UK required urgent public health interventions and strategies to support radical changes to systems and public behaviour. How far all four nations should diverge in their approaches is a more difficult question.

¹ Royal Society of Edinburgh. 'What Lies Beyond? Post-COVID-19 Commission formed by the RSE to support a positive future'. 2020. URL: <https://www.rse.org.uk/what-lies-beyond-post-covid-19-commission-formed-rse-support-positive-future/>

² Royal Society of Edinburgh. 'Intergovernmental Relations'. 2018. URL: <https://www.rse.org.uk/advice-papers/uk-intergovernmental-relations/>

³ Royal Society of Edinburgh. 'Common UK Frameworks'. 2018. URL: <https://www.rse.org.uk/advice-papers/common-uk-frameworks/>

⁴ Royal Society of Edinburgh. 'Scotland and the UK Internal Market'. 2020: <https://www.rse.org.uk/advice-papers/scotland-and-the-uk-internal-market/>

- 7 Where objective conditions differ, different approaches would be appropriate, both across and within the nations. On the other hand, using different public messages and having different rules on matters like face coverings, the number of people / households you can meet, where the policy objective is the same, could be confusing. In between, there are areas where governments exercise their own judgment to come to different conclusions (based on the scientific advice, the different stages in the epidemic, different national health services and different population demographics). All governments claimed to be following the science, but science does not necessarily point to policy recommendations which are unequivocal or appropriate at the same time. In a rapidly evolving situation like the one we are all experiencing, scientific advice can differ and can change over time and it for Ministers to decide on the policy response bearing in mind a range of factors. There is no merit in a uniform approach if it means that all four nations are making the same mistakes. It might have been useful if there had been more challenges from the devolved nations to some of the early decisions of the UK Government, particularly over key elements of scaling up public health infrastructure and the timing of lockdown.
- 8 It was easier to have a common message in the early stages, where the main instrument was lockdown. While there were some specific differences between the four nations (for example, the construction sector was instructed to close in Scotland but remained open in England), it was clear that there was successful coordination over the overarching message for people to stay at home. It is still too early to comment, with certainty, on how successful the four nations' approach to lockdown was.
- 9 While devolution allows governments to diverge within their own competences, these are often interconnected. Decisions taken by one government within their own field of competence may have implications on other governments. The Scottish Government has responsibility for public health in Scotland. However, in the case of an infectious disease pandemic, the ability and agility of public health interventions and infrastructure in England also directly affects Scotland (and vice versa) as there is no physical border. The adequacy of the public health response in England will have directly affected the course of the pandemic in Scotland. Inability to contain the virus at its source of entry into the country (largely from international travel, with London being a key but not the only hub) will have influenced community transmission and the subsequent number of cases in Scotland. In addition, both the UK and devolved governments share the responsibility for income and business support. So, for example, if devolved governments prolong the instruction for some workers to stay at home, this has implications for the financing of the job retention scheme by the UK Government. This suggests a need for effective intergovernmental dialogue. The RSE addressed this matter in a recent response to the Scottish Parliament Finance and Constitution Committee's inquiry into the impact of COVID-19 on Scotland's public finance and the Fiscal Framework.⁵
- 10 One problem that has arisen relates to public messaging and communication. While the early message to stay at home was simple, the messages about the exit from lockdown are necessarily more complex and nuanced. However, some differences are likely to be considered confusing, such as the different rules and approaches across the four nations relating to face coverings. The UK Government, particularly in the early stages of easing the lockdown restrictions, has not always made it sufficiently clear when it is issuing guidance and instruction only for England; and the media are also responsible for some confusion here. The 'stay alert' message introduced on 10th May appears to have been issued without consultation with the devolved administrations, and it was not announced or reported initially as applying only to England. The principal mechanism for coordination in the early stages was through meetings of the Civil Contingencies Committee held through COBRA, attended by the First Ministers of the devolved governments and the Mayor of London, and the Ministerial Implementation Groups (MIGs) that emerged from these. As the spread of the virus was brought under control, the frequency of Civil Contingencies Committee meetings reduced, resulting in communication between governments reducing. The MIGs, to which ministers from the devolved administrations were routinely invited, were also terminated, apparently without consultation. The Committee may wish to consider obtaining further information before appraising how effective these were.

⁵ Royal Society of Edinburgh. 'Impact of COVID-19 on Public Finances and the Fiscal Framework' 2020. URL: <https://www.rse.org.uk/advice-papers/impact-of-covid-19-on-public-finances-and-the-fiscal-framework/>

- 11** The Joint Ministerial Committee (JMC) mechanism was not used as it is not intended to be used in times of crisis and, as indicated above, exceptional and emergency situations are dealt with through civil contingencies mechanisms. The JMC might be more appropriate to use for the economic reconstruction phase. If it is deemed to be inappropriate to support the recovery phase, this would add to the questions long posed about the utility of the JMC mechanism as the central feature of UK intergovernmental relations.
- 12** With no formal instrument to facilitate discussion between governments, coordination around the approach to the pandemic ultimately eroded and has, in turn, led to confusion and, possibly unnecessary, divergence, which have, in part, become politicised. While there is clearly a need for a UK approach to some of these issues, this does not mean a UK Government approach but a partnership approach involving the UK Government and the devolved administrations. That would require intergovernmental processes to enable early discussion of each government's strategy with a view to discussing where a common approach may be possible and optimal.
- 13** When assessing the effectiveness of the four nations' approach it will be important for the Committee to consider international comparisons, particularly those that have a similar constitutional framework to the UK. A range of countries that have been successful at containing and mitigating COVID-19 rapidly formed inter-governmental bodies involving all key government departments, often with equivalent committees at regional/local level (for example South Korea, Singapore, Vietnam and New Zealand). In particular, we highlight the approach taken by the Federal Government of Australia in bringing together the State Governments to coordinate a national response to the spread of the virus through the creation of a 'National Cabinet'. This involves the

Prime Minister as the head of the cabinet joined by the Premiers and Chief Ministers of the states and territories; and focuses more attention than usual on the federal system.⁶ The cabinet has two core functions; to coordinate decisions and actions across all jurisdictions where necessary (including procurement and overarching public health restrictions) and to be a forum for dialogue that allows state representatives to bring different ideas and perspectives to the cabinet to inform national decisions. This has helped to ensure that national messaging is consistent across states but also that when there is divergence between states this is discussed and considered with all states, territories and the Federal Government. Due to the success of the cabinet in facilitating intergovernmental relations during a time of crisis it was agreed this would replace the primary intergovernmental forum, the Council of Australian Governments.⁷ The success of this response compares starkly with the UK, in which existing governmental machinery, which is not explicitly intergovernmental, was used to facilitate coordination between all four nations with coordination ultimately eroding.

***Question 2:** To what extent has the Four Nations' Action Plan (published 3 March) been fit for purpose? How was it designed, and did it reflect the right balance of expert advice?*

- 14** The answers above have covered the extent to which the Four Nations' Action Plan was successful in addressing the issues in the early stages of the pandemic. However, in adding to the above we note that the details around the process of how the plan was developed are unclear and appear remarkably complacent in some areas. There is, for example, a distinct lack of detail around areas such as the policy on care homes and how the law can be used to ensure people quarantine.

⁶ Saunders, C. 'COVID-19: What is Australia's National Cabinet?'. University of Melbourne. 2020. URL: <https://law.unimelb.edu.au/covid-19/covid-19-what-is-australias-national-cabinet>

⁷ Saunders, C. 'The National Cabinet Has Worked, Can it Last?'. University of Melbourne. 2020. URL: <https://pursuit.unimelb.edu.au/articles/the-national-cabinet-has-worked-can-it-last>

Question 3: *How will the UK Government's 'stay alert' message, announced on 10 May, impact Scotland? How effective was the coordination between UK and Scottish Governments, and their respective advisory groups, in relation to the 'stay alert' message?*

- 15** As noted above (paragraph 10), the UK Government 'stay alert' message announced on 10 May, led to confusion across the four nations as the message was for England only. It was unfortunate that the Prime Minister did not provide clarity that the message was for England only, and it was therefore left to the respective First Ministers to provide such clarification. Going forward it will be important for the Prime Minister / Secretaries of State and respective First Ministers to provide clarity over the system of government and constitutional framework in the UK, particularly within messaging around public health interventions. In this area, too, better intergovernmental structures are needed to facilitate a coordinated response and encourage behaviours that respect intergovernmental decision making. This could be enabled through the development of an Independent Secretariat which could provide greater stability and regularity in the institutions and arrangements, and be an independent source of intelligence around intergovernmental issues. This has been consistently recommended by the RSE since the publication of our position papers on Brexit in 2017.⁸
- 16** As previously noted, the four nations have all rolled out their test, trace, and isolate strategies. This approach is not new, and builds on a tried and tested model in other areas of public health. It was initially used with limited effect in the containment phase of the pandemic, up to the middle of March, and then paused when all four UK nations entered the mitigation phase and cases rose rapidly. There are serious questions (which are not the focus of the current enquiry) to be asked about why test, trace and isolate infrastructure was not being rapidly scaled up for future use from mid March to early May. However, once lock down measures started to be

eased these systems were built up and launched but with different approaches across the nations. In England, the approach has been highly centralised and contact tracing subcontracted to private companies who have employed contact tracing staff – with additional support from public health teams in local authorities (including the English Directors of Public Health). England also placed early emphasis on the NHSX contact tracing app and launched a pilot in the Isle of Wight, which has now been abandoned in favour of apps from Google and Apple. In Scotland, test, trace, isolate ('test and protect') is also a national system but delivery of this is the responsibility of NHS Boards and well connected to their established public health and health protection teams. It is important that, to the extent that these approaches diverge, governments should be willing to exchange experiences and learn from successes and failures.

Question 4: *What implications are there for divergence in UK and Scottish Government policy in tackling the pandemic? Should there be further divergence between nations in easing lockdown restrictions?*

- 17** We refer to our answer to Question 1 above. Divergence may be justified where conditions are different or where governments make judgments and choices following their interpretation of the scientific advice available at the time. As we indicated earlier, some divergent measures, such as the use of face coverings, is likely to have caused confusion. It is important that government make clear their reasons for adopting policies and that they communicate these to other governments across the UK. The comments from English Mayors demonstrate that there was no consultation on the easing of lockdown with those responsible in local authorities and city regions in England.⁹ It is also important that the responsibilities of each government and their shared responsibilities be made clear. As noted above, there should be coordination where the decisions of one government might pose costs upon another.

⁸ Royal Society of Edinburgh. 'Brexit Challenges & Opportunities: Constitutional Law & Government'. 2017. URL: <https://www.rse.org.uk/advice-papers/brexit-challenges-opportunities-constitutional-law-government/>

⁹ BBC News. 'Coronavirus Lockdown Advice Lacks Clarity, England Mayors Say'. 2020. URL: <https://www.bbc.co.uk/news/uk-england-52615131>

Question 5: *Have the UK's funding package and support schemes been sufficient in supporting Scottish businesses, employees and self-employed people in Scotland? Have they been able to reach all sectors in Scotland?*

- 18** The business support packages, and the job retention scheme provided by the UK Government have been unprecedented and have allowed large parts of the Scottish economy to survive for the time being. However, many of the self-employed, creative artists and low-paid workers have had to resort to Universal Credit in the absence of other applicable interventions.
- 19** The business support and job retention schemes are welcome interventions by government in the short term, but they are not sustainable. As the job retention scheme is brought to an end, with firms expected to pay a higher percentage of their staff costs within the scheme by August, businesses will be making decisions on their futures. It is likely that a significant number of workers who are currently furloughed will lose their jobs. The inability of a high number of businesses to pay back government loans may lead to debt being written off, or perhaps converted to equity or even companies going into administration. The UK and Scottish Governments must anticipate a sharp increase in unemployment and must plan interventions accordingly that will address this and start the economic recovery. The scale of the government intervention will have a significant impact on public finances and the UK and Scottish Governments will be faced with difficult decisions on revenue and spending in the medium to long term.¹⁰ The support packages did, understandably, have to be developed and rolled-out quickly by HM Treasury, therefore limiting the level of engagement with devolved governments in their design. The Committee may wish to consider what engagement is currently taking place between HM Treasury and devolved nations, specifically on both the sectoral and territorial impacts of ending support and on recovery measures.

Question 6: *Has UK and Scottish Government policy around key workers been effective? What further policy changes are required to support: a) seasonal workers; b) social care workers; and c) other key workers?*

- 20** The UK and Scottish Government policies on key workers have been effective in ensuring key services are still provided and the backbone of the economy is supported. The impact of COVID-19 has led society to review who are the key workers and how they are rewarded, as it is clear that many low-paid workers have been essential to underpinning key services and sectors. The way in which people are valued is an area that the RSE's post-COVID Futures Commission intends to explore in more detail.
- 20** The operational sustainability of the social care sector across the UK has been questioned since before COVID-19. The pandemic has brought the issues in the sector into the spotlight, and governments should consider how this sector is organised, funded and regulated to ensure workers and residents are protected and how to best align the sector with the health sector.
- 21** Looking ahead, the need to increase migration in Scotland, to reduce demographic challenges and support certain sectors, will still exist. The RSE has engaged in discussions on migration and the possibility of a differentiated immigration system for Scotland post-Brexit. This is an area that will remain an area of activity for the RSE, particularly in terms of Scotland's post-COVID recovery and the UK's future immigration plans.

¹⁰ Royal Society of Edinburgh, 'Impact of COVID-19 on Public Finances and the Fiscal Framework'. 2020. URL: <https://www.rse.org.uk/advice-papers/impact-of-covid-19-on-public-finances-and-the-fiscal-framework/>

Question 7: *What more could the UK and Scottish Government do to ensure that Scottish key workers have been able to gain access to personal protective equipment (PPE)?*

23 It is clear that there was a severe lack of stockpiles of appropriate PPE before the crisis as the procurement system was focused on buying supplies at the lowest price and only the amount necessary for key healthcare staff. As demand for PPE for a wide range of work settings increased rapidly, both domestically and internationally, this left the UK in a precarious position. Supply of PPE equipment could have been improved if the UK had been involved in the EU procurement process for PPE. The UK and Scottish Governments should have been better prepared through the use of stockpiling and through greater clarity over what types of PPE were needed by different occupational groups and vulnerable individuals. The Committee may wish to compare further examples of other countries' procurement systems and how they were better prepared than the UK. Resilience-related issues will form a key area of focus for the RSE's post-COVID Futures Commission, and we would be pleased to share with the Committee more information on our work programme in due course.

Question 8: *How has the Coronavirus pandemic impacted a) the oil and gas industry in Scotland; b) the Scottish food and drinks industry; and c) the rural economy? What support ought to be provided by the UK and Scottish Governments?*

24 The pandemic and the subsequent lockdown of economies across the world has led to unprecedented changes in consumer demand. As a result, several sectors in Scotland have suffered, notably oil and gas, which were already in difficulty. There are longer-term questions for the UK and Scottish Government on the future of the industry and the North East economy if the global drive to end reliance on fossil fuels is accelerated as a result of the pandemic.

25 Demand for food and drink has been significantly hit due to the substantial decline of the hospitality sector, although some of this impact has been offset by increased retail demand. Demand will be dependent on several factors, but mainly on the speed with which the hospitality, tourism and world markets open. It will be important for the UK and Scottish Governments to support companies in this key sector of the Scottish economy to continue production until demand starts to increase.

26 It is likely that some areas of Scotland will be disproportionately affected, including rural communities, where tourism is a major employer. As the job retention scheme comes to an end, the UK and Scottish Governments must anticipate job losses across the economy. This may require specific interventions that are aimed at supporting rural businesses and social services in rural communities.

27 We note that the impact of the pandemic on the creative industries sector was not included in this question. In Scotland, this is a large and diverse, yet economically fragile, sector. The lockdown and ongoing need for social distancing restrictions mean that this sector may require support from both the UK and Scottish Governments.

Question 9: *Have there been particular Scottish issues relating to coronavirus that have not been addressed by a Government response?*

28 We note the decision by the UK Government to extend its student control provisions to include the number of English-domiciled students going into higher education in the devolved nations. While both the UK and devolved governments have responsibilities for the success of higher education, this decision demonstrates the lack of consideration and consultation on the impact on institutions in the devolved nations. The RSE, along with the Learned Society of Wales and the Royal Irish Academy, have issued a response to this announcement.¹¹

¹¹ Royal Society of Edinburgh, Learned Society of Wales, and Royal Irish Academy. 'UK Government Student Controls'. 2020. URL: <https://www.rse.org.uk/uk-government-student-controls/>

29 In conclusion, we emphasise that the crisis has exposed longstanding weaknesses in the mechanisms for intergovernmental relations, many of which have been highlighted in previous RSE responses. This includes the limitations of the JMC as a forum in which the nations can meet on terms of equality and mutual respect. There have been several reviews of the system of intergovernmental relations in the UK, but both Brexit and the COVID-19 pandemic have demonstrated the inadequacy of the existing structures and arrangements. As the RSE has commented previously, there is a need for better communication among governments, for more stability and regularity in the institutions and arrangements, and for an independent source of intelligence around intergovernmental issues.^{12, 13, 14, 15}

Additional Information

Any enquiries about this advice paper should be addressed to Paul Stuart, Policy Advice Officer (pstuart@therse.org.uk).

Responses are published on the RSE website (<https://www.rse.org.uk/>)

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¹² Royal Society of Edinburgh. 'Brexit Challenges & Opportunities: Constitutional Law & Government'. 2017. URL: <https://www.rse.org.uk/advice-papers/brexit-challenges-opportunities-constitutional-law-government/>

¹³ Royal Society of Edinburgh. 'Common UK Frameworks'. 2018. URL: <https://www.rse.org.uk/advice-papers/common-uk-frameworks/>

¹⁴ Royal Society of Edinburgh. 'Intergovernmental Relations'. 2018. URL: <https://www.rse.org.uk/advice-papers/uk-intergovernmental-relations/>

¹⁵ Royal Society of Edinburgh. 'Scotland and the UK Internal Market'. 2020: <https://www.rse.org.uk/advice-papers/scotland-and-the-uk-internal-market/>