

T: 0300 244 4000
E: scottish.ministers@gov.scot

Rt Hon Michael Gove MP
Chancellor of the Duchy of Lancaster
Cabinet Office
70 Whitehall
London
SW1A 2AS

24 January 2020

Dear Michael

Thank you for your letter of 23 January 2020. I have also seen your Written Ministerial Statement of the same date. I am aware that the EU (Withdrawal Agreement) Bill has now received Royal Assent. I regret profoundly the step that the UK is about to take in leaving the EU, a step which I believe history will judge a terrible mistake.

I believe it has long been clear there was no consent decision that could have been taken by the Scottish Parliament, on any matter in the Bill, at any point in the Bill's Parliamentary stages, that would have affected in the slightest the terms of the legislation the UK Government was determined to pass. I am supported in this view by the UK Government's rejection of the modest and sensible amendments made to the Bill by the House of Lords.

I do not therefore accept that you have acted in line with the Sewel Convention, or that there is good reason to believe the UK Government would have respected the views of the Scottish Parliament on this Bill, even for provisions for which you sought consent.

Indeed the views of the Scottish Parliament, and indeed the people of Scotland, have been consistently ignored by the UK Government throughout the process of EU exit. There is very little support in Scotland for the type of hard Brexit the UK Government is now pursuing, outside the Single Market and Customs Union. Contrary to the inference in your ministerial statement there has been no meaningful engagement with the Scottish Government either over the terms of the UK's withdrawal from the EU or the future relationship.

The UK Government had ample opportunity to demonstrate even some respect for the devolution settlement through simple amendments to the Bill: requiring actual consent to appointments to the IMA; excluding modifications to the Scotland Act from the scope of powers in the Bill; and excluding provisions from protected enactment status, which directly affects the competence of the Scottish Parliament. However, the UK Government consistently refused to make these changes. These examples also refute the claim that the Scottish Parliament refused consent solely on reserved grounds.

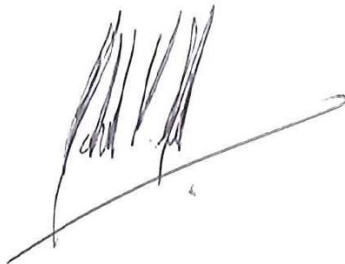
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For the first time all three devolved legislatures have refused consent for a piece of UK legislation, consent that the UK Government sought under the rules of our constitution. In any effective system of government, this unprecedented stance by democratically accountable legislatures would have some impact, or at least cause the UK Government to reflect. In our system, however, neither is true and nothing is done .

You describe these circumstances as unique but I see no steps being taken by you or your colleagues to find ways to ensure that is the case and that they cannot recur.

At the very least you should be demonstrating a much greater commitment by the UK Government to effective and binding reform of Sewel Convention from this moment on . An unequivocal determination established in statute, to ensure it is respected and the views of the devolved administrations acted on and not ignored, is the least you and your colleagues should be offering.

I have replied to Steve Barclay's recent letter in similar terms, and I am copying this letter to him, the Secretary of State for Scotland, Jeremy Miles and the First Minister and Deputy First Minister of Northern Ireland.

A handwritten signature in black ink, appearing to read 'Michael Russell', written over a horizontal line.

Michael Russell MSP

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