

# **THE THE FOREIGN AND COMMONWEALTH OFFICE (FCO) RESPONSE TO THE FOREIGN AFFAIRS COMMITTEE (FAC) REPORT 'GLOBAL BRITAIN AND THE BRITISH OVERSEAS TERRITORIES: RESETTING THE RELATIONSHIP'**

## **Government Response**

The Government welcomes the Foreign Affairs Committee's report on 'Global Britain and the British Overseas Territories: Resetting the relationship'. This report sets out the Government's response to each of the Committee's conclusions and recommendations. The Committee's text is in bold and the Government's response is in plain text.

**1. Before the next full meeting of the OTs Joint Ministerial Council, the Government should therefore commission an independent review into cross-government engagement with the OTs and the FCO's management of its responsibilities towards them. Drawing on international comparisons, this review should consider alternatives to the FCO and assess the costs, benefits and risks associated with moving primary responsibility for the OTs away from the FCO. The findings of the review should be presented to the House and shared with the elected OT governments as soon as is feasible.**

*The FCO takes its responsibilities to the Overseas Territories (OTs) extremely seriously. Whilst each Whitehall department assumes responsibility for supporting the OTs, as needed in its own area of competence and expertise, the FCO is proud to be the lead coordinator of UK Government support. Through the Global Britain Strategy, the FCO is committing additional resource, both in the UK and through funding for further positions to support Governors in the OTs, which reflects the value we place on supporting OT Governments and people in building a successful and prosperous future for each OT. The FCO agrees key UK Government priorities for the future with lead departments across Whitehall through a regional board. The FCO-led preparations for the 2018 hurricane season are a good example of our ability to galvanise cross-Whitehall support.*

*The Government believes that the Whitehall structure that manages the relationship with the OTs has served its purpose well in most respects and considers that the way OT interests are represented in the international context, with their neighbours and with institutions like the United Nations, fits well with other FCO responsibilities. However, the Government acknowledges the comments about this structure made by several OTs in evidence to the FAC, and notes the challenges that the structure poses for OTs, particularly those in receipt of Official Development Assistance. Accordingly, the FCO is open to ideas of how this structure could evolve to support the modern, 21<sup>st</sup> century relationship to which both the OT and the UK Governments aspire. The Foreign Secretary has committed to considering this and other longer-term issues, including the possibility of an independent review, through an inter-Ministerial group that will meet in the summer.*

**2. There is a widespread feeling in the OTs that the quality and quantity of their communications with UK Government departments needs to improve. The OTs' needs extend far beyond the FCO and their voices must be heard elsewhere in Whitehall. Towards this end, the FCO should draw up plans for a secondment programme between government departments in the UK and the OTs, including assessing the likely costs and level of interest in UK Government departments. The FCO should include specific proposals, costs and a timeline for this in its response to this report.**

*The 2012 White Paper pledged to strengthen public service in the OTs including through increased secondments between the UK and the Overseas Territories. Since then, the FCO has delivered a variety of different types of secondments relating to OTs.*

*Short-term deployments, including training, are a cornerstone of our assistance from the Conflict, Stability and Security Fund (CSSF). These provide for a significant number of visits from experts and officials from UK Government Departments. For example, the UK Border Force, the UK Maritime & Coastguard Agency and the National Crime Agency (NCA) have all had or are planning to have short-term secondments to the Cayman Islands. Short-term exposure visits have also been arranged for child safeguarding professionals from Bermuda, Montserrat and the Cayman Islands to the UK. Through CSSF funding, the NCA has provided training, mentoring and technical assistance to OT police forces. Her Majesty's Prison and Probation Service provide a range of training for prison staff across the OTs and Public Health England work closely with OT Ministries of Health to provide support in various areas.*

*Apart from CSSF, we have also enabled other departments and local authorities to assist, for example, the Home Office have been providing support on sham marriages in the Cayman Islands. In Bermuda, the Commonwealth Parliamentary Association funded the secondment of the Clerk of the House of Commons Public Accounts Committee to assist the Bermuda Public Accounts Committee. In BVI, two Senior Crown Counsels have been deployed to support the Director of Public Prosecutions for six months to assist with a backlog of prosecutions and with implementation of NRA recommendations. In some areas, OTs have much in common with the Crown Dependencies (CDs). Crown Dependencies have hosted officials to share their experience as small island jurisdictions, dealing with a range of governance issues and the management of small economies. Guernsey and the Isle of Man have welcomed Governor-designates and other OT staff, including for example a TCI permanent secretary to the Isle of Man in 2013. The Isle of Man Parliamentary Clerk visited the Cayman Islands recently to provide support.*

*The Joint Ministerial Council provides an opportunity for the OTs to engage with Ministers and senior personnel from across Whitehall. It is worth bearing in mind that UK Departments liaise directly with their OT counterparts on a number of issues, such as the environment, health. The FCO is not planning to create any other*

*mechanisms for seconding staff at present. We will use the IMG and regional board to discuss the core issues identified and see how we can address them further.*

**3. The FCO must ensure that the officials it appoints in the Overseas Territories have the skills necessary both to build constructive relationships with the OT governments and to ensure that the territory's governance meets the highest standards. In its response to this report, the FCO should explain the processes it has in place for advertising and recruiting for positions in the OTs, such as governorships, and what it does to consult the OT governments on these appointments. The FCO should also outline the training it provides to the officials it appoints in the OTs, both in advance of and during their postings, and how it assesses their performance.**

*The FCO uses Civil Service recruitment principles to recruit for Governors and other positions in the Overseas Territories. Governor roles are advertised across Government to all Diplomatic and Home Civil Servants. Other roles in Governors' offices in the OTs are advertised either internally within the FCO or across Government depending on the skill set required. It is established practice that, early in the recruitment process, the Minister for the Overseas Territories writes to the elected leader(s) of the Territory, seeking views on the particular skills and expertise required of the next Governor.*

*The FCO requires officers to complete pre-posting training before taking up a role overseas. A Governor-designate will have a programme designed specifically for them and the Territory they are designate for. This will include attending the FCO Head of Mission course, the Crisis Leadership course in order to prepare for natural disasters such as hurricanes, completing the finance and security training and a wide-range of calls and visits to relevant stakeholders. If logistics do not allow an officer to complete all the courses before the posting begins, they will do so as soon as possible after that. Other officers undertaking roles in the Overseas Territories, such as the Heads of Governors' Offices, will also complete similar pre-posting training.*

*Once officers have taken up their position, their performance is managed through the FCO performance management system using objective setting appraisals and 360 feedback. Their performance is appraised and moderated in the normal way across the board.*

**4. [Regarding the OTs name change] In its response to this report the FCO should lay out plans for a consultation on whether there should be a name and what such a name should be.**

*The UK, the Overseas Territories and the Crown Dependencies form one undivided Realm, which is distinct from the other States of which Her Majesty The Queen is*

monarch. Any name change suggestion would therefore be for much wider discussion than the FCO and the OTs.

*Use of the name "British Overseas Territories" has been in place since the British Overseas Territories Act 2002 introduced it in legislation and replaced the term „British Dependent Territories“. We recognise that the Overseas Territories are proud of their British identity and the current name reflects that. There are no plans for such a consultation at this time.*

**5. Before Remembrance Sunday 2019, the Foreign Secretary should explore the possibility of extending an invitation to each OT to send a representative to lay their own wreath, or at the very least one wreath laid by a different OT representative each year.**

*The UK Government fully recognises the sacrifices citizens of the Overseas Territories have made in several wars and very much values the contributions made. The Foreign and Commonwealth Office is exploring with the relevant authorities whether and how OT representatives might be included.*

**6. The Foreign Secretary, in co-operation with the elected governments of the OTs, should lay out before the Summer recess a clear and detailed timetable for the publication of registers of beneficial ownership in each OT.**

*The Government is committed to complying with the Sanctions and Anti-Money Laundering Act 2018 provisions regarding the introduction of publicly accessible registers of company beneficial ownership in all OTs. The Government will prepare an Order in Council by the end of December 2020, with the Territories expected to have fully functioning publicly accessible registers as soon as possible, and no later than the end of 2023. We are scoping the assistance the OTs will require, and will be holding technical workshops and providing OTs with assistance over the coming months. This will support the OTs in developing publicly accessible registers.*

*The FCO is not currently in a position to lay out detailed timetables for each territory, and the timetable for implementing registers in each OT will differ depending on its fiscal position and business model. However, we will do so when this becomes clear.*

**7. The Government must offer clarity on its long-term vision for the funding of the OTs, including replacing any lost EU funding, and continuing and expanding Blue Belt funding after 2020. Towards this end, the Government should explore options for a dedicated development and stimulus fund for the OTs, which would allow for the long-term, sustainable development of aid-dependent territories; help to stimulate the economies of those who need a stimulus but do not qualify for official development assistance; and**

**help territories that are otherwise financially self-sufficient respond to crises such as hurricanes. This long-term vision must be based on a clear-eyed assessment of how the UK will balance the needs of individual OTs against value for money for UK taxpayers. There must be scope to ask hard questions about the long-term sustainability and viability of individual OTs without further significant levels of UK capital investment. If the Government does not think significant capital investment is possible, then it must be frank about what it will spend and towards what end.**

*The UK Government continues to be committed to building successful and resilient economies in the OTs. Future funding arrangements for the OTs will be considered as part of the next Spending Review, which will conclude at the budget. To feed into Spending Review considerations, the Government is establishing an Inter-Ministerial Group to meet to examine the issue of whether to develop a dedicated OT fund, including ODA assistance, together with other longer-term issues, including those raised in the Committee's report. We will inform the Committee of its outcome. The Government will also be considering future funding for the Blue Belt programme as part of the forthcoming Spending Review, as the current programme ends in March 2020. The Government announced in the Spring Statement 2019 that it will support the call from Ascension Island Council for a fully protected, no-take Marine Protected Area in its offshore waters. The Chancellor confirmed that funding for ongoing costs associated with Ascension's MPA will be delivered at the forthcoming Spending Review. For details of the plans relating to EU funding, please see the response to conclusion 4.*

**8. The Government should set a date by which it expects all OTs to have legalised same-sex marriage. If that deadline is not met, the Government should intervene through legislation or an Order in Council.**

*The UK Government is committed to equal rights, including LGBT rights. We believe that the strongest, safest and most prosperous societies are those in which all citizens can live freely without fear of discrimination, and where all citizens, including LGBT people, can play a full and active part in society. Nine Overseas Territories have legal recognition and protection for same sex relationships. At the time of writing, a tenth Territory, the Cayman Islands, was granted a stay in the Chief Justice's ruling in favour of same sex marriage until August 2019 when the Governments appeal will be heard. The British Overseas Territories are separate, largely self-governing jurisdictions with their own democratically-elected representatives. Our relationship with the Overseas Territories is based on partnership and therefore as policy on marriage law is an area of devolved responsibility it should be for the territories to decide and legislate on. As has been demonstrated by recent LGBT cases, the Territories' justice mechanisms and processes should be allowed the space to address these*

*matters. We are working to encourage those Territories that have not put in place arrangements to recognise and protect same sex relationships, to do so, and continue to engage with all the Overseas Territories to ensure that their legislation is compliant with their international human rights obligations. LGBT rights and broader human rights obligations are consistently raised with the leaders of Overseas Territories – both bilaterally and at the Overseas Territories Joint Ministerial Councils. This is also a matter that is raised by Governors’ Offices. We have no plans to introduce an Order-in-Council on this issue.*

**9. The UK Government should initiate a consultation with the elected governments of the OTs and work with them to agree a plan to ensure that there is a pathway for all resident UK and British Overseas Territory citizens to be able to vote and hold elected office in territory. In its response to this report the FCO should lay out a timetable for this consultation process and set a deadline for phasing out discriminatory elements of belonging, or its territory-specific equivalents.**

*The UK Government understands the committee’s concerns and continues to impress upon OT governments the importance of allowing people who have made their permanent home in the territories the ability to vote and engage fully in the community, but recognises the desire of island communities to maintain their cohesion, hence the need for a reasonable qualifying process. We understand the OTs’ concerns, sensitivities and historical background on this issue.*

*Our vision for the OTs is as vibrant and flourishing communities, with the widest possible opportunities for their people. We expect Territory Governments to meet the same high standards as the UK Government in maintaining the rule of law, respect for human rights and integrity in public life, delivering efficient public services, and building strong and successful communities. In the spirit of a relationship based upon partnership, we will continue to support and encourage consistent and open political engagement on belonging and its territory-specific equivalents, whilst respecting the fact that immigration decisions are primarily a matter for OT governments.*

*The FCO does not plan at a future date to publish such a timetable.*

## **FAC Conclusions**

**1. We are aware that many people in the Overseas Territories feel that they do not receive the attention in Parliament that they might expect and that the Foreign Affairs Committee has not carried out a major OTs inquiry since 2008. Given the competing pressure of other policy areas, and the requirement to scrutinise the whole gamut of the Foreign Office's work, it is difficult to envisage another major OTs inquiry in this Parliament. This fails to do justice to the range and complexities of the issues facing the OTs, individually and collectively. Mindful of this, we believe the time is right to give serious consideration to establishing a formal mechanism by which members of the Foreign Affairs, Justice, International Development, EFRA and other relevant Committees are able collectively to scrutinise the UK Government's administration of, spending on and policies towards the OTs.**

*How Select Committees operate and relate to each other is of course a matter for Parliament. While the FCO is responsible for the overall relationship between the UK government and the OTs, each Whitehall Department is accountable to respective Parliamentary Committees as the FCO is to the FAC. We will of course work with any changes to the present system suggested by Parliament.*

**2. The Committee notes that the Overseas Territory of St. Helena includes the separate and distinct territories of Ascension Island and Tristan da Cunha. These are both inhabited territories with a population that is not directly connected to St. Helena and have their own identities, elected governments and flags. Therefore, Ascension Island and Tristan da Cunha should be treated with equality as British Overseas Territories in their own right and the FCO should change their status to this effect. However, this change should not necessarily imply that the practice of St. Helena, Ascension Island and Tristan da Cunha sharing the same Governor should come to an end.**

*St Helena, Ascension and Tristan da Cunha are separate territories that form a single OT. Each has a separate constitution contained in a schedule to a single Order in Council. Each has separate governance and democratic structures, which represent people in each territory. Each government takes the lead on issues affecting its territory and is empowered to make legislation for its respective community. Each territory has access to a team of desk officers working in the FCO Overseas Territories Directorate. All three have independent access to UK ministers and each are represented individually at the UK-OT Joint Ministerial Council. In*

2009, a revised Constitution changed the name of the OT from St Helena and Dependencies to St Helena, Ascension and Tristan da Cunha. This was done in recognition of the need for all three territories to be treated equitably and as separate entities in their own right.

While each territory has its own political structures, customs and traditions the territories share resources, skills and expertise with the wider OT. All three territories share a Governor, Attorney General, Chief Justice and soon a Chief Magistrate. St Helena and Ascension also share a single police service which collaborates closely with Tristan da Cunha. These shared positions and services are welcomed in all three territories, together with the greater expertise they bring and we are unaware of any desire within to change the status-quo.

To help overcome shared challenges we encourage the territories to work together. For example, social workers on Ascension and Tristan da Cunha receive professional supervision from the Director of Safeguarding on St Helena. There is also a monthly air service between St Helena and Ascension under a single contract, reducing the burden of management for Ascension, made possible by the close ties between the two islands. Many St Helenians work on Ascension and return to St Helena at the end of their employment contract. The FCO believes it would be onerous and disadvantageous to unpick these connections which build strong links across the islands and reduce service duplication across the three territories.

The FCO does recognise the need to raise awareness of the separate governance structures of each territory. We are in conversation with the territory governments to develop a joint approach. This will include addressing outdated references to „St Helena and Dependencies“ in official documentation.

**3. The UK has a duty under international law to provide for the development of the OTs, but it also has a responsibility to UK taxpayers to ensure that the considerable amount of money it spends on the OTs is not wasted. This means not only transparency and accountability in day-to-day spending, but also ensuring that capital investment is genuinely capable of delivering the Government’s long-term objective to ensure that the OTs are financially self-sufficient. We are seriously concerned by evidence suggesting that, despite significant capital investment in some OTs in recent years, much more remains to be done to provide infrastructure in OTs such as Montserrat, Tristan da Cunha and St Helena, with no clear end in sight.**

*The UK’s responsibility to promote inter alia the economic advancement of the OTs flows not just from international law but also our shared history and political commitment to the wellbeing of all British nationals. DFID works in partnership with those Territories that need support, to provide assistance with the aim of helping them achieve sustainable, inclusive growth reduce financial dependence on the UK wherever this is possible. The UK Government is committed to supporting Montserrat’s path to self-sufficiency. The new DFID funded Capital Investment Programme for Resilient Economic Growth (CIPREG) for Montserrat, will provide £30m over 5 years for strategic infrastructure development on Montserrat, to support economic growth, enhance resilience against natural disasters and promote the role of the private sector. This support is vital to ensure HMG is delivering on its commitment to meet the reasonable assistance needs of Montserrat and supporting its sustainable economic growth and prosperity. The programme will support the*

Government of Montserrat's Economic Growth Strategy (EGS), thereby improving the island prospects for self-sufficiency by helping achieve the target economic growth rate of 3.5%.

The UK Government currently has no plans for further capital investment in Tristan da Cunha. The UK Government's recent support to the Tristan Administration has included effective repair and maintenance of the harbour. Extensive works have been undertaken to reinforce the harbour walls and breakwater, to deepen the harbour for safer operations and to future proof the harbour through casting 100 concrete blocks that can be deployed when further storm damage occurs. The harbour remains open.

The UK Government's significant capital investment in St Helena Airport will, over time, allow St Helena to achieve increased financial self-sufficiency, and reduced dependency on financial support from the UK, through greater economic returns including through the development of the tourism industry.

The UK Government's responsibilities for its Overseas Territories derive from the UN Charter which places on the UK the obligation to promote the development and the well-being of their inhabitants. All future UK Government capital investments in St Helena and other Overseas Territories will continue to support this including encouraging economic development and enhanced self-sufficiency.

DFID strives for the highest standards of integrity and accountability and is committed to the appropriate and responsible use of public funds and transparency. DFID's risk management framework enables staff to identify and mitigate risks, and guides strategic and operational decision-making.

**4. The UK Government must clarify the UK's future relationship with the European Union as soon as possible and analyse the impact on the OTs, what funding will be required to ensure the OTs are not losing out, and what input the OTs will have on the replacement of EU funding in the future.**

The Government has worked closely with the OT administrations over the last two years to understand fully their interests and concerns relating to EU Exit and remains in close dialogue on these matters.

The OTs currently benefit from a number of EU programmes, specifically the European Development Fund, Horizon 2020, The Voluntary Scheme for Biodiversity and Ecosystem Services in EU Outermost Regions and Overseas Countries and Territories (BEST) and Erasmus+. Gibraltar also receives EU structural funds, specifically the European Regional Development Fund (ERDF) and the European Social Fund (ESF) and takes part in European Territorial Cooperation (ETC) programmes. In the event of no deal, the Chancellor has agreed that the UK government will guarantee funding for specific EU projects over their lifetime, should it be required; further details are set out in the Technical Notice, which was published on 12 October 2018. This will provide certainty for the OTs and participating organisations over the course of EU exit.

Future funding and programming arrangements for the OTs post-2020 will be considered as part of the next Spending Review, which is expected to take place later this year. When reviewing future options careful consideration will be given to any loss of EU funding the OTs may experience as a result of the UK leaving the EU.

*Any future funding arrangements will need to demonstrate value for money and adopt a consistent approach across all government departments that manage such funds. No decisions have yet been taken on this matter. The OTs will be fully consulted in the process.*

*Any decisions on future funding will also take into consideration the views expressed in the Foreign Affairs Committee's report - *Global Britain and the British Overseas Territories: Resetting the relationship*. Some of the report's recommendations and conclusions are wide-ranging and significant in scope. They will require careful analysis and consultation across a range of government departments.*

**5. The Government should urgently address concerns in the OTs about the issue of citizenship by descent and anomalies in the British Nationality Act that have taken too long to resolve. It should also consider options for removing quotas on the number of people in the OTs that can access NHS services in the UK when their own health systems cannot provide the care and treatment they need. This may be difficult from a bureaucratic point of view but it is an important test of the FCO's ability to fight the OTs' corner in the UK.**

*The Government recognises the difficulties which current British nationality law presents for some British Overseas Territory citizen parents who wish to pass on their citizenship to their children and acknowledges the unhappiness that this has caused. Lord Ahmad and the Immigration Minister, Caroline Nokes, have engaged about their shared concerns and the Home Office has begun a consultation process with governors and territory governments, and will consider what possible legislation might be available in order to make the changes required.*

*As part of its ongoing engagement with the OTs, DHSC committed in June 2018 to reviewing the current quota system. This review will consider current needs and requirements for specialist healthcare treatment across the OTs and is expected to be complete in the summer of 2019. DHSC have confirmed that leaving the EU will not have any impact on access to the NHS for British Nationals resident in Gibraltar.*