


Fol 17/01905 – “all minutes and documents relating to a meeting that the First Minister had with Mr Ben Thomson from Creative Scotland on the first of February, earlier this year.”

“the minutes and documents in relation to this with any ministers or representatives of the Catholic Church or Catholic Education service, or any meetings that Nicola Sturgeon has had with Gordon MacRae of the humanist society or John Swinney. (Meetings from February)”

DOCUMENT 1**BRIEFING FOR THE FIRST MINISTER****Meeting with Mr Ben Thomson****1 February 2017**

Key message	There are a great many points of agreement between the Scottish Government and Mr Thomson's "Home Rule" proposals: the need for fundamental reappraisal of UK and Scottish constitutional arrangements post-referendum; no reservation of repatriated EU competencies in devolved areas; significant devolution of currently reserved powers; and the possibility of Scotland securing a differential relationship with Europe. [redacted]
What	<i>A meeting to discuss the relevance of Mr Thomson's proposals for Home Rule in light of the publication of "Scotland's Place in Europe".</i>
Why	Mr Thomson requested a meeting in correspondence with the First Minister and wants to discuss the case for Home Rule, post – EU referendum. Mr Thomson's proposals are one of a number arguing for enhanced devolution or federalism since the June referendum.
Who	Mr Ben Thomson  <ul style="list-style-type: none"> • Chair of the Campaign for Scottish Home Rule (CSHR) 2014-2015. • Former Chair of the Campaign for Devo Plus 2012-2013 • Chair of the Campaign for Fiscal Responsibility 2011-2012 • Founder and Chairman of the think tank Reform Scotland 2008-2015
Where	<i>Parliament, First Minister's office</i>
When	<i>Wednesday 1 February, 14:30 – 15:00</i>
Likely themes	<ul style="list-style-type: none"> • <i>The constitutional implications of Brexit,</i> • <i>The paper, 'Scotland's Place in Europe'.</i>
Supporting official	<i>Karen Watt [redacted]</i>
Attached documents	<i>Annex A: Top lines for discussion. Annex B: Background note: Mr Thomson's Home Rule proposals. Annex C: Background note: Update on Brexit discussions and relevant responses to 'Scotland's Place in Europe'.</i>

ANNEX A TOP LINES FOR DISCUSSION

Key Points

- There are a great many **points of agreement** between the Scottish Government and Mr Thomson's proposals on "Home Rule": the need for fundamental reappraisal of UK and Scottish constitutional arrangements post-referendum, no reservation of repatriated EU competencies in devolved areas, significant devolution of currently reserved powers, and the possibility of Scotland securing a differential relationship with Europe.
- We agree that we should have greater powers in areas like poverty reduction and social security where the **Scottish Government's vision and principles** are very different from Westminster's. With more powers would come greater financial and democratic accountability and a greater ability to meet the challenges Scotland faces as a country, as well as the ability to protect our relationship with Europe.
- The points Mr Thomson raises in his rationale for a strong relationship between Scotland and the EU, which span the economic, social and the question of influence, have strong echoes in the **five interests** set out by the FM following the referendum.
- We may disagree on Scotland's preferred constitutional end point but we would point to the **significant compromise in Scotland's Place in Europe** – while we believe that independence remains the best option for Scotland, our proposals are concerned with protecting Scotland's relationship with Europe **while remaining in the UK**.
- [redacted] We have been very encouraged by the positive initial response, although you will wish to reflect on any positions taken at the JMC(P) on Monday 30 January.
- Mr Thomson's proposals for devolution of **VAT** were raised in the Scottish Parliament following the publication of our proposals in December: this is one example of areas where officials are developing policy to support the case for further powers.

ANNEX B

BACKGROUND: MR THOMSON'S HOME RULE PROPOSALS

Mr Thomson's Evidence to the Culture, Tourism, Europe and External Affairs Committee
Autumn 2016

- His evidence identifies 3 drivers for maintaining and enhancing Scotland's relationship with Europe: economic, demographic and historical/cultural/democratic. There are therefore clear parallels with the FM's five interests.
- He argues that Scotland's continued relationship with Europe is essential for success in the 21st century and also notes the UK's diminishing influence on the global stage, arguing for example that its continued status as one of the five permanent members of the UN Security Council is unsustainable.
- He recognises that there is more than one type of possible relationship with Europe, citing current differences in Eurozone and Schengen, EFTA and EEA membership.
- He argues that the benefits to Scotland of remaining in the UK are financial (shared currency, managing and diluting risk) and socio-cultural. He says it is arguable that some policy areas, for example defence and counter-terrorism, are "better done" at a UK level.
- There are three key elements to Mr Thomson's Home Rule proposal:
 - Powers: the Scottish Parliament should be fully responsible for a wide range of taxes (principally income and corporation tax) to more closely align responsibility for revenue raising and expenditure.
 - "Raise what you spend": Holyrood and Westminster should have tax and borrowing powers appropriate to their areas of respective responsibility. In this scenario, UKG would retain responsibility for an overarching monetary/fiscal system and Scotland could contribute to, and be able to access, UK-wide redistributive mechanisms. But largely reserved social protection/poverty alleviation spend (excluding pensions and maternity pay) should be devolved.
 - Mutual respect: strengthened constitutional arrangements to ensure permanence and equal status of the devolved institutions, and a presumption of subsidiarity in determining which powers should be devolved to the Scottish Parliament: the "burden of proof" should lie with Westminster to argue why a power must be reserved.
- He adapts these points to "accommodate Brexit":
 - All repatriated EU competencies in devolved areas should come directly to Scotland, as should the ability to engage directly with the EU on these matters. Immigration should be devolved to address Scotland's distinctive economic and demographic needs and the creation of a distinct Scottish taxpayer status (a consequence of already devolved fiscal powers) means

movement of migrant workers could be managed more simply and without the need for internal UK borders.

- VAT could now also be devolved.
- A formal constitutional agreement between Westminster and Holyrood, “would provide a mutually agreed process for subsequent change”.

Assessment from officials

- [redacted]

Illustrative quotes from Mr Thomson in the press

Source: Interview with Daily Business, 10 November 2016.

“He [Mr Thomson] believes that what Scotland now has is “a bit of a muddle”.

“He explains: “As things are, the Scottish parliament has powers over housing, for instance, but it doesn’t have control over the winter fuel allowance or the full range of benefits connected with housing.”

“Thomson believes the decision to withdraw from the EU, and therefore the repatriation of powers from Brussels to the UK, has strengthened the argument in favour of Home Rule.

““Brexit enhances the case for Scotland to take more responsibility under Home Rule. Issues like migration and fisheries may be more important for Scotland than they are for parts of England.””

ANNEX C BACKGROUND: BREXIT DISCUSSIONS & RESPONSES TO SCOTLAND'S PLACE IN EUROPE

1. Update on Brexit discussions

Discussions with the UK Government

- [redacted]
- We have been clear that the UK Government must give serious consideration to our proposals, in line with the Prime Minister's commitment on 15 July 2016 for full engagement with Scotland, and for Article 50 not to be triggered until there are objectives for negotiations "that deliver a Brexit that works for the whole of the UK."

Wales' White Paper

- The Scottish Government welcomes the Welsh Government's paper as a serious contribution to the debate on future relations with Europe, particularly the importance of the Single Market. Together with the Scottish Government's paper, the Welsh Government paper shows why the UK Government must listen to the concerns of the devolved governments over the harmful impact on jobs and livings standards that might result from leaving the EU in the manner outlined by the Prime Minister two weeks ago (17 January), and emphasises the need for the Article 50 letter to include provision for differentiated approaches.

The Supreme Court Ruling

- The Supreme Court judgement has made clear that the UK Government cannot take us out of the European Union without at least a vote of the Westminster Parliament, and Scottish Government welcomes this.
- The Supreme Court has recognised that leaving the EU would alter the powers of the Scottish Parliament and the Scottish Government. It also recognised that the Sewel Convention, by which the Westminster Parliament does not normally legislate in devolved areas without the consent of Holyrood, is a permanent political feature of the devolution settlement.
- The UK Government, in its submission to the court, went out of its way to emphasise that the Sewel Convention could not be enforced by the courts. But it has never sought to change the powers of the Parliament or the Scottish Government without the consent of the Scottish Parliament. There is nothing in the Supreme Court judgement that affects this, and the UK Government must not renege on that long standing constitutional requirement.
- The Scottish Government will bring forward a Legislative Consent Motion and ensure that the Scottish Parliament has the opportunity to vote on whether or not it consents to the triggering of Article 50.

2. Responses to Scotland's Place in Europe

A wide-range of sectors have issued positive responses to the paper. In general, stakeholders appreciate that the Scottish Government has outlined its intentions and key interests with the majority agreeing that remaining in the Single Market should be a priority. Typically, the more negative responses question the political feasibility of the Scottish Government's proposals.

Legal

Professor Sir David Edward, Scottish lawyer and academic and former Judge of the Court of Justice of the European Communities:

"The Scottish Government's paper shows how the well-being of the Scottish economy and Scottish society depend on membership of the EU Single Market and other aspects of European co-operation – notably, security and police co-operation through Eurojust, Europol and the European Arrest Warrant, and scientific and academic collaboration through Horizon 2020 and other programmes.

"The negotiations for the UK's withdrawal from the EU have not begun, and the UK Government has said that it will pay close attention to the views of the Scottish Parliament and Government. So the Scottish Government is both entitled, and indeed honour bound, to put its proposals on the table. Their publication gives everyone the opportunity to comment in good time before the UK Government makes up its mind.

"I believe that the Scottish Government is right to urge the UK Government to maintain the UK's position within the Single Market, the Customs Union and the various forms of security and police co-operation. That is the primary proposal and I believe it merits the widest support across the political spectrum.

"Failing full UK participation in the Single Market and Customs Union, it becomes essential to explore every possible means by which the damage to the Scottish economy and Scottish society can be mitigated. Of course, the EU has many defects and my criticisms are on record. But the Single Market is a concrete practical achievement, from which Scotland has gained enormously. I believe that the Scottish Government's proposals, which undoubtedly raise a number of political and legal challenges, deserve impartial consideration.

"The Scottish Government's paper is the first official paper to address the problems of Brexit. The UK Government has produced no plan, no road-map and no explanation of where we stand.

"So I urge everyone who cares for the future of Scotland to read the Scottish Government's paper with an open mind."

International

Carl Bildt, Former Prime Minister of Sweden:

“Scotland today makes clear that it is determined to remain in the EU Single Market. Makes eminent economic sense.”

Mairead McGuinness MEP:

"It's really helpful Scotland has a document with some concrete ideas in it"

Green MEP and European Green Party co-chair Reinhard Bütikofer:

“The tenacity with which Scotland holds on to EU membership is heartening and very welcome. We want to keep the Scots in. And all of the UK, if possible.”

Trade

David Watt, Executive Director Institute of Directors in Scotland:

“We welcome the action of the Scottish Government in laying out their thinking for the Brexit negotiations and of course the Institute of Directors is keen that the Scottish economy and our members are not adversely affected by the outcome of the discussions.”

James Withers, CEO Scottish Food & Drink:

“The options published today, as well as helping to take the debate forward, recognise our industry's key issues. It also recognises the balance between on-going trade with the rest of the EU and the critical importance of UK market access to Scottish producers.”

DOCUMENT 2

First Minister's letter of 7 September 2016 to Ben Thomson



[Pdf file attached separately]

DOCUMENT 3

From: [redacted] **On Behalf Of** Ben Thomson

Sent: 11 January 2017 14:43

To: First Minister

Subject: Re: Ben Thomson, Inverleith LLP: Letter from the First Minister

Dear [redacted],

I am looking forward to seeing the First Minister next week to follow up on my letter of 27th September 2016 and the paper outlining the case for Home Rule as having potential to deliver Scotland a different relationship with Europe than the rest of the UK.

As Chairman of the “Campaign for Home Rule” and before that the Chairman of Devo Plus, I have long advocated that Home Rule, whether as a final destination for constitutional change or as a step to further constitutional change, is needed if Scottish Government is to be able to implement real reforms that match the areas of spending for which it is responsible.

The original three principles that we as CSHR campaigned for after the Scottish Referendum in 2014 were that:

1. Scottish Government should be responsible for a wide range of taxes that would enable it to raise what it spends.
2. That the burden of proof for reserving a power under Schedule 5 should fall to Westminster with the presumption in favour of subsidiarity. At the very least, Holyrood should have control over the reserved powers, such as welfare, which are linked to devolved responsibilities.
3. That Scottish Parliament is made permanent with a written set of arrangements that cannot be altered without the consent of both Parliaments.

Following Brexit, these principles could and should be extended to include responsibilities such as agriculture, fisheries and economic developments, which makes up much of the European budget and would give Scotland both a different approach to migration and a direct negotiation on these devolved matters with EU.

Some water has passed under the bridge since I sent the attached paper to the First Minister but the basic tenet still holds that Home Rule could be a mechanism that delivers a better relationship than the potential direction of the current UK Brexit negotiations.

I look forward to seeing the First Minister.

Best regards,
Ben

Ben Thomson

[redacted]

[redacted]

From: [redacted] on behalf of Nicola Sturgeon <firstminister@gov.scot>

Date: Wednesday, 11 January 2017 at 10:46

To: [redacted]

Subject: FW: Ben Thomson, Inverleith LLP: Letter from the First Minister

Good Moring [redacted]

I would be grateful if you could get back to me with the list of issues that Mr Thomson would like to discuss with FM by the end of today.

Many thanks

[redacted]

Assistant Diary Secretary to First Minister

[redacted]

DOCUMENT 4**BRIEFING NOTE FOR DEPUTY FIRST MINISTER****Humanist Society Scotland****Wednesday, 1 February**

Key Message	Scottish Government is committed to working with partners to support the delivery of education and lifelong learning. Religious Observance/Time for Reflection makes an important contribution to the ethos and life of the school, and as a result has a direct influence on how children and young people develop values and practise behaviours that relate to those values.
Who	Gordon MacRae, Chief Executive Gary McLelland, Head of Communications and Public Affairs
Where	T4:23 Scottish Parliament
Supporting Official	[redacted], Curriculum Unit
Attached documents	Annex A: Agenda and lines to take Annex B: Attendees

ANNEX A

AGENDA and LINES TO TAKE

1. Extending the right to opt out of Religious Observance for young people.
2. Religious Observance in state schools - future policy intentions, monitoring and evaluation.
3. Education Governance and the role of religious representatives on Local Authority Education Committees
4. Future working between HSS and the Scottish Government

1. Extending the right to opt out of Religious Observance for young people.

Background:

The Humanist Society Scotland (HSS) served a petition for Judicial Review on Scottish Ministers to challenge certain aspects of the Scottish Government's position on Religious Observance. With the agreement of HSS we enrolled a motion to sist the proceedings, which was granted on 3 November 2016, to enable discussions to take place between the parties. Prior to enrolling the motion we had written to HSS's solicitors to advise that we intended to defend the proceedings should they continue. However, whilst we did not accept any error in law or that we had acted unreasonably in relation to the guidance we offered to undertake a revision of the SG guidance on religious observance. We undertook to consult a small number of key stakeholders including HSS on a narrow potential revision of the guidance, in particular to give greater emphasis to the rights of children and young people and their role in the decision making process about withdrawal from religious observance. The sist will expire on 3 February 2017.

Our litigation department was contacted on Friday (27 January) by the HSS which would like to know if the SG would agree to continuing the sist by 8 weeks until 31 March. I understand that the basis for this extension is that the HSS feel that progress is being made and parties are close to reaching an agreed position. We have put forward to you for decision our recommendation that we agree to this motion.

2. Religious Observance in state schools - future policy intentions, monitoring and evaluation.

At the time of the RME Impact Review in 2015 was carried out, Education Scotland also asked about Religious Observance activity within the schools involved in the review, and [redacted]

[redacted]

Lines to take:

- [redacted]
- [redacted]

3. Education Governance and the role of religious representatives on Local Authority Education Committees

December 2016 – Petition PE1623 from the Scottish Secular Society calling for changes to the current practices under Section 124 of the Local Government (Scotland) Act 1973 which requires that local authority education committees must include members nominated by various churches.

They requested in particular confirmation of the Government's current position on the subject and whether and how the issues raised in the petition would be addressed as part of the current consultation on the Governance of school education.

From an education perspective, in accordance with the Education (Scotland) Act 1980 the responsibility for the delivery of education rests with local authorities including in relation to denominational schools, whether those were transferred to local authority management in 1980 or have been established subsequently by a local authority (which may do so because representations have been made by a church or other denominational body or because of its own wish to do so). The 1980 Act and the Schools (Consultation) (Scotland) Act 2010 includes certain requirements in respect of changes to the provision of denominational schools and requires that the relevant denominational body (e.g. the relevant church) has a role in approving the appointment of teachers in denominational schools. There is also provision in section 8 of the 1980 Act which effectively makes it mandatory to provide religious education under the curriculum and religious observance.

Therefore, at the time of the relevant legislation, the involvement of religious representatives, as set out in the 1973 Act, in the decision making process at local authority level was viewed as providing support to the authority in discharging its duties in respect of meeting the educational needs of all children in their area and supporting the desire by parents for both denominational and non-denominational schools. The Government has no plans to change these provisions.

The Education Governance Review of early years and school education was launched on 13 September and ran until 6 January 2017 seeking views on the national framework, including the legislative framework, that the government should put in place to support Scottish Education. It is the intention to take a whole system approach by considering the national framework required to both support and empower schools and teachers to deliver the best outcomes for our children and young people.

A response from the Scottish Secular Society was welcomed and like all other responses this will be considered in the wider context of any proposed changes which supports the Government's commitment to improve education for all and close the attainment gap.

Lines to take:

- [redacted]
- [redacted]

4. Future working between HSS and the Scottish Government

- **We hope there will be continued dialogue with Scottish Government/Education Scotland and HSS to produce educational resources to be used in Scottish schools.**
- **Also to ensure that RO is worthwhile and beneficial to all young people of differing faiths and none.**

ANNEX B ATTENDEES



Gordon MacRae – Chief Executive

[redacted]

Gordon has spent most of his working life in the voluntary sector, campaigning for social justice and human rights. Before joining the Humanist Society Scotland he worked as Head of Public Affairs for Which? in Scotland and before that spent five years as Head of Communications and Policy at Shelter Scotland. He has worked in similar roles at Indigo PR, Scottish Grocers' Federation and Leonard Cheshire Disability. He lives in Peebles with his wife and two children.



Gary McLelland - Head of Communications and Public Affairs

[redacted]

Gary became the Education Policy Officer for Humanist Society Scotland in October 2013 and Head of Communications and Public Affairs in August 2015. Gary has experience working in both education and social work settings, as well as experience in secular campaigning and policy development. As an active member of HSS for a number of years and is a member of the Chartered Institute of Public Relations, he is also currently studying for a Master's in Human Rights Law at the University of Strathclyde.

Gary is also a Director of the [European Humanist Federation](#).