

DEMOCRATIC INSTITUTIONS IN NORTHERN IRELAND

1. A 90-seat Assembly with five members elected by PR/STV from each of the 18 parliamentary constituencies.
2. Devolution of executive and legislative functions covering the responsibilities of the six Northern Ireland departments, in accordance with principles set out in paragraph 10 below.

Safeguards

3. Safeguards to ensure all sections of the community can participate and work together successfully in the operation of these institutions and that all sections of the community are protected, including:
 - (i) allocation of Chairs, Assembly Secretaries and Committee membership in proportion to party strengths;
 - (ii) the ECHR and any Bill of Rights for Northern Ireland supplementing it which neither the Assembly nor public bodies can infringe, together with a Human Rights Commission;
 - (iii) arrangements to provide that key decisions and legislation are proofed to ensure that they do not infringe the ECHR and any Bill of Rights for Northern Ireland;
 - (iv) arrangements to ensure key decisions are taken on a cross-community basis. This might require that any key decision would

need to secure either the support of a majority of members voting who also comprise at least X per cent in each case of those members identifying themselves as nationalist or unionist respectively or a weighted majority of members voting (X per cent).

- (v) key decisions requiring cross-community support to be designated in advance (eg election of presiding officer, standing orders, budget allocations, employment equality, cultural issues) and/or be triggered by a right of petition exercised by a significant minority of Assembly members (X per cent);
- (vi) an Equality Commission to monitor a statutory obligation to promote equality of opportunity in specified areas and parity of esteem between the two main communities, and investigate individual complaints against public bodies.

Operation of Assembly

- 4. Committees for each of the main executive functions of the Northern Ireland Administration. Membership, Chairs and Assembly Secretaries to be allocated proportionally, using the d'Hondt procedure, with the Assembly Secretary accountable for the executive function to the Committee, as set out in paras 6 and 9.
- 5. A Liaison/Policy Coordination Committee bringing together the Assembly Secretaries of the departmental committees. Two members of the Liaison/Policy Coordination Committee to be appointed as Chair and Deputy Chair respectively. These appointments to be the first two

Assembly Secretaries selected through the d'Hondt procedure, or on some other basis which commands cross-community support in the Assembly. Other non-departmental committees (eg Audit Committee, EU Committee, Justice and Home Affairs Committee) at Assembly's discretion, with members, Chairs and Assembly Secretaries appointed according to procedure in paragraph 4 above.

Executive authority

6. Executive authority to be administered by the relevant Assembly Secretary (eg Assembly Secretary for Agriculture) acting as head of department, subject to the Code of Practice described in paragraph 9, and:
 - (i) abiding by the ECHR, existing anti-discrimination provisions and any Bill of Rights for Northern Ireland supplementing it;
 - (ii) a statutory obligation, monitored by an Equality Commission, on all public bodies to promote equality of opportunity in specified areas and parity of esteem.
7. Funding for Assembly's responsibilities to be determined primarily on basis of existing comparability and block arrangements.
8. Liaison/Policy Coordination Committee to table a programme setting out an agreed budget, linking resources with objectives, policy and legislative proposals, in advance of each financial year. For approval by Assembly, after scrutiny in departmental Committees, on a cross-community basis. In-year changes by the same procedure.

Code of Practice

9. A Code of Practice to be drawn up by the Assembly on the basis of a cross-community vote. Subsequent amendments to the Code also to be made on a cross-community basis. The Code would codify and build upon the provisions of this agreement making it clear in particular that:
- (i) ultimate authority in respect of proposed legislation, policy, resource allocation or in resolving disputes to lie with a qualified cross-community majority in the Assembly.
 - (ii) each Assembly Secretary to have delegated authority, subject to agreed arrangements for policy oversight, allowing him to carry out his functions within policy guidelines agreed with the relevant committee. The relevant Chairman would have access on behalf of the Committee to departmental papers.
 - (iii) an Assembly Secretary to be presumed to have the necessary delegated authority when operating within understandings reached in the Liaison/Policy Coordination Committee, or in accordance with budgetary policy or legislative proposals approved, after scrutiny by the Departmental Committee and by the Assembly, as set out in paragraph 8.
 - (iv) but in the event of any dispute between him and the committee, on this or other matters, the Assembly as a whole to have the power of decision exercised on a cross-community basis.

- (v) as stipulated in paragraph 3(v) any issue to be brought, on petition by X per cent of the Assembly, before the Assembly for determination on a cross-community basis.
- (vi) Assembly Secretaries to be expected to fulfil all responsibilities and duties connected with their posts.
- (vii) a postholder to be removed from office when he loses the confidence of the Assembly voting on a cross-community basis, either for failure to meet his responsibilities or because the Assembly believes, on a cross-community basis, that his retention of office is incompatible with democratic expectations and constraints.
- (viii) Parties and individuals could decline to take up posts. Parties could remove postholders if they lose confidence in them. Casual vacancies to be filled by a member of the same party.

Legislation

- 10. Assembly to pass primary legislation for Northern Ireland in devolved areas, subject to:
 - (i) the ECHR and any Bill of Rights for Northern Ireland supplementing it which, if the courts found to be breached, would render the relevant legislation null and void;

- (ii) decisions by simple majority of members voting except when decisions on a cross-community basis required;
 - (iii) detailed scrutiny and approval in the relevant departmental committee;
 - (iv) mechanisms, based on arrangements proposed for the Scottish Parliament, to ensure suitable coordination, and avoid disputes, between the Assembly and the Westminster Parliament;
 - (v) option of Assembly seeking inclusion of Northern Ireland provisions in UK-wide legislation in Westminster Parliament especially on devolved issues where parity normally maintained (eg social security, company law).
11. Assembly able to legislate in reserved area with the approval of the Secretary of State and subject to Parliamentary control.
12. Disputes over legislative competence to be decided by the Courts.

Relations with other Institutions

13. Arrangements to represent the Assembly as a whole, at Summit level and in dealings with other institutions, to be agreed. Otherwise, representation to be by the Assembly Secretary of the relevant departmental committee.

14. Terms to be agreed between appropriate Assembly representatives and UK government to ensure effective coordination and input by Assembly Secretaries to national policy-making, including on EU issues.
15. Role of Secretary of State:
 - (i) to remain responsible for NIO matters not devolved to Assembly, subject to regular consultation with the Assembly and Assembly Secretaries;
 - (ii) to approve and lay before the Westminster Parliament any Assembly legislation on reserved matters;
 - (iii) to represent Northern Ireland interests in the United Kingdom Cabinet;
 - (iv) to have the right to attend the Assembly at their invitation.
16. Westminster Parliament (whose power to make legislation for Northern Ireland would remain unaffected) to:
 - (i) legislate for non-devolved issues, other than where Assembly legislates with approval of Secretary of State and subject to control of Parliament;
 - (ii) reserve powers to legislate to ensure United Kingdom's international obligations are met in respect of Northern Ireland;

- (iii) scrutinise, including through the Northern Ireland Grand and Select Committees, the responsibilities of the Secretary of State.

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