



**Northern Ireland
Assembly**

**ASSEMBLY AND EXECUTIVE
REVIEW COMMITTEE**

**OFFICIAL REPORT
(Hansard)**

**Devolution of Policing and Justice
Matters**

1 December 2009

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Jimmy Spratt (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Alex Attwood
Mr Nigel Dodds
Mr Simon Hamilton
Mrs Carmel Hanna
Mr Alan McFarland

The Chairperson (Mr Spratt)

We will now discuss the devolution of policing and justice matters. I declare an interest as a member of the Northern Ireland Policing Board.

Mr Attwood:

I am a member of the Policing Board.

The Chairperson:

As usual, I will ask whether there has been any movement on the category 2 list of issues.

Mr Hamilton:

We have nothing further to report at this stage.

Mr McCartney:

We have nothing further to report.

Mr McFarland:

We have nothing further to report.

Mr Attwood:

We have nothing further to report.

To return to the issue of the letter from the attorney general designate, is there any indication of whether he is inclined to appear before the Committee? If so, would he be able to come next Tuesday? I presume that he has no inclination to do so.

The Committee Clerk:

As I explained, I did not get to speak directly to John Larkin QC. As I understand it, a letter is on its way that will indicate that he is unlikely to be prepared to come before the Committee, at least until he has had received some response from the First Minister and the deputy First Minister to the paper that he submitted to their office. That is my understanding, but I did not hear that directly from John Larkin.

The Chairperson:

The source for that is the Committee Clerk's crystal ball. *[Laughter.]*

Mr Attwood:

The broader evidence suggests that the lack of a quick response indicated a lack of enthusiasm for the invitation. Regardless of the paper, there are elements of the attorney general's relationship with the Assembly that we need to get our heads around. Mr Larkin's paper was on the administration and architecture of the office, as well as the costings. Those matters are important and are of interest to us, but they are separate from other relevant matters. I do not think that it represents a good start when the person who is likely to get the post of attorney general does not make himself available to have a discussion about the post.

The Chairperson:

The First Minister and the deputy First Minister offered to come back before the Committee to discuss those matters.

Mr Attwood:

We should indicate to the attorney general designate that we have issues to discuss with him beyond any reply that he might receive from the Office of the First Minister and deputy First Minister (OFMDFM) on the contents of his paper.

The post of attorney general is absolutely critical. It will be the interface between us and the Public Prosecution Service (PPS). One need only look at the history of the role and conduct of previous Attorneys General on the British side to realise how critical and important the job will be. Therefore, a conversation in the round will be important, as will the Committee's having an understanding of what Mr Larkin views his statutory function under the law to be.

This may come as a surprise to the Committee, but, as you know, Chairperson, the report that Mr Larkin gave to the First Minister and the deputy First Minister was referred to in discussions on quarterly monitoring returns at last Wednesday's meeting of the Committee for the Office of the First Minister and deputy First Minister. Lo and behold, it appears that the budget for the attorney general's office will be £1.6 million a year, with initial costings of £500,000 to set it up. Some in-year provision will be made in the event that devolution of justice powers should happen. That is all fine and good, but we have not been told anything about what is in that document. Finance officials, acting on behalf of OFMDFM, appeared before that Committee to explain how money is getting managed in-year, in-house, for the purposes of the attorney general's office, yet we have been asking for a long time now for a bit of information and have not even got that. That does not seem to be a serious way in which to do business.

The Chairperson:

That reflects exactly what was said at the Committee for the Office of the First Minister and deputy First Minister.

Mr Hamilton:

I know that the position technically does not exist, as the person has not been appointed to the position yet. However, as Mr Attwood pointed out, much work is going on, and we know that the paper has been produced. Mr Larkin may feel that he is in some sort of limbo between being the likely nominee and the individual who holds the post, and it may be a problem to issue an invitation to him to come to the Committee to give evidence in the traditional manner. Therefore, a different format for giving evidence may be more helpful in allowing him to come and be a bit freer than he may be capable of being in a public format. If that were communicated to him, it might overcome some of the problems.

Mr Attwood:

I am prepared to facilitate whatever his issues may be in order to have the conversation.

Therefore, I agree with Simon. If there are other ways to get to speak to Mr Larkin, we should pursue them. However, I do not think that is the issue, Simon.

Mr Hamilton:

I understand the issues that you are painting for us, Alex.

The Chairperson:

Can we wait to see the letter to which the Committee Clerk has referred? No doubt we will have it by next week, and we can have a conversation about it then. Unless you want to do something else, Mr Attwood?

Mr Attwood:

We may get a negative response because Mr Larkin has not received whatever from OFMDFM, although it is curious that OFMDFM is acting on the basis of that paper in respect of in-year monitoring returns and putting moneys into place, which are good things to do. It seems that that paper has some authority and has been accepted in some respects, if not fully.

We should be saying that we want him to come. Can members imagine the situation? We could be facing the devolution of justice powers — I hope that it is soon — and none of the politicians in the Assembly has had a conversation with the attorney general designate apart from the First Minister and the deputy First Minister? Publicly and politically, that is not a credible place for us to be. We have not had a conversation with the person who is going to be the attorney general. That is not the right way of doing things. We should be saying to Mr Larkin, in a positive and encouraging manner, that we want to have a conversation with him.

I will not table a proposal, because I accept, for one day, where my proposals go. However, it is not good that officials can report to a Committee about the contents of a paper, yet the political people on this Committee and in the broader Assembly do not know what is being talked about, because they have not seen the paper. I do not think that appropriate.

It is appropriate for the officials to advise in the way that they did that money is to be put aside for the attorney general's office. However, it seems unbalanced for officials to speak to a paper and the Assembly and Executive Review Committee not to have sight of what is in that paper, despite its requests. That is not the right way to do business. Officials take forward some stuff, and politicians take forward other stuff. We are not in a position to do so, yet they are in a position to do so, and that is not a balanced way in which to make progress on the matter.

We should say that to OFMDFM. I am not hopeful that the Committee will agree with me, but it is not a great position to be in. Officials know and make decisions and plans, following political direction, and are saying that the attorney general's office will cost £1.6 million a year to run, yet we do not know anything about those £1.6 million costs entail.

The Chairperson:

Are you suggesting that we write to OFMDFM on that point?

Mr Attwood:

We should write a gentle letter to the effect that we note that the Committee for the Office of the First Minister and deputy First Minister has been advised of some matters, as was right and proper. We are not in any dispute over what they have been advised on, but is it not appropriate that we should also be advised on those matters and any other relevant matters in the way in which we have asked?

The Chairperson:

To clarify, the issue arose came up in the monitoring round briefing that the Committee for the Office of the First Minister and deputy First Minister was given last Wednesday.

Mr McFarland:

It is unfortunate but not surprising, because this is the way in which things have operated — wrongly in our view. I support Simon's idea. Other Committees have operated in that way as well. Sometimes, for a variety of reasons, it is not appropriate to have someone appear officially before a Committee, but sometimes that Committee can meet such people in informal session.

If there is any possibility of Mr Larkin's being willing to meet us informally over a cup of coffee, we can have some form of discussion. The situation may start to move quickly over the next while. We may be left with some fairly major gaps in work that we are supposed to have been doing but have not been able to do, so if we can somehow fill in those gaps, informally or however, we should take that opportunity.

The Chairperson:

I will ask the Committee Clerk to put feelers out. I am sure that we could arrange that in closed session.

Are members agreed that a letter will be sent to the First Minister and the deputy First Minister that covers issues that were mentioned in the monitoring round meeting and that reflects the issues that Mr Attwood raised? We might then have an informal discussion with the attorney general designate if he is of a mind to do so.

Members indicated assent.