



Northern Ireland  
Assembly

**Assembly and Executive Review  
Committee**

**OFFICIAL REPORT  
(Hansard)**

**Northern Ireland Act 1998: Review of  
Parts III and IV**

**24 April 2012**

# NORTHERN IRELAND ASSEMBLY

## Assembly and Executive Review Committee

### Northern Ireland Act 1998: Review of Parts III and IV

**24 April 2012**

**Members present for all or part of the proceedings:**

Mr Stephen Moutray (Chairperson)

Mr Roy Beggs

Mr Gregory Campbell

Mr Stewart Dickson

Mr Paul Givan

Mr Simon Hamilton

Mr John McCallister

Mr Raymond McCartney

Mr Conall McDevitt

**The Chairperson:** We will move on to the review of Parts III and IV of the Northern Ireland Act 1998 in the context of reviewing the size of the Assembly and the number of Departments. I advise members that the purpose of this is for the Committee to consider the written submissions that have been received to date on the Committee's review, particularly those of the political parties in the Assembly. I propose to ask the Committee Clerk to speak to the memo in today's members' pack, starting with the paper that has been circulated to members.

**The Committee Clerk:** In the papers that are before the Committee, members will find an updated summary analysis of the written submissions to the review, which includes a summary analysis of the DUP's written submission, which was received on 16 April and tabled at last week's meeting.

Members will recall that this summary analysis is structured to reflect the five key issues and associated questions in the Committee's stakeholder call to evidence paper. Members have also been provided with full copies of the written submissions from the political parties of the Assembly. The Ulster Unionist Party's submission was circulated to members last Friday, and the Alliance Party's submission was circulated to members yesterday afternoon. If any members do not have copies of those submissions, they will be available today from the Committee secretariat.

**The Chairperson:** I will now call on members to summarise their parties' views on the key issues in the Committee review. I will do so in alphabetical order, and as we do not have representation today from the Alliance Party, the Committee Clerk has agreed to sum up on its behalf.

**The Committee Clerk:** In its submission, the Alliance Party commented on all five issues in the stakeholder paper. On the subject of the statutory link between Westminster and Northern Ireland constituencies, the Alliance Party stated that it was aware of the arguments for and against decoupling

and that that would be best dealt with through a meeting of the leaders of the political parties. It also stressed the need for simplicity and consistency in the outcome of those discussions.

On the second point, about the impact of the Parliamentary Voting System and Constituencies Act 2011, the Alliance Party supports the reduction in the number of MLAs that will come about because of that Act from 108 to 96. Indeed, it would be supportive of a further decrease by reducing the number of MLAs per constituency from six to five to provide the Assembly with 80 Members. The Alliance Party cautions against going below five Members per constituency.

On the subject of the reduced number of MLAs that are required to ensure the effectiveness of the Assembly, the Alliance Party states that there is no evidence to suggest that an 80-Member Assembly would be insufficient to ensure the effectiveness of the Assembly, particularly if a streamlining of Executive Departments happens concurrently. That would reduce, as the Alliance Party says, the number of statutory Committees.

On proposals to mitigate the impact of reducing the number of MLAs to maintain the effectiveness of the Assembly, the Alliance Party view is that the rationalisation of the number of Departments from 12 to eight should be undertaken and that that will decrease the number of Committees of the Assembly and maintain Assembly effectiveness.

Finally, on the question of the reduction of the number of Departments, the Alliance Party proposes an eight-Department structure. The details and make-up of those eight Departments are included in the Alliance Party's full submissions before members.

**The Chairperson:** We will move on to the DUP.

**Mr Hamilton:** Are we in closed session, Chair?

**The Chairperson:** Not as yet. We are briefly outlining the position of the parties, and we will then move into closed session and discuss it in more detail.

**Mr Hamilton:** Our paper is there. It is very clear, and it has been submitted several times. I can run through what is in members' packs if they want, but it would maybe be easier to go through the points in more detail in closed session in a more free-flowing discussion. Our positions are all in the paper, and they have been summarised accurately by the Clerk. If members wish to go over a point, we can do that now or later.

**The Chairperson:** OK. Conall McDevitt for the SDLP.

**Mr McDevitt:** I am happy to summarise the party's position. We believe that very serious consideration should be given to whether the statutory link between Westminster and Assembly constituencies is in the best interests of our region. We have raised previously the fact that there is nothing to say that, in future, the number of Westminster constituencies could not go back up again. Therefore, you would have a situation where the Assembly numbers could be forced down and forced up and then forced down and up again on a four- or five-year cycle to follow the vagaries of population spreads across the UK as a whole. That certainly would not be in the interests of this region and would not be conducive to political stability or to a good relationship between constituents and their public representatives at Assembly level. So, we would be very keen for this body, the Assembly and Executive Review Committee (AERC), to reflect on that and to speak with some authority on the matter in the report.

The implications for Northern Ireland in the Parliamentary Voting System and Constituencies Act 2011 are self-evident: there will be an automatic reduction of the Assembly from 108 to 96 Members should the Act become law. The further implication is that it leaves the question about the size of the Assembly only partially in the hands of this Assembly, because another part of the decision-making framework will remain, unless we take a decision to decouple, outside of our hands — something that we do not believe is necessarily in the best interests of this region.

We previously put it on record that it is the sense of those senior members of the SDLP who were involved in the negotiations leading up to the Good Friday Agreement that the purpose of going for coterminosity at the time was to avoid the inevitable delay that would have been necessary had we had to set up a boundaries commission in Northern Ireland to establish a series of constituencies. The advice that I have received from colleagues who served in leadership positions at that time is that it was a practical solution in order to get the Assembly up and running, rather than a point of fundamental principle.

As I said previously, the reduction in the number of MLAs from 108 to 96 is inevitable should the 2011 Act come fully into effect. That in itself is something that we will, obviously, accept, because it is inevitable. We believe that any future negotiations about the size of the Assembly should take place in the context of the Assembly reflecting on the best interests of this region.

The question of the size of the Assembly and its ability to scrutinise the work of the Executive is very important. The best advice suggests that anything below 96 would make it very difficult for MLAs to continue to properly scrutinise the current architecture of government, which raises the question around the number of Departments. We have long argued that it should not be a numerical debate, but one around need. We have recommended significant reform in the Office of the First Minister and deputy First Minister (OFMDFM), the creation of a single economy Department, a new Department for energy and sustainability, a new Department for learning and a community housing and local government Department.

We would like the discussions in private session elsewhere to focus on government designed around need rather than meeting some magic number of Departments. Those discussions should be conducted through the AERC, obviously. It is the only vehicle that should be debating these matters because it is the only Committee of the Assembly that is set up in statute and designed to review the work of the Executive. We are mindful of the fact that there has already been a departure from the number of Departments that is set out in the agreement and in the Northern Ireland Act 1998, because, of course, we now have 11 plus OFMDFM when the agreement's provision was for 10 plus OFMDFM.

That is as much as I want to say on the substantial issues, but I have one other point to put on the record. We have long believed that a review such as this should deal with the issue of nomenclature in the Office of the First Minister and deputy First Minister. We believe that this is an opportunity to agree to call that office what it is, which is the office of the joint First Ministers. I will leave it at that.

**The Chairperson:** OK. Thank you, Conall. I will move on and ask Raymond McCartney to sum up on behalf of Sinn Féin.

**Mr McCartney:** Like Simon said, our summary is there. If you feel that it needs to be read for the record, we can.

**The Chairperson:** If you want to leave it at that, it is OK. We will move onto the Ulster Unionist position.

**Mr Beggs:** We support the retention of the link between the Westminster constituencies and the Northern Ireland constituencies. The Westminster constituencies, which are still being finalised, have been designed to ensure equality of numbers, and, therefore, the current discrepancy in representation will be addressed. It would not be healthy to have the additional confusion that would exist if we had the new council boundaries, the Westminster boundaries and the Assembly boundaries, all of which, potentially, could overlap and cause difficulties. We wish to avoid that type of confusion for the electorate and we want to make things as simple as possible. At a different level, we think that retaining the originally agreed Westminster constituencies will help to ensure that our links to the rest of the United Kingdom continue and are not diluted.

When it comes to the change in the number of Assembly Members, we note that the legislation will automatically reduce the number of MLAs by 12. Indeed, I understand that the Boundary Commission was very close to reducing the number by 18 during its calculations. Rather than the number going

back up again, it was very nearly reduced even further by the Boundary Commission, which will review it on a regular basis. If we were to deviate from the Westminster model, we would have to have another mechanism of regularly reviewing our boundaries and taking account of any population movements to ensure fair representation of the electorate in any additional constituencies that we create. For that reason, we want to try to keep things as simple and as efficient as possible. We favour retaining the Westminster boundaries.

We do not think that there should be any particular difficulties with the Assembly remaining effective with a reduced number of MLAs. As well as a reduction in the number of MLAs, we expect there to be a reduction in the number of Departments. A degree of flexibility could be created by adjusting the number of MLAs on Committees. It does not necessarily have to be 11; it could come down. Provided that all Members were committed to single representation and ending dual membership and, therefore, removing conflicts in Members' time due to council membership and Westminster membership, there should be no difficulty in maintaining quorums.

As regards moving forward in the Assembly, we feel that it is important that sufficient assistance and expertise is available to Committees to hold Departments to account. That means access to efficient research facilities and support in the Assembly, as Committees currently have.

The inclusive nature of the Executive was originally designed to ensure cross-community agreement and wide community buy-in. However, we do not think that that means that we have to stop at the current model. There are different means of enabling cross-community agreement to be maintained while moving towards more normal democratic structures. We argue that there should be an investigation of other mechanisms that require cross-community support but that would move us to a more normal democracy. At present, the electorate in an Assembly election generally expect the outcome to be the same parties represented in an Executive. In a democracy, it is important to enable a degree of adjustment to occur. We feel that we should move towards more normal democratic structures to enable that to happen.

Party leaders have been notified by OFMDFM about a number of issues for discussion. We feel that those areas should also be widened to this Committee. A dozen areas have been indicated in correspondence, and we feel that this Committee should have an important role in those discussions.

Regarding reductions in the number of Departments and associated functions, we have indicated that there should be a maximum of eight and are open to consideration of a lower number. We note that the independent review of the economic policy highlighted the need to create a department for the economy to spearhead our recovery. We feel that that should proceed as soon as possible and that we should not wait on other departmental decisions. We want to ensure that the economy is fully supported and that work on the ability to create and maintain jobs is proceeded with as soon as possible.

**The Chairperson:** OK, thank you.

Stewart, it was indicated to us that you would not be here this morning, so the Committee Clerk has outlined your initial position. Are you happy to leave it until the closed session to elaborate?

**Mr Dickson:** Yes. The document is available to the Committee. I am happy to take you through it, but I think that the document is perfectly self-explanatory.

**The Chairperson:** Members, I propose that we now move to closed session, to allow the Committee to consider and discuss in more detail the written evidence received to date on the review, particularly the five key issues set out in the Committee's call for evidence. Are members agreed?

**Mr Beggs:** Why are we going into closed session?

**The Chairperson:** To give members the opportunity to discuss this in more detail and see if there is a way forward around it.

**Mr Beggs:** Most Committees are in open session.

**Mr Givan:** No, they are not.

**Mr Beggs:** Most Committees I have been involved in are.

**Mr McDavitt:** When are they not in open session? The rule is we are in open session unless there is some confidential matter to be discussed.

**Mr Givan:** The Justice Committee went into closed session to discuss consideration of a scoping exercise it had done on the review of victims and witnesses' experiences of crime. That was only last week. If you want a precedent, there it is.

**Mr Beggs:** My experience of Committees, whether in council or the Assembly, is that there should be a specific reason for going into closed session; for example, confidential commercial information or something of a very sensitive nature. I want to hear why there is a need to go into closed session.

**The Chairperson:** Members will be aware that we want to agree a position towards the end of May or early June to try to move this on.

**Mr McCartney:** From my experience of this Committee in the previous mandate, I know that there were a number of occasions like this, when we went into private session because people perhaps felt freer to discuss some of the issues.

**The Chairperson:** I am content to leave it to members as to how we move forward on this.

**Mr Hamilton:** In previous discussions at this Committee, we have gone into closed session. Indeed, I recall that, in other Committees, when deliberating and seeking to agree a position, that is often done in closed session. Clearly, anything that the Committee would ultimately agree by way of a shared position would have to be done publicly. If members want to have as free-flowing and open a discussion as possible, it is not unhelpful to be in closed session. If members do not want to do that, that is fine, but I do not think that we will get as lucid a discussion on the issues as we would if we were in closed session. Last week, Gregory highlighted the point that has been made elsewhere: that these are issues that will ultimately be decided elsewhere, at a political leadership level. When they are having discussions about this, they certainly do not do it in public. I know that some people sometimes like to negotiate in public, but agreement tends to take place behind closed doors. Likewise, I think that, if we are scoping out these issues on behalf of others, that should be done behind closed doors.

**Mr Campbell:** We are not going into closed session to discuss something that we would just prefer was not in the public domain. The nature of the discussion is such that, whatever perspective any of us take, either of our own proposal or, more importantly, those of others, it will become fodder for Twitter accounts and the subject of discussion in the public domain. It is an exchange of views to try to get to a common position. I do not know why we would want to create some form of media interest in an exchange of position papers and the analysis of each other's positions, which, as we all know — as Simon and I and others have outlined and made clear on other occasions — is going to be decided in another room anyway. Do we want to raise, today and next week and every other week, media interest in what some people might regard as navel-gazing? It would get to the point at which I cross-examine Conall on what he said about the nomenclature that requires change. Why did he not do that in 1998, when the agreement was set up? I just do not see the point in that. It would be creating an unhealthy appetite for the media personnel about something that has really no substance. Where is it going to end? It would be preferable to discuss and get into the meat of each other's proposals here, come out the other side and let whatever follows beyond that happen.

**The Chairperson:** Are members content that we go into closed session?

**Mr Beggs:** I maintain the view that, unless there is something of a particularly sensitive nature, we should not be going into closed session. That is my natural instinct.

**The Committee Clerk:** That view can be recorded.

**The Chairperson:** Are you content that it is recorded?

**Mr McCallister:** My experience on Committees has been that closed session usually occurs when legal advice is being given or something particularly sensitive is being discussed, never for something like this.

**The Chairperson:** Are you content that it is recorded, then?

**Mr Dickson:** In part, I understand what colleagues are saying, and that is fine in relation to Committee business of the Assembly. This is somewhat different because it involves people looking around the edges of actual negotiation. It would be helpful to have those discussions, which will inevitably be fed back to the leaders, who will potentially be making the ultimate decisions and recommendations on to all of this, in private.

In public discussion, I am not in a position to go beyond what is written down. I would very much like to help and co-operate with my colleagues by answering questions and speculating with them in this Committee, but it is not necessarily helpful for that to take place in a public forum.

**Mr McDevitt:** While we are still in public session, I would like to tease out what Stewart just said for clarity. It is this body, under statute, that has the authority to review the Assembly and Executive structures, no other body. The party leaders have no authority: they are nonentities in statute, although they may be political reality. This Committee has a unique position.

**Mr Hamilton:** Some are greater nonentities than others.

**Mr McDevitt:** The only Committees of this Assembly laid out in the Northern Ireland Act 1998 are this one and the Public Accounts Committee. I am not going to be party to any process that is just a teeing-up for some behind-closed-doors negotiation. I will be party to a process that is consistent with the Standing Orders of this House and gives this House supremacy, not the Executive or the party leaders, and honours the statutory authority of this Committee.

There is a duty on all of us, as Members of this House and members of this Committee, to understand that this Committee has a unique role. We are not just sent here to exchange position papers with no authority to say anything else. If we have to do it in private session, I have no problem with that, but the point of this Committee is that it is meant to make recommendations to the House. I am not aware that the party leaders are in a position to write a report and make recommendations to the House. We seem to keep referring to this other group that is somehow going to do the work that this Committee cannot do when in fact statute, the Assembly and the motion in the Assembly require us to do the work in the first instance.

Some will think that is a pedantic point, but it is quite an important point from the point of view of accountability. I would not want to be party to the dilution of the standing of this Committee, directly or indirectly. I just wanted to make that point.

**Mr McCartney:** Again, referring back to the last pieces of work that the Committee did, which were the two reports on the transfer of policing and justice. There was a process in place for that. The Committee was the statutory place which anything that was going to the Floor of the Assembly came through. That is the process that we will follow here as well. That obviously means that there will be wider consultation in terms of parties and party instruction. I have no problem with the primacy of the Committee, but there are other realities where we take party positions.

**Mr Givan:** If you are recording the pedantic point made by Roy Beggs, will you make sure that the comments as to why we are in closed session that were made by my colleagues are also noted so that people do not try to make petty points by saying that they recorded their objection to this without the rationale for our position also being included?

**The Chairperson:** Are members content that we move to closed session, albeit noting the reservations that some members have expressed?

*Members indicated assent.*