

Section 1

Stakeholder Details

Stakeholder Name	Telephone Number			
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Stakeholder Address	Stakeholder Type (Include one or more X)			
School of Politics, International Studies & Philosophy QUB	Registered Political Party	<input type="checkbox"/>	Local Government	<input type="checkbox"/>
	Academic	x	Government	<input type="checkbox"/>
	Legislature	<input type="checkbox"/>	Non-Government	<input type="checkbox"/>
	Other (Please Specify)/ Member of the Public			<input type="checkbox"/>

Please provide some background information on your role as a stakeholder

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From 1999-2009, I was co-coordinator of the NI devolution monitoring research programme, administered under the aegis of the Constitution Unit, UCL where I was a senior Hon Fellow. I have published widely on NI politics/devolution and previously supplied evidence (oral and written) to the NIA's Procedure Committee on (a) the Assembly's inquiry into its committee system & structure and (b) its inquiry into Assembly questions. I also gave evidence to the Environment Committee re Dawn Purvis' PMB re 'double-jobbing'. Currently, I am Head of the School of Politics, International Studies and Philosophy at QUB.

Guidelines for Completion of Submissions

The Committee would ask that stakeholders submit electronic responses using this pro forma.

Stakeholders should be aware that their written evidence will be discussed by the Committee in public session and made public by the Committee by publication of its Report or other means.

Stakeholders should also be aware that if they decide to publish their submissions, the publication would not be covered by Assembly privilege in relation to the law of defamation.

Section 4

Issues (as set out in (1)-(5) of the Committee's Terms of Reference) and Questions to consider

(1) Whether the statutory link between Westminster and Northern Ireland constituencies should be removed and the implications of removing or retaining this link

What would be the advantages and disadvantages of Northern Ireland 'decoupling' from the Westminster constituency model for Assembly elections?

Please offer supporting evidence for your view on whether the link should be removed, or retained.

If your view is that the link should be removed, how many constituencies and MLAs per constituency do you envisage in the 'decoupled' system, and why?

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Pro-decoupling:

- Co-terminosity has been abandoned recently in both Scotland and Wales, as the above notes indicate, so a change in NI's case might have the claimed virtue of policy convergence or, rather, signify a shared policy trajectory.
- The changes in Scotland and Wales have not occasioned a political crisis nor excited much in the way of public controversy/debate. It is parties, rather than the electorate, that appear most exercised by decoupling.
- Co-terminosity was not a feature of Westminster & Stormont seats from 1949 to 1972. I.e., there is historical precedent as well as a current territorial precedent, given the recent changes in Scotland & Wales..
- Voters in NI already cope/contend with different local government district & Westminster/NIA constituency boundaries (and that will continue) with no obvious difficulty. On that basis, an additional variation may be less problematic for voters than might be anticipated.
- Given that Westminster constituencies are now to be reviewed/revisted after each UK general election, & perhaps revised quite significantly, this might be an argument for retaining stable NIA constituencies.
- Related to the above, if decoupled, the NIA boundaries would conceivably be more permanent than those for Westminster. Any variations in the electorate over time could perhaps be reflected by adjusting the number of seats in each constituency rather than redrawing the boundaries.
- More permanent boundaries could conceivably provide a more solid basis for citizen political engagement with MLAs and the Assembly itself – and the current level of (dis)engagement, especially with the latter, is a matter of some concern for all parties.
- It would encourage parties to develop/enhance their local organizational bases.
- De-coupling would attest to the growing political stability/maturity of the devolved institutions in NI and buttress the more general proposition that devolution, per se,

makes a difference.

Anti-decoupling:

- Retaining the current linkage embodies the virtues of custom, practice and inertia (albeit that inertia is not necessarily a virtue).
- De-coupling may be perceived by some parties as ‘weakening the Union’ and be opposed on that (perhaps bogus) ground. Relatedly, this issue could thereby occasion divisiveness among parties.
- That decoupling would confuse voters because one could conceivably have a situation where MPs and MLAs of different parties and different constituencies would overlap.
- The political parties would have to contend with a somewhat complex, even messy, level of local organisation. Conceivably, an Assembly constituency could straddle those of two (perhaps more) MPs.
- As per the sixth bullet point under ‘Pro-decoupling’, it *may* entail variation in the numbers of MLAs returned by constituencies—a radical departure from the status quo.

Decoupling was necessary in Scotland by virtue of the 2004 Act: retaining the statutory link would have reduced the SP to approx 109 MSPs, an outcome opposed by all parties, not least because it would have adversely affected the capacity of the Parliament’s Committees. However, post-decoupling, local party organizations have found it difficult to cope with what they regard as its messiness. But inefficiency within party organizations is not in itself a sufficient justification for opposing the severing of the statutory link. It could, rather, be construed as a spur to reform within party organizations.

I’m somewhat conflicted by the issue: retaining the status quo may, on the face of it, seem to be the simplest position to adopt. It would tie the NIA into a known, though by no means uncontroversial process. However, the prospect of further changes in Westminster boundaries—which will be reviewed/revise in the wake of future general elections—may well give pause for thought. If there were to be further changes in NI (i.e. a reduction in the number of MPs/constituencies) the issue would recur. For that reason, politicians may be attracted by the demise of co-terminosity between Westminster and the NIA: it would, all other things being equal, lead to enhanced constituency stability. On balance, I’m generally disposed to de-coupling.

(2) The implications of the forthcoming reduction via the Parliamentary Voting System and Constituencies Act 2011, and any further reduction in the number of MLAs

What, in your view, will be the implications of the reduced number of MLAs arising from the Parliamentary Voting System and Constituencies Act 2011 (ie 16 rather than 18 constituencies)?

A further reduction in the 16 constituency scenario could arise from a decrease in the number of MLAs per constituency. What, in your view, are the implications of such a further reduction?

Do you consider that the number of MLAs per constituency should remain at 6 or decrease, and if so, for what reasons?

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There are two inter-related issues here: the number of constituencies and the corresponding total number of MLAs. Both are potentially fluid, the former because of the new provision to review/revise boundaries in the wake of UK general elections *if* the statutory link is retained; the second because all parties favour a reduction in the total number of MLAs.

Assuming that de-coupling does occur, the parties can plan on the basis of a settled number of 16 constituencies for the foreseeable future. The issue then is, how many MLAs per constituency. There is no 'magic number', of course, as the parties' readiness to entertain a reduction signifies.

The work (NIAR 768-11) already undertaken by Research Services elaborates options/scenarios predicated on a 96 or 80 member NIA, with either eight or 12 departments, and with a reduction in the size of the (statutory) committees to either nine or seven members, and a corresponding potential reduction in the number of members required to ensure the committees are quorate.

Any reduction in the total number of MLAs will—given the existing constraint that all Members (excepting the Speaker, Ministers and Junior Ministers) are offered a statutory committee place, currently combined with the 11-strong membership of all statutory committees—place increased strain on committee effectiveness (and efficiency), all other things being equal. Moreover, the generous, formal remit of statutory committees always carried the potential to create overload on their members, especially where there was/is a behavioural disposition against the alleviation of the load through the routinized use of sub-committees and/or rapporteurs (saving the current experiment in ETIC).

Such structural/behavioural constraints, together with the requirement for each Dept to be mirrored by a statutory committee, has created the phenomenon of multiple committee memberships, in itself a potential hindrance to the maximization of committee effectiveness—as is the relatively frequent turnover of committee memberships. And this should be the focus of the A&ERC's endeavours: how can the *effectiveness* of the statutory committees in particular be enhanced? (By contrast, the priority for Executives, including that

in NI, is the *efficiency* with which their business is dealt with.)

Of course, the precise number of statutory committees is contingent on the agreed number of devolved Departments: and any agreed reconfiguration of the Executive has to be mindful of the shallower pool of MLAs that would be available to discharge committee business. But this is not just a 'numbers game', though the significance of numbers cannot be discounted, not least the Agreement's stipulation that all eligible members be offered a statutory committee place.

'Right sizing' the NIA is complex and a matter of political art rather than science: the concerns for equity/equality/inclusiveness weigh heavily in the calculation – it is not just an arithmetical question. And, lest it be forgot, parties have to be mindful of the performance/potential of their actual/prospective MLAs: i.e. there is a quality as well as a quantity issue – but that is a matter for the parties, not the NIA.

Returning to the issue of effectiveness: does the size of a statutory committee necessarily shape/influence its effectiveness – yes, up to a point: put another way, there is an irreducible minimum (as in part quorate rules demonstrate). In the SP the average size of the equivalent committees is eight, which seems about right especially since they enjoy very similar powers to those enjoyed by the NIA's statutory committees. In NI, reducing the norm to nine (from 11) would allow the total number of MLAs to fall to 80 (five per constituency) provided there was a reduction in the number of Departments to eight, given that the 'usual suspects' would be precluded from committee membership. Inter alia, this would alleviate the significant problem of multiple committee memberships that currently obtains and which does hamper committee/member effectiveness. On that speculative basis, I would favour five MLAs per constituency, even though this could exert a disparate impact on minor parties, given that the threshold for winning a seat would increase to 16.66% from a little over 14% as is currently the case. (Whilst reform of the electoral system is precluded from the Committee's terms of reference, the allocation to parties both of Departments and committee chairs/deputy chairs could be by means of the modified St Lague rather than the d'Hondt formula, which could cushion the impact on smaller parties of a reduction to five of the number of Assembly seats per constituency).

It would be superfluous to re-rehearse the information about numbers of MLAs/Departments supplied by RS: they can justifiably be taken for granted. *A key strategic issue is one of process*, it seems to me. That is to say, decisions about both the total number of MLAs and of Departments must be integrated between the NIA and the Executive: i.e. they should operate in tandem. It ought not to be the case that the NIA, via the A&ERC, trots dutifully in the wake of decisions taken primarily by party leaderships at the Executive table: the process of institutional reform should be a partnership, rather than a patron-client relationship between the NIA and Executive.

The NIA must start from the late Robin Cook's premiss: 'Good government needs good scrutiny'. And that means that the generality of MLAs and, more particularly, those in the A&ERC think and act first and foremost like parliamentarians: put another way, as committee creatures not party animals. As with the architectural precept, 'form should follow function' rather than precedent. Members need to reflect critically on how the functions they necessarily discharge are enabled/best served by the (institutional/procedural) forms they inhabit – and here, 'form' does include the size of the NIA.

(3) The reduced number of MLAs required to ensure that the effectiveness of the Assembly in delivering its key functions is maintained, consistent with the safeguards on inclusivity.

What size of an Assembly is required to ensure that the effectiveness of the Assembly in delivering its key functions is maintained?

Are there comparable arrangements elsewhere which the Assembly and Executive Review Committee could usefully consider?

What factors should the Committee take into account when deciding on the size of the Assembly?

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The issues here follow closely on those in the preceding section. As noted, an Assembly of 80 MLAs, given a reduction in the number of Departments to eight and of statutory committee size to nine, would enable all MLAs (excepting the Speaker etc) to be offered a committee place. It would also restrict the current practice of multiple statutory committee memberships which can easily compromise/constrain the effectiveness and efficiency of Members.

Moreover, parties should wherever possible ensure minimal change in committee membership turnover: rates of turnover not only influence the stability of committees, they can disrupt the pace of business and the aggregation of expertise that is a necessary ingredient of effectiveness.

An 80-member Assembly is perfectly capable of discharging both plenary and committee business provided the business timetable is crafted so that plenary sessions do not impact on committee sessions. Indeed, with fewer statutory committees the weekly timetable will be less cramped and Members would largely avoid the potential embarrassment of diary clashes because they would be anchored in a single committee rather than having to juggle competing committee demands. Such anchoring, coupled with limited turnover, will enable committees to better equip themselves with specialist knowledge that in itself would provide for more effective scrutiny – both in the committee rooms and the chamber. It would also enable Members to have more time to deal with constituency matters since they would be confronted with fewer, competing demands on their time.

Such competition would not entirely disappear: some Members would be required to ‘person’ the standing and occasional ad hoc committees, but overall they would have more time to discharge roles other than those associated with committees.

Perhaps the most obvious direct comparator legislature is the SP albeit that the recent changes in Wales put it on a nearer equal footing. In Scotland, smaller committees (average size is eight MSPs) discharge their roles without hampering the conduct of parliamentary business. However, there is no stipulation that all MSPs be offered a committee place so that there is more capacity available to deal with other matters while some MSPs are engaged in committee work. And there is no evidence to suggest that those MSPs who are not involved in committees consider themselves to be lesser parliamentarians as a result. That potential issue

is, though, averted with an 80 member Assembly, an Executive comprising eight Depts (with a total of nine Ministers and two junior Ministers) and a maximum of nine members per statutory committee.

(4) Proposals to mitigate the impact of reducing the number of MLAs on the effectiveness of the Assembly in delivering its key functions, including in particular, proposals to ensure a robust and effective committee system

Please indicate what you would propose to change in the current arrangements to mitigate the impact of reducing the number of MLAs on the effectiveness of the Assembly.

In particular, what changes would you propose to ensure a robust and effective committee system?

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- Workload management: the generous remit of the statutory committees already places strain on them, especially those whose associated Depts are legislatively active. Getting an appropriate balance of legislative & other work would be helped by a more carefully phased programme of Executive legislation – i.e. the Executive needs to be fully mindful of an appropriate balance between its need for efficiency & the committees' ability to carry out effective scrutiny. A heavy legislative load, especially towards the latter end of a mandate (as in the 2007-11 case), can hamper the scrutiny role. A more carefully planned and timed legislative programme would also enable Committees to undertake a greater volume of draft legislative scrutiny. Moreover, if the legislative programme is well-planned and clearly signalled in advance, committees would also be able to engage in post-legislative scrutiny. *The Committee may wish to reflect too on how effectively committees scrutinize secondary legislation: there may be a case for establishing a subordinate legislation committee.*
- Fewer committees would mean a potentially heavier workload given a presumed reconfiguration of, and reduction in, the number of Depts. To date committees have been generally reluctant to employ sub-committees as means of spreading the load – with potentially fewer committees, the case for a more routinized use of sub-committees is enhanced as is the use of the rapporteur device, e.g. for scoping planned inquiries.
- The outcome of any reduction in the number of Departments may also accelerate the need for more joint-committee meetings or, even, joint sub-committees: policy boundaries are never as neat as Departmental briefs might imply. Such joint meetings could aid efficiency and assist in consolidating the existence of a committee *system*. Statutory committees should not be overly turf-conscious – nor, indeed, should their associated Depts.
- Avoid, if at all possible, turnover in the membership of statutory committees so that they build a stable core of experience, knowledge and expertise over a mandate.
- Normally, Statutory Committee chairs should not be nominated to serve as members of other Statutory Committees.
- Place the Liaison Group on a statutory footing – the model of the Scottish Convenors Group (or the HoC Liaison Committee) serves as an example. Inter alia, it would issue an annual report (and an end of mandate legacy report) which reviews Committee performance and draws lessons, both positive and negative, for the NIA and the Executive in terms of Committee/Departmental relationships. Such a Committee (after

the HoC model) could also have an annual session with the FM & dFM – for thoughts on the role of OFMdFM, see below Section 5.

- Committees need perhaps to be smarter in managing their agendas, especially re inquiry topics. Lengthy inquiries do have their place, but shorter, focused inquiries carry the potential to exert a more immediate impact (e.g. the recently published PfG delivery report). Relatedly, such an approach would facilitate speedier post-inquiry follow up by relevant committees, thereby enhancing potential effectiveness and helping to establish a partnership rather than patron-client relationship between Depts and statutory committees. Comparative research by Conan McKenna indicates that the NIA's committees have not been especially active in practising follow-up.
- The management of European business by the NIA has proved to be problematic, even unsatisfactory. Whilst the Assembly has set its face against a European Committee as such, a committee member might be tasked with the role of keeping abreast of EU legislation, to act in effect as an 'early warning system' for their respective committees. This would accord with the OFMdFM Committee's 2010 report on NI's European Engagement Strategy.
- While the primary and understandable focus of the A&ERC's inquiry is on statutory committees, Members may wish to give some thought to standing committees. There may be a case for merging some, e.g. Audit & PAC. There may also be a case for subsuming any prospective future A&ERC-like brief into the work of the Procedures Committee, which perhaps could also undertake the work of the Standards & Privileges Committee. Such pruning would help minimize diary clashes, help free up Members time – always a scarce resource – and release staff to assist other committees.
- Currently, committees are formally integrated into the plenary work of the Assembly – not least by taking the committee stage of all Bills and the tabling of inquiry reports. Such integration could be further developed by setting aside a number of committee days during each session when they could table motions on issues arising from their work. Some floor-time in the Assembly would be available (though not sufficient to accommodate all such proposed debates) given that fewer Depts means fewer Ministerial Question Times: indeed, such committee-led debates would ensure the presence of the relevant Minister in the chamber to reply to the tabled motions. Committee days could be slotted into plenary business during periods when there is relatively little by way of Executive business to deal with. Such provision would assist in anchoring committees even more firmly into the chamber.

(5) The reduction in the number of NI Government departments and associated re-allocation of functions which will ensure the effectiveness of the Executive functions is maintained

How many departments are required to effectively discharge the current range of devolved functions?

In broad terms, what functions should be grouped in the reduced number of departments and what factors informed your decisions on grouping functions together in a department?

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There is again no ‘magic number’ that can be conjured-up out of the ether, though it is noticeable that ‘eight’ seems to be the number of Depts favoured by some parties, albeit that the Efficiency Review Panel is yet to report. (Detailed change will also be influenced by the revivification of the new 11-strong District Council model via the decentralization of certain functions to the new generation of DCs.)

There is no perfect model of Executive design, whether measured in terms of the number of Depts or the allocation of services/functions to them and, in the latter regard, idiosyncrasies in terms of their grouping are not uncommon. In New Zealand, for instance (which has a 121-member unicameral parliament), the Prime Minister also holds the tourism brief! The 121-member NZ Parliament (i.e. lying between the NIA and the SP in terms of its size) has 13 subject select committees (varying from seven to 12 members) and five specialist committees, the former focussed on their respective associated Depts – some span more than one Dept. One of its subject select committees, the Government Administration Committee, has an extensive and somewhat eccentric brief including cultural affairs, Pacific Island affairs, the PM and Cabinet, women’s affairs and racing. I cite this example only to make the point that Executive design (and, consequentially, legislature design) is much more of an art than even an imperfect science.

Identifying the reasons for Exec reform/reconfiguration has generated an extensive literature but, as a general rule of thumb, they can be encapsulated under three broad headings: economy and efficiency; policy effectiveness; and political advantage. They don’t necessarily sit comfortably together and may often conflict: in short, striking a balance among them is difficult. Equally, it is virtually impossible to divide up the work of any government in a way that avoids the overlap of its purposes. What matters is how those purposes, whether singular to a Dept or overlapping, are co-ordinated and by whom. (Pooled budgets are one device that can be employed to manage overlapping purposes.)

Here the process of reconfiguration is already underway, given the proposal by OFMdfM to dissolve DEL and reallocate its functions elsewhere. This decision, irrespective of its possible merits, seems at least ill-timed given the opportunity provided by the planned NI Bill to engage in a more systematic review of the shape and size of the Executive. It may also be ill-judged in that it implies a top-down, two-party approach rather than a cohesive, fully shared and integrated one. The risk of cherry-picking, as in the DEL case, is that it may hamper a whole-

government approach to reform.

A&ERC & Ministers of course have to start from where we are in contemplating the reform of the Executive and that means *briefly* recounting the process that obtained in 1998 when the Departmental template was struck. From my own researches it is apparent that 'where we are' departmentally speaking was not (a) the result of a fully inclusive process & (b) that the allocation of functions was in large measure driven by officials.

Pre-Agreement, parties had given little if any thought to Executive design – let alone the idea that such a design should be modelled in part on the principle of 'joined-up' government that was very much the then fashion. Moreover, the suggestion in the 1998 Agreement that there could be up to ten Depts became the irreducible minimum, a view that was driven by political rather than administrative criteria: ie size mattered. The political context that obtained was much less stable than now, and design became largely a matter between the UUP and SDLP, the former chary about Strand Two, the latter taking a more expansive view of the north-south arrangements. What transpired was a sort of political bargain: the indicative list of N/S bodies became a prescriptive one, as did the 'up to ten' suggestion re Departments.

The outcome was an administrative hotch-potch, the major casualty of which was OFMdFM. I thought then, as now, that it should primarily be the strategic policy hub of the Executive, i.e. steering policy rather than rowing a (large) number of policy boats. However, it emerged from the process as a rather cluttered Department, laden with service delivery functions to the point where there was little opportunity space to engage in strategic thinking. It acquired a number of its functions simply because they were unwanted in what might be considered their more 'natural' homes. To sum up, the initial process of Executive design epitomised the practice of muddling through.

The (pre-emptive) decision to dissolve DEL does threaten to lead to a further bout of muddling through, constrained to some (perhaps considerable) extent by the inertia of established departmental commitments – the 'besetting sin of departmentalism' is a generic problem facing reformers. It also may be construed as betokening an incremental rather than a systematic approach to Executive design. Incrementalism does have its appeal, not least because it is risk-averse (a quality that appeals perhaps as much to officials as politicians) and is rather more sensitive to the political dimensions of policy-making than its intellectual aspects. But to opt for incrementalism is to miss an opportunity for a more fundamental approach.

Very broadly speaking there are then two ways of approaching the task of Executive re-design. The incremental, which in large measure would be governed by an initial agreement on the number of Depts – say eight – and then shuffling functions around in a way that seeks to secure a 'better fit' than currently exists. This would be less demanding of both parties and officials and is an innately conservative, safer approach. It prunes, rather than uproots, the Depts and may also commend itself to their respective policy communities within the wider society: in short, it would carry the virtue (if it is such) of minimizing disruption all round. There would be some disruption, no doubt, given that Ministers/Departments can be motivated by turf consciousness.

An alternative approach would require a more root-and-branch exercise. This would entail thinking about Departmental design in perhaps more thematic terms, as in both Wales and

Scotland where design/re-design has been more considered. The key here, to my mind, is to start at 'the top' i.e. OFMdfM and revisit its raison d'être: what is it actually for?

As mentioned earlier, I envisage it as the strategic hub of the Executive and in that regard would hollow-out many of its current functions which were so ill-considered in 1998/99. I suspect this may be resisted in part on the ground that both current incumbents would be keen to retain a broad, joint portfolio not least because they would wish to be seen to be 'doing things' in public. Politically and electorally this is explicable: but a more strategic brief wouldn't entail that they didn't 'do things', but rather did fewer of them, leaving more opportunity to grapple with the machinery of government to ensure better service delivery across the Executive as a whole. It is less glamorous and affords fewer photo-opportunities, no doubt, but ensuring an effective and efficient machine is an essential ingredient of good government.

To leave OFMdfM largely intact would, I think, be a missed opportunity. If that was, however, one outcome of the A&ERC and Efficiency Review Panel's (ERP) deliberations, it wouldn't preclude a more thematic design for at least some of the remaining Depts with consequent thematic briefs for their respective statutory committees. (And this ought not to be a case of merely putting new thematic labels on old Depts). Yet, a more holistic approach whereby Depts are constructed to solve problems (easier said than done) rather than be simply clustered around functions and services is an option. Whilst organizing around functions and services is necessary, indeed inescapable, and provides solid vertical links between Depts and their agencies/client groups/service providers it does little to establish, promote and nurture horizontal links between/among Depts. A hollowed-out, strategic OFMdfM can be the catalyst for such links, not least by focussing on problem-solving rather than being overly cluttered with functions/services. (The introduction of Executive Programme Funds in the NIA's first mandate was an attempt to force-feed horizontal co-operation between/among Departments but, in a very different political context, it foundered on the rocks of departmentalism and was formally abandoned by the post-2002 direct rule regime.)

At the risk of selling the pass, however, it might be argued that, regardless of the (in)elegance of the re-design of the Executive's architecture, what matters is the 'spirit of accommodation' that animates its Ministers – and, indeed, that is equally the case with MLAs in general and committee members in particular. That is not something that can be engineered into institutional reform – it's a behavioural rather than structural matter - albeit that a joined-up approach to the design of both a reduced NIA and Executive could help facilitate it. And 'joined-upness', that is between the Assembly (most immediately via the A&ERC) and the Executive (via the ERP) should be a feature of the current process. It ought not to be the case that as the Executive proposes the Assembly disposes: the latter, via the Committee, needs to cast itself in the guise of 'critical friend/partner' throughout the shared process—even if it means upsetting the Whips!

Section 5

Additional Information

Please provide any additional information which you believe will be of assistance to the Committee during the course of the Review.

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There is a significant academic literature on both executive and legislative design. Given the short notice, I have not provided it here but could supply something akin to a 'reading list' if required.