



Northern Ireland
Assembly

**Assembly and Executive Review
Committee**

**OFFICIAL REPORT
(Hansard)**

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

28 February 2012

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Stephen Moutray (Chairperson)

Mr Roy Beggs

Mr Conall McDevitt

Mrs Sandra Overend

Witness:

Professor Rick Wilford

Queen's University Belfast

The Chairperson: I welcome Professor Rick Wilford and thank him for his attendance. I appreciate his patience today. I know that the meeting was originally scheduled to take place this morning, but we had to change the time. I ask that you go ahead and brief the Committee on your papers.

Professor Rick Wilford (Queen's University Belfast): Thank you, Mr Chairman. Good afternoon, everyone. As the Committee Clerk said, you have in front of you a summary paper and a longer stakeholder paper. I will be very brief, because I know that you are pushed for time. The summary paper addresses what I believe are the key points in relation to sections 4 and 5 of the stakeholder paper. I will cut to the chase on decoupling — the abandonment of coterminosity between the Westminster and Assembly constituencies — and say that I am very relaxed about it. On balance, I am disposed to decoupling. The major reason being that, now that Westminster has decided to review Westminster boundaries after every general election, there is the possibility that we could be revisiting the issue time and time again. My view is that, if we decide to decouple early during the course of this mandate, the Assembly would be able to plan for the future on a stable basis of 16 constituencies, which, as you know, is the current proposal. It was not part of the original institutional design for devolution to Northern Ireland, though that was the case in Scotland and Wales. Had there not been decoupling in Scotland, the number of Members would have been reduced by 20 once Westminster decided to review the boundaries and reduce them significantly. The view in Edinburgh was that that was insupportable because it was not an effective use of the Scottish Parliament, particularly its Committees. Had it not happened in Wales, the size of the Assembly would have been reduced from the current membership of 60 to 45. The current proposal is a reduction to 30 constituencies. I think that life would have been made impossible for AMs in Cardiff and MSPs in Edinburgh had decoupling not taken place. I am pressing the stability argument mainly. On balance, I am disposed to decoupling.

The only real problems are what decoupling would mean for political parties in Northern Ireland, because I think that they would have to set about the business of rethinking their organisations at constituency levels. I think that is an issue. There is also the potential problem that electors might get a bit confused if there is a third set of boundaries: the district council boundaries under the new 11-council model; the Westminster constituencies, which could alter in the future; and the settled number of Assembly constituencies. The electorate already copes with different boundaries for district council, Westminster and Assembly elections, so I do not think that it would end up being confused or, if it is already confused, being even more confused should there be decoupling.

On the number of Members, I am disposed to 80, because I think that would be workable. Even if we reduced the number to 80, we would still have an Assembly that is a third larger than the National Assembly for Wales, which has 60 Members. Wales, which, of course, is my home country, has double our population. As an aside, let me just say how delighted I was that Wales that won the Triple Crown at the weekend. Eighty seems to be a workable number if the number of Departments is also reduced. As far as the Assembly is concerned, I think that eight Departments — eight seems to be the flavour of the month or even year — and eight Statutory Committees, with nine members each, is workable.

My last point in relation to section 4 of the stakeholder paper is that there is no perfect model for a Committee system. That is a particularly important point. I cannot point to an ideal type and say, "This is the optimal type of Committee system that you should emulate". There are a number of factors that influence Committee effectiveness and, indeed, efficiency, one of which is workload management and the way in which that is mustered in each of the Statutory Committees. There is a kind of symbiotic relationship between what goes on in this place and the decisions that are made in the devolved Departments, particularly in respect of the legislative agenda, and one of the concerns is about the need for better planning of Executive legislation and better sequencing and scheduling of legislative business. That is essential. The situation that emerged in the Assembly towards the latter part of the last mandate in 2011 was that those in the Bill Office were running around like headless chickens; they are not headless, because they are terribly efficient people, but you take my point. There was an immense amount of legislative work that had to be done towards the latter stages of the last mandate. I think that that made life very difficult not just for the Bill Office but for the Committees. I, therefore, think that better phasing of the Executive's legislative programme is important.

Committees can help themselves by engaging in many shorter inquiries and dropping the fashion for longer inquiries, which do have their place. However, I think that shorter, time-limited inquiries can have a more immediate effect on the Executive and the public. One of the things that we have to be very mindful of here is the outcome of the Assembly's engagement survey, which reported a very high level of public disengagement with this place. One of the agencies that the general public and the electorate in Northern Ireland do not seem to know very much about is the Committees. I think that the Committees can make more of an impact by being smarter in respect of how they manage their agendas. I would be disposed to their having to engage in rather shorter, snappier inquiries.

Chairs of Statutory Committees should not sit on other Committees. Their energies should have a single focus. I would like the liaison group to be put on a statutory footing, as is the case for the Conveners Group in the Scottish Parliament and the Liaison Committee in the House of Commons. It would have a role to play if it were so established. It would also be useful to set aside Committee days for debates on the Floor. The Committees are now anchored in the plenary sessions. They could be more firmly anchored by setting aside a number of earmarked Committee days in an Assembly year.

I will now briefly go through section 5 of the stakeholder paper. There is no magic number of Departments or perfect model of Executive design. The favoured number seems to be eight; that is the number in the ether, as I understand it. There are three basic reasons for deciding how you organise an Executive: the economy and efficiency of Departments; policy effectiveness; and political advantage. Trying to balance those criteria in setting about the design of an Executive is tricky because those three reasons can, and often will in the real world, conflict.

Another problem in designing any Executive is how you avoid overlap between or among Departments. I actually do not think that can be done. Policies do not fall neatly into single departmental boxes; they invariably spill over into the remits of other Departments. Therefore, a certain degree of administrative messiness is probably unavoidable. However, the perfect should not be the enemy of the good here.

Thematic Departments could be taken into consideration in the redesigning. That has been done in Wales and Scotland, among other jurisdictions. It is a way of promoting, amongst other things, joined-upness between and among Departments.

However messy or not messy it might turn out to be, the issue of overlapping briefs, and how and by whom they are managed, is very important. For me, that means the Office of the First Minister and deputy First Minister (OFMDFM). It should have a strategic role, and it should be hollowed out to assist it in that role. The business of recruiting functions to OFMDFM back in the late autumn and winter of 1998-99 was just a mess basically. Things happened that were largely official driven. A lot of functions ended up in OFMDFM that could find a better home elsewhere across the Executive. It is an untidy office that should not be laden with as many functions as it has. It needs to step back and operate on a more strategic basis and to think clearly across government. That is where the administrative reorganisation needs to start.

There are two ways of going about the business of Executive reform. You can do it incrementally, bit by bit, step by step and piecemeal. I have an anxiety about it being done in an ex cathedra way. The decision or pronouncement on the Department for Employment and Learning suggests that it could be quite a bitty process rather than a holistic one. That concerns me a bit, particularly if it is a signal of things to come once the efficiency review panel is established and so on. The other way is to go for a whole government and much more integrated approach. The choice is really a matter for the Assembly and the Executive to work out how the process of rethinking how the organisation of the Assembly, its Committees and the Executive needs to be conducted. However, it should be a process and it should be a joined-up process.

With all respect to members of this Committee and any Committee, you all need to think as Committee members and parliamentarians rather than as representatives of parties while sitting in this Committee. I would like to see a joined-up approach to the redesigning and for the Committee to look upon itself as a kind of critical friend of the efficiency review panel and the wider Executive in setting about the process. It is an incredibly important set of issues you are addressing about how this place works more effectively and more efficiently in conjunction with the Executive. Nothing could be more important than that axis between the Assembly and the Executive. It is crucially important, but it means behavioural change as much, perhaps, as it does structural reform of both. I would like the Committee to be a critical friend or partner in the exercise rather than dutifully clicking its heels and allowing its members to do what their Executive party members effectively tell them to do.

I should say, Mr Chairman, that I did both pieces at short notice and in some haste, but I was reminded when I was looking back over my summary of a remark made by the former Clerk of the House of Commons, Sir Barnett Cocks, when he spoke about the role of Committees. It was rather a jaundiced view. He was Clerk back in the 1970s and 1980s, I think, and he said:

"A committee is a cul-de-sac down which ideas are lured and then quietly strangled."

I hope that is not the case of whatever the outcome of this Committee's deliberations are. I will stop there.

The Chairperson: Thank you. Your submission states that, in a decoupled scenario:

"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."

How would that work? Do you mean adjusting the number of seats for all or just some constituencies? Is there a precedent for that in any other Parliament?

Professor Wilford: The answer to the last question is no.

It would work if you had stability in the number of constituencies; let us say there will be 16 for the foreseeable future. If there were to be population changes, for example, in those constituencies over time, the Assembly might want to take a view on whether it wanted to vary the number of Members across the constituency. You do not have the authority to change the electoral system or that sort of

issue at the moment because that is a power reserved to Westminster, but if you felt that there was a case for reducing or increasing the number of Members in particular constituencies where, for example, there had been significant population growth, electoral growth or a reduction, you could take that view. I do not see that becoming an issue, probably until the next generation, but it is something that might be thought about some time in the future. It is not an issue that you need to think about at all in the short term.

Mr Beggs: Thank you for your presentation. Scotland and Wales decoupled in order to maintain the number of Members, while we want to reduce our number. To a certain extent, we are not under the same pressure of having to do it, but you seem to be saying that the advantage is stability. What difference would it make as to whether we lose one constituency? The Boundary Commission very nearly took us to having 15 constituencies rather than 16. What difference would it make to the Committee structure if there were four, five or six fewer Assembly Members? I do not think it makes a big difference.

Professor Wilford: I beg your pardon, but you have to think about it in the round. You should not think about this only in terms of its effects on the Assembly; I think you should think about its effect on the Assembly's effectiveness in scrutinising the Executive. If your number is reduced by four or five, but you still have the same number of Committees and so on, I think you might find it more difficult to manage. That depends on the extent to which, for example, you would be prepared to reduce the size of the Committees.

I am kind of conflicted about this issue, but the broad point is that, on balance, if you had 16 constituencies, you fixed on having 16 and were able to plan on the basis of having 16 with five Members in each constituency, you could think ahead. What you would not have to worry or be concerned about is whether there is going to be a further boundary redistribution in Northern Ireland in the wake of the next general election in 2015, because that might force us to think yet again. We might then have to seek to influence the Executive in becoming sensitive to the kind of concerns that this place would have about the effectiveness with which it then scrutinised the Executive. So, I think it would give you surety and continuity.

Mr Beggs: You spoke about stripping out and hollowing out the role of OFMDFM. What specific functions would you want to remove, and how does the role of the First Minister of Scotland or Wales differ?

Professor Wilford: Let me go back to what we had, which I mentioned in passing. It ended up with about two dozen functions. The decision for some of those was expressly political. For example, as you know, there was a suggestion in the Good Friday Agreement for an equality Department. That was something that, at that stage, neither the UUP nor the SDLP were prepared to countenance because they could not anticipate a Minister from the other tradition, as it were, holding that brief, so the equality unit ended up in OFMDFM as a political compromise. There were other issues. I interviewed Séamus Mallon and David Trimble a couple of years ago about how the process actually worked. It was largely left to the officials to think how they might organise functions around what was now going to be 10 Departments. They had to think about how you divide, spread or redivide six amongst 10, effectively 11. It was a very clunky affair, and I do not think that there was any considered administrative reasoning about what went where. David Trimble told me, for example, that the Office of Law Reform ended up in the Department of Finance and Personnel because, by political nature, he did not believe in law reform anyway as a "small c" conservative, as was the case then. He just did not want it in OFMDFM, and they found a home for it in the Department of Finance and Personnel. There was quite a lot of that hotchpotch going around.

In my judgement, OFMDFM should start from the basis that it should be a strategic unit or office and it should think about policy in strategic and joined-up terms. It should start from that basis, rather than from the argument about which function it should retain and which it is prepared to see shuffled off to another Department. The latter is starting from the wrong end. It is asking an existential question: what is this office for and what should we be doing now? I suspect that one of the incumbents in OFMDFM is much more disposed to winnowing out the office than the other. In the latter case, I suspect that is because there is a political and electoral concern that the First and deputy First Minister are seen to be doing lots of things together that have policy and other effects within Northern

Ireland. I am not saying that they should not be seen to be doing things. What I am suggesting is that maybe they should be seen to be doing fewer things and that the time that is thereby released by thinning out and pruning, if you like, the functions within the office would enable them to have more opportunity and space to think strategically and try to promote the ethic, or practice, rather, of joined-up government.

Joined-up government is not a panacea in itself. It kind of folded when it was attempted by the Blair Governments because of what we academics call the besetting sin of departmentalism. Officials and Ministers tend, one way or another, to become incredibly turf conscious, very introverted and defensive. I think that, now that we are in a much different place than we were between 1998, 1999 and 2002, that should be taken advantage of and a rethink should be undertaken about how we could better design our Executive and, consequentially, how the Assembly could be better designed. I think that is a symbiotic relationship. I do not think it is one whereby the Assembly or its Committees should just trot dutifully in the wake of what the efficiency review panel ends up recommending. However, the space and the time are short for you to do that job.

Mr McDevitt: Rick, for clarity, would you prefer a decoupling to the existing 18 or to the new 16?

Professor Wilford: The latter.

Mr McDevitt: OK, so you envisage the 16 by five, which would take it to 80.

Professor Wilford: Yes.

Mr McDevitt: Will you give us some practical examples of the functions that could immediately be hollowed out from OFMDFM? In response to Roy's question, you referred to equality and a couple of other things, but will you list the matters that you consider would be better housed elsewhere?

Professor Wilford: The functions that OFMDFM discharges in relation to the economy should go to a reconfigured economic and finance department. That is where I would start. That would offer a more concerted and coherent approach, and let us face it, in Northern Ireland, it is a case of "it's the economy, stupid" is it not? I think that a single, co-ordinated department is needed to deal with economic issues. Splitting those functions across Departments does not actually help and can be a recipe for disputation. I am not a Pollyanna, Conall: I do not think that everything will be sweetness and light if what I have suggested were to be the case. However, concentrating those powers in one Department would help to create clarity. It would also give the First Minister and deputy First Minister the opportunity to step back and take a more strategic look.

There may also be an argument for taking out some of the gender-related issues from within and having a thematic Department that looks at the rights of discrete groups in the population. I think that would be another way forward. I wish I had a blueprint for you but I do not, because whatever design particular jurisdictions opt for will invariably and ultimately be an outcome of political bargaining.

I suggest that there is merit in thinking thematically. I know that it was looked at; in fact, Mark Durkan did so in 1998. At that stage, he was not persuaded, largely I think because of the uncertainties and the political difficulties that obtained at the time, rather than due to principled opposition. It may be that, now that they are bedded down in other devolved jurisdictions in the UK, we can draw lessons, positive and negative, from their experiences. I think that they have some merit. Therefore, I would be disposed towards looking for a rights-based Department that may also incorporate women's rights. That would give the issue the salience that it deserves.

Mr McDevitt: Would those be a series of Departments designed around specific aspects of regional need?

Professor Wilford: Indeed.

Mr McDevitt: OK. I am taken by your comments about this Committee, which is of course special, because it is one of the few that is mentioned in legislation and stuff. You talk about it as a "critical

friend". Is it your view that the Committee needs to exercise a degree of status in relation to the Executive questions of institutional reform and the future direction of governance in this region?

Professor Wilford: I think that you pose that question as much to your fellow Committee members as to me, Conall.

Mr McDevitt: But many of them are absent.

Professor Wilford: I know. We are not even quorate here, are we?

Mr McDevitt: For the record?

Mr Beggs: We have a quorum for taking evidence.

Professor Wilford: Do we? OK.

I think that the Committee should be a critical friend. I think that it should take this job seriously. I think that it should do that in partnership with the efficiency review panel. At a function here last Thursday evening, I asked the deputy First Minister what was happening, and it did not seem clear to me that very much was happening. That gives me pause for concern, because I suspect that the Committee and the Assembly could, in effect, be presented with a *fait accompli* — rather like the Department for Employment and Learning was — in which case this will not be a concerted, integrated, properly joined-up exercise. Therefore, I think that the Assembly and Executive Review Committee should assert itself. It is a Committee of the Assembly, and the Assembly has an embedded interest in the outcome of this process, and I think it should be unabashed about making its views known and making it clear that you are not just, as it were, the handmaiden of the efficiency review panel. If you can agree a set of recommendations that give the Executive pause for thought, all the better.

Mr McDevitt: Finally, I wish to make an observation on the Chair's question in the context of decoupled constituencies? Have you had any alternative to referring it to the Boundary Commission every time the population shifts? Of course, south of the border, they drop a seat, so a four-seater could become a three-seater, or a five-seater could go down to a four-seater. Therefore, they always have two options. It is like a double calibration mechanism. There are reasons why we would not want to break the equality of representation rule, but is there a scenario where you could have a double calibrated opportunity?

Professor Wilford: Yes, absolutely. You could vary it along those lines.

The Chairperson: Finally, you referred to the Sainte-Laguë formula as an alternative to d'Hondt. Will you expand on that?

Professor Wilford: It is an alternative method of trying to achieve proportionality. As you know, the divisor for d'Hondt is 1, 2, 3, 4, 5, 6 — it goes up arithmetically. However, Sainte-Laguë goes up 1, 3, 5, 7, 9, so you increase the divisor. One effect of that is that it hits the bigger parties earlier and leaves room towards the end of whatever the process is going to be for the smaller parties. There is a modified version where the divisor you begin with is not one but 1.4. Therefore, it has an even greater effect on the larger parties. It is an alternative to d'Hondt as a means of trying to secure proportional allocation of Chairs or seats on Committees or whatever it might be.

The Chairperson: OK. Thank you very much for your attendance today, Professor Wilford.

Professor Wilford: It is a pleasure.