

Belfast Visit

26-28 March

Commission on Devolution in Wales

Belfast Visit Briefing

26-28 March

Contents:

Overview of itinerary

Contact Details

Individual meeting briefings

Summary of Commission's longlist of topics in Northern Ireland context

Summary of Northern Ireland Settlement

Belfast Visit

26-28 March

Travel

Paul, Noel and Trefor: BE472 Manchester to Belfast City, 08:55→09:50
Helen: EZY443 Bristol to Belfast International, 07:00→08:10
Jane: 1430 Stena Ferry to Rosslare on Monday
Nick and Eurfyl: EI 0031 Heathrow Terminal 1 to Belfast City, 09:30→10:55
Rob: EZY447 Bristol to Belfast International, 19:20→20:30 on Monday
Mike and Mark: EI021 Gatwick-South to Belfast City, 08:50→10:15
Ben: BE0402 Birmingham-Belfast City, 08:40→09:45

Returning

Paul and Trefor: BE481 Belfast City to Manchester, 15:00→16:05
Noel and Ben: BE409 Belfast City to Birmingham, 14:10→15:15
Nick and Eurfyl: BA1415 Belfast City to Heathrow Terminal 1, 12:45→14:05
Rob: EZY446 Belfast International to Bristol, 16:20→17:25
Jane: 2100 Stena Ferry from Rosslare on Wednesday
Mike and Mark: BE969 Belfast City to Gatwick, 14:25→15:50
Helen to travel back Wednesday

Accommodation

Malmaison Belfast, 34-38 Victoria St, Belfast, BT1 3GH, 028 9022 0200.

Jane and Rob are also staying Monday 25 March. Jane and Helen are not staying Wednesday 27.

Contacts

PS: 07713566581
NB: 07968121135
JD: 07875606145
EaG: 07770688548
RH: 07734698063
TJ: 07785242423
NL: 07721588109
HM: 07944985151

MK: 07805734433
MP: 07564246644
BJ: 07709450369

Belfast Visit

26-28 March

Day 1: Tuesday 26/03/13

| Time | Person and location | Discussing | Contact |
|---------------|--|---|---|
| 1145-1230 | Mark Davenport BBC NI Political Editor; Belfast Business Centre, Cathedral House, 23-31 Waring Street, Belfast BT1 2DX | -Settlement -Public attitude toward devolution (including understanding) -Devolution of Policing and Justice | 02890 338626; mark.devenport@bbc.co.uk |
| 1230-1400 | Commission discussion, Belfast Business Centre | | |
| 1400-1500 | Prof Richard Wilford, Queen's University, Belfast Business Centre | -General context/settlement -Capacity of the legislature -Structure of the devo model & its cross-community aspects -Devolution of policing/criminal justice | 02890 973652; r.wilford@qub.ac.uk |
| <i>Travel</i> | | | |
| 1600-1700 | Colm Shannon North South Ministerial Council 39 Abbey Street, Armagh | -Development of NSMC -Cross-border activity -Clarity around responsibilities within settlement -Outcomes of cooperation | 02890 338626; Colm.Shannon@ofmdfmni.gsi.gov.uk |
| <i>Travel</i> | | | |
| 1930 | <i>Dinner at hotel</i> | | |

Belfast Visit

26-28 March

Day 2: Wednesday 27/03/13

| Time | Person and location | Discussing | Contact |
|---------------|--|---|---|
| 0930-1030 | Alan Hunter, Chief Executive, Law Society of Northern Ireland, Law Society House 96 Victoria Street Belfast BT1 3GN | -Separate legal jurisdiction -Devolution of justice | Helen Majury (PA), 028 9023 1614; ChiefExecutivePA@lawsoc- ni.org |
| <i>Travel</i> | | | |
| 1045-1145 | Judena Goldring, CEO Northern Ireland Law Commission, Linum Chambers 2 Bedford Square, Bedford Street BELFAST BT2 7ES | -Separate legal jurisdiction -Devolution of justice | Paula Martin, Personal Secretary; paula.martin@nilawcommis- sion.gov.uk; (028) 90 544875 |
| 1200-1330 | Commission Discussion/Lunch (TBC) | | |
| 1400-1445 | Nick Perry Permanent Secretary, Justice Block B, Castle Buildings | -Devolution of policing and justice | Jenny Speers; 02890523161 |
| 1445-1530 | David Ford MLA Minister for Justice Block B, Castle Buildings | -Devolution of policing and justice | Norah Donnelly; 028 90522213 |
| 1600-1645 | William Hay MLA Speaker | -Assembly capacity and functions -Scrutiny of the Executive -Inter-parliamentary relations (both within the UK and with the Republic of Ireland) | Frances Leneghan (PS); 02890521377; frances.leneghan@niassemb- ly.gov.uk |

Belfast Visit

26-28 March

Day 3: 28/03/13

| Time | Person and location | Discussing | Contact |
|-------------|---------------------------------|---|-----------------------|
| 1030-1115 | First Minister, Stormont Castle | -Settlement in general -Inter-governmental relations -General constitutional developments in the UK | Brenda - 02890 378031 |

Belfast Visit

26-28 March

General objectives of visit

- to develop understanding of the NI reserved powers model;
- to consider practicalities of powers devolved in NI but not Wales e.g. policing and justice, social security;
- to explore views on inter-governmental and inter-parliamentary relations;
- whether Northern Ireland gets a better “deal” from devolution than Wales; and
- to explore how far devolution in Northern Ireland is now regarded as settled and why there is no Calman/Silk equivalent.

Some possible questions

- Wales has a conferred powers model, Northern Ireland a reserved powers model – what are your views on their relative merits and your experience with your model?
- the Northern Ireland settlement is wider than Wales – what is your experience of how these wider powers have been used e.g. has Northern Ireland benefitted from police devolution and a separate legal jurisdiction?
- How well does devolution work in Northern Ireland? Is the relationship with Westminster and Whitehall good? Does Northern Ireland get good leverage?
- What are the future prospects for improving the settlement? Has devolution now reached its end point?

All meetings have been secured on the basis that they are private meetings, but that the Commission may wish to later refer to these discussions with the participants' consent and approval.

As general background, Commissioners may wish to note the current composition of the membership of the Northern Ireland Assembly and Executive:

Alliance Party 8 (2 Ministers)

Democratic Unionist Party 38 (5 Ministers and 1 Junior Minister)

Green Party 1

Independent 3

Sinn Féin 29 (4 Ministers and 1 Junior Minister)

Social Democratic and Labour Party 14 (1 Minister)

Traditional Unionist Voice 1

UK Independence Party 1

Ulster Unionist Party 13 (1 Minister)

Assembly Designation

Nationalist 43

Other 9

Unionist 56

Belfast Visit

Tuesday 26 March

Mark Davenport, BBC NI Political Editor

To discuss

- Settlement
- Public attitude toward devolution (including understanding)
- Devolution of Policing and Justice

Background Information (from BBC site)

BBC journalist since 1980s. Reporter for Spotlight, Ireland Correspondent covering IRA ceasefire and Good Friday Agreement, United Nations Correspondent in New York, Stormont Political Editor since 2001.

Covered stories in Somalia, Sierra Leone, Tanzania and Israel.

Author of Flash Frames -12 Years Reporting Belfast and co -author of Man of War, Man of Peace: a biography of Gerry Adams

Once worked as a trainee reporter for Indian newspaper "The Hindu".

Educated in Oxford before going to university in Cambridge to study history

Belfast Visit

Tuesday 26 March

COMMISSION ON DEVOLUTION IN WALES

Informal Meeting: Tuesday 26th March 2013

AGENDA

Sandwiches will be provided

- | | |
|-------|--|
| 12:30 | Revised principles and revised policy paper template CODIW: 019/12 |
| 13:00 | Programmes where no substantial changes are recommended CODIW: 020/12 |
| 13:30 | Proposed schedule of Commission meetings CODIW: 021/12 |
| 13:50 | Discussion of visit |
| 14:00 | <i>Session closes</i> |

Belfast Visit

Tuesday 26 March

Prof Richard (Rick) Wilford, Director of Legislative Studies and Practice, Queen's University Belfast

To discuss

- General context/settlement
- Capacity of the legislature
- Structure of the devo model & its cross-community aspects
- Devolution of policing/criminal justice

Background information (From Queen's University Website)

Teaching Areas

Politics and public policy in the UK, women and politics, feminism and nationalism, supervision of the final year undergraduate internship programme.

Research Interests

My major current interest is in the outworking of the devolution project in the UK, more especially its fitful implementation in Northern Ireland. Since 1999, I have been the co-coordinator of the Northern Ireland devolution monitoring team, which between 1999 and 2005 produced quarterly reports on the devolution and peace processes in the region and since 2006 four-monthly reports on the same. The restoration of devolution in May 2007 has narrowed the focus of the reports onto the performance of the devolved institutions, and my particular interest lies in the performance of both the Assembly (including its committee system) and the Executive. I am especially interested in the evidence of both joined-up government within the Executive and of joined-up scrutiny within the Assembly. The research is co-funded by the ESRC and a number of Government departments (the 1999-2005 project was co-funded by the ESRC and the Leverhulme Foundation). In addition to the monitoring reports, the wider project has produced the annual State of the Nations series, each of which contains a chapter co-written with Robin Wilson, on Northern Ireland.

Belfast Visit

Tuesday 26 March

Colm Shannon
North South Ministerial Council
Armagh

To discuss

- Development of NSMC
- Cross-border activity
- Clarity around responsibilities within settlement
- Outcomes of cooperation

Background information

NSMC Background and Structures

The North South Ministerial Council has its origins in the Good Friday/Belfast Agreement which was signed by the UK and Irish Governments in 1998 and which devolved certain powers to the Northern Ireland Assembly.

The North South Ministerial Council (NSMC) brings together Northern Ireland Executive and Irish Government Ministers to develop consultation, cooperation and action on matters of mutual interest. The NSMC oversees work in twelve agreed Areas for Co-operation. Work is taken forward in six of these by North South Implementation Bodies and in the other six, by relevant Executive and Irish Government departments working jointly. The North/South Implementation Bodies and Areas for co-operation are:

- Waterways Ireland
- Food Safety Promotion Board (*safefood*)
- Trade and Business Development Body (InterTradeIreland)
- Special European Union Programmes Body
- The Language Body / Foras na Gaeilge / Ulster Scots Agency
- Foyle, Carlingford and Irish Lights Commission (Loughs Agency)
- Tourism – taken forward by a publicly-owned limited company, Tourism Ireland Ltd
- Agriculture
- Education
- Environment
- Health
- Transport

The North South Implementation Bodies are jointly sponsored by relevant Executive and Irish Government Departments.

The NSMC meets in Plenary, Institutional and Sectoral formats.

Belfast Visit

Tuesday 26 March

NSMC **Plenary** meetings are chaired on a rotational basis by the First Minister and deputy First Minister and the Taoiseach. Usually most Executive and Irish Government Ministers attend. There are normally two NSMC Plenary meetings each year.

NSMC **Institutional** meetings, consider cross cutting issues across the various areas of cooperation and are chaired on a rotational basis by the First Minister and deputy First Minister and the Irish Government Minister for Foreign Affairs. It is not the practice that other Executive or Irish Government Ministers attend these meetings. NSMC Institutional meetings are arranged as required.

NSMC **sectoral** meetings consider issues solely relating to individual areas of cooperation and are chaired on a rotational basis by relevant Executive and Irish Government Ministers. Each of these meetings is also attended by another Executive Minister, nominated by the First Minister and deputy First Minister to ensure cross community participation at the meeting. There are normally at least two meetings per NSMC Area of Cooperation each year.

The **NSMC Joint Secretariat** staffed by officials from OFMDFM and the Department of Foreign Affairs. The secretariat provides support and advice to Sponsor Departments and facilitates the smooth running of NSMC meetings.

NSMC Transport Sector (as an example of an area of cooperation)

The NSMC Transport Area for Co-operation is overseen by Executive Ministers Kennedy and Attwood as transport cuts across both their portfolios. The Irish Government Minister is Minister Varadkar.

There have been several major initiatives taken forward through co-operative work by the relevant Departments from each jurisdiction:

Major Roads projects

- By July 2010, the entire route between Belfast and Dublin had been brought up to motorway/dual carriageway standard. Departments are currently preparing a new funding and implementation plan for the major projects which will link the North West Region to Aughnacloy and Belfast to Larne.

Belfast-Dublin Rail Line

- The two rail companies continue to implement a number of improvements to the service including the production of costed proposals aimed at improving the reliability of trains on the line by improving the viability of the existing fleet.
- Consideration is also being given to fare harmonisation on the Dublin Belfast rail service and the development of integrated ticketing systems across the island of Ireland remains a longer term objective.

Belfast Visit

Tuesday 26 March

Driver Disqualifications, Penalty Points, and Vehicle Keeper Data

- The mutual recognition of driver disqualifications between the UK and Ireland was introduced in 2010.
- A pilot scheme related to enforcement of driving/parking infringements requiring the release of vehicle keeper data on a cross-border basis was launched in 2010.
- Departments are working towards the Mutual Recognition of Penalty Points on an all island basis (similar to Driver disqualifications).

Road Safety

- The organisations responsible for Road Safety cooperate on a regular basis and share information and marketing initiatives/adverts.
- The Enforcement Agencies are co-operating on cross-border operations to check vehicles and drivers for compliance.

Sustainable Travel and Transport

- Initiatives in walking, cycling, public transport and car sharing continue to be promoted to businesses, commuters and schools on a cross border basis.

Freight Forum

- An All island Freight Forum has been established but has recently been overtaken by initiatives on an EU wide basis.

Bridges

- Construction work on the replacement of two bridges that were decommissioned during the troubles on the Tyrone/Monaghan border was completed in October 2010.

Belfast Visit

Wednesday 27 March

Alan Hunter, Chief Executive, Law Society of Northern Ireland

To discuss

- Separate legal jurisdiction
- Devolution of justice

Background information (from the Law Society of Northern Ireland site)

Alan Hunter, a solicitor educated at Queen's University Belfast, was appointed Chief Executive of the Law Society of Northern Ireland in October 2007.

Previously he held a series of key positions in the Senior Civil Service including the Director of Legal Aid, Director of Judicial Services and Chief Executive of the Northern Ireland Judicial Appointments Commission.

Working with Presidents and the Council of the Law Society of Northern Ireland he has led the development and delivery of an engagement strategy with members and key interested parties including members of the Northern Ireland Assembly and others in civic society.

He has also been involved in overseeing the return of the Law Society to the new Law Society House situated in the heart of the legal quarter in Belfast city centre.

The Law Society of Northern Ireland is a professional body, which has the authority to discipline, educate and regulate practising solicitors in Northern Ireland.

Under the Solicitors (Northern Ireland) Order 1976, the Law Society acts as the regulatory authority governing the education, accounts, discipline and professional conduct of solicitors in order to maintain the independence, ethical standards, professional competence and quality of services offered to the public. It carries out these functions to ensure that solicitors receive the highest level of support and that their clients receive the required standard of work.

Since its establishment in 1922 under Royal Charter, the Law Society of Northern Ireland has proven to be an exemplar of legal professionalism and service delivery. Undoubtedly its positive and contributory role has helped shape the legal system within Northern Ireland.

Fundamental to the success of the Law Society over the decades has been our ability to represent its membership on key issues, to advocate on their behalf and to regulate the profession when required.

Belfast Visit

Wednesday 27 March

Judena Goldring, CEO Northern Ireland Law Commission

To discuss

- Separate legal jurisdiction
- Devolution of justice

Background information (from the NI Law Commission site)

Judena Goldring holds a Masters Degree in History from the University of Dublin, Trinity College and a Degree in Law from the Queen's University of Belfast. She was admitted as a solicitor in Northern Ireland in 1987, and worked for a number of years in private practice. She joined the Office of Law Reform in 1990 and was appointed Director of Law Reform in 1994. She held this post for 7 years. In 2000 she moved to work within the senior civil service; during this time she held the post of Director of Environmental Policy and Director of Sustainable Development within the Department of the Environment and Director on RPA within the Department of Culture Arts and Leisure.

The Northern Ireland Law Commission (the Commission) was established in 2007 following the recommendations of the Criminal Justice Review Group¹. The Commission is established under the Justice (Northern Ireland) Act 2002² (as amended by the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010). Our main task is to review areas of the law and to make recommendations for reform. The Commission seeks to ensure that the law is as simple, accessible, fair, modern and cost-effective as possible. A number of specific types of reform are covered by the provisions in the 2002 Act (as amended):

- Simplification and modernisation
- Codification
- The elimination of anomalies
- Repeal of legislation which is no longer of practical utility
- Reduction of the number of separate legislative provisions.

In addition the Act requires the Commission to consider any proposals for the reform of law of Northern Ireland referred to it. The Commission must submit to the Department of Justice programmes for the examination of different branches of the law with a view to reform. The Department of Justice must consult the Attorney General for Northern Ireland before approving any programme submitted by the Commission.

¹ The Review Group was set up on 27 June 1998 under the Belfast Agreement. It was required to undertake a wide-ranging review of criminal justice (other than policing and those aspects of the system relating to emergency legislation).

² This provided for the reform of the judiciary and the administration of justice in anticipation of the devolution of policing and justice, provided for originally in the Belfast Agreement but not implemented until 2010.

Belfast Visit

Wednesday 27 March

The Department of Justice must consult with the Secretary of State for Northern Ireland before approving any programme prepared by the Commission which includes examination of any branch of law relating in whole or in part to a reserved or excepted matter or the consolidation or repeal of any legislation which relates in whole or in part to a reserved or excepted matter.

Purpose and Mission statement of the NI Law Commission

The establishment of an independent Law Commission in Northern Ireland forms part of the (positive) political and constitutional developments underway in Northern Ireland. The aim of the Commission is to provide the Department of Justice with recommendations on law reform which will contribute to a legal system in Northern Ireland which is just, accessible, effective and modern. In taking forward this task the Commission is establishing itself as a body that puts forward robust, workable and timely proposals for improving the law and its practice in Northern Ireland. This emphasis on achieving practicable outcomes is an important value defining the work of the Commission.

The Commission is establishing itself as a valued part of the legal landscape in Northern Ireland and hopes that its reform proposals will carry weight and will be handled expeditiously by the Northern Ireland Executive, its Departments and by the Northern Ireland Assembly.

Status

The Commission is an independent advisory, non-departmental public body (NDPB). The Department of Justice is the Commission's sponsoring Department.

Constitution

The Commission consists of a Chairman, who must hold the office of judge of the High Court, and four Commissioners, one of whom must be a person from outside the legal professions. The Department of Justice must consult with the First Minister and deputy First Minister and the Attorney General for Northern Ireland before making the appointments. The Chairman and Commissioners are appointed on a part-time basis.

Belfast Visit

Wednesday 27 March

Nick Perry, Permanent Secretary, Justice

To discuss:

- Devolution of policing and justice

Background information

The Department of Justice was established in April 2010, following the devolution of justice powers to the Northern Ireland Assembly. It has an annual Departmental Expenditure Limit of approximately £1.2bn.

The Minister has set out a number of themes which encompass the key roles of the Department.

These are:

- Safer, Shared Communities – working to help build communities with lower levels of crime and anti-social behaviour, where everyone's rights are respected, including examining steps that can be taken to address problems at interfaces.
- Faster, Fairer Justice – looking at how everyone in Northern Ireland has access to justice without undue delay, taking particular account of the needs of victims and witnesses and
- Reformed Prisons and Youth Justice System – fundamental reform of the Prison Service and implementing the recommendations of the Youth Justice and Community Sentences reviews.

The Department has five Agencies:

- Northern Ireland Prison Service
- Northern Ireland Courts and Tribunals Service
- Compensation Agency
- Forensic Science Agency
- Youth Justice Agency.

The Department also sponsors a number of Non-Departmental Public Bodies/bodies affiliated with policing and justice.

Career History:

HM Customs and Excise 1981-84;

Ministry of Defence 1984-91:

Private secretary to Parliamentary Under-Secretary for Defence Procurement 1987-89;

Northern Ireland Office 1991-2010:

Principal private secretary to Mo Mowlam and Peter Mandelson as Secretaries of State 1998-2000,

Head of Financial Services Division, Central Services Directorate 2000-03,

Director-General, Policing and Security 2004-08,

Director-General, Criminal Justice and Policing 2008-10;

Permanent Secretary, Department of Justice, Northern Ireland Executive 2010-

Belfast Visit

Wednesday 27 March

David Ford MLA, Minister for Justice

To discuss:

- Devolution of policing and justice

Background Information (from David Ford's site):

On 12 April 2010, David was elected by the Assembly as Minister of Justice for Northern Ireland, the first local Minister in that role since the suspension of the former Parliament of Northern Ireland in 1972 [this was on a cross-community vote].

A highly active politician and one of the most vociferous supporters of the principle of partnership government, David Ford has campaigned within the Assembly and outside it for the building of a united community and has opposed actions which have reinforced divisions. He now leads a team of nine 'United Community' MLAs at Stormont.

He has become known for his campaigning to improve the Northern Ireland rail network. He also has an extensive knowledge of rural affairs, both regarding agriculture and the wider social issues.

Within the environmental field, David Ford has campaigned on nature conservation, protection of hares, planning and waste management issues. He has strongly supported the introduction of alternative renewable energy.

Assembly

As Leader of Alliance, David was responsible for breaking the deadlock over the election of a First Minister and deputy First Minister in October 2001. He remains committed to building on the Good Friday Agreement to bring about a non-sectarian society. He opposes the sectarian aspects of the St Andrews proposals.

David is married with three daughters and one son. He was previously a Social Worker with the Northern Health and Social Services Board in Antrim, Newtownabbey and Carrickfergus.

Political Career

- Alliance Leader since October 2001.
- Alliance Assembly Spokesperson on Agriculture and Rural Development, and on the Environment.
- Alliance Chief Whip, 1998-2001.
- Candidate, Antrim Borough Council, 1989 (Antrim SE); elected to Council (Antrim SE) 1993 and 1997; (Antrim Town) 2005. Resigned on appointment as Minister of Justice, 2010.
- Candidate, House of Commons, 1997, 2000 by-election, 2001 and 2005 (South Antrim).
- Elected to Northern Ireland Assembly, 1998, 2003 and 2007 (South Antrim).
- Candidate, Northern Ireland Forum, 1996 (South Antrim).

Belfast Visit

Wednesday 27 March

William Hay MLA, Speaker

To discuss:

- Assembly capacity and functions
- Scrutiny of the Executive
- Inter-parliamentary relations (both within the UK and with the Republic of Ireland)

Specific questions you may wish to ask include:

- Whether there is any inclination to adopt the title 'Parliament' rather than Assembly (the 1922-1972 title)
- Whether the reduction of members to 96 from 108, as set out in the PVSC bill, would be sufficient (or a surfeit of members) for scrutiny

Background information (from NI Assembly site)

William Hay has been a DUP member of the Assembly since its formation in 1998, and was elected as Speaker of the Northern Ireland Assembly on 7 May 2007, the two previous Speakers having been appointed by the Secretary of State for Northern Ireland. He is assisted by two Deputy Speakers: John Dallat (SDLP), Roy Beggs (UUP) and a principal Deputy Speaker Francie Molloy (SF).

The Speaker is the Presiding Officer of the Northern Ireland Assembly. He is also the Chairman of the Assembly Commission, the body corporate of the Assembly, and the Chairman of the Assembly Business Committee.

The Speaker must be an elected Member of the Assembly. He is selected as Speaker under Section 39 of the Northern Ireland Act 1998 on a cross community basis. Once elected, the Speaker continues to hold office until the conclusion of the next election for Speaker unless he resigns.

Authority and impartiality of the Speaker

The chief characteristics of the office of Speaker are authority and impartiality. In debates, all speeches are addressed to the Speaker and his choice of Members to speak is not open to dispute. In giving a ruling or preserving order in the Chamber, the Speaker must be heard in silence. No Member may stand when the Speaker is standing. Comments on the character or the actions of the Speaker may be punished as breaches of privilege. The Speaker cannot be criticised in a debate or by any form of proceedings except a substantive motion.

Members must be confident of the impartiality of the Speaker and this is achieved through the operation of a number of conventions. He does not participate or vote in any debates in the Assembly, he does not become involved in party politics, nor does he comment on Northern Ireland political matters or on issues of Government policy. When speaking on behalf of the Assembly, the Speaker confines himself to matters relating to the operation of the Assembly. Similarly, he will only make statements to the press on factual or procedural matters relating to the Assembly.

Belfast Visit

Wednesday 27 March

The Speaker's duties fall into two main categories: first, those which are specified in the Northern Ireland Act 1998 and the Standing Orders of the Assembly and, secondly, those which fall into the broad category of representational duties.

Powers and Duties of the Speaker

The powers and duties of the Speaker are derived from the Northern Ireland Act 1998 and are incorporated into Assembly Standing Orders. The Speaker has a scrutiny role in relation to the competence of legislation prior to the first and final stages of a Bill. He is also required to forward copies of all Bills to the Northern Ireland Human Rights Commission. He selects amendments to Bills for debate at the Consideration stages and on the completion of all stages of a Bill, sends it to the Secretary of State requesting Royal Assent.

Written notification of the resignation of the First Minister or Deputy First Minister must be given to the Speaker, as should written notification of the appointment, resignation or dismissal of Ministers, Committee Chairs or Deputy Chairs. In the event of a vacancy occurring in the Assembly's membership the Speaker must inform the Chief Electoral Officer for Northern Ireland.

Other duties of the Speaker include the administration of oaths and presiding at meetings of the Northern Ireland Assembly Commission. In addition, he has a number of representational duties, which are outlined below. The Speaker receives visitors to Parliament Buildings, including Heads of State, Ambassadors and senior politicians from Britain, Ireland and overseas.

The Speaker has the primary role in maintaining and developing the links the Assembly has established with the Westminster legislature and with the other devolved legislatures in Scotland and Wales, as well as with the legislatures of the Isle of Man, Jersey, Guernsey, the Republic of Ireland, Europe, Canada, Australia and the USA.

He represents the Assembly at the Conference of the Regional Legislative Assemblies of Europe (CALRE), which meets annually to enable the various regional legislative Assemblies to discuss issues of mutual interest. He also attends, on behalf of the Northern Ireland Assembly, a biennial conference held to allow the Speakers of the Commonwealth countries to meet to discuss issues and developments relating to the operation of the various Parliaments and Assemblies. Through his role as President of the Northern Ireland Assembly Branch of the Commonwealth Parliamentary Association, the Speaker is involved in many activities to maintain links between Members of the Parliaments of the Commonwealth countries.

The Speaker also hosts a range of events designed to promote an understanding of the Assembly as an institution and to develop links with the wider Northern Ireland community.

Belfast Visit

Thursday 28 March

Meeting with Rt Hon Peter Robinson MLA, First Minister

To discuss

- Settlement in general
- Inter-governmental relations
- General constitutional developments in the UK

Given that he exercises his responsibilities jointly with the deputy First Minister (who is unable to meet us), it should be noted that the First Minister is not meeting us on behalf of the NI Executive and would be expressing his personal opinions and reflections. Additionally, given that the Northern Ireland Executive does not have the same tradition of collective responsibility as other administrations, he will not provide details of other Ministers' policy areas.

For information, the responsibilities of the Office of the First Minister and deputy First Minister are:

- Support for the Executive and liaison with the Assembly, the North-South Ministerial Council, British-Irish Council, Civic Forum and UK Departments;
- international relations;
- Programme for Government and the Executive's economic policies;
- promoting and monitoring implementation of equality of opportunity/good relations,
- tackling poverty and social exclusion,
- children and young people,
- victims and survivors,
- sustainable development;
- Maze/Long Kesh Regeneration;
- Review of Public Administration;
- Information Service;
- emergency planning;
- improving investment in infrastructure; and
- the Statutory Publications Office.

Background information

Biography (from Peter Robinson's site):

"Peter David Robinson was born on 29th December 1948 to David McCrea Robinson and Sheila Robinson. He was educated at Annadale Grammar School and Castlereagh College of Further Education before joining an Estate Agency. Peter married Iris Collins on 26th July 1970 and they have three children, Jonathan, Gareth and Rebekah

"Peter became a member of the DUP at its foundation and has been an Executive member from 1973. He was elected Secretary of the Central Executive Committee in 1974 and appointed as the first General Secretary of the party in 1975 and was later elected Deputy Leader of the Party in 1980.

Belfast Visit

Thursday 28 March

“Peter was first elected to Castlereagh Council in 1977 as one of only 4 DUP councillors. By the time he stood down from this position, the DUP would have 13 councillors and would control Castlereagh Borough Council. During his period on the council he has been Deputy Mayor (1978), Mayor (1986) and an Alderman since 1988. Peter has also been DUP Group leader during his time on the council. Peter's leadership of the council took it from an unknown and unremarkable district council to now being recognised as the premier local authority in Northern Ireland. The council consistently provides the best facilities and enviously low rates. The Dundonald Ice Bowl is amongst Peter's proudest achievements on the council. In recognition of Peter's contribution to the council in 2003 both political colleagues and opponents on the Council voted to bestow upon him the 'Freedom of the Borough'.

“He was first elected to Parliament in May 1979 overturning an Ulster Unionist majority of 17,000 by 64 votes. Along with other Unionist MPs Peter resigned his seat in protest at the Anglo Irish Agreement in 1985 and was re-elected in the subsequent by-election. At Westminster Peter served on the Northern Ireland Select Committee since it was established until 2005 and was its longest serving member. He was the longest serving Member of Parliament for any Belfast constituency since Parliamentary representation began after the Act of Union in 1800.³

“Peter was also elected to the Northern Ireland Assembly established in 1982 where he served as Chairman of the Environment Committee until it was dissolved in 1986.

“In 1996 he was elected to the Northern Ireland Forum and served in it until it completed its work in 1998.

“Peter was elected to the Northern Ireland Assembly in 1998 and when powers were devolved in 1999 he became Minister for the Department for Regional Development. He was responsible for the Assembly's most significant measure taken over this period with the introduction of free fares on public transport for older people. Independently recognised as the best Minister in the Devolved Government Peter also helped formulate the 25 year Regional Development Strategy for Northern Ireland and devised the 10 year Regional Transport Strategy. Both received the unanimous support of the Assembly.

“In July 2007 Peter stepped down from his position as Alderman on Castlereagh Borough Council, bringing to an end 30 years service to the Borough.

“On 17 April 2008, Peter Robinson was elected, unopposed, as leader of the DUP, following the retirement of Ian Paisley, and was installed as First Minister at a special sitting of the NI Assembly on 5 June 2008.

“He has also authored numerous publications during his political life on the history and politics of Ulster.”

³ He lost his seat in the 2010 election to Naomi Long, deputy leader of the Alliance Party

Belfast Visit

Thursday 28 March

From the Democratic Unionist Party site (position on devolution)

It hasn't always been easy but we have made progress. Today Northern Ireland's position in the United Kingdom is secure and the DUP working in the Assembly has started to make a real difference and deliver for people here. There is still a lot to do but a start has been made and we have laid strong foundations for the future. After decades of conflict, people now have hope for the future. In the next term we want to build on these foundations to help keep Northern Ireland moving forward.

MAKING STORMONT BETTER

We want to see an end to all the arguing and bickering, with Stormont working better. This means reforming our political institutions and how government works. We have made important changes to how decisions are taken and insisted that there will be a review of the arrangements at Stormont during the next four years.

We have proposals to normalise politics in Northern Ireland. We want to change the way the Executive is formed, move to weighted majority voting, end community designation, reduce the number of MLAs and departments, and create an opposition. In attempting to make things better we cannot afford however to put at risk all that has been achieved. Threatening to bring Stormont down is a recipe for political instability and a return to direct rule. Change will only come through agreement and we will work to bring that about for the benefit of everyone in Northern Ireland.

A BETTER SECOND CENTURY

Following four decades of terrorism and division, politics in Northern Ireland is changing. We must deal with the legacy of that period and seek to build a more united community. The overwhelming majority of people who live here want to see Northern Ireland being successful. 2021 will represent Northern Ireland's centenary. We must use this next decade to lay the foundations for Northern Ireland's next one hundred years. The long-term stability and durability of Northern Ireland will depend on building the broadest possible support base for it.

We are the party to deal with the challenges that lie ahead. We are the party of Northern Ireland. The DUP is committed to:

- *Strengthen the Union*
- *Make devolution work*
- *Work together with other parties for a better Northern Ireland- make Northern Ireland an economic success*
- *Build a shared and united community*

Belfast Visit

Longlist of topics

Position in Northern Ireland for Commission's longlist of topics

1. Elections: devolved in NI (local authority and NI Assembly)
2. Assembly: NI Assembly tends to have more control/scrutiny than Welsh Assembly, and is bigger (108 members)
3. Capacity: NI Executive may be considered to have greater capacity than Welsh Government. But some think too many departments; 'silos'; and difficult to forge consensus on reforms
4. Transport: wider powers particularly in relation to rail and bus regulation. Aviation not devolved
5. Police: devolved
6. Criminal Justice : devolved
7. Separate Legal Jurisdiction: separate
8. Natural Resources (Energy and Water): some wider powers eg renewable energy. Energy regulation devolved (all island market). NI Water is an NIE public corporation
9. Broadcasting: regulation not devolved
10. Economy: broadly similar to WG
11. Social security: devolved but 'parity principle' (below)
12. Health: devolved, similar to WG
13. Local government: devolved but far fewer powers than GB local authorities. Functions such as housing and education are devolved but run by NIE or its agencies
14. Interrelationships (consumer affairs, defence, research councils, Europe, Cross-border): broadly similar although NIE has more powers over consumer affairs. Relationship with Irish Government is crucial, both in relation to the peace process and the all-Ireland economy. Historically NI security issues have been major preoccupation of HMG, but 'normalisation' means NIE increasingly similar to other two devolved administrations
15. Model of devolution: reserved model but with three categories (Excepted - not for devolution; Reserved - may be devolved in future or devolved legislation with Secretary of State consent; transferred responsibilities not listed). But in practice works in similar way to Scotland
16. Mop Up (teachers pay, civil service): teachers pay and some aspects of public sector pensions (health and teachers) devolved. Probably fewer 'jagged edge' issues.

DEVOLUTION IN NORTHERN IRELAND

Introduction

1. The purpose of this paper is to describe the current devolution settlement in Northern Ireland. The paper maps out the historical context of the Irish state and subsequently devolution in Northern Ireland and discusses the progress of devolution in three stages; 1920 – 1974, 1998-2007 and 2007 onwards. There is a particular emphasis in this paper on the historical context surrounding devolution in Northern Ireland; this aids in mapping out the rationale behind specific decisions and also aids in understanding the current model of devolution that is in operation.

Overview

2. Northern Ireland operates under the reserved powers model of devolution, with Westminster retaining the power to legislate in specific areas detailed in the Northern Ireland Act 1998. The powers devolved (or ‘transferred’) to Northern Ireland are not listed in statute, only those that are not, which are separated between those that may be considered for devolution, and those that will never be considered.
3. Constitutionally, as with all devolved administrations, the Northern Ireland Assembly is a subordinate elected body. The UK Parliament is sovereign and has the power to legislate in any area whether devolved or not. The Assembly and Northern Ireland Executive are bound by their enacting legislation to restrictions on their competence in relation to international or European obligations of the United Kingdom and the Human Rights Act 1998.

Historical Context

4. Northern Ireland’s road to devolution is inextricably linked to the history of Ireland and local politics. To fully understand it we must look at the beginning of the Irish state and its relationship with England as far back as the twelfth century, when Henry II became the Lord of Ireland. English settlers began to live in the country and develop courts modelled on those in England. At the same time the Irish Parliament began to develop and some English legislation was extended to Ireland by ordinance of the King of England. From 1494 all Bills passed by the Irish Parliament had to be submitted to the King and his Council; only when the English Council approved the Bill was it returned to Ireland for the Irish Council to pass. In 1541 the Lord of Ireland became known as the King of Ireland; this in essence was the beginning of the difficulties between the Irish state and the (then) English government.
5. In 1720 the British Parliament declared that it retained full power to legislate in Ireland and removed all judicial power from the Irish House of Lords. This was reversed in 1782 and the British Parliament recognised the Irish Parliament’s legislative independence; there was no change in the status of the monarchy.

ANNEX: CODIW 007/12

However, this was short lived and in 1798 the British government proceeded to a legislative Union with Ireland which created Great Britain and Ireland in 1801.

6. The 1800 Union agreement between Ireland and Britain was broadly similar to the Union with Scotland, although there were fewer constitutional guarantees. In essence the Union created the United Kingdom of Great Britain and Ireland and provided for Irish representation in the new Parliament of the United Kingdom.
7. Crucially the agreement also provided for the (Protestant) Church of England and Ireland whose continuance was stated to be an essential and fundamental part of the Union. The Irish-Anglo settlement was not as stable as the Anglo-Scottish Union of 1707. Much of the nineteenth and early twentieth centuries saw the UK Parliament discussing the "Irish question". The Irish state became more unstable with Catholic emancipation in 1829; the disestablishment of the Irish Church in 1869; and Gladstone's two failed Irish Home Rule Bills in 1886 and 1893. In 1914 a Government of Ireland Bill was passed but the onset of the First World War meant it was not enacted.
8. In 1919 the Sinn Fein movement established a representative assembly for what they proclaimed to be the Irish Republic. In 1920 the Government of Ireland Act was passed which separated Ireland on a Parliamentary basis. It established two Parliaments, one for the six northern counties (which had a protestant majority) and one for the remainder of Ireland. Co-operation was to be maintained between the two Parliaments by means of a Council of Ireland. The Act was rejected by Sinn Fein and, after a period of civil war, an Anglo-Irish treaty was formally concluded in 1922. This recognised the emergence of the Irish Free State; Westminster conferred the status of a self-governing dominion within the British Empire on the state. In 1937 the Irish Constitution declared that Eire was a sovereign independent state (with jurisdiction over the whole territory of Ireland, effectively including the six counties of Northern Ireland) and in 1949 the state became known as the Republic of Ireland. At this time the UK Government recognised that Eire had ceased to be part of Her Majesty's dominion.

Devolution 1920 - 1974

9. The six northern counties excluded from the establishment of the Republic of Ireland continued to function under the 1920 Government of Ireland Act and subsequently had its own executive (the Northern Ireland Government, comprised of the Governor, Prime Minister and Cabinet) and a legislature of two houses (the Senate and House of Commons) which sat in Stormont. A reduced number of MPs were elected to Westminster and the Westminster Parliament was supreme in the counties.
10. The 1920 Act gave Stormont the power to "make laws for the peace, order and good government of Northern Ireland". The model of devolution in the 1920 was a reserved powers model of devolution; as with current settlement certain

ANNEX: CODIW 007/12

powers were retained by Westminster which included the Crown, treaties and foreign relations, the armed forces and defence, postal services and customs and excise. Constitutional issues were referred to the Privy Council for a decision but if an Act of the Stormont Parliament exceeded its competence it could be held invalid by the Courts. Stormont was heavily dependent on Westminster for financial support particularly when it came to maintaining policies that offered the same social benefits as Great Britain.

11. From 1968 more and more civil unrest came to the fore in Northern Ireland largely as a result of the continuation of the Unionist majority in Stormont. The UK Government had to increasingly intervene and in 1972 direct rule was imposed and the 1920 constitution was suspended. There was a very short lived attempt to replace the Stormont parliament with a cross-party Assembly, this failed and in 1974 the Northern Ireland Act reinstated direct rule by the United Kingdom government.

Direct rule 1974 - 1998

12. In 1985 and again in 1993 agreements (the Anglo-Irish and Downing Street Declaration respectively) were made between British and Irish Prime Ministers that gave assurance that no change in the status of Northern Ireland would occur without the consent of the majority of its people. On both occasions this led to a degree of appeasement in violence but it was short lived. This period was known as the period of "the Troubles".

The 1998 Good Friday Agreement

13. The Good Friday, or Belfast, Agreement was the result of lengthy discussions between the UK and Irish governments and the eight political parties of Northern Ireland. The Agreement had three strands:
 - 1) the status and system of government of Northern Ireland within the United Kingdom
 - 2) the relationship between Northern Ireland and the Republic of Ireland
 - 3) the relationship between the Republic of Ireland and the United Kingdom
14. Strand one of the Agreement provided for an elected Assembly in Northern Ireland of 108 members and the Northern Ireland Executive. The Northern Ireland Assembly would be a devolved legislature with mandatory "cross-community" voting on certain major decisions. The Northern Ireland Executive would be a power-sharing executive with ministerial portfolios to be allocated between parties by the d'Hondt method.
15. Strand two of the Agreement provided for a North/South Ministerial Council, representing the Northern Ireland and Irish governments and with machinery for implementing policies agreed by the Council. The North-South Ministerial Council is made up of ministers from the Northern Ireland Executive and the Government of Ireland. It was established "to develop consultation, co-operation and action" in 12 areas of mutual interest. These include six areas where the

ANNEX: CODIW 007/12

Northern Ireland Executive and the Government of Ireland form common policies but implement these separately in each jurisdiction (such as agriculture and tourism), and six areas where they develop common policies that are implemented through shared all-Ireland institutions (such as waterways and food safety).

16. Strand three of the Agreement provided for a British-Irish Council that represented the British and Irish governments as well as the devolved governments of Scotland, Northern Ireland and Wales. This strand also established the British-Irish Intergovernmental Conference to discuss matters that were not devolved e.g. policing.
17. The Agreement also included the requirement for these three strands to be agreed by the people of Ireland and Northern Ireland in two separate referenda. In May 1998 these referenda were held with the people of Northern Ireland being asked to vote directly on the Belfast Agreement while the people of the Republic of Ireland were asked to vote on amending the Irish constitution to reflect the Belfast Agreement (ending the effective claim of jurisdiction). 71% of those that voted in Northern Ireland voted in favour of the Agreement while 94% of those that voted in the Republic of Ireland voted in favour.

The Northern Ireland Act 1998

18. The Northern Ireland Act 1998 is the statutory result of the Belfast agreement and the success of the referenda that followed. Section 1 and Schedule 1 of the Act makes provisions for a border poll, the outcome of which on a simple majority of those voting would terminate the union between Great Britain and Northern Ireland and lead to the creation of a united Ireland. The Act also requires Northern Irish political parties to share power in a unionist-nationalist/republican coalition. Devolution in Northern Ireland is conditional upon this point.
19. The Act created the Northern Ireland Assembly that consists of 108 Members of the Legislative Assembly (MLAs), with each of the 18 Westminster constituencies electing 6 members by single transferrable vote. Upon joining the Assembly, Members designate themselves as unionist, nationalist or other. As a result of the Parliamentary Voting Systems and Constituencies (PVSC) Act 2011 the size of the Assembly will reduce to 96 members from the next Assembly elections. The PVSC Act reduced the number of UK Parliament constituencies and therefore Northern Ireland would lose two constituencies, Assembly constituencies directly reflect Parliamentary constituencies and therefore the number of members would drop to 96.
20. The Act also created the Northern Ireland Executive which is made up of the First Minister, deputy First Minister, two Junior Ministers and 11 departmental Ministers. Despite their titles the First Minister and deputy First Minister possess joint and equal powers. The Executive Committee exercises executive authority on behalf of the Northern Ireland Assembly, and takes decisions on

ANNEX: CODIW 007/12

significant issues and matters which cut across the responsibility of two or more Ministers. It also agrees proposals put forward by Ministers for new legislation in the form of 'Executive Bills' for consideration by the Assembly.

21. As with Scotland the Committee's executive powers match their legislative powers; that is to say if a subject area is not reserved to Westminster both the legislative and executive power is devolved to the Assembly and Executive Committee respectively. As with the legislative powers there is no list of executive powers that have been devolved. The Executive Committee are also responsible for drawing up a programme for government and an agreed budget for approval by the Assembly. Ministers of the Executive are nominated by the political parties in the Northern Ireland Assembly.
22. The number of Ministers which a party can nominate is determined by its share of seats in the Assembly. The First Minister is nominated by the largest party and the deputy First Minister by the largest part of the alternate designation (e.g. a unionist First Minister must work with a nationalist deputy First Minister and vice versa). They act as chairmen of the Executive and hold power jointly, therefore if one were to resign, the other would also. Each Executive minister has responsibility for a specific Northern Ireland government department.
23. Under the power sharing agreement, the NIE is a coalition of the DUP, UUP, Sinn Fein, SDLP and Alliance parties. Currently the two main parties are the DUP and Sinn Fein. The UUP and SDLP could have foregone their seats as the second largest parties of their respective designations, and formed an opposition, but decided after the 2011 election to join the executive.
24. The Assembly first met in December 1999, having existed in "shadow" form since 25 June 1998. Between this time and 2007 the Assembly operated intermittently with the longest period of suspension between October 2002 and May 2007. The suspensions of the Assembly were largely due to disagreements between the two main Unionist Parties and Sinn Fein.
25. Devolution in Northern Ireland has been granted using the reserved powers model in a slightly different way to Scotland. The Northern Ireland Act contains two Schedules detailing those areas where the Assembly cannot legislate. Schedule 2 of the Act contains "excepted" matter; these are matters that will never be considered for devolution to the Northern Ireland Assembly. These include issues such as the Crown, International Relations, Treason, Nationality and Immigration. Schedule 3 of the Northern Ireland Act contains "reserved" matter; contrary to the definition this has in the Scotland Act, these are matters which may be considered for devolution in the future. Currently these include civil aviation (but not including aerodromes), civil defence, the functions and procedures of the Civil Service Commissioners for Northern Ireland and the subject matter of the National Minimum Wage Act 1998. Many subject areas that are listed in Schedule 3 of the Act (those considered for devolution in the future) are listed as reserved issues in the Scotland Act or exceptions in the

ANNEX: CODIW 007/12

Government of Wales Act (e.g. xenotransplantation). As is the case in Scotland, there is no list of legislative powers that have been devolved to the Assembly.

26. Effectively, this means any given matter falls into one of the following three categories:
- **excepted matters** (Schedule 2 to the Act): matters of national importance which would remain the responsibility of HM Government and Westminster;
 - **reserved matters** (Schedule 3 to the Act): broadly UK-wide issues such as broadcasting and genetic research. This category originally included policing and criminal justice but these moved into the transferred field on 12 April 2010. The Assembly has the power to legislate on these matters only with the formal consent of the Secretary of State; and
 - **transferred matters:** anything that is not reserved or excepted is deemed to be devolved and the Assembly has full legislative competence and does not require consent from Westminster or HM Government to legislate. Note - uniquely, social security is transferred in Northern Ireland.

[Schedule 2](#) of the Northern Ireland Act 1998 contains the full details of excepted matters, with [Schedule 3](#) of the Act giving details of reserved matters. Broadly, though, these are:

Excepted matters

- Royal succession
- International relations
- Defence and armed forces
- Nationality, immigration and asylum
- Taxation across the UK
- All elections held in Northern Ireland
- Currency
- Conferring of honours
- International Treaties

Reserved matters

- Navigation and civil aviation
- International trade and financial markets
- Telecommunications/postage
- The foreshore and sea bed
- Disqualification from Assembly membership
- Consumer safety
- Intellectual property

ANNEX: CODIW 007/12

27. This form of devolution has, in effect, meant that Northern Ireland has by the far the greatest breadth of devolved power and the greatest potential for further devolution without any major constitutional changes. It is important to note that the Northern Ireland Act, as with the other pieces of devolution legislation, used the Northern Ireland Office powers as a blueprint for those powers that were initially transferred. Given the unique situation of Northern Ireland this meant that the original devolution settlement contained powers in relation to social security and the civil service (Northern Ireland's civil servants were not part of the Home Civil Service, unlike the Scottish Office and Government's, or the Welsh Office and Government's). This was not the case in Scotland and Wales and as such Northern Ireland has far wider legislative powers than the other devolved nations.
28. While the scope of Northern Ireland devolution is defined in legislation, another useful source of information is Annex B of the Treasury's Statement of Funding Policy, which sets out in detail which elements of public spending are devolved. This is summarised in the table below, which compares the extent of devolution in Wales and Northern Ireland (including policing and justice, devolved in 2010):

| | Wales | Northern Ireland | Main differences |
|------------------|--------------|-------------------------|--|
| Education | 100% | 100% | |
| Health | 99% | 99% | |
| Transport | 73% | 100% | Mainly rail, DVLA |
| DCLG | 100% | 100% | |
| Local Government | 100% | 17% | There is a technical explanation for the differences. The comparability factor is low in Scotland and Northern Ireland reflecting that business rates are not part of the devolved Departmental Expenditure Limit, but are treated as Annually Managed Expenditure. In our Part I report we recommend that Wales should be treated like the other two countries. |
| BIS | 78% | 79% | Companies House, consumer protection, insolvency service |
| Home Office | 0% | 76% | Policing |
| Justice | 0% | 100% | MoJ functions devolved |
| Law Officers | 0% | 94% | Mostly devolved |
| DECC | 21% | 21% | Energy regulation devolved |
| DEFRA | 92% | 99% | Water |
| DCMS | 90% | 96% | Was consequence of DCMS funding S4C |
| DWP | 0% | 100% | Social security is transferred, though follows a 'parity principle', mirroring GB structures and programmes, and using DWP systems |

ANNEX: CODIW 007/12

| | | | |
|--------------------------|----|-----|--------------------|
| Chancellor's departments | 1% | 1% | |
| Cabinet Office | 6% | 14% | Charity Commission |
| Independent bodies | 0% | 37% | ONS functions |

29. It is worth noting, however, that by convention the Northern Ireland Executive operates their social security policy in the same way as GB. So effectively the Northern Ireland settlement is not very different from the Scottish settlement.

Devolution after 2007

30. Even though the Assembly had been suspended in 2002 elections were held in 2003 as scheduled. In May 2006 those that had been elected in the spring of 2003 were called together under the Northern Ireland Act 2006 (which was a part of the St Andrews agreement) to elect a First Minister and deputy First Minister and to choose members of the Executive. This was as a preliminary to the restoration of the devolved government. This Assembly was known as the "Transitional Assembly established under Northern Ireland (St Andrews Agreement) Act 2006". It first met in November 2006 and was dissolved in January 2007 when preparations for the May 2007 Assembly elections began. At this time the Northern Ireland Act 2006 was repealed. The restoration order for devolution in Northern Ireland was signed on 25 March 2007.

31. Since 2007 the Assembly has been stable, and elections took place in 2011 as planned. However, one of the biggest issues the Assembly faced between 2007 and 2010 was the devolution of policing and justice. Prior to 2010 this sat as part of Schedule 3 of the Northern Ireland Act 1998. Since its inclusion in Schedule 3 policing and justice had caused a number of political issues and had been a major part of the suspensions of the Assembly. As part of the St Andrew's Agreement in 2006 all parties agreed to support the Police Service of Northern Ireland with a view to Stormont taking control of policing by May 2008. Not all political parties were agreed on the date, but they did agree to the principle. Between December 2007 and September 2009 there was significant political discussion in Stormont and Westminster over the devolution of policing and justice. A Stormont Committee on the devolution of policing and justice had failed to reach an agreement on what should happen and so the deadline of May 2008 passed. In September 2009 Westminster set out a budget proposal for the transfer of policing and justice and in December 2009 Stormont passed the bill that created a justice department and allowed a justice minister to be appointed with cross-community backing. It was not until 4 February 2010 that political agreement was reached in Stormont on policing and justice which was finally devolved on 1 April 2010.

Inter-governmental and inter-parliamentary relations

32. The Northern Ireland Assembly and Executive Committee take part in the British-Irish Council and the UK Joint Ministerial Committee (JMC). The JMC is the main

ANNEX: CODIW 007/12

forum for discussions within the UK, but the North/South Ministerial Council and the British Irish Council are also integral to the work of the Northern Ireland Executive Committee.

33. The role of the Northern Ireland Office in Whitehall is broadly similar to that of the Wales Office and the Scotland Office, albeit somewhat larger. The main purpose of the office is to support the devolution settlement. The Northern Ireland Office retains responsibility for a range of reserved and excepted policy matters, including electoral law, human rights and certain aspects of equality; and for some elements of security including national security.

Future prospects

34. Perhaps because of the central role of constitutional matters in Northern Ireland's politics, the extent of devolved responsibilities or of the in-built flexibility of the settlement, there have not been calls for a constitutional commission like the Richard Commission, the Calman Commission or the present Commission. There is no particular pressure to devolve tax powers (other than in the cross border context of corporation tax and APD); and the peace process and constitutional settlement are generally regarded as completed with the devolution of policing and justice in 2010. There are currently no plans to devolve further powers. While tensions between the two communities still exist, there is no widespread desire either to return to direct rule or move to union with Ireland. Rather the emphasis in Northern Ireland is to make the current devolution settlement work and create a prosperous economy, modern public services and a peaceful society.

The Northern Ireland public sector

35. As in Wales the private sector is relatively small, and rebalancing the Northern Ireland economy is a top priority. Three unusual features of the Northern Ireland public sector are that, first, many functions which are delivered by local authorities in GB are delivered by the NIE in Northern Ireland eg education, housing; second, many public services are delivered separately to the two main communities eg education, housing; third, many functions which have been privatised elsewhere are in the public sector in Northern Ireland eg rail, bus, ports, water.
36. In summary, the NIE and Assembly use their devolved powers to deliver very different policies to the rest of the UK, reflecting Northern Ireland's different history.

Conclusions

37. This paper makes no recommendations; it is for Commissioners' information only. The main conclusions of the paper are:
 - The process of devolution in Northern Ireland is arguably far more complex than in the rest of the United Kingdom and is firmly buried in the history of the country and the peace process.

ANNEX: CODIW 007/12

- Northern Ireland operates under the reserved powers model of devolution but has two categories of powers that are retained by Westminster: those that will never be devolved and those that can be devolved by the Secretary of State.
- For historical reasons and due to the model of devolution Northern Ireland operates under it has the widest set of legislative powers of all the devolved administrations, which can be added to on an ad hoc basis by using Schedule 3 of the Northern Ireland Act.
- Arguably it has the most flexible model of devolution as considerable changes can be made to the powers of the Northern Ireland Assembly without requiring additional legislation in Westminster or any major constitutional changes.
- One of the most significant developments in Northern Ireland devolution was the devolution of policing and justice in 2010.
- There are currently no plans to extend devolution further, with the possible exception of corporation tax currently under review.

Commission Secretariat, January 2013