



Japan Local Government Centre, London

Monthly Report for February 2010 (UK) – Northern Ireland

Background

Devolution to Northern Ireland first took place under the 1998 Northern Ireland Act, which like the devolved assemblies in Scotland and Wales, was approved by a referendum. The arrangements agreed under the 'Good Friday Agreement' are for a 108-member devolved legislature, which appoints an Executive consisting of a First Minister and deputy First Minister and other ministers which each supervise departments of the Northern Ireland Civil Service (which remains outside the Home Civil Service of the UK, unlike the Scottish Government). This is regarded as a cross-community power-sharing arrangement as under the Act, the offices of First and deputy First Minister (which both hold equal power) are allocated on the basis of seats in the legislature won by Unionist and Nationalist political parties. As such, the First Minister post is currently held by Peter Robinson of the Democratic Unionist Party (since 2008), having previously been held by Ian Paisley (2007-08, also DUP) and David (now Lord) Trimble (1999-2002, Ulster Unionist Party). The post of deputy First Minister (the lower case d reflects the equal footing of the combined offices) is currently held by Martin McGuinness of Sinn Féin (since 2007), having previously been held by Mark Durkan (2001-02) and Seamus Mallon (1999-2002), both of the Social Democratic and Labour Party.

Most government functions in Northern Ireland had, prior to devolution, been carried out by the Northern Ireland Office of HM Government since 1972, following the suspension of the former Northern Ireland Parliament and Government on account of the worsening violence in the province. From 1921 to 1972 the province was governed by a Parliament (House of Commons and a Senate, known as 'Stormont') and Government appointed by the Governor (as the monarch's representative, a role now carried out by the Secretary of State for Northern Ireland).

Devolution to Stormont was suspended under reserve powers of the UK Parliament at Westminster in February 2000 and restored once more that May. It was suspended for a longer duration, during which time elections took place for an effectively power-less 'transitional' assembly, between 2002 and 2007. The most recent and lengthy suspension was carried out following allegations of espionage by staff of the nationalist legislators at Stormont, though these were eventually acquitted by the courts. Whenever the assembly and executive are suspended, ministers of the Northern Ireland Office (of the Westminster Parliament) are responsible for government in the province. Following lengthy negotiations and two

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Acts of Parliament in 2006, new elections for a devolved assembly were held in 2007, after which the Secretary of State restored devolved government to the province.

Local government in the province, carried out under 26 district councils created in 1973, is comparably weak compared to local councils in mainland Britain, with many functions such as education and social services carried out by largely county-based appointed boards (though there are no county councils in the six counties). From 2010 these will be replaced by single authorities for education and health and social care, while in 2011 the 26 district councils will be replaced by 11 new councils with some additional powers. 'Shadow' elections to the 11 new councils were supposed to take place in 2009 but these were delayed until 2011 by the Northern Ireland Secretary at the request of the Northern Ireland Executive.

The original proposals to reform the 26 councils were announced by the Secretary of State for Northern Ireland in 2005 (as the executive remained suspended) following a Review of Public Administration. The UK government's proposals to merge the councils into just seven local authorities met with heavy criticism from most parties (though not Sinn Féin) and were eventually amended (to 11) once the executive resumed devolved government in 2007. The executive have since threatened to suspend the merger process if councils do not accept its proposals for a single waste authority for the province and a shared services back office structure for all 11 new councils. The Northern Ireland Local Government Association has rejected the proposal however.

Developments

Under the terms of the Good Friday Agreement, the Northern Ireland Assembly and Executive (when functioning) have competence over "transferred matters". These include education, health, agriculture, enterprise (including trade and investment), environment, regional development (including transport), employment, social development and culture (including leisure and sport). Each of these is the responsibility of a minister of the Northern Ireland Executive, heading a department of the Northern Ireland Civil Service. As reflects the nature of devolution in the UK, the Westminster Parliament and the Northern Ireland Office retain competence in a number of "reserved matters", which include crime and justice, telecommunications, posts and aviation, as well as a number of "excepted matters" which include constitutional affairs, elections, international relations, defence, immigration and currency. The Northern Ireland Secretary may refuse to submit any legislation of the assembly for Royal Assent if he believes it exceeds the assembly's competency, contravenes human rights or is incompatible with European Union law.

The Nationalist parties have long argued that for devolution to Northern Ireland to work and mature then the assembly and executive must have competence in crime and justice. The Unionists, for their part, have long disagreed, arguing that the Nationalists are themselves not mature enough to hold such responsibility, owing to their historic links to terrorist groups such as the IRA. While the UK government was supportive of full devolution, it did share some Unionist concerns over IRA activity,

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as well as the issue of controversial and provocative parades by Ulster Unionist groups in Catholic areas, which often lead to flare-ups in community tension. In February 2010 however, after a period of tense negotiation and sustained interventions by the governments of both the UK and the Republic of Ireland, both sides agreed to the devolution of crime and justice powers from the UK government to the province. The deal was however largely overshadowed by the row concerning the extra-marital affair and business dealings of the wife of the First Minister Peter Robinson, herself a member of both the assembly and Westminster Parliament (until her resignation). During this period Mr Robinson temporarily stood down as First Minister.

Under the terms of the 2010 Hillsborough Agreement, the Police Service of Northern Ireland (until 2001 the Royal Ulster Constabulary) will remain accountable to the Northern Ireland Policing Board (which consists of both assembly members and independent community representatives). However, its funding allocation will be determined by a new post of Justice Minister in the Executive, rather than the Northern Ireland Secretary. Criminal law and the courts system will become the responsibility of the Northern Ireland Assembly (rather than the Westminster Parliament) and the new post of Attorney General for Northern Ireland will be created to oversee public prosecutions. The Northern Ireland Prison Service will transfer from the Northern Ireland Office into the new Department of Justice within the Executive, as will the Northern Ireland Probation Service and the Youth Justice Agency.

The deal was later approved by a 'historic' formal vote in the Northern Ireland Assembly, held on March 9, after which the Northern Ireland Secretary will transfer the necessary powers to commence from April 12. Neither the DUP nor Sinn Féin intends to nominate to the post of Justice Minister, with the cross-community Alliance Party (the Liberal Democrats of NI) tipped to receive the post instead.

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