

STRAND ONE: NATURE, FORM AND EXTENT OF NEW ARRANGEMENTS

Paper by the British Government

1. The Government believes that there is a very large measure of agreement on the desirability of establishing institutions and structures for increasing local accountability in Northern Ireland, as part of a comprehensive settlement. The Government's papers on 'Principles and Requirements' and 'Constitutional Issues' set out important elements of the context within which such institutions might operate. This paper deals with the institutions themselves.

2. The Government set out in its 'Principles and Requirements' paper criteria it believed that any such structures should meet. Those criteria were substantially the same as ones agreed in the 1991-92 talks. A number of other participants' papers (including some submitted by parties not present in 1991-92) reflected similar sets of criteria, and the Government is reinforced in its view that they provide valuable guidance for the development of new institutions.

3. The 1991-92 talks also reached a measure of agreement on detailed proposals for new institutions, and the last Government's 1995 paper *A Framework for Accountable Government* embodied those proposals, in some cases in a worked-up form. Participants in the present talks are of course free to reconsider those proposals, and to reach different conclusions in any area. The 1995 paper does, at the least, however, provide a useful indication of the questions that need to be considered in designing any new institutions.

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4. This paper accordingly sets out some of the main questions, derived from the 1995 paper, that need to be addressed in considering new institutions; and summarises the proposals in the paper.

Questions to be addressed, and the 1995 proposals

A. Executive responsibilities for transferred matters

5. *Who would discharge executive responsibilities for matters transferred to new institutions? What form of democratic oversight would they be subject to?*

6. The 1995 paper envisaged such responsibilities being discharged through Northern Ireland departments, the head of each Department being the chairman of the corresponding Assembly Departmental Committee. The Committees would have an oversight and scrutiny role.

B. A representative institution: form and powers

7. *What form would a representative institution take? What would be its powers? What should be the means of election, and for what term?*

8. The 1995 proposals were for a unicameral Assembly of about 90 members elected for a fixed 4 or 5 year term by a form of proportional representation. It would have legislative powers in respect of transferred matters.

C. A representative institution: committees and working methods

9. *What sort of committee structure should the representative institution have? What working methods should it follow? What arrangements would there be for the promotion of consensus, and for ensuring a proper role for different traditions?*

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10. There would be a system of committees constituted broadly in proportion to party strengths, special arrangements for allocating Chairmanships and a Code of Practice setting out roles, responsibilities and decision making powers. The Code would be subject to weighted majority approval, and particular regard would be paid to promoting cross-community consensus and securing a proper role for representatives of all major traditions. Legislation in the Assembly would require at least a majority of the relevant committee and the full Assembly; if it were deemed contentious, a weighted majority would be necessary.

D. Other elected institutions

11. *What other elected institutions might there be a need for?*

12. The 1995 paper envisaged an elected Panel, probably of three members elected by proportional representation, operating by consensus, with important consultative, monitoring, referral and representational functions. The panel would among other responsibilities have a role in selecting Chairmen and Deputy Chairmen of Assembly committees, considering legislation and other proposals referred to it by the Assembly, and dealing with public expenditure and appointments matters; it would also liaise with and advise the Secretary of State on those two matters and more generally, and have representational functions.

E. Range of legislative and executive responsibility

13. *What responsibilities would be transferred to the new institutions? How would they compare, for example, with those transferred in 1973 (essentially social and economic functions)? Should they all be transferred at the beginning, or should they proceed in stages?*

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14. The 1995 paper envisaged as wide a range of responsibilities being transferred as in 1973. There would be a possibility of further transfers, by agreement: that might include certain responsibilities in the law and order field, as the terrorist threat diminished. Responsibility for other matters, such as those relating to the Crown, foreign affairs and defence, would remain at Westminster. The Secretary of State would remain accountable to the Westminster Parliament.

F. Checks and balances

15. *What checks and balances would be needed to give reassurance that new institutions would command the confidence of both major sections of the community, without damaging workability?*

16. The 1995 paper envisaged a range of such mechanisms, including the proportional representation elections for the Assembly and Panel, the consensus requirement for the Panel, the role of the Committees and the requirements for selection of their Chairmen, the balance of responsibility between Assembly, Committees and the Panel, and the requirement of weighted majority and minimum threshold votes on certain issues.

G. Relationships with other institutions, the European Union etc

17. *What arrangements would be necessary for Northern Ireland institutions or their members to participate in any North-South institutions, or in the affairs of the EU?*

18. The 1995 paper pointed up the need for the new institutions to be competent to manage any relationship between Northern Ireland and the Republic of Ireland developed during talks; and the need to develop arrangements under which such institutions implemented EU obligations in

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the transferred field, and developed and represented Northern Ireland views on EU matters.

H. Finance

19. *How would public expenditure be determined under devolution? What would be the sources of funding, and the role of the Secretary of State? What discretion in allocation would be left to the local administration?*

20. The 1995 paper noted that the Secretary of State would have continuing responsibility for securing public expenditure for Northern Ireland. It envisaged the panel having a role in liaising with him over this, and in arbitrating in disputes over allocation, where not resolved by the Assembly Finance committee. It acknowledged that in future talks further consideration would have to be given to financial questions.

I. Rights

21. *What further protections might be appropriate for civil, political, social and cultural rights?* The 1995 paper acknowledged a need for reinforcement of rights protection. (The talks will consider this separately).

A role for the sufficient consensus rule?

22. One aspect of the 1995 proposals that might in particular be revisited, in the light of experience in the talks themselves, is the various ***checks and balances*** set out above. They flow from a widespread recognition of the need to ensure, and to give reassurance, that the interests of all sections of the community will be taken into account in the operation of the institutions, and in developing sensitive areas of policy. The requirement, as part of the sufficient consensus rule in the talks, to

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achieve support by parties representing a majority in each main part of the community, serves similar purposes. That mechanism has the advantage of being workable and simple to understand. It may be that it would better serve the requirements for which some of the checks and balances were proposed.

The impact of the UK constitutional reform agenda

23. One further set of factors should be borne in mind: the range of constitutional reform initiatives now being undertaken in the United Kingdom, or parts of it. Most notably, schemes of devolution are now being taken forward for Scotland and Wales. The fact that relations between various other parts of the UK and the centre are set to change profoundly may clearly have an impact on the general debate about devolution in Northern Ireland. The detail of the schemes that are adopted may also at times have implications here.

Conclusion

24. The Government continues to see a great deal of merit in the 1995 proposals as a whole, reflecting as they do intensive consideration among the parties in 1992. But its first priority is to identify arrangements with which participants as a whole could agree, and it stands ready to facilitate the development of proposals with that in view.

27 October 1997

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