



SDLP RESPONSE

TO

NIO CONSULTATION

ON

MEASURES TO IMPROVE THE OPERATION OF THE

NORTHERN IRELAND ASSEMBLY

“DEEPENING DEMOCRACY IN IRELAND”

NOVEMBER 2012

INTRODUCTION

- 1) The SDLP notes the Northern Ireland Office Consultation (commenced by the then Secretary of State Owen Patterson in August 2012).

“BROAD SUPPORT”

- 2) The SDLP also notes that the consultation proposes primary legislation “to make other changes to the institutions where there is **broad support** (SDLP emphasis) to do so in Northern Ireland”. The concept of broad support is problematic, being one that could be defined in a range of ways. The SDLP believe that the concept must have genuine meaning, must reach a credible threshold and not be a convenient badge to fulfil the wishes of a couple of parties.
- 3) The SDLP would, therefore, recommend to London that in relation to the questions raised in the consultation, a precautionary approach prevails, that “broad support” should not be a badge of convenience but be more qualitatively assessed against the range of popular, public and party opinion.
- 4) Ultimately but centrally, decisions must be informed both by the prevailing political context and the essential values and outcomes of the Good Friday Agreement, together with assessing what institutional arrangements may be necessary in the coming phase of politics, what best achieves good government and a higher quality of delivery and devolution.

POLITICAL CONTEXT

- 5) In assessing how the various issues identified in the consultation – indeed in other ongoing political discussions - are addressed and answered, the SDLP believes that the current political, economic and wider context needs to be acknowledged. To decide the issues identified in the consultation, without full regard to the wider environment is ill-judged. The matters detailed below “scope out” this wider environment and lead to the conclusion of a precautionary approach in relation to the consultation and an outcome consistent with the values and outcomes of the Good Friday Agreement. This twin track advice should be foremost in the thinking of the British Government.
- 6) There are a number of features in the prevailing political environment:
 - The achievements of stability, devolution and a united stand against terror are significant. The institutional arrangements designed by the authors of the Good Friday Agreement have served this purpose. ‘Stability’ has been assisted by inclusive government as has a united stand against terror. Decisions on institutional issues need to recognise this and future institutional arrangements need to consolidate, not potentially upset, this. The uncertain character of ‘devolution’ (1998-2007) and the relative youth of restoration (2007-2012) indicate that precaution is needed in relation to proposals that have a bearing on devolution.

- The prevailing political context is also more unsettled, at this time, than it has been in recent times. The fallout of the 2012 parading season, evident tensions in government, realignment among dissident groups, the continued recession in Northern Ireland, the gravity of welfare baseline cuts and other changes, the “austerity” of the CSR with much more to follow if London prevails etc. all lead to the conclusion that our political affairs need vigilant and delicate management (an issue that the London and Dublin Governments should more explicitly acknowledge) and also suggest caution around institutional issues;
 - There is a growing view that power (or the appearance of power) is being concentrated in the hands of two parties. The SDLP acknowledges that, in one hand, this is the outworking of democracy but it is not the outworking of the true intent of the values of the Good Friday Agreement. The concentration of power has deep resonance in Ireland and particularly within democratic nationalism. There is an intuition against the concentration of power, with its potential for abuses and wrongs. This runs through the experience of people, evident in our history, pre-partition, since partition, in the last 40 years and, even in the current conduct of Northern Ireland government. This leads, for example in the Strand One talks, to the conclusion that the inclusive principle and its expression in the Agreement of 10 departments (plus OFM/DFM) remains attractive.
 - The experience of Parades in the summer of 2012, the failure to deeply embed new political opportunities such as on a North-South basis, unresolved issues on how to deal with the past and how to shape the future etc., confirm that politics is still in fundamental transition. To fail to recognise this by agreeing to significant surgery to the current political and electoral arrangements is not the wise course.
- 7) In assessing the issues within and beyond the consultation, it is important that the current political context is acknowledged and factored into assessments, both protecting the achievements of recent years at the same time, seeking out further initiatives for reform and better approaches to addressing the needs of citizens and communities in difficult times. This is the perspective that the SDLP brings to this consultation. These are the principles that inform our view on the consultation proposals. We urge the British Government to do likewise.
- 8) As this document indicates and for reasons outlined, whether it is on the size of the Assembly, the number of Departments, the number of constituencies etc, the SDLP argues for an approach faithful and consistent with the Agreement and a precautionary approach.

A PRINCIPLED APPROACH

- 9) In assessing how to deepen democracy, strengthen the quality and character of government, the SDLP refers to its submission to the Assembly and Executive Review Committee review of parts III and IV of the Northern Ireland Act 1998. We put forward a set of principles which should govern any changes to governance in Northern Ireland.

- *“Powersharing. Government in Northern Ireland should always be representative and reflective of both communities.*
- *Reconciliation must be the principal and overriding objective of all administrations in Northern Ireland.*
- *Equality is the foundation stone on which the new Northern Ireland is built. It must be embedded in government and across our society.*
- *Partnership is the engine which will drive the transformation of our society.*
- *Prosperity. Making our region and this island more prosperous should be a primary objective of all future government in Northern Ireland.*
- *Accountability. Future structures of government must be and feel fully accountable to our people. As republicans we believe that power lies fundamentally with the citizen. It is important that our citizens have the power to change governments and hold Ministers fully accountable.”*

We believe these are principles that should also inform how London considers and concludes its consultation.

ANSWERS TO THE CONSULTATION

- 10) Given the above analysis, the SDLP would advise the Secretary of State as follows in relation to the question posed:

THE SIZE OF THE ASSEMBLY

- 11) The SDLP works on the basis that, by the time of the next Westminster election there will be no change to the numbers of constituencies (18) in the North. (In any case, the SDLP believes that even if reduced to 16, the next review of boundaries would again see the number increase). The SDLP believes that on balance the number of MLAs should remain at 108, inter alia, for the following reasons:
- The Coalition Government decision to drop the Boundary Reform Bill which carried those proposed legislative changes provides the opportunity to adequately scope the nature of future representation in the North without outside pressure;
 - The people of Ireland endorsed the “108 model” as an appropriate level of political representation and that, noting the important advances since 1998, they have not sufficiently changed to see a reduction below 108;
 - The need to deepen accountability in Northern Ireland political and governance structures – not a sufficient feature of political life over previous decades or, arguably, over the years of devolution – requires the fullest political representation, in our circumstances through 108 members of the Legislative Assembly;

- The challenging economic circumstances, the damaging impact of benefit changes on the welfare baseline and the fact that Northern Ireland not only remains in recession, but in “double dip” recession confirms the need for a fully representational service by MLAs to their constituency is critical and will remain critical, given economic indicators;
- In regard to the aforementioned point, the particular impact of welfare changes, the “migration” of the higher number on ‘disability’ related benefits to “unemployment” benefits, the emotional/physical/disability legacy of terror and state violence means a heightened demand on MLA offices and persons. This also leads to the conclusion that 108 MLAs should be retained;
- To reduce the number of MLAs, when reform of local government will see a reduction in the number of Councillors and changes to the number of Councils (11 from 26) and radical changes to Council Boundaries (see for example the geographic spread of the new Fermanagh/Omagh Council) strongly leads to the conclusion that a higher number of MLA representatives is the cautious but wise approach;
- In order that future legislative changes in Westminster do not adversely affect representation in Northern Ireland, scoping the nature of future representation in the North should include consideration of the benefits and negatives of removing the coterminous linkage between the Northern Ireland Assembly boundaries and the Westminster boundaries;

For the reasons above, the SDLP believes that the understandable argument about reducing the number of MLAs for reasons of reducing the scale of government is a wrong conclusion given the higher needs of accountability, democracy and constituents in Northern Ireland.

THE DATE OF THE NEXT ASSEMBLY ELECTION AND FIXED ASSEMBLY TERMS

- 12) The SDLP oppose the proposals to extend the four year mandate to five years. The arguments advanced seem contradictory or plainly self-serving.
- People voted for a four year mandate – as local democracy embeds, the principle that local people are sovereign should also embed;
 - In the balance between elections, the SDLP believes that the Assembly mandate should have primacy over a Westminster mandate. We would hope others would agree – that the devolved electoral interest has primacy over the London interest and therefore the local mandate (an election in 2015) should prevail over a London mandate (an election in 2016);
 - There is a sense that the 2016 election proposal is not about democratic and local interest but party interest. An election in 2016, an anniversary year, should not be defined in this way, is narrow interest and should not prevail;

- The prime concern of all political parties must be to uphold democracy by giving due respect to the fact that the public were voting on the basis of a 4 year mandate at the last election. Therefore, if the Northern Ireland Assembly and Executive are to remain committed to democratic openness and accountability the next Assembly election should be held in 2015.
- We acknowledge that there are a number of procedural issues which require addressed, including the potential cost implications or savings and the complications arising from use of two separate voting systems on the same day, however these issues remain of secondary importance to retaining democratic integrity.
- Any alteration to the length of Northern Ireland Assembly terms, and/or a move to fixed terms, must be consulted upon in a timely fashion and introduced at the beginning of the subsequent mandate.
- The SDLP also notes the statement by the previous Secretary of State when launching this consultation, ***“Extending the life of an elected body is unusual. We would only feel able to put the suggestion to Parliament if there was a clear demonstration of public benefit and widespread support. We shall listen carefully to views.”***

Given the threshold stated in the above comments, it is clear that the threshold is not met.

DUAL MANDATES

- 13) The SDLP remain committed to our statement on dual mandates made in response to the Committee on Standards in Public Life; Review of MPs’ expenses.

“Additionally and crucially in the context of politics in Northern Ireland an agreed solution must be put in place to provide a timely solution to the issue of dual or multiple mandates.

This could be facilitated by an all-party agreement on a definitive timetable for ending dual mandates. Unfortunately SDLP proposals to achieve this in the Northern Ireland Assembly were voted down by other parties who favoured a “flexible approach.”

- 14) The SDLP endorses the principle of the end of dual mandates. The SDLP in government through the Department of the Environment has led on this issue – by reducing to 1/3 the allowance Councillors receive who are also MLAs and securing Executive agreement that in the future (2015/16) there would be a statutory bar on MLAs being Councillors. The SDLP believe this principle should extend to MLAs and Westminster. The SDLP has also argued – with consistency across its party leaders – that for a Leader who is an MLA and MP, a particular exemption should be granted. In this phase of our politics, the SDLP believes that this – and only this exemption – is justified.

GOVERNANCE AND OPPOSITION

- 15) The SDLP has given particular thought and attention to the question of opposition, formal or otherwise. The SDLP recalls how it was Seamus Mallon who insisted on an Executive of 10 plus FM/DFM in order to broaden the ownership of and participation of parties, across and within political traditions, in Northern Ireland government. The principle of inclusion is one the SDLP has honoured, even some argue, at the cost to the SDLP. As this document confirms, the SDLP will argue that the ambition and values of the Good Friday Agreement must be preserved, that it is this ambition and values, not sectional or party interest that must prevail as we move forward.
- 16) In assessing the issue of opposition, there are a number of requirements.
- Power-sharing and its provisions, as an essential element of the Good Friday Agreement should endure. The analysis outlined in this document confirms why this approach is necessary and right in the current, more volatile environment. This means that FM/DFM are elected by cross-community vote, that ministerial offices are allocated on the basis of democratic mandate and the principle of d'Hondt.
 - The creation of any structure and material support for “an opposition” in the architecture of the Assembly is without prejudice to the existing entitlements of any party under d'Hondt and the right of any party to claim that entitlement;
 - Good government, democratic accountability and public policy delivery needs to be deepened for devolution to live up to the needs and hope of citizens;
 - Other opportunities to deepen internal accountability should be assessed, including cross cutting ad hoc committees and external accountability through the NIAO and Civic Forum.
 - Opposition is not a fix to the real issue of accountability – but a potential option to addressing this need;
- 17) The SDLP, working with others and particularly with Dublin, has been the party with the imagination and craft to work up the ideas, structures and guarantees that are the quality of and safeguards within the Agreement. In assessing the issue of opposition, the SDLP does so consistent with the core values of and requirements of the Agreement, and does so in order to work through how best to serve the community and its pressing needs.

It is in this context that the SDLP concludes that an opposition option should be built into the structures of the Assembly in a future mandate. It would not be ‘mandatory’; that an opposition is formed. Parties would be guaranteed their d'Hondt entitlement under powersharing arrangements if a party chooses to claim that entitlement. FM/DFM would be elected by cross community vote to ensure a government of the political traditions. The SDLP believes that this approach both protects the architecture and requirements of the Agreement and enables the evolution of democratic politics in a balanced manner going forward.

DISAPPOINTMENT

- 18) The SDLP is disappointed at the content of the Northern Ireland Office Consultation. It is approaching fifteen years since the Good Friday Agreement. It is time to broaden the political conversation. As this phase of politics concludes and a new phase emerges – on the far side of the major achievements of stability, devolution and a united stand against terror – there is more to be done than to consolidate where we have come to, important though that is.
- 19) There is a need for a wider conversation that addresses the next phase of devolution and the next phase of devolved powers; the character of a constitutional discussion and the timing of a constitutional referendum; the requirement to secure and advance the policing, justice, rights and equality achievements of recent years; a deeper recognition by London of the nature of the Northern Ireland economy, our welfare profile, wider particular circumstances and how that needs to be reflected in financial guarantees; the unfinished work of reconciliation and healing within the North, on the island and between the islands and how London must move away from its current position on addressing the past etc.
- 20) This is the part of the political discourse in the emerging phase of politics. London needs to recognise this and contribute, where it has a responsibility to do so.