

NOTE OF A WORKING DINNER HELD IN PARLIAMENT BUILDINGS  
ON MONDAY 20 APRIL 1998

Present: Mr John Semple  
Mr P Carvill  
Mr G Loughran  
Mr R Spence  
Mr P Small  
Mr C Gowdy  
Mr D Watkins  
Mr T McCusker  
Mr D Ferguson  
Mr D Crabbe

Progress towards a new Administration

1. Mr Semple opened the discussion by stating that there was a great deal of work to be done between now and the establishment of a devolved administration, much of it within an extremely short timescale. He noted that Tony McCusker was chairing an inter-departmental group which was addressing many of the devolving issues. However, there is a raft of other issues, many at a strategic level, which will need to be addressed both at senior level within Departments and inter-departmentally. Co-ordination and information flow would be difficult as the pace of development of the issues gathers momentum, hence the need for this meeting.
2. Turning to the issues to be addressed, Mr Semple encouraged free-ranging discussion. The following points were noted.

Referendum

- ♦ It was noted that no formal Government campaign would be taking place but Ministers would undoubtedly be looking for opportunities not only to encourage voting but to adopt a positive approach towards the Agreement.

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- ◆ Propriety guidelines for civil servants during the course of a Referendum campaign would be issued shortly from CPG.
- ◆ It was noted that the NIO would be briefing staff on the content of the Agreement - it was felt that such detailed briefing would be inappropriate for NICS staff and encouragement to read the Agreement in detail should be the order of the day.
- ◆ Legal aspects on Government advertising either to promote a yes vote or even to promote participation in the Referendum were currently being examined by the Director of Communications, Tom Kelly.
- ◆ Line to take if tackled publicly about support for a yes vote or any other aspect on the Agreement generally should be along the lines of pointing towards the Secretary of State and Prime Minister's warm endorsement of the Agreement.

### Election Bill

- ◆ It was noted that some complications on the financial side had now been sorted out (with the majority having to be paid from the NI Block).

### Settlement Bill

- ◆ Likely to be laid during the Parliamentary recess. However, this would depend on the House of Lords.
- ◆ It was noted that there was no power of general competence as in the Scottish model.

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Shadow Assembly

- Some fundamental issues yet to be sorted eg where will it meet in the interim and in the long term.
- There was a need to perhaps consult with parties to address some fundamental issues pre-election.
- Proposal to split Central Secretariat and bring in a fresh (untainted?) team to support the Shadow Administration in the interim period.
- Need to sort out relationship with Direct Rule Ministers - would this be purely consultative?
- Note that many of the parties have expressed a wish to have 'awkward' decisions taken before devolution.
- Concerns over the workings of committees - would safeguards be built in as in US model?
- Noted that the line of authority is very clear for Ministers and for committees, all power derives from the Assembly itself.
- The North/South co-operation aspects would dominate the work of the Shadow Assembly in the interim period.
- It was noted that the new Assembly will operate more like a Parliament than a local authority.

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- ♦ Need to offer help to the parties as soon as possible to facilitate their understanding of working arrangements etc - this at least to help build confidence.
- ♦ Need to assume minimum collective responsibility will be the order of the day.
- ♦ In addition to Tony McCusker's inter-departmental group drawing up options there would be a need for a paper to be drawn up by NI Perm Secs collectively, pro-actively looking at the options for Departments.
- ♦ New Ministers/Committees would not look kindly at a protective approach.
- ♦ Such a paper would safely assume a larger number of Departments and would also need to define the role of the Minister. Need to promote partnership with Ministers.
- ♦ Paper should be prepared to table options eg non-current Departmental work (Women's Minister? Law Reform?).
- ♦ Also need to ask potential new Administration what do they want?

North/South Co-operation

- ♦ Departments will be heavily involved in the development of North/South co-operation, not so much in identifying what it would be but how it will operate to best effect.

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- ♦ Such work will need to be carried out quickly and through the summer of 1998. Any discussions with the Irish can only be on a one to one basis at informal level, to safeguard the integrity of negotiation by the Assembly.
- ♦ Irish Secretary Generals are the models of what NI Perm Secs might become?!
- ♦ Need to take account of staff fears etc (eg mobility rules to operate in the South; can they be forced to work with or in another jurisdiction?).
- ♦ Need to allay the fears of staff as regards any pre-determined agenda.
- ♦ Need to brief downwards, Permanent Secretary-Senior Staff-cascading downwards to all staff.
- ♦ Needs to be stronger information flow eg notes of inter-Departmental group meeting etc being promulgated more widely.

Civic Forum

- ♦ Need to make preparations for the Civic Forum, possibly building on the energies created in the District Partnerships.
- ♦ DOE to lead on this, drawing on District Partnership experience.
- ♦ Whilst there may not be much political stomach for a Civic Forum, it needs to be treated seriously.

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### Financial Dowry

- ♦ Three potential sources of goodwill assistance post-Agreement have been identified viz Chancellor's Initiative/US (through IFI plus?) and EU.

### Transitional Arrangements

- ♦ Need for each Department to establish a transitional unit to focus exclusively on the key issues leading up to devolution.
- ♦ Such a unit would need to co-ordinate with inter-Departmental group representatives.
- ♦ Broader staffing issues need to be addressed to prevent a log-jam occurring.
- ♦ Staffing implications for the Assembly have been looked at by CPG and will potential involve transfer of Forum and Talks administration staff, at least initially.
- ♦ Staffing of the Executive still needs to be addressed fully.

### Employment Equality Review/Rights

- ♦ Will there be a Department of Equality?
- ♦ As regards rights, the law will be reserved but the practical application could be transferred.
- ♦ Would these issues fall to the office of the First Minister and Deputy First Minister? (ie looking after the Equality Commission, TSN, Language etc)

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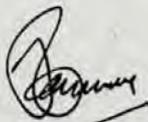
- ♦ In addressing this, it must be borne in mind that equality law must be pure.
- ♦ Potential for a Department of Employment (Labour Affairs) and Equality?
- ♦ Need to ensure that community relations does not get lost in all of this and retains a focus and life of its own.
- ♦ Need to take account of community development issues and fund accordingly.

Legislation

- ♦ Legislation calendar needs to be addressed to sort out what needs to be got through Parliament before February 1999 and what can wait until after devolution (George Gray/Doreen Brown looking at this).

Way Ahead

In closing, Mr Semple echoed the view of the meeting that this had been a useful forum and should be continued with a more rigid agenda on perhaps a fortnightly basis. Some issues had not been covered (eg victims, economic and social issues, and others). It was agreed that future meetings would take place in a similar format but with an agenda promulgated in advance along with any relevant papers to be addressed.



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## TO ALL MEMBERS OF THE NICS

The Agreement reached by the political parties in Northern Ireland along with the British and Irish Governments marks an historic moment for Northern Ireland. Like your fellow citizens you will have received a copy of the Agreement and as individuals you will have the opportunity to vote in the Referendum. A very brief factual outline of the Agreement is provided below as background to the content of this note, but it is not intended as a substitute for the full text which I would encourage everyone to read for themselves.

Aside from your personal interest as a citizen, some of you may be wondering what it will mean for you as civil servants if the Agreement is accepted and that is the purpose of this note.

There are 3 stages in the Agreement process:

### **The Referendum and Election**

In the referendum on 22 May the people of Northern Ireland and the Republic of Ireland will give their judgement on the Agreement. If the agreement is accepted, an election for a Northern Ireland Assembly will take place before the end of June [on 25 June]. During the referendum campaign and, if required, the election campaign the normal rules applying to civil servants' involvement in political activities will apply. Advice relating to the referendum campaign has been issued to staff in NI departments and the NIO and further advice will issue if elections take place.

### **The "Shadow" Period**

Following the election, the Assembly and a North/South Ministerial Council would operate in "shadow" mode in the period from the end of June until legislation allows the transfer of powers, probably in early 1999. During this time Ministers, including a First Minister and Deputy First Minister, and Committee Chairmen and Committee members would be appointed from the members of the Assembly and would have the opportunity to familiarise themselves with their new roles and Departments. They would also advise the Secretary of State on current issues and future plans and generally prepare for the implementation of the agreement as a whole. A particular responsibility of the "shadow" Assembly and Executive Committee would be to determine the

areas of potential North/South cooperation which would be developed through the establishment of cross border or all island implementation bodies.

During the "shadow" period civil servants would continue to work for their departments under the direction and control of the Secretary of State, as currently. The new Ministers would have no formal power during this time, but departments would be expected to take account of the embryonic local Ministerial team and Assembly by preparing for their new role. Consequently, civil servants might be called upon to inform, advise or consult shadow Ministers at the behest of NIO Ministers.

### **Full Executive and Legislative Authority**

The Agreement envisages that the Assembly would take full executive and legislative responsibility for all the matters currently administered by the Northern Ireland Departments, probably in early 1999. There would be up to 10 Ministers with departmental responsibilities. It has yet to be determined how the Ministerial portfolios would be created, but it could mean that there would be changes to the way your department is organised. Civil servants would be accountable to their new departmental Minister. In addition, committees would have a scrutiny, policy development and consultation role in relation to the work of departments. The Assembly would have authority to pass primary legislation for transferred matters.

After powers are transferred to the Assembly, the Secretary of State and a smaller ministerial team would continue to have responsibility for matters reserved to the Westminster Parliament such as policing, criminal justice and others matters currently dealt with by the NIO. Civil servants working in these areas would continue to be accountable to the Secretary of State.

Under the new arrangements there would continue to be a Northern Ireland Civil Service to support the functions of the Northern Ireland Administration. The Northern Ireland Office would continue to support the Secretary of State. The central principle of an impartial apolitical civil service which, with integrity, honesty and objectivity serves the duly constituted Government of the day, would be maintained.

## **Management of Civil Service**

The terms and conditions of members of the NICS are determined either by the Department of Finance and Personnel or, where delegated authority has been granted to a department or agency for some areas of personnel management, by the department or agency. All NI Departments are subject to the direction and control of the Secretary of State. The terms and conditions of civil servants, like those of other employees, are protected by employment legislation and contract law. Where changes are proposed management consults with the recognised trade union.

During the "shadow" period arrangements for the management of the civil service would remain as now, and under full devolution the management of the civil service would become the responsibility of the new Ministerial team (i.e. the Minister responsible for the personnel management of the NICS as a whole or the departmental Minister where there is delegated authority), who would operate within the current framework of law and policy. On a day to day basis management of the civil service would continue to be the responsibility of the personnel branches of employing departments.

## **Staff for the New Institutions**

The new arrangements would require in the region of 125 staff, who would be come initially from the civil service on secondment. As far as time permits and depending on the nature of posts, notice of posts would be circulated so that staff could put themselves forward. Staff could be posted to the Assembly, but every effort would be made to allocate those who have an interest in working in the area. It would be a matter for the Assembly to decide on the longer term arrangements for its staffing support.

## **Further Information**

If you have any queries about your position as a civil servant please ring

## THE AGREEMENT

This is a guide to the Agreement produced on 10 April by the participants in the multi-party negotiations. The guide is simply an outline of the main features of the Agreement and should not be used as a substitute for the full text. There is a freephone number (0800 0681919) for anyone wishing to obtain a copy of the Agreement.

### Constitutional Issues:

- ♦ Changes to Articles 2 and 3 of the Irish Constitution, to reflect the principle of consent
- ♦ Changes to British constitutional legislation, including repeal of the Government of Ireland Act 1920 and new provisions to reflect the principle of consent in all its aspects.
- ♦ Irish Government to accept NI's constitutional status as a part of the United Kingdom.

A new Assembly in Northern Ireland to operate on a basis which requires cross-community support. Local politicians to exercise executive and legislative powers in relation to all matters within the responsibility of the NI Government Departments (Finance and Personnel, Economic Development, Education, Health and Social Services, Environment, Agriculture). Devolution of responsibility for policing and criminal justice may follow.

A Civic Forum which will be consulted on social, economic and cultural issues.

A North/South Ministerial Council bringing together those with executive authority, North and South, to exchange information, consult and co-operate on all matters within the responsibility of both administrations. Those attending the Council for North and South to act within the mandate of and remain accountable to the Assembly and the Irish Parliament respectively.

Implementation bodies to be established to carry out policy decisions by the Council in a limited number of areas. Those areas to be specified in discussions between representatives of the Assembly and the Irish Government before the Assembly and the other institutions take on actual powers; and the necessary legislation and other preparations to be made for those bodies to be established alongside the other institutions covered by the Agreement.

A new British-Irish Agreement to replace the Anglo-Irish Agreement of November 1985.

British-Irish Council to facilitate contact between the two sovereign Governments; the devolved administrations in Scotland, Wales and Northern Ireland (when established); the Channel Islands; and the Isle of Man.

A new British-Irish Intergovernmental Conference (BIIGC) to **replace** the existing IGC, to deal with all bilateral issues between the British and Irish Governments.

Continued recognition of the Irish Government's special interest and role in relation to Northern Ireland, reflected in regular meetings of the BIIGC co-chaired by the Secretary of State for Northern Ireland and the Minister for Foreign Affairs.

An Independent Commission to consider future arrangements for policing in Northern Ireland.

A Government review, with an independent element, of the criminal justice system.

Additional measures to protect human rights and promote equality, including a new Human Rights Commission and a proposed powerful Equality Commission.

Commitment to the decommissioning of illegal weapons.

Sentence Review Body leading to the release on licence of prisoners convicted of terrorist-type offences. No benefit to prisoners associated with an active terrorist organisation.