

**FROM: DAVID FERGUSON
28 OCTOBER 1998**

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cc **PS/First Minister
PS/Deputy First Minister
Mr Sweeney
Mr Lavery
Mr Campbell
Mr Larkin
Mr Logue**



To: Party Representatives

CONSULTATIVE MEETING ON 29 OCTOBER 1998

1. Further to the joint letter of invitation from the First and Deputy First Ministers (Designate), I am writing to confirm that arrangements have been made for a plenary consultation meeting in Room 21, Parliament Buildings on 29 October, starting at 11.00am and continuing after lunch at 2.30pm.
2. The First and Deputy First Ministers (Designate) wish to concentrate initially on two of the matters referred to them by the Assembly – Departmental structures in the morning and the North/South Ministerial Council in the afternoon. However, they would not wish to preclude discussion on the other two matters – the British Irish Council and the consultative Civic Forum – if Party representatives wish and time is available. Otherwise, it is their intention to deal with these matters on another day.
3. At the request of the First and Deputy First Ministers (Designate), two papers have been prepared to help facilitate discussion – one on structures, the other on North/South co-operation. These are attached. The papers reflect the First and Deputy First Ministers' understanding of the Parties' positions on these matters as expressed orally and/or in writing.

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DEPARTMENTAL STRUCTURES – A PAPER BY THE OFFICE OF THE FIRST AND DEPUTY FIRST MINISTERS (DESIGNATE)

1. Introduction

1.1 This paper draws together the main strands of the Parties' contributions to the First and Deputy First Ministers' initial round of consultations. Its purpose is to try to focus on the main themes that have emerged and to facilitate discussion on where there might be convergence and where there remains a clear difference of view.

1.2 It is in 4 parts:

- ◆ a reminder of the relevant provisions of the Bill giving legal effect to the Agreement and an illustration of the practical applications of the d'Hondt formula, depending on the number of Departments;
- ◆ issues relating to a central Department under the auspices of the First and Deputy First Ministers;
- ◆ a summary of Parties' views on Departmental structures; and
- ◆ issues arising from a possible wider review of public administration in Northern Ireland.

2. Provisions of the Bill

2.1 In line with the Agreement, the Bill provides for up to 10 Ministers and for their functions to be determined by the First and Deputy First Minister acting jointly, subject to approval by a resolution of the Assembly passed with cross-community support. Functions may include responsibilities as head of a Northern Ireland Department, but this is not an obligation. It will therefore be

possible for Ministers to be appointed to the Executive Committee without a Departmental portfolio. They may instead have some other specified responsibilities. This is touched on again below.

2.2 The Bill also provides:

- ◆ for the First and Deputy First Ministers to determine, subject to the approval of the Assembly, a procedure for the appointment, role, tenure and number of Junior Ministers; and (C.17)
- ◆ for a central Department under the joint control and authority of the First and Deputy First Ministers

2.3 Again, these issues are touched on below. Meanwhile, it is worth noting that any proposed central Department would be exempt from the system of allocation of posts set out in the Bill (the d'Hondt procedure), which would otherwise operate as follows in distributing posts in an Executive Committee:

	UUP	SDLP	DUP	Sinn Fein
6 posts	2	2	1	1
7 posts	2	2	2	1
8 posts	2	2	2	2
9 posts	3	2	2	2
10 posts	3	3	2	2

3. A Central Department

3.1 A number of Parties have highlighted the need for a range of co-ordination functions to be brigaded at the centre of the new Administration – what some have referred to as the Department of the First and Deputy First Ministers.

3.2 Parties have pointed to the need to achieve the integration of all efforts of government in the achievement of strategic aims and objectives. Others have stressed that issues such as equality and personnel are so central to the work of the Assembly that they are best handled at the centre of the administration by being designated as cross-Departmental functions.

3.3 Clearly there is a balance to be struck between on the one hand drawing to the centre of a range of functions that are suitable, appropriate and make sense and on the other cover-centralising functions and over-burdening the First and Deputy First Ministers.

3.4 By way of illustration some of the following functions have been suggested as suitable candidates for brigading at the centre:

- ◆ the Secretariat for the Executive Committee;
- ◆ cross-Departmental co-ordination;
- ◆ the Secretariat for North-South Ministerial Council;
- ◆ liaison with the Secretariat of the British-Irish Council;
- ◆ liaison with Secretary of State on reserved and excepted matters;
- ◆ international relationships;
- ◆ the co-ordination of the legislative programme;
- ◆ a Policy Co-ordination and Innovation Unit; and
- ◆ Information Services.

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*Equity
Education
Europe*

Leader of the House

TLRHS

Atcentre

3.5 A range of others, for example EU issues, finance and personnel, equality, the consultative Civic Forum and consideration for victims could be added. The

social inclusion

*budget
of centre*

First and Deputy First Ministers would wish to explore further with Party representatives:

- ◆ the optimum range of roles and functions that should be drawn to the centre of the administration under the auspices of the First and Deputy First Ministers;
- ◆ what functions should be added to or subtracted from the list above;
- ◆ what role Junior Ministers might play in support of the First and Deputy First Ministers.

4. Northern Ireland Departments

4.1 Annex A summarises in tabular form the First and Deputy First Ministers' understanding of the various views on the appropriate number of Northern Ireland Departments, at least initially under devolution, and how the wide range of functions currently discharged should be grouped or re-ordered.

4.2 Most Parties favour a 10-Department model although there are differences in the proposals that have been put forward. Moreover, given the provisions in the Bill, it will be important to strike an appropriate balance between arguments for exercising to the full the potential in the Agreement to maximise participation in the responsibilities of government (up to 10 Departments) and the cost to the public purse of creating up to 4 new Departments and re-grouping to varying degrees the functions of the existing 6 Departments.

4.3 Against this background, the First and Deputy First Ministers would wish to explore further with Party representatives:

- ◆ the underlying principles on which structures should be based, including value for money, policy and spending priorities and the optimum

arrangement for developing and taking forward a comprehensive programme for government:

- ◆ the rationale for current proposals by Parties;
- ◆ the scope/argument for having fewer Departments than Ministers;
- ◆ the responsibilities, power and authority of any Executive Committee Ministers without a Departmental portfolio;
- ◆ the role, tenure, method of appointment and number of Junior Ministers operating in Northern Ireland Departments.

5. Review of Public Administration

5.1 A number of Parties have suggested the possibility of undertaking a comprehensive review of public administration in Northern Ireland. This has a number of attractions:

- ◆ substantive improvements to efficiency and effectiveness are more likely to be achieved by adopting a strategic approach to public sector administration;
- ◆ the process of initiating a comprehensive review of public administration could itself challenge Assembly Members to develop a shared vision for the region, and this in turn could lead to a programme of government which identifies strategic challenges and the most appropriate structures to meet these challenges;
- ◆ the review might facilitate the Executive and the Assembly to consider a wide range of innovative institutional options rather than simply adopt or make small adjustments to existing forms of government.

- ◆ such a review could also result in the Assembly, in time, serving as a model of devolved and strategically co-ordinated government.

5.2 In terms of timing, a review of existing governmental structures for public administration in Northern Ireland, which would bring forward proposals for the future governance of the region to best meet the requirements of economy, efficiency, equity, transparency and accountability, could take between 12 and 18 months to complete, depending on its scope and on how it is framed.

5.3 The First and Deputy First Ministers would wish to explore further with Party representatives:

- ◆ whether they see merit in the proposal for a wider review;
- ◆ their views on terms of reference;
- ◆ their views on methodology and timescales;
- ◆ their views on the role of the Assembly in the review;
- ◆ the extent to which such a review would have a bearing on the debate on Departmental structures and affect arguments about the amount of change to those structures initially under devolution.

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NORTH-SOUTH MINISTERIAL COUNCIL – A PAPER BY THE OFFICE OF THE FIRST AND DEPUTY FIRST MINISTERS (Designate)

1. BACKGROUND

- 1.1 Under the Agreement it was envisaged that during the transitional period, representatives of the Northern Ireland transitional administration and the Irish Government operating in the North/South Ministerial Council would undertake a work programme, in consultation with the British Government, covering at least 12 subject areas, with a view to identifying and agreeing by 31 October 1998 areas where co-operation and implementation for mutual benefit would take place. Such areas may include those matters set out in the Annex to Strand Two of the Agreement (see **Annex A** of this paper).
- 1.2 As part of the work programme, it was envisaged that the Council would identify and agree at least 6 matters for co-operation and implementation in each of the following categories:
- i. matters where existing bodies will be the appropriate mechanism for co-operation in each jurisdiction;

- ii. matters where the co-operation will take place through agreed implementation bodies on a cross-border or all-island level.

2. SUBMISSIONS BY PARTIES

- 2.1 We have received written submissions from the Ulster Unionist Party, the Social Democratic and Labour Party and Sinn Féin on North/South areas for co-operation and implementation bodies. **Annex B** summarises the First and Deputy First Ministers' (Designate) understanding of the position of those Parties that have made written submissions to date.

3. TECHNICAL ASSESSMENTS

- 3.1 Northern Ireland Civil Service officials were asked to prepare technical assessments on the 12 areas outlined in the Agreement and other potential areas for co-operation/implementation.
- 3.2 Each of the technical assessments was conducted within the following framework:
 - review of existing arrangements

- current levels of co-operation
- potential for joint action
- anticipated benefits
- determination of feasibility option ie build on existing co-operation or joint action through a single newly created body.
- an assessment of the financial implications of the option
- staffing implications
- a comment on the procedures for making Public Appointments to any new body or enlargement of existing bodies
- an assessment of the legislative implications
- an assessment of any European Union implications
- a comment on the reporting and accountability arrangements.

3.3 The technical assessments completed to date have categorised areas suitable for co-operation and areas suitable for implementation bodies (see below). It should be stated that these lists reflect officials' assessments of what on balance is technically feasible, as measured by the criteria above. They are not, therefore, mutually exclusive, in that some areas classified for co-operation

could be considered suitable for implementation bodies
and vice versa.

AREAS SUITABLE FOR CO-OPERATION

- Animal and plant health
- Research into animal health
- Teacher qualifications
- Social security entitlement of cross-border workers
- Cross-border social security fraud
- EU Programmes: INTERREG, LEADER and SSPPR
- Aquaculture
- Marine research
- Accident and emergency services and other related cross-border issues
- Urban and Rural Development
- Food standards and safety issues
- Monitoring levels of state aid to both jurisdictions
- Cross-border co-operation on the Arts.

POSSIBLE IMPLEMENTATION BODIES

- Teacher Exchanges (within an existing body)
- Strategic Transport Planning Body

- Environmental Protection, Pollution, Water Quality and Waste Management Body
- Environmental Protection Research Council
- Inland Waterways Body
- Tourism Marketing Body
- Inland Fisheries Body
- Irish Language Body

3.4 Additional technical assessments are being prepared on the following areas: training and employment; trade and investment; and research and technology.

4. AGREEING ON AREAS FOR CO-OPERATION AND IMPLEMENTATION

4.1 Within the 12 areas listed in the Annex of the Agreement and the submissions by the Parties to date (without prejudice to submissions yet to be received) it should be possible to move towards broad agreement on 6 areas for co-operation and 6 areas for implementation. These discussions will, of course, have to be advanced in consultation with the British Government and in agreement with the Government of the Republic of Ireland, which is conducting its own technical assessments in parallel. In due course, account will have to be taken of

these technical assessments in reaching agreement on the areas for co-operation and implementation.

4.2 The issue arises as to how agreement can be reached on the areas for co-operation and implementation. Over and above the factors taken into account in the technical assessments the First Minister (Designate) and Deputy First Minister (Designate) would wish to discuss what additional criteria should be considered, for example:

- a. which proposals hold the possibility of securing the maximum social and economic benefits North and South;
- b. which proposals can be implemented relatively quickly and in an effective and efficient manner.

5. PRACTICALITIES

5.1 In preparation for the inaugural meeting of the North-South Ministerial Council officials have had a series of meetings with Irish Government officials from the Departments of the Taoiseach and Foreign Affairs. Meetings have also taken place between officials from

Northern Ireland Departments and their counterparts in the Republic of Ireland.

5.2 Officials have started preliminary work to draw up a Memorandum of Understanding setting out a proposed modus operandi for the North-South Ministerial Council. The Memorandum, when approved, will constitute an agreed interpretation and development of outline provisions of the Agreement relating to the proceedings and operation of the Council. This will be an informal understanding, will not constitute a legally binding agreement, and nothing in it will override the Agreement.

5.3 The First and Deputy First Ministers would welcome views from the Parties on a range of practical matters associated with the operation of the Council, for example:

- whether meetings of the Council, in all formats, should alternate between North and South;
- whether all meetings of the Council should be co-chaired or chaired by the host administration; and
- views on the permanent location of the Joint Secretariat.

5.4 When agreement has been reached on the implementation bodies, the two Governments will require a preparatory period to give legislative effect to the establishment of the bodies. Arrangements for the agreed co-operation will commence with the transfer of powers to the Assembly.

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ANNEX A**AREAS FOR NORTH/SOUTH CO-OPERATION AND IMPLEMENTATION MAY INCLUDE THE FOLLOWING:**

1. Agriculture – animal and plant health.
2. Education – teacher qualifications and exchanges.
3. Transport – strategic transport planning.
4. Environment – environmental protection, pollution, water quality and waste management.
5. Waterways – inland waterways.
6. Social Security/Social Welfare – entitlements of cross-border workers and fraud control.
7. Tourism – promotion, marketing, research and product development.
8. Relevant EU Programmes such as SPPR, INTERREG, LEADER II and their successors.
9. Inland Fisheries.
10. Aquaculture and marine matters.
11. Health: accident and emergency services and other related cross-border issues.
12. Urban and rural development.

Others to be considered by the shadow North/South Council.

UUP

SDLP

SINN FEIN

CO-OPERATION

Health

Health

Rural Development

Education

Energy

Energy

Science and Technology

**Community Development
(Urban and Rural)**

**Community
Development**

Transport

Arts and Heritage

Environment

**IMPLEMENTATION
BODIES**

**Food Standards in both
jurisdictions.**

Tourism

All-Island Tourism Body

**State Aids in both
jurisdictions to attract
investment.**

**Trade promotion, business
development and inward
investment**

**A Trade Promotion and
Indigenous Company
Development Body**

**All-Ireland Investment
Agency merging the IDA
and IDB**

Training and employment

**Merger of FAS and
T&EA**

**Transport and
Communication**

UUP

SDLP

SINN FEIN

Research into animal health and welfare.

Agriculture

Operation of EU Common Agriculture Policy and EU Common Fisheries Policy on all-Ireland basis through an Agency responsible to the Ministerial Council

Research into environmental protection.

Language, Culture and the Arts

An Irish Language Promotion Body

Proposals for Lough Foyle

Environment

Marine and Aquaculture

Proposals for Carlingford Lough

Inland Waterways

Territorial sea boundary and continental shelf

EU Programmes

An EU Programmes Implementation Body covering INTERREG, the SPPR and LEADER II.