



Submission to the Northern Ireland Affairs Committee Inquiry ‘Devolution and democracy in Northern Ireland: dealing with the deficit’

Comments by

The Northern Ireland Open Government Network

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The Northern Ireland Open Government Network is an alliance of individual citizens and representatives of voluntary/community organisations with the following vision:

“To contribute to delivering more open, transparent and accountable government that empowers citizens to shape decisions that impact on their lives.”

We believe that government works better for citizens when it’s transparent, engaging and accountable:

- Transparency – opening government data and information in areas such as public spending, government contracts, lobbying activity, the development and impact of policy, and public service performance.
- Participation – support for a strong and independent civil society, the involvement of citizens and other stakeholders in decision making processes
- Accountability – rules, laws and mechanisms that ensure government listens, learns, responds and changes when it needs to.

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Inquiry Submission

If an Executive cannot be restored, what options exist for restoring accountability and democracy in Northern Ireland? Are any of these models useful now or is a fresh approach required?

Consociation – “the cooperation of different, especially antagonistic, social groups on the basis of shared power” – is difficult to achieve for a prolonged period.

The current negotiations aimed at restoring our political institutions lack transparency and are not working. It’s time for a fresh approach that is more deliberative and involves citizens. People are often ahead of politicians on many constitutional issues and citizens should be engaged in a process to decide our future.

Using more deliberative democratic methods would open up the prospect of prescriptions that are representative of the entire population and based on evidence-based analysis of the merits of competing arguments. Deliberation requires “weighing” competing arguments for policies or candidates in a context of mutually civil and diverse discussion in which people can decide on the merits of arguments with good information.

A good deliberative public engagement process makes a difference – to participants, to decisions and to policy. The process: is transparent; has integrity; is tailored to circumstances; involves the right number and types of people; treats participants with respect; gives priority to participants’ discussions; and is reviewed to assess what has been achieved and evaluated to improve practice.

Much of the energy in deliberative democracy efforts has focused on statistical microcosms or mini-publics, in which citizens, recruited by random sampling, deliberate in organized settings. In some settings, relatively small groups of fifteen or so deliberate online with an elected representative. In other settings, the groups can be given access to balanced information and briefing materials that make the best case for and against various options. They can also be given access to competing experts who answer their questions from different points of view. Then, at the end of the deliberations, there is some way of harvesting their considered judgments.

Other mini-publics, such as citizens’ juries and [citizens’ assemblies](#) arrive at an agreed-upon statement or verdict as a recommendation to the public or to authorized policy-makers. Some randomly selected mini-publics even make binding decisions.

The impact on services, business and communities of the lack of an Executive; and the impact on budgeting and legislative timetables, particularly the budget for the next financial year

The on-going failure to form an Executive appears to be consequence-free for the political parties engaged in the standoff, but it has serious consequences for services, business and communities. The setting of a budget by the Secretary of State will enable departments to spend 100% of this year’s allocation in line with the last Executive’s policies. But there is no opportunity for innovation, reprioritising or redistributing money; and there’s no budget for next year.

Health service reform and implementation of the recommendations from the Bengoa Report has stalled because there is no minister in place to redirect funding to new priorities and take forward the required legislation. The Education system is under severe financial pressure; public sector pay-awards are delayed; and government officials are being left to determine what constitutes the ‘public interest’. As a result some controversial decisions have been taken, while other important

policy decisions have been delayed due to 'lack of ministerial direction'. Accountability requires clarity and transparency around how we determine what's in the public interest and how this is upheld by unelected civil servants.

If it becomes clear that there will be no return of the devolved institutions, at least in the short-to-medium term, more decisions will be taken by senior civil servants and ultimately handed over to the NIO and Westminster. This will be a very bad outcome, as far as local accountability is concerned, but may spare us the cost of future expensive mistakes like RHI falling on local tax payers.

Potential measures for making institutions in NI more able to tolerate similar collapses of devolved government

Constitutional Structures

The Good Friday Agreement facilitated the transition from sectarian conflict to a more peaceful society. However, what was necessary and appropriate for confidence building in 1998 may no longer be appropriate. And it may be time to design structures that to facilitate progress.

When important political disputes cannot be resolved within the existing constitutional framework, it's time to rebuild that framework, or risk a constitutional crisis.

Community designation enshrines sectarian division in our institutions; the petition of concern has led us to some of the crises and continues to frustrate progress; and mandatory coalition seems unable to create any sense of collective responsibility.

We need to:

- Through a suitably deliberative process (like a constitutional convention) find some way of moving towards a more normal voluntary coalition with a suitably weighted majority
- Ensure that the petition of concern is triggered only on fundamental issues and not on every social reform
- Move away from the designations that divide us without undermining protections for minority rights

Transparency and Accountability Mechanisms

The RHI scandal contributed to the collapse of the NI Executive. This was a failure in governance made possible by the lack of transparency and accountability in government. Proper record-keeping for good governance that involved minutes of meetings between ministers, senior government officials and special advisers, would prevent such failures in the future.

With proper record-keeping for good governance, the 'he said', 'she said', that we've already heard and no doubt will hear again as the RHI inquiry progresses, would be impossible.

The gap left in EU negotiations and alternatives for NI's voice in talks.

A lack of transparency around the Brexit negotiations is clear for all to see. The opportunity for a democratic Brexit seems to have been missed. Neither the devolved legislatures nor the devolved governments have any statutory powers with which to influence the Brexit negotiations. International relations and treaty making are powers reserved for the UK government alone, and so

unlike Westminster, the legislatures in Holyrood, Cardiff and Stormont will not even formally have the opportunity to object to ratification of the final deal.

The [British-Irish Council](#) (whose membership comprises representatives from the Irish Government; UK Government; Scottish Government; Northern Ireland Executive; Welsh Government; Isle of Man Government; Government of Jersey and Government of Guernsey) and the [Joint Ministerial Council](#) may provide a voice for NI and the other devolved administrations. But both lack authority. The UK government is not bound by their agreements or advice.

Democracy depends on citizens being informed; and Brexit was an opportunity to engage the public, not shut them out. But banal catchphrases like 'Brexit means Brexit' do not enhance understanding of the issues; and the lack of transparency about the Cabinet's plans and actions makes it difficult to effectively hold government to account.

People need to be able to: cut through the spin and second hand views of self-interested parties; understand what impact leaving the EU will have on their lives; and confidently articulate their own opinions on Brexit. People need to be continually up-dated, consulted and involved in the process of leaving the EU.

The Conservatives will have to rely on the DUP to pass key legislation, forcing them to pay greater attention to Northern Ireland. But if things go on much longer without a functioning NI Executive, civic society and particularly those focused on more deliberative democracy, must step up and fill the political vacuum.

ENDS