



BRIEFING PAPER

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Devolution in Northern Ireland, 1998-2020

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Summary

The Northern Ireland Assembly and Executive were restored on 11 January 2020, more than three years after they collapsed in January 2017. The Assembly elected on 2 March 2017 was not formally suspended, as in the past, and Members of the Legislative Assembly (MLAs) continued to carry out a range of activities, most significantly constituency work. The next Assembly election is due to take place in May 2022.

The devolution settlement in Northern Ireland is, as the academic Colin Knox put it in 2010, “inextricably linked to the divisive issues which precipitated its inception and characterise its operation in practice”.¹ Furthermore, as others have written, in Northern Ireland “more than any other part of the United Kingdom, devolution remains a process”.²

That process began in 1921, when executive and legislative power was first devolved to the newly-created Northern Ireland, making it the only part of the UK to have experience of devolution prior to 1999. At that point, the *Scotland Act 1998*, *Government of Wales Act 1998* and *Northern Ireland Act 1998* transformed the UK’s territorial constitution.³

This briefing paper sets out the devolution settlement in Northern Ireland as it stands, before revisiting the Belfast Agreement of 1998 and charting subsequent legislation and political events since that date.

¹ Colin Knox, *Devolution and the governance of Northern Ireland*, Manchester: Manchester University Press, 2010, p8.

² Jonathan Bradbury & James Mitchell, “[Devolution and Territorial Politics: Stability, Uncertainty and Crisis](#)”, *Parliamentary Affairs* 55:2, 2002, p311.

³ See Commons Library Briefing Papers CBP08441, “[The settled will? Devolution in Scotland, 1998-2018](#)”, 19 November 2018, and CBP 08318, “[A process, not an event: Devolution in Wales, 1998-2018](#)”, 11 July 2018.

1. Northern Ireland: constitutional status

1.1 Devolution in Northern Ireland

Under the devolution settlement in Northern Ireland, there are three categories of legislative powers: reserved, excepted and transferred. When fully functioning, the Northern Ireland Assembly can make primary and subordinate legislation on “transferred” matters; on “reserved” matters with the consent of the Secretary of State for Northern Ireland and, in limited circumstances, on “excepted” matters.

Excepted matters are subjects reserved to Westminster which will not be transferred unless under primary legislation. [Schedule 2](#) of the [Northern Ireland Act 1998](#) specifies these as:

- the constitution;
- Royal succession;
- international relations;
- defence and armed forces;
- nationality, immigration and asylum;
- elections;
- national security;
- nuclear energy;
- UK-wide taxation;
- Currency;
- conferring of honours;
- international treaties.

[Schedule 3](#) sets out “reserved matters”, subjects which could be transferred by [Orders in Council](#) to the Assembly provided there exists cross-community consent. These include:

- firearms and explosives;
- financial services and pensions regulation;
- broadcasting;
- import and export controls;
- navigation and civil aviation;
- international trade and financial markets;
- telecommunications and postage;
- the foreshore and seabed;
- disqualification from Assembly membership;

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- consumer safety;
- intellectual property.

Anything not listed in Schedules 2 or 3 is considered “transferred” to the Assembly, including:

- health and social services;
- education, employment and skills;
- agriculture;
- social security, pensions and child support;
- housing;
- economic development;
- local government;
- environmental issues, including planning;
- transport;
- culture and sport;
- the Northern Ireland Civil Service;
- equal opportunities;
- justice, prisons and policing.⁴

This triple division of powers is unique to devolution in Northern Ireland and bears some relation to the [Government of Ireland Act 1920](#), which established the former [Parliament of Northern Ireland](#) in 1921.

That previous devolution settlement also explains why welfare is fully devolved in Northern Ireland but not in Scotland and Wales. The Assembly, however, is constrained by the long-standing “parity principle”, which requires Northern Ireland’s social security and pensions systems to mirror those in the rest of the UK. This principle also applied under the original devolution settlement (1921-72) but was only put on a statutory footing under the *Northern Ireland Act 1998*.

So, for example, the Northern Ireland Assembly ultimately introduced all the welfare reforms enacted by the UK Government between 2010-17 (albeit with special “mitigations”), whereas the welfare powers devolved under the [Scotland Act 2016](#) – which allow the creation of new benefits – do not have a parity requirement in Scotland.⁵

The [Corporation Tax \(Northern Ireland\) Act 2015](#) provided for the Assembly to have the power to set [Corporation Tax](#) in respect of certain trading profits, although it has yet to be enacted (see **Sections 6.4 & 6.5**).

Like those in Scotland and Wales, the Northern Ireland administration is funded by a combination of a “block grant” from Westminster, changes

⁴ Policing and criminal justice were originally “reserved” matters but became “transferred” on 12 April 2010.

⁵ See Northern Ireland Assembly Research and Information Service Briefing Paper 99/11, [Parity and Social Security in Northern Ireland](#), 24 May 2011.

to which are governed by the non-statutory [Barnett formula](#), and locally-raised revenue via taxation. The Assembly has fewer powers in this respect than the [Scottish Parliament](#) or [National Assembly for Wales](#), controlling only the “regional rate” for domestic and non-domestic property.⁶

1.2 The UK Parliament and Northern Ireland

The UK Parliament – as is the case in Wales and Scotland – remains sovereign (or legislatively supreme) in relation to UK law and retains the right to legislate, should it wish to do so, in all areas relating to Northern Ireland.

Under what is known as the [Sewel Convention](#), however, the UK Parliament does “not normally” pass laws on devolved areas without first obtaining the consent of the Northern Ireland Assembly. This has been refused twice, for the *Enterprise Bill* in 2015,⁷ and for the *European Union (Withdrawal Agreement) Bill* in 2020.⁸

Northern Ireland Affairs Committee

The [Northern Ireland Affairs Committee](#) is a Select Committee of the House of Commons which examines the expenditure, administration and policy of the [Northern Ireland Office](#) and its associated public bodies. It comprises 13 Members of Parliament who conduct inquiries and produce reports. There is also a [Northern Ireland Grand Committee](#), which comprises the 18 Northern Irish MPs together with up to 25 other Members. It debates matters relating to Northern Ireland, but [last met in 2013](#).

Secretary of State for Northern Ireland

The [Secretary of State for Northern Ireland](#) has overall responsibility for the Northern Ireland Office, advancing UK Government interests in Northern Ireland and representing Northern Ireland interests in the Cabinet. The Secretary of State also has responsibility for political stability, relations with the Northern Ireland Executive and forwarding Northern Ireland Assembly Bills for Royal Assent (as well as rejecting Bills deemed incompatible with the Assembly’s legislative competence).⁹

The European Union

Through the UK’s membership of the [European Union](#) (EU), Northern Ireland has been subject to decisions about legislation and policy made at EU-level and applicable to all member states.

On 23 June 2016, a majority of the UK electorate voted to leave the EU. The [European Union \(Withdrawal\) Act 2018](#) amended the *Northern Ireland Act 1998* to reflect the UK’s withdrawal from the EU. See

⁶ See HM Treasury, [Funding the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly: Statement of Funding Policy](#), October 2010.

⁷ See also Commons Library Briefing Paper CBP8274, [Brexit: Devolution and legislative consent](#), 29 March 2018.

⁸ See BBC News online, [“NI Assembly votes to withhold Brexit bill consent”](#), 20 January 2020. On this occasion, legislative consent was refused via an Executive motion rather than under the usual Assembly Standing Orders.

⁹ Derek Birrell & Cathy Gormley-Heenan, *Multi-Level Governance and Northern Ireland*, London: Palgrave Macmillan, 2015, p32.

Section 6.6 for further details about the impact of Brexit on devolution in Northern Ireland.

1.3 Northern Ireland Assembly

Voters in Northern Ireland elect 90 [Members of the Legislative Assembly](#) (MLAs), five in 18 multi-member constituencies.¹⁰ Elections are conducted under the [Single Transferable Vote](#) (STV) system of proportional representation. Elections are now held every five years but an “extraordinary” election can be held if the Assembly resolves to dissolve itself with the support of not less than two-thirds of MLAs, or if a First and deputy First Minister fail to be nominated.

MLAs do not take an oath of allegiance to the Sovereign, as at Westminster and in the Scottish Parliament and National Assembly for Wales, although they are required to give an undertaking against paramilitarism. Ministers also have to take a [Pledge of Office](#). Members designate themselves “Nationalist”, “Unionist” or “other” at the first meeting of an Assembly following an election and can only change their community designation between elections if they have changed their party-political affiliation.¹¹

If a vacancy arises, parties can nominate an individual to become an MLA (until 2009, there existed a list of substitutes for each candidate). This process was introduced on the basis that holding a by-election could alter the party-political balance within a six- (and later five-) member constituency.¹² To date, there have been no by-elections to the Assembly.

The Assembly is chaired by a [Speaker](#) and three deputy Speakers. At least ten members (including the Speaker) must be present for a vote to be taken on any matter. The Speaker is responsible for chairing debates in the Assembly, acting as its representative, chairing its [Business Committee](#), which agrees what business should be discussed in plenary sessions (unlike in the House of Commons, where the Government decides business), and the [Assembly Commission](#), which ensures the Assembly has the property, staff and services it needs to carry out its work. The staff of the Assembly is known collectively as the [Assembly Secretariat](#).

Most decisions of the Assembly are taken by a simple majority vote. However, certain “key decisions”, such as approval of a budget, must have cross-community support, either:

¹⁰ Until (and including) the 2016 election, the Assembly consisted of 108 elected Members, six from each of Northern Ireland’s 18 Westminster constituencies.

¹¹ Before 2006, MLAs could change their designation without a change of party membership, something several did so to facilitate David Trimble’s re-election as First Minister in November 2001 (see **Box 2**).

¹² The statutory basis for substitution was Section 6 of the [Northern Ireland Assembly \(Elections\) Order 2001](#). This was later altered by Section 6B of the [Northern Ireland Assembly \(Elections\) \(Amendment\) Order 2009](#), which allowed political parties to nominate MLAs.

- **Parallel consent**, where more than 50% of MLAs agreed to the motion, including more than 50% of designated Nationalists and more than 50% of designated Unionists;
- **A weighted majority**, which requires the support of 60% of those voting, including 40% Unionist and 40% Nationalist support.¹³

Another important aspect of Assembly voting is called a [Petition of Concern](#). If, in accordance with [s42\(1\)](#) of the *Northern Ireland Act 1998*, 30 MLAs:

petition the Assembly expressing their concern about a matter which is to be voted on by the Assembly, the vote on that matter shall require cross-community support.

Measures agreed at St Andrews in 2006 also mean that 30 MLAs can petition the Assembly to refer a Ministerial decision back to the Executive for review.¹⁴

The 2020 [New Decade, New Approach](#) agreement included proposals to reform the Petition process.¹⁵ See **Section 8** for further details.

The Assembly meets at the [Parliament Buildings](#) in Belfast, the former home of the Northern Ireland Parliament known as “Stormont”, which is also used as a metonym for the Northern Ireland Assembly.

Executive Committee

The [Northern Ireland Executive Committee](#) (or simply Executive) comprises the First Minister, deputy First Minister and eight (previously eleven) departmental ministers.

Together, these Ministers exercise executive authority on behalf of the Northern Ireland Assembly, taking decisions on matters which individual Ministers are required to refer to it under the terms of the [Ministerial Code](#), including significant or controversial issues and matters which cut across the responsibility of two or more Ministers. The Executive Committee also agrees proposals put forward by Ministers for new legislation in the form of “Executive Bills”, draws up a programme for government and an agreed budget – all for approval by the Assembly.

The First Minister and deputy First Minister, as joint chairs of the Executive, are required to seek consensus on all issues. If this is not possible a vote may be taken, and if three Ministers request it, that vote must be taken on a cross-community basis.¹⁶

Executive Ministers are nominated by the political parties in the Northern Ireland Assembly. The number nominated by each party is determined under the [d’Hondt formula](#) by its share of seats in the Assembly.¹⁷ The only exception is the Minister for Justice, which after

¹³ Colin Knox, p19.

¹⁴ Derek Birrell & Cathy Gormley-Heenan, p58.

¹⁵ See Commons Library Insight blog, [“Northern Ireland Assembly: ‘New Decade, New Approach’”](#), 10 January 2020.

¹⁶ Derek Birrell & Cathy Gormley-Heenan, p58.

¹⁷ The d’Hondt method is also used to determine membership of the Scottish Parliament and National Assembly for Wales.

the devolution of policing and justice in 2010 has been appointed following a cross-community vote in the Assembly.¹⁸

An unusual feature of the devolution settlement in Northern Ireland is that statutory powers are vested in individually constituted Executive Departments led by their own permanent secretary (something that was also true under the Parliament of Northern Ireland). Each Minister thus has executive authority effectively independent of the others but must operate within the terms of the Ministerial Code when it comes to their obligations to the Executive.

This means that judicial review is usually directed at individual departments rather than “Northern Ireland Ministers” collectively, as in Scotland and Wales (see **Box 4**).

Initially, the First and deputy First Minister (who jointly head the [Office of the First Minister and deputy First Minister](#)) were elected by the Assembly, but under the 2006 St Andrews Agreement and subsequent legislation, they are now nominated, respectively, by the largest party within the largest political designation and the largest party within the second-largest political designation. If one resigns, the other automatically ceases to hold office and both vacant offices must be filled within a period of seven days.

This form of power-sharing government is often known as [consociationalism](#).¹⁹

Assembly Committees

Most MLAs are members of [Assembly Committees](#), which mirror and scrutinise the work of individual Northern Ireland Departments, policy, new laws and wider topics in detail.

The role of the Statutory Committees is to advise and assist each Northern Ireland Minister in the development of policy within their departmental remits. There are also Standing Committees which deal with Assembly administration (i.e. the Business Committee). From time to time temporary committees (*ad hoc* committees) are set up to deal with specific issues.

The Chairpersons and Deputy Chairpersons of the Committees are selected by the nominating officers of the main political parties depending on their party strengths. Committee membership is also filled based on party strength in accordance with [Standing Order 47](#). Committees of the Assembly take decisions by a simple majority vote.

How laws are made in the Assembly

Most Bills are introduced by an Executive Minister, but a Bill can also be introduced by an Assembly Committee or by an individual MLA. It then has to pass several stages before becoming an Act:

¹⁸ The first Minister for Justice was Alliance MLA David Ford, who was succeeded by Independent MLA Claire Sugden in May 2016. Naomi Long, another Alliance MLA, became Minister for Justice in January 2020.

¹⁹ See Arend Lijphart, [“The Northern Ireland Problem: Cases, Theories and Solutions”](#), *British Journal of Political Science* 5:1, pp83-106.

- **First Stage:** The Speaker introduces the Bill to the Assembly. The Clerk of the Assembly reads out the Bill's title and the Speaker orders the Bill to be printed. There is no debate or vote;
- **Second Stage:** The Assembly debates the general principles of the Bill and then votes on whether to consider the legislative proposal further;
- **Committee Stage:** An Assembly Committee considers the clause by clause and line by line. It also consults interested parties, including the relevant department if it is an Executive Bill. The Committee discusses what amendments to make and produces a report on the Bill;
- **Consideration Stage:** MLAs debate the Committee's report, including proposed amendments, in the Assembly Chamber. Individual MLAs can also suggest amendments at this stage;
- **Further Consideration Stage:** This stage provides a further opportunity to amend the Bill. New proposals for amendments are debated and voted on in the Chamber;
- **Final Stage:** A final debate on the Bill takes place, although MLAs cannot make amendments at this stage. Members vote on whether or not to pass the Bill.

Following the first reading of a Bill, the Speaker sends a copy to the [Northern Ireland Human Rights Commission](#), and on the completion of all the Stages of a Bill sends it to the Secretary of State for Northern Ireland requesting Royal Assent. If this is granted, the Speaker makes an announcement at the next plenary sitting of the Assembly. The enacted law may come into effect immediately, or at a future date.

1.4 Intergovernmental relations

The [Belfast Agreement](#) created several statutory forums involving the UK, Irish and Northern Irish governments, as well as other administrations in the British Isles.

North-South Ministerial Council

Strand Two of the Agreement provided that at least 12 subject areas would be identified for co-operation and implementation for mutual benefit under the aegis of the [North South Ministerial Council](#) (NSMC).

The NSMC is supported by a joint secretariat and staffed by personnel from the Irish Civil Service and [Northern Ireland Civil Service](#) (which is separate from the [Home Civil Service](#)). At plenary meetings, the Executive delegation is led by the First Minister and deputy First Minister and the [Irish Government](#) delegation by the [Taoiseach](#).

British-Irish Council

The Agreement also established the [British-Irish Council](#) (BIC) as an east-west counterpart to the NSMC, with a secretariat based (since 2012) in Edinburgh. According to the BIC's website, its purpose is "exchange information, discuss, consult and use best endeavours to reach agreement" on matters of mutual interest.

It consists of the UK Government, Irish Government, Northern Ireland Executive, [Scottish Government](#), [Welsh Government](#), [Isle of Man Government](#), [States of Jersey](#) and the [States of Guernsey](#). It meets twice a year in heads-of-government plenary meetings and is supported by workstreams on matters of common interest.²⁰

British-Irish Intergovernmental Conference

A third body established under the Agreement was the [British-Irish Intergovernmental Conference](#) (BIIGC), which subsumed the Anglo-Irish Intergovernmental Council and Intergovernmental Conference established under the 1985 [Anglo-Irish Agreement](#).

The BIIGC grants the Irish Government a say in areas of bilateral cooperation and on non-devolved matters and, like the NSMC and BIC, has a joint secretariat comprising officials from the UK and Irish Governments. It met regularly between 1999-2007 but lapsed until being reconvened on 25 July 2018. It [last met in London on 9 May 2019](#).²¹

Joint Ministerial Committee

Although not a creation of the Belfast Agreement or the *Northern Ireland Act 1998*, the [Joint Ministerial Committee](#) (JMC) is an important forum for discussions (and resolving disputes) between the UK Government and devolved administrations in Scotland, Wales and Northern Ireland. It was established under a [Memorandum of Understanding](#) initially agreed in 1999 and subsequently revised.

Its main forum is known as JMC (Plenary), which is chaired by the Prime Minister and meets at least once a year. The JMC (European Negotiations) sub-committee was established following the June 2016 referendum.²² Between 2017-20, when the Assembly and Executive were not fully functioning, a senior official from the Northern Ireland Civil Service attended meetings of the JMC.

²⁰ The statutory Ministerial Code covers the Executive's role in the NSMC and BIC.

²¹ Acting together, the First Minister and deputy First Minister nominate Ministers to attend the NSMC, BIC and BIIGC. All such arrangements require Assembly approval. In November 2000, Sinn Féin challenged First Minister David Trimble's ban on them taking part in NSMC, and on 30 January 2001 Northern Ireland's High Court ruled that the ban was illegal (Joanne McEvoy, *The Politics of Northern Ireland*, Edinburgh: Edinburgh University Press, 2008, p144).

²² See Commons Library Briefing Paper CBP-8371, [Intergovernmental relations in the United Kingdom](#), 25 July 2018.

Box 1: Attorney General for Northern Ireland

The [Attorney General for Northern Ireland](#) is the chief legal adviser to the Northern Ireland Executive for matters that fall within the devolved powers of the Northern Ireland Assembly. He or she is also responsible for appointing the Director and Deputy Director of the [Public Prosecution Service for Northern Ireland](#). According to the Attorney General's website, it has a separate staff from the Departmental Solicitor's Office "to allow detailed consideration of the matters referred and to allow the Attorney's office to act as a revising chamber".²³

An Attorney General existed in Northern Ireland between 1921-72 and the position was always held by an Ulster Unionist Party MP. Following the prorogation of Stormont in 1972, the Attorney General for England and Wales also became Attorney General for Northern Ireland and was either a Member of Parliament or peer.

Although the [Justice \(Northern Ireland\) Act 2002](#) set out the role and powers of the Attorney General, responsibility for justice was not transferred to the Northern Ireland Assembly until April 2010, at which point the [Attorney General for England and Wales](#) instead became [Advocate General for Northern Ireland](#), a UK law officer. Under Section 8 of the [Justice \(Northern Ireland\) Act 2004](#), the Attorney General for Northern Ireland is required to give criminal justice organisations guidance on the exercise of their functions in a manner consistent with international human rights standards.

On 24 May 2010, First Minister Peter Robinson and deputy First Minister Martin McGuinness appointed John Larkin, QC, Attorney General for Northern Ireland. His five-year term was renewed in 2015. The Attorney General can participate in proceedings of the Assembly but not vote. He is also politically independent and can represent Northern Ireland even when there is no functioning Assembly or Executive, as he did at a [Supreme Court of the United Kingdom](#) (UKSC) hearing regarding a [dispute between the UK and Scottish Governments](#).

The Attorney General has the power to refer any Assembly legislation, where there is doubt over its legality, to the UKSC.

John Larkin was appointed a temporary High Court judge in January 2020, the [first time a law officer had been called to the bench in Northern Ireland](#).

²³ Attorney General for Northern Ireland website, "[About Us](#)".

2. Historical background

Sovereignty over the island of Ireland was claimed by England following the 12th-century Norman invasion, although English rule was not completely established until several centuries later. During the 17th century, the northern counties of Ulster were settled by Protestants from Scotland and England, while across Ireland Catholics were excluded from government and other public bodies.

2.1 Britain and Ireland

From the late 13th century there existed a [Parliament of Ireland](#), although it was generally subordinate to that in England and, after 1707, Great Britain. The [Union with Ireland Act 1800](#) and [Act of Union \(Ireland\) 1800](#) (the latter passed by the Irish Parliament) abolished the Irish legislature and from 1 January 1801 Irish MPs and peers sat in the Parliament of the new United Kingdom of Great Britain and Ireland.²⁴

A campaign for some degree of [Home Rule for Ireland](#), essentially devolution within the UK, grew during the 19th century and won Liberal government support in 1886. The first two [attempts to legislate](#) for a devolved parliament in Dublin, however, failed, and while the [Government of Ireland Act 1914](#) (which provided for the establishment of a bicameral parliament in Dublin) did become law, it was suspended for the duration of the First World War.

Following the [Easter Rising](#) of 1916, Irish public opinion hardened in favour of complete independence from the UK. Under the [Government of Ireland Act 1920](#) (which repealed the 1914 Act) the UK intended to create two devolved parliaments in Northern and Southern Ireland, but this was overtaken by the [war of independence](#) (1919-21).

The [Anglo-Irish Treaty](#) ended the war and partitioned Ireland. The Treaty was given force by the [Irish Free State \(Agreement\) Act 1922](#), while the [Irish Free State \(Consequential Provisions\) Act 1922](#) provided that the [Government of Ireland Act 1920](#) ceased to apply to any part of Ireland apart from Northern Ireland.

2.2 Northern Ireland

The “Northern Parliament” was constituted on 7 June 1921, meeting initially at Belfast City Hall. Under the terms of the Treaty, Northern Ireland would become part of the Irish Free State – essentially a Dominion within the British Empire – unless it opted out by presenting an address to King George V, which it did in December 1922.

Northern Ireland thus remained an integral part of the UK, but with its own House of Commons, Senate, Government (headed by a “Prime

²⁴ The [Union with Ireland Act 1800](#) (as amended in 1922 and 1927) remains on the UK statute book. In Ireland, the [Statute Law Revision \(Pre-Union Irish Statutes\) Act, 1962](#) repealed the [Act of Union \(Ireland\) 1800](#), while the [Statute Law Revision Act, 1983](#) repealed the [Union with Ireland Act 1800](#).

Minister”), Civil Service, Governor and Privy Council. As a 1972 Northern Ireland Office publication observed that:

there developed a convention that the United Kingdom Parliament would legislate within the field of Northern Ireland's 'transferred' powers only by invitation.

This “convention”, however, “did not, and could not, override the clear and unambiguous wording of the Statute”, which – as would be the case with subsequent devolution statutes in 1998 – retained Westminster parliamentary sovereignty in all areas.²⁵

The Northern Ireland Parliament, housed at Stormont from 1932, always had an [Ulster Unionist Party](#) majority and government. In 1929, it abolished proportional representation for parliamentary elections (having already done so for local government) and did not abolish the business franchise for Stormont, or the ratepayer-only franchise (a property qualification) for local government, until the late 1960s.

In 1948, Ireland (or Eire) declared itself a Republic, something recognised by the [Ireland Act 1949](#), which also declared that:

Northern Ireland remains part of His Majesty's dominions and of the United Kingdom and it is hereby affirmed that in no event will Northern Ireland or any part thereof cease to be part of His Majesty's dominions and of the United Kingdom without the consent of the Parliament of Northern Ireland.

A civil rights march in Derry/Londonderry in October 1968 marked the beginning of a period known as [The Troubles](#), a violent conflict regarding the constitutional status of Northern Ireland. This led to the deployment of the British troops as well as increasing intervention from the UK Government.

2.3 The Troubles

By 1972, relations between the UK and Northern Ireland governments had broken down over the deteriorating security situation. The Northern Ireland Parliament was prorogued on 30 March 1972 and formally abolished in 1973 under the [Northern Ireland Constitution Act 1973](#).

On 8 March 1973, a referendum (a first in the UK) was held under the [Northern Ireland \(Border Poll\) Order 1973](#). This was considered the best way of determining whether Northern Ireland should remain part of the UK. In this “Border Poll”, voters were given two options:

- Do you want Northern Ireland to remain part of the United Kingdom?
- Do you want Northern Ireland to be joined with the Republic of Ireland outside the United Kingdom?

The great bulk of Catholic voters boycotted the poll, but on a 58.7% turnout 98.9% of those who voted favoured the status quo.²⁶

²⁵ Northern Ireland Office, [The Future of Northern Ireland: A Paper for Discussion](#), October 1972, p4.

²⁶ See David Torrance, [“Taking the border out of politics’ – the Northern Ireland referendum of March 1973”](#), Constitution Unit blog, 21 November 2019.

Subsequently, the [Northern Ireland Assembly Act 1973](#) restored devolved government and elections, boycotted by Republicans, were held on 28 June. The new Assembly²⁷ met for the first time on 31 July and following the [Sunningdale Agreement](#), a power-sharing Executive was established on 1 January 1974. It collapsed after only five months following a Loyalist general strike.

[Direct Rule](#) from Westminster was restored in July 1974, after which the [Northern Ireland Act 1974](#) provided that Orders in Council could be made for Northern Ireland in reserved and transferred powers, with only excepted matters enacted by primary legislation.²⁸

2.4 Developments in the 1980s

The [Northern Ireland Act 1982](#) made provision for a new Northern Ireland Assembly to monitor the activities of the Northern Ireland Departments and make proposals for the resumption by the Assembly of its former functions under the two 1973 Acts. The Assembly was dissolved on 23 June 1986 by the [Northern Ireland Assembly \(Dissolution\) Order 1986](#), before any devolution of functions had taken place. Thereafter, the 1973 and 1982 Acts remained in force, which left open the possibility of a new Assembly being elected.²⁹

The [Anglo-Irish Agreement](#) of 1985, meanwhile, enhanced the Republic of Ireland's role in attempts to resolve The Troubles. This established the Anglo-Irish Intergovernmental Conference, which was to be concerned with political, legal and security matters in Northern Ireland, as well as "the promotion of cross-border cooperation". It met with opposition from Ulster Unionist MPs, who resigned their seats in early 1986.

2.5 The peace process

On 15 December 1993, the [Downing Street Declaration](#) stated that the UK had no "selfish strategic or economic" interest in Northern Ireland. The following year, the [Irish Republican Army](#) (IRA) announced a "complete cessation of military activities", followed 43 days later by a similar announcement from the main Loyalist paramilitary groups.

On 22 February 1995, the UK Government published Frameworks for the Future, which proposed new democratic institutions. In 1996, the [Northern Ireland \(Entry to Negotiations, etc\) Act 1996](#) facilitated multi-party negotiations with the UK and Irish governments which began on 10 June, created an elected [Northern Ireland Forum](#), and made provision (under [Section 4](#)) for a future referendum.³⁰

²⁷ As with the legislatures created in 1921 and 1998, the 1973 Assembly had three categories of powers: excepted, reserved and transferred.

²⁸ For a full account of Direct Rule in Northern Ireland, see Commons Library Briefing Paper CBP-8638, [Northern Ireland: Direct Rule](#), 18 December 2019.

²⁹ See Cornelius O'Leary, Sydney Elliott and Rick Wilford, *The Northern Ireland Assembly, 1982-1986: A Constitutional Experiment*, London: C. Hurst, 1988.

³⁰ For a detailed account of the peace process see Commons Library Research Paper 96/52, [Northern Ireland Current political developments](#), 17 April 1996.

3. Belfast Agreement, 1998

The multi-party negotiations lasted for nearly two years and culminated with the [Belfast Agreement](#) (also known as the Good Friday Agreement) on 10 April 1998. This provided for:

- a new Northern Ireland Assembly, Executive and consultative [Civic Forum](#) (Strand 1);³¹ a North-South Ministerial Council (Strand 2); and a British-Irish Council (Strand 3);
- amendment of Articles 2 and 3 of the [Constitution of Ireland](#);
- a process for decommissioning weapons held by paramilitary groups and a programme for the accelerated release of paramilitary prisoners;
- the creation of a Northern Ireland Human Rights Commission and an [Equality Commission for Northern Ireland](#);
- an independent commission to make recommendations for future policing arrangements in Northern Ireland, and a review of criminal justice.

The purpose of the Belfast Agreement was to reach a compromise between Northern Ireland's two dominant communities; the cross-border institutions set out in Strand 2 hinted at a united Ireland, while the removal of territorial claims from the Irish Constitution made clear UK sovereignty.

Also key to the Agreement was the "principle of consent", with [Article 1\(ii\)](#) recognising:

that it is for the people of the island of Ireland alone, by agreement between the two parts respectively and without external impediment, to exercise their right of self-determination on the basis of consent, freely and concurrently given, North and South, to bring about a united Ireland, if that is their wish, accepting that this right must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland.

As a result, the Ulster Unionist Party (UUP) leader David Trimble and [Sinn Féin](#) president Gerry Adams told specially convened party conferences, in Belfast and Dublin respectively, that the Agreement had, in the UUP view, preserved the Union and, in the view of Sinn Féin, begun the transition to a united Ireland.³²

The Agreement was endorsed in a referendum on 22 May 1998. Most members of the UUP, the [Social Democratic and Labour Party](#) (SDLP) and Sinn Féin campaigned for a Yes vote, while the [Democratic Unionist Party](#) (DUP) and Republican splinter groups campaigned for No. During

Seamus Mallon on the peace process, 2 April 1997:

"When you strip away the verbiage from the Sinn Féin position all we are talking about is Sunningdale for slow learners [...] the starting point for them will be somewhere around what was in place in 1973."

³¹ The Civic Forum met for the first time in October 2000 but was suspended along with the Assembly in 2002. In 2015, Sinn Féin and the DUP decided that instead of reconvening the Forum, they would establish a small civic advisory panel (see Paul Nolan & Robin Wilson, [Dialogue and engagement: lessons from the Northern Ireland Civic Forum](#), Joseph Rowntree Charitable Trust, December 2015).

³² Rick Wilford & Robin Wilson, "A 'Bare Knuckle Ride': Northern Ireland", in Robert Hazell (ed), *The State and the Nations: The First Year of Devolution in the United Kingdom*, Exeter: Imprint Academic, 2000, p81.

the campaign, UUP leader David Trimble and SDLP leader John Hume appeared together on stage with U2's Bono at a concert in Belfast.

As in 1973, votes were counted on a Northern Ireland-wide basis. The question was:

Do you support the Agreement reached at the Multi-Party Talks in Northern Ireland and set out in Command Paper 3883?

71.1% voted Yes and 28.9% No. The turnout was 81%.³³

At a special *ard fheis* (conference) on 10 May, Sinn Féin delegates voted overwhelmingly for the party to take up its seats in the new Assembly, overturning its long-standing policy of abstentionism (although not at Westminster, see **Box 3**).

On 25 June 1998, elections were held to the Northern Ireland Assembly under the terms of the [Northern Ireland \(Elections\) Act 1998](#). It was to be called the "New Northern Ireland Assembly" or "Shadow Assembly" to distinguish it from the Northern Ireland Assembly for which legislative provision remained at that point under the *Northern Ireland Constitution Act 1973*.

The Shadow Assembly met for the first time on 1 July at the Castle Buildings on the Stormont Estate,³⁴ when David Trimble was elected First Minister (Designate) and the SDLP deputy leader Seamus Mallon deputy First Minister (Designate). The then Secretary of State, Mo Mowlam, appointed Lord Alderdice as the "Initial" Presiding Officer.³⁵

3.1 Northern Ireland Act 1998

Following the successful referendum, the *Northern Ireland Bill* was introduced to the House of Commons to give legal force to the Belfast Agreement. It sought to repeal parts of the *Government of Ireland Act 1920* and *Northern Ireland Constitution Act 1973* and transfer legislative functions to the Assembly and executive functions to the First Minister and deputy First Minister, once negotiations were completed.

The Act also gave the Secretary of State for Northern Ireland the power to call for a referendum:

if at any time it appears likely to him that a majority of those voting would express a wish that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland.³⁶

Tony Blair, speech at the Royal Agricultural Society in Belfast:

"You will all make up your own minds about the agreement. It is your decision. But I honestly believe that to say Yes is to say yes to hope, to peace, to stability, and to prosperity. A No vote is to turn your back on the future."

³³ Commons Library Research Paper 99/30, [Referendums: Recent Developments](#), 16 March 1999, p49. A referendum in the Republic of Ireland also endorsed the Belfast Agreement with 94% voting Yes (on a 56% turnout), as well as related changes to Articles 2 and 3 of the Irish constitution.

³⁴ The "Stormont" Parliament Buildings were being refurbished at the time.

³⁵ It had been intended that the Assembly would elect its own Presiding Officer, but in the event Lord Alderdice was confirmed in office in late 1999. The Assembly's [Standing Orders](#) provided for him to be addressed as "Speaker".

³⁶ Commons Library Research Paper 98/76, [The Northern Ireland Bill: Implementing the Belfast Agreement](#), 20 July 1998. See also Commons Library Research Paper 98/77, [The Northern Ireland Bill: Some Legislative and Operational Aspects of the Assembly](#), 17 July 1998.

Later, Lord Bingham, then a Lord of Appeal in Ordinary, referred to the *Northern Ireland Act 1998* as “in effect a constitution”.³⁷

3.2 Subsequent developments

The Shadow Assembly met for a second time on 14 September 1998, this time at the refurbished Parliament Buildings. At its third meeting on 18 January 1999, the Assembly approved new departmental structures, which formed the basis of the present [Northern Ireland Departments](#).

On 16 February 1999, the Assembly approved the numbers and titles of the new Departments and provided for the composition and operation of the consultative Civic Forum.

In May 1999, the UK Parliament considered and passed [The Northern Ireland \(Location of Victims' Remains\) Act 1999](#), which establishing a Commission to facilitate the location of the remains of victims of violence, otherwise known as “The Disappeared”.³⁸

On 15 July, and despite agreement not having been reached on the formation of an Executive, the d'Hondt procedure for nominating Ministers was activated by the Assembly.

However, only Sinn Féin and the SDLP made nominations. Since, under Additional Initial Standing Orders, Ministers could only hold office if their nominations included three designated Unionists and three designated Nationalists, the Assembly was adjourned.

US [Senator George Mitchell](#) presided over a review of the political process which concluded on 19 November 1999. This reached a compromise between the UUP and Sinn Féin positions on decommissioning, suggesting that all weapons should be put beyond use by 22 May 2000.

The Assembly met again on 29 November 1999. Ten Ministers, three each from the UUP and the SDLP and two each from the DUP and Sinn Féin, were nominated as were the Chairpersons and Deputy Chairpersons for the 10 Statutory Departmental Committees.³⁹

On 30 November 1999, the Secretary of State made the [Northern Ireland Act 1998 \(Commencement Order No 5\)](#) which resulted in the formal devolution of powers to the Northern Ireland Assembly from 2 December 1999.⁴⁰

The *Government of Ireland Act 1920* was [repealed](#) the same day.

³⁷ [Robinson v Secretary of State for Northern Ireland \[2002\] UKHL 32](#), para 11.

³⁸ Commons Library Research Paper 99/49, [The Northern Ireland \(Location of Victims' Remains\) Bill](#), 7 May 1999.

³⁹ With 92 out of 108 MLAs members of power-sharing parties, the role of Assembly “opposition” fell to smaller parties such as the [Alliance](#) and [Northern Ireland Women's Coalition](#).

⁴⁰ Northern Ireland Assembly website, [“History of the Assembly”](#).

4. Devolution by deadline

Significantly, devolution to Northern Ireland proceeded without the decommissioning of IRA weaponry. Progress on that front would shape the early years of the Northern Ireland Assembly and Executive.

“The conflict between the two communities in Northern Ireland was not resolved by the GFA,” judged the academic Brigid Laffan. “Rather, it morphed into a non-violent conflict, an uneasy peace rather than deep reconciliation.”⁴¹

On 11 February 2000, following reports from the [Independent International Commission on Decommissioning](#) (IICD) that it had “received no information from the IRA as to when decommissioning will start”, the then Secretary of State, Peter Mandelson, under powers derived from the [Northern Ireland Act 2000](#), suspended the Executive and restored Direct Rule.⁴²

An agreement was subsequently reached that allowed the restoration of devolved institutions with effect from 30 May 2000.

In London, meanwhile, Parliament was considering the *Police (Northern Ireland) Bill*, which was designed to implement the recommendations of the [Independent Commission on Policing for Northern Ireland](#), chaired by Lord Patten, established under the Belfast Agreement to bring forward proposals for a police service capable of attracting and sustaining support from across Northern Ireland.⁴³ The [Police \(Northern Ireland\) Act 2000](#) replaced the [Royal Ulster Constabulary](#) with the [Police Service of Northern Ireland](#).

Continuing delays in decommissioning led to the resignation of David Trimble as First Minister on 1 July 2001. To allow time to resolve that situation, the Secretary of State ordered 24-hour suspensions of the Assembly on 10 August and 22 September 2001. On 23 October, the IRA announced its decommissioning process, saying the move was in order “to save the peace process”.⁴⁴

David Trimble was eventually re-elected on 5 November 2001 as First Minister along with Mark Durkan as deputy First Minister, who succeeded the retiring Seamus Mallon (see **Box 2**).⁴⁵

It therefore took a long time for “normal” politics to resume. The first Programme for Government, which set out the Executive’s policy commitments, was published on 6 March 2001. DUP Ministers also adopted a “half in, half out” approach, boycotting Executive meetings and voting against measures in the Assembly.⁴⁶

⁴¹ Brigid Laffan, [“Brexit: Re-opening Ireland’s ‘English Question’”](#), *Political Quarterly*, 22 October 2018, p1.

⁴² See Commons Library Research Paper 00/13, [The Northern Ireland Bill](#), 7 February 2000.

⁴³ Commons Library Research Paper 00/58, [The Police \(Northern Ireland\) Bill](#), 5 June 2000.

⁴⁴ Joanne McEvoy, p150.

⁴⁵ *Ibid.*, p135.

⁴⁶ *Ibid.*, p142.

The extent of ministerial autonomy also became controversial, with notable “solo runs” by Sinn Féin Ministers: Bairbre de Brún’s on maternity services and Education Minister Martin McGuinness’s decision, made just days before the 2002 suspension (see below) to abolish the eleven-plus. The former was ruled unlawful following a judicial review on the basis that de Brún had not adequately consulted the Assembly, while the latter sparked considerable opposition among Unionists.⁴⁷

Throughout 2002, sectarian violence and allegations that the IRA had broken its ceasefire (despite a second act of decommissioning on 8 April) caused further problems for devolution in Northern Ireland. On 4 October 2002, three Sinn Féin party members were arrested on charges of spying. This led directly to the suspension of the Assembly by the Secretary of State on 14 October 2002.

Despite these inter-party tensions, the 1999-2002 Assembly passed 36 Acts on transferred matters.⁴⁸

Box 2: Robinson v Secretary of State for Northern Ireland [2002] UKHL 32

The original *Northern Ireland Act 1998* imposed a duty on the Secretary of State for Northern Ireland to “propose a date for a poll for the election of the next Assembly” if, after six weeks of a vacancy or following an Assembly election, no First Minister and deputy First Minister had been appointed.

Power-sharing had been formally restored on 23 September 2001. The first Assembly ballot was held on 2 November 2001 (2 days before the deadline expired). David Trimble (UUP) and Mark Durkan (SDLP) failed to receive the requisite cross-community support to be elected.

Six MLAs from the Alliance and Northern Ireland Women’s Coalition (NIWC)⁴⁹ re-designated themselves as “Unionists” following cross-party talks in the days following the failed vote. This enabled a vote to take place on 6 November (2 days after the deadline expired) in which David Trimble and Mark Durkan were duly elected as First Minister and deputy First Minister. The Secretary of State decided, in the extraordinary circumstances, to designate the date of the next poll for Northern Ireland elections as 1 May 2003, the date on which elections would, in any case, have taken place by default.

Peter Robinson MLA, leader of the DUP, challenged the legality of the second Assembly ballot and of the Secretary of State’s decision regarding the next poll date. He argued that the Secretary of State was instead under a duty to call fresh Assembly elections as soon as reasonably practicable because the statutory limit had expired.

The House of Lords ruled (by a majority of 3-2) that both the election of FM and DFM and the Secretary of State’s decision were lawfully taken. Adopting a “generous and purposive” interpretation of a constitutional statute, Lord Bingham concluded that:

Parliament imposed no temporal limitation either on the making of the proposal or on the date proposed. If there appeared to be no prospect of an imminent and effective election under section 16(8), or if the Assembly resolved under section 32(1) that it be dissolved forthwith, the Secretary of State would no doubt be expected to propose a very early date for a poll. If, on the other hand, the Assembly resolved on dissolution at a future date earlier than its normal terminal date, the Secretary of State might no doubt be expected to propose a date further in the future. And if an effective election under section 16(8) appeared to be imminent, one would expect the Secretary of State to pause in order that the political process might take effect and, if it did, to propose a date in the future which would take account of that effective election.⁵⁰

⁴⁷ Ibid., p143.

⁴⁸ Ibid., p136.

⁴⁹ The NIWC was dissolved in 2006 following declining electoral support.

⁵⁰ [Robinson v Secretary of State for Northern Ireland and Others \(Northern Ireland\) \[2002\] UKHL 32](#), para 15.

5. Direct Rule, 2003-06

Following the suspension of the Assembly, legislation being considered by the Assembly was processed instead through Westminster, where it took the form of Orders in Council, just as it had between 1974-99.

The Assembly was formally dissolved on 28 April 2003 in anticipation of an election in May 2003. The [Northern Ireland Assembly \(Elections and Periods of Suspension\) Act 2003](#) postponed the election due on 29 May and provided for the temporary suspension of elections until 15 November 2003, but with power for the Secretary of State to continue the suspension for further periods of 6 months maximum.⁵¹

A [Joint Declaration](#) was published on 1 May 2003 which stated that the devolved institutions, if restored, could flourish only in a climate of trust. A draft [Agreement on Monitoring and Compliance](#) between the British and Irish Governments was also published, envisaging the establishment of an [Independent Monitoring Commission](#) to look at various commitments under the Belfast Agreement. The [Northern Ireland \(Monitoring Commission etc\) Act 2003](#) was introduced to implement this proposal, which, among other functions, enabled the exclusion of Ministers or parties from the Northern Ireland Executive.⁵²

Elections took place on 26 November 2003. Both Sinn Féin and the DUP gained support and seats, thus altering the balance of power within the Assembly. A few months later, the UUP MP Jeffrey Donaldson and two newly-elected UUP MLAs, Arlene Foster and Norah Beare, defected to the DUP.⁵³

A review of the Belfast Agreement involving all the political parties in Northern Ireland began in early 2004. This was halted after the [Progressive Unionist Party](#) withdrew in March but talks on restoring the Assembly resumed at Stormont following European Parliament elections in June. Three days of intensive discussions at Leeds Castle in Kent, however, ended with parties failing to reach an agreement. Nonetheless, further talks were held at Stormont to discuss the “sticking points”.

By the end of November 2004, talks for an agreement had reached a critical stage. Sinn Féin president Gerry Adams met with the head of Northern Ireland’s police force, Hugh Orde, to discuss the “demilitarisation of republican heartlands”. The meeting came after DUP leader Ian Paisley held talks with the head of the decommissioning body to discuss IRA disarmament. Discussions were also held by both leaders at Downing Street.

⁵¹ See Commons Library Research Paper 03/21, [Northern Ireland Assembly Elections Bill \(Bill 74 of 2002/03\)](#), 13 March 2003, and Commons Library Research Paper 03/43, [Northern Ireland Assembly \(Elections and Periods of Suspension\) Bill \(Bill 104 of 2002/03\)](#), 9 May 2003.

⁵² See Commons Library Research Paper 03/69, [The Northern Ireland \(Monitoring Commission etc\) Bill \(HL\) \(Bill 158 of 2002/03\)](#), 16 September 2003.

⁵³ At the UK general election on 5 May 2005, the UUP lost all but one seat while the DUP and Sinn Féin increased their support.

On 8 December 2004, Ian Paisley confirmed that a deal to restore devolution would not be signed.⁵⁴ On 21 December, an armed gang stole £26.5m from the Northern Bank in Belfast city centre. On 7 January 2005, Chief Constable Hugh Orde said the IRA were responsible.

On 28 July 2005, the IRA issued a statement calling on all IRA units to end the armed campaign and dump their weapons. On 26 September, the IICD announced that the IRA had completed its decommissioning process. There was no sign, however, that the [Loyalist Volunteer Force](#) and [Ulster Defence Association](#) intended to follow suit.⁵⁵

The [Northern Ireland \(Miscellaneous Provisions\) Act 2006](#), meanwhile, changed the rules governing the disclosure of political donations to parties in Northern Ireland.⁵⁶ Part 4 of the Act also provided for the possible devolution of policing and justice functions to the Assembly and Executive, including an extension of the last date for the amnesty period for arms decommissioning to February 2010.⁵⁷

The [Northern Ireland Act 2006](#) allowed the Secretary of State to dissolve the Assembly if a First and deputy First Minister were not elected by 25 November 2006. A non-legislative fixed-term [Assembly](#), whose membership consisted of the 108 members elected at the November 2003 election, was then created. This met for the first time on 15 May 2006 with a remit to prepare for the restoration of devolved government and for a fully-restored Assembly. Its discussions informed the next round of talks.

5.1 St Andrews Agreement, 2006

Multi-party negotiations took place from 11 October to 13 October 2006 between the UK and Irish governments and all the major parties in Northern Ireland, including the two largest, the DUP and Sinn Féin.

The draft deal, which adjusted the Belfast Agreement of 1998, included:

- full acceptance of the Police Service of Northern Ireland by Sinn Féin, and a commitment from the DUP to form a power-sharing Executive;
- devolution of policing and justice powers within two years from restoration of the Executive.
- requiring the Executive to develop strategies relating to the [Irish](#) and [Ulster Scots](#) languages.
- the adoption of a statutory Ministerial Code which would, inter alia, set out the obligations of individual Ministers on the referral of matters to the Executive Committee;⁵⁸

Ian Paisley, 26 March 2007:

“After a long and difficult time in the Province, I believe that enormous opportunities lie ahead for Northern Ireland. Devolution has never been an end in itself but is about making a positive difference to people’s lives. I want to make it clear that I am committed to delivering, not only for those who voted for the DUP, but for all the people of Northern Ireland.”

⁵⁴ Commons Library Briefing Paper SN/PC/2899, [Northern Ireland – political developments since November 2003](#), 10 February 2005.

⁵⁵ Joanne McEvoy, p151.

⁵⁶ As of 1 July 2017, the anonymity provisions for donations to political parties in Northern Ireland [were removed](#) but not applied retrospectively.

⁵⁷ Commons Library Briefing Paper SNO4114, [The Northern Ireland \(Miscellaneous Provisions\) Bill 2005-06 – Major Amendments](#), 26 July 2006.

⁵⁸ Northern Ireland Office website, [“Agreement at St Andrews”](#), 13 October 2006.

- enabling the Assembly to refer ministerial decisions for Executive review if 30 MLAs petitioned it to do so;
- nominations for First and deputy First Minister to take place without a cross-community vote and restricting the ability of MLAs to change their community designation during an Assembly term.⁵⁹

A [Transitional Assembly](#) was established to prepare for the restoration of devolution. On 24 November 2006, Sinn Féin nominated Martin McGuinness as deputy First Minister, but the Speaker’s conclusion that Ian Paisley had also nominated himself as First Minister was disputed by 12 DUP MLAs.

The same meeting was later interrupted when the Loyalist killer Michael Stone tried to [force his way into Stormont](#) with the apparent intention of assassinating Gerry Adams and Martin McGuinness.

The subsequent [Northern Ireland \(St Andrews Agreement\) Act 2006](#) set the date for the third election to the Northern Ireland Assembly as 7 March 2007. Devolution was to be restored on 26 March. The Act also provided for a statutory Ministerial Code and amendments to the Pledge of Office.⁶⁰

At the election, the DUP and Sinn Féin again won the largest number of seats. The DUP leader Ian Paisley and Sinn Féin president Gerry Adams met at Stormont on 26 March and agreed to set up an Executive Committee by 8 May 2007.⁶¹ As this missed the outstanding deadline of 26 March, the [Northern Ireland \(St Andrews Agreement\) Act 2007](#) extended the deadline to 8 May to avoid an immediate dissolution of the Assembly.⁶²

Gerry Adams MP:
 “I believe the agreement reached between Sinn Féin and the DUP, including the unequivocal commitment, made by their party Executive and reiterated today, to the restoration of political institutions on May 8th, marks the beginning of a new era of politics on this island.”

Box 3: Sinn Féin Members at Westminster

On 18 December 2001, the House of Commons debated and agreed a motion to allow Members of Parliament (MPs) who had chosen not to take their seats to use facilities within the precincts of the House and use the departments of the House and claim Members’ Allowances. Sinn Féin moved into their offices on 21 January 2002.

A motion from the Leader of the House to suspend allowances for Sinn Féin MPs at Westminster for one year from 1 April 2005 was debated and passed on 10 March 2005. A motion to backdate the restoration of allowances to 1 November 2005 for Sinn Féin MPs was debated and passed on 8 February 2006, together with a motion to grant Sinn Féin funds analogous to [Short Money](#) for the first time.⁶³

⁵⁹ Joanne McEvoy, p168. The change from electing to nominating the First and deputy First Ministers was intended to address DUP concerns about being “elected” jointly with a Nationalist party.

⁶⁰ Commons Library Briefing Paper RP06-56, [The Northern Ireland \(St Andrews Agreement\) Bill 2006-7](#), 17 November 2006.

⁶¹ Gerry Adams would step down from the Northern Ireland Assembly in December 2010 and instead become a Teachta Dála (TD) of Dáil Éireann, the lower house of the Irish parliament, in February 2011.

⁶² Commons Library Briefing Paper RP07-32, [The Northern Ireland \(St Andrews Agreement\) \(No 2\) Bill](#), 27 March 2007. DUP MEP Jim Allister later set up a new political party called [Traditional Unionist Voice](#) in protest.

⁶³ Commons Library Briefing Paper SN01667, [Sinn Féin, Allowances and Access to Commons Facilities](#), 8 March 2006.

6. Stability, 2007-16

The period between the restoration of the Northern Ireland Assembly and Executive in May 2007 and early 2017 was one of relative stability in Northern Ireland politics, in which there were no suspensions of the devolved institutions, as in 2000 and 2001, or Direct Rule from Westminster, as between 2002-07.

DUP leader Ian Paisley retired in June 2008 and was succeeded by Minister of Finance and Personnel Peter Robinson, who would become Northern Ireland's longest-serving First Minister (2008-16),⁶⁴ with Sinn Féin's Martin McGuinness continuing as deputy First Minister (2007-17). For several months, however, there was a deadlock between the DUP and Sinn Féin over the devolution of policing and justice.

This was broken on 20 November 2008, when the Executive Committee met for the first time in 154 days. On 3 September 2008, the Independent Monitoring Commission had reported that the IRA's Army Council was no longer operational or functional.

When, in March 2009, dissident Republicans killed two soldiers and a police officer, Martin McGuinness joined Peter Robinson in pledging his "whole-hearted support" to the Police Service of Northern Ireland and called on all members of the community to give any information they had on "these traitors to the island of Ireland" to the police. He did so alongside the First Minister and Chief Constable Sir Hugh Orde at Stormont Castle, which was considered "an important and symbolic display of political unity".⁶⁵

In January 2010, following [media stories involving his wife Iris](#), also a DUP MP and MLA, Peter Robinson temporarily handed over his duties as First Minister to Arlene Foster under the terms of the *Northern Ireland Act 2006*. Following a police investigation, Robinson was cleared of any wrongdoing and returned as First Minister.

6.1 Legislation at Westminster

Although this period was not one of Direct Rule, the UK Parliament continued to debate and pass legislation relating to the devolution settlement in Northern Ireland.

The [Northern Ireland Act 2009](#) progressed the devolution of policing and justice agreed at St Andrews in 2006,⁶⁶ while the [Northern Ireland Assembly Members Act 2010](#) allowed the Assembly to delegate authority for determining MLAs' salaries and allowances to either an independent body or the Assembly Commission. It also included

⁶⁴ In October 2007, Peter Robinson had suggested that a four-party "mandatory coalition with no effective opposition was not in the best interests of decision making in Northern Ireland", 11 government departments were "about twice as many as we need" and the community designation system "no basis for tackling community division in the longer term" (D. Gordon, "Robinson seeks radical shake-up of Stormont", *Belfast Telegraph*, 15 October 2007).

⁶⁵ Colin Knox, p40.

⁶⁶ Commons Library Briefing Paper RP09-18, [Northern Ireland Bill \(Bill 62 of 2008-09\)](#), 2 March 2009.

provisions – added in the House of Lords – to prevent MLAs with dual mandates as MPs or Members of the European Parliament from drawing their Assembly salaries (but not allowances).⁶⁷

6.2 Hillsborough Castle Agreement, 2010

On 5 February 2010, Sinn Féin and the DUP reached agreement at [Hillsborough Castle](#) on completing the devolution of policing and justice powers to the Northern Ireland Executive. It also included agreement on parades and on implementing outstanding matters from the St Andrews Agreement.⁶⁸

Three days later, [General John de Chastelain](#), the head of the Independent International Commission on Decommissioning, announced that the [Irish National Liberation Army](#), the [Official IRA](#) and the [South-East Antrim Ulster Defence Association](#) had decommissioned their weapons.⁶⁹

Elections on 5 May 2011 resulted in little change in the overall party composition of the Northern Ireland Assembly, with the two largest parties remaining the DUP (with 38 MLAs) and Sinn Féin (with 29 MLAs).⁷⁰

6.3 Implementing the Hillsborough Castle Agreement

In 2013 and 2014 the UK Parliament debated the *Northern Ireland (Miscellaneous Provisions) Bill 2013-14*. Its main provisions were to:

- give the Secretary of State power to make transparent the declaration of donations and non-commercial loans to political parties in Northern Ireland from September 2014;
- abolish dual mandates – previously, MLAs could also sit in the House of Commons – while disqualifying members of the Dáil from becoming Assembly Members;
- modify the way in which a Minister is appointed to the [Department of Justice](#);
- move the Northern Ireland Assembly on to a five-year term (in line with the Scottish Parliament and National Assembly for Wales), so that the next Assembly election would take place in 2016;

⁶⁷ Commons Library Briefing Paper RP10-25, [Northern Ireland Assembly Members Bill \(HL\) \(Bill 75 of 2009-10\)](#), 9 March 2010. So-called “double jobbing” had increasingly become an issue in Northern Irish politics. At one point, Ian Paisley was simultaneously an MLA, MP and MEP. By 2011, however, all the major parties in Northern Ireland had agreed in principle to end dual or triple mandates.

⁶⁸ Northern Ireland Office website, [“Hillsborough Castle Agreement”](#), 5 February 2010.

⁶⁹ Commons Library Briefing paper SN05350, [The Hillsborough Agreement](#), 18 March 2010.

⁷⁰ Commons Library Briefing Paper RP11-42, [Northern Ireland Assembly Elections: 2011](#), 19 May 2011.

- enable the Assembly to reduce its size from 108 to 90 MLAs with the consent of the Secretary of State for Northern Ireland and the UK Parliament.⁷¹

The [Northern Ireland \(Miscellaneous Provisions\) Act 2014](#) received Royal Assent on 13 March 2014.

6.4 Stormont House Agreement, 2014

The [Stormont House Agreement](#) of December 2014 included a range of potential changes for Northern Ireland, including:

- devolution of Corporation Tax;
- flexibility in welfare reform implementation;
- creation of an “official opposition” in the Assembly, consisting of any party eligible to take up Ministerial positions but choosing not to do so;
- reduction of Northern Ireland Departments from 12 to 9 before the 2016 Assembly elections,⁷² and reduction of the number of MLAs from 108 to 90 by 2021;⁷³
- extension of the period for agreeing a Programme for Government following the first post-election meeting of the Assembly from 7 to 14 days, and for it to be agreed *before* the First and deputy First Ministers and other Executive Ministers are selected;
- establishing bodies to consider the legacy of “The Troubles”: An [Historical Investigations Unit](#), an [Independent Commission on Information Retrieval](#), an independent [Oral History Archive](#) and an [Implementation and Reconciliation Group](#).

The Agreement was accompanied by a package of almost £2 billion in financial support from the UK Government.⁷⁴

In December 2014, Chancellor George Osborne announced his intention to devolve Corporation Tax to Northern Ireland and the [Corporation Tax \(Northern Ireland\) Act 2015](#) received Royal Assent on 26 March 2015.⁷⁵

Implementation of the rest of the Agreement ran aground over welfare reform. Sinn Féin wanted to use devolved powers to offset the impact of UK Government reforms, but agreement could not be reached. This created problems in agreeing a balanced budget in Northern Ireland, one of the factors that had given rise to the Stormont House process.

In August 2015, meanwhile, the Police Service of Northern Ireland stated that IRA members may have been involved in the murder of a

⁷¹ Commons Library Briefing Paper SN06843, [Northern Ireland \(Miscellaneous Provisions\) Bill: amendments](#), 11 March 2014.

⁷² The resulting [departmental reorganisation](#) was announced to the Assembly by Peter Robinson in March 2015.

⁷³ In the event, the reduction took effect at an “extraordinary” election in March 2017.

⁷⁴ Commons Library Briefing Paper CBP-7284, [Northern Ireland: Stormont House Agreement and implementation](#), 19 August 2015.

⁷⁵ See Commons Briefing Paper SN07078, [Corporation tax in Northern Ireland](#), 16 May 2018.

former IRA member, Kevin McGuigan Snr. This implied official recognition that the IRA still existed.

In response, the Ulster Unionist Party left the Executive and DUP Ministers adopted a strategy of rolling resignations. First Minister Peter Robinson stood aside in September after his attempt to adjourn the Assembly was rejected. Arlene Foster again became Acting First Minister while Martin McGuinness remained as deputy First Minister.

The UK Government also commissioned an [independent assessment of paramilitary organisations](#) in September 2015, which reported in October 2015. It concluded that all the main paramilitary groups operating during The Troubles still existed, and that members still engaged in violence, but that their leaderships were committed to political objectives achieved through peaceful means.

The DUP returned to its normal role in the Executive following this report, including Peter Robinson as First Minister.

6.5 Fresh Start Agreement

The five largest parties in the Assembly also began talks with the Irish and UK Governments regarding implementation of the Stormont House Agreement.

After ten weeks an agreement was reached, and [A Fresh Start: the Stormont Agreement and Implementation Plan](#) was published on 17 November 2015. This included measures on welfare and paramilitarism, a commitment to a start date and rate for the devolution of Corporation Tax (April 2018 at 12.5%), a draft *Northern Ireland Assembly Bill* to reduce the number of MLAs for each constituency from six to five, and a restriction on spending plans that exceeded the “block grant” or borrowing limits.⁷⁶

The subsequent [Northern Ireland \(Welfare Reform\) Act 2015](#) (and related Order in Council based on the *Northern Ireland Assembly Welfare Reform Bill*) facilitated welfare reform in Northern Ireland, including £585 million from Executive funds to “top-up” UK welfare arrangements over a four-year period.

The [Northern Ireland \(Stormont Agreement and Implementation Plan\) Act 2016](#) gave legislative effect to other commitments in the Fresh Start Agreement, including a new [Independent Reporting Commission](#) to monitor progress towards ending paramilitary activity and changes to the ministerial Pledge of Office and commitments from MLAs.

Finally, the Act provided for a longer period between the Assembly meeting after an election and the creation of an Executive. This was to facilitate greater discussion of a [Programme of Government](#).⁷⁷

⁷⁶ Commons Library Briefing Paper CBP-7389, [A Fresh Start: the Stormont Agreement and Implementation Plan and the Northern Ireland \(Welfare Reform\) Bill 2015-16 \[Bill 99\]](#), 20 November 2015.

⁷⁷ Commons Library Briefing Paper CBP-7503, [Northern Ireland \(Stormont Agreement and Implementation Plan\) Bill 2015-16 \[Bill 133\]](#), 15 February 2016.

On 19 November 2015, Peter Robinson announced his intention to resign as First Minister and leader of the DUP. He stood down on 11 January 2016 and was succeeded by Arlene Foster in both positions. Assembly elections on 5 May 2016 resulted in little change.⁷⁸

Following those elections, both the SDLP and UUP chose not to join the power-sharing Executive and instead formed the [official opposition](#), something enabled by the Stormont House Agreement of 2014.⁷⁹

6.6 Brexit

A month after the 2016 Assembly contest, electors across the United Kingdom voted in a referendum on membership of the European Union (EU). While the UK as a whole voted by 52% to 48% in favour of leaving the EU, voters in Northern Ireland supported Remain by 56% to 44%. The DUP campaigned for “Leave” vote and Sinn Féin “Remain”.⁸⁰

Following the majority “Leave” vote, the status of the Northern Irish border, which had been de-militarised under the Belfast Agreement, became the subject of lengthy negotiations between the UK and EU.⁸¹ In March 2017, Sinn Féin Assembly leader, Michelle O’Neill, said she wanted to see an “Irish unity referendum” take place “as soon as possible”.⁸²

A revised Withdrawal Agreement published on 17 October 2019 included an [Ireland/Northern Ireland Protocol](#). A separate [Unilateral Declaration](#) explained the Northern Ireland Assembly’s role in providing “consent” for certain EU regulations continuing in Northern Ireland.⁸³

Box 4: Judicial review and the Northern Ireland Executive

Following the restoration of devolved institutions in 2007, there were several judicial reviews of alleged breaches of the statutory Ministerial Code (introduced in 2007) or of Executive responsibilities, which arose in part from the autonomous nature of the 12 (later 9) Departments:

- In 2008, a judge ruled that the Social Development Minister, Margaret Ritchie (SDLP) had breached the Ministerial Code by removing £1m of funding for a loyalist conflict transformation initiative without seeking full Executive approval;
- In October 2013, Health Minister Edwin Poots (DUP) was found to have breached the Ministerial Code for not bringing a ban on homosexual men giving blood before the Executive Committee;
- In December 2013, the High Court ruled that Sinn Féin’s Agriculture Minister, Michelle O’Neill, had also breached the Ministerial Code by reallocating £100m of Common Agricultural Policy funding into broader rural development without Executive approval;
- And in December 2014, the Enterprise Minister Arlene Foster sought a judicial review against Environment Minister Mark Durkan (SDLP) over his decision to launch the Belfast Metropolitan Area Plan without Executive agreement.⁸⁴

⁷⁸ Commons Library Briefing Paper CBP-7575, [Northern Ireland Assembly Elections: 2016](#), 19 May 2016.

⁷⁹ See BBC News online, [“NI Assembly: SDLP to go into opposition”](#), 19 May 2016.

⁸⁰ Commons Library Briefing Paper CBP-7639, [Analysis of the EU Referendum results 2016](#), 29 June 2016.

⁸¹ See Commons Library Briefing Paper CBP-8042, [Brexit Negotiations: The Irish border question](#), 17 July 2017.

⁸² Noel McAdam, [“Unionists anger at Sinn Fein’s call for Irish border poll in wake of SNP Scotland referendum move”](#), *Belfast Telegraph*, 14 March 2017.

⁸³ For full details of the “consent” mechanism, see Library Briefing Paper CBP-8713, [The October 2019 EU UK Withdrawal Agreement](#), 18 October 2019, pp38-42.

⁸⁴ Derek Birrell & Cathy Gormley-Heenan, p59.

7. Collapse of institutions, 2017–20

On 9 January 2017, Martin McGuinness of Sinn Féin announced he was resigning as deputy First Minister of Northern Ireland. Sinn Féin declined to nominate a successor, which meant First Minister Arlene Foster also stood down.⁸⁵

This followed a dispute between Sinn Féin and the DUP concerning the [Renewable Heat Incentive](#) (RHI) subsidy scheme, which later became the subject of a [public inquiry](#). Arlene Foster had established the RHI as Minister for Enterprise, Trade and Investment. A flaw in the scheme was subsequently identified which posed a major liability to the Northern Ireland block grant for 20 years, and it was closed in February 2016.⁸⁶

7.1 Extraordinary Assembly election

An extraordinary election was held on 2 March 2017, which saw the DUP and Sinn Féin remain the two largest parties, although without an overall Unionist majority. This was the first Assembly election to take place following the reduction to 90 MLAs.⁸⁷

An initial round of talks on forming an Executive took place, but on 27 March the statutory time limit for the appointment of Ministers passed. The deadline for a second round of talks also passed on 18 April. On 27 April, the statutory time limit for creating an Executive was extended to 108 days.⁸⁸

This process was interrupted by a UK general election on 8 June 2017, after which a third round of talks began. On 26 June, the Conservatives and DUP negotiated a [confidence-and-supply agreement](#) for the UK Government, which included an additional £1 billion funding for Northern Ireland. A fourth round of talks began on 4 September 2017.⁸⁹

Agreement seemed close following a fifth round of talks in February 2018, but the DUP leader Arlene Foster said a deal proved impossible due to the “standalone” Irish Language Bill sought by Sinn Féin. There was also disagreement on same-sex marriage in Northern Ireland, and complications arising from the ongoing Brexit negotiations.⁹⁰

⁸⁵ Martin McGuinness died on 21 March 2017 aged 66.

⁸⁶ Commons Library, [“Northern Ireland: resignation of Deputy First Minister”](#), 11 January 2017.

⁸⁷ Commons Library Briefing Paper CBP-7920, [Northern Ireland Assembly Elections: 2017](#), 9 March 2017.

⁸⁸ See section 1(1) of the [Northern Ireland \(Ministerial Appointments and Regional Rates\) Act 2017](#)

⁸⁹ The Northern Ireland Affairs Committee report, [Devolution and democracy in Northern Ireland – dealing with the deficit](#), includes a useful “Timeline” of events in Northern Ireland 2016-18 on pp3-4.

⁹⁰ See BBC News online, [“Power-sharing talks collapse at Stormont”](#), 14 February 2018. In the absence of fully-functioning devolved institutions, the Northern Ireland Assembly could not consider legislative consent for the [European Union \(Withdrawal\) Act 2018](#).

In a statement, Foster said the failure of the talks meant it was:

now incumbent upon Her Majesty's Government to set a budget and start making policy decisions about our school, hospitals and infrastructure.⁹¹

7.2 Westminster legislation since January 2017

In the absence of fully-functioning devolved institutions in Northern Ireland or Direct Rule from Westminster, the UK Parliament pursued a policy of only legislating on behalf of Northern Ireland when necessary.

The [Northern Ireland Budget Act 2017](#),⁹² [Northern Ireland Budget \(Anticipation and Adjustments\) Act 2018](#), [Northern Ireland Budget Act 2018](#),⁹³ and [Northern Ireland Budget \(Anticipation and Adjustments\) Act 2019](#) all made provision for spending on public services in Northern Ireland to continue until 31 March 2020.

The [Northern Ireland \(Regional Rates and Energy\) Act 2018](#) provided legislative authority for the collection of regional domestic and non-domestic rates.⁹⁴

The [Northern Ireland Assembly Members \(Pay\) Act 2018](#) also enabled the Secretary of State to intervene on pay for MLAs.⁹⁵ On 29 March 2018, Karen Bradley issued a [Determination](#) that a £500 inflationary increase due on 1 April 2018 would not apply. This followed [recommendations made by Trevor Reaney](#), a former Clerk to the Northern Ireland Assembly.

On 28 September 2018, the Secretary of State wrote to MLAs to confirm their salary would be cut by 15% from 1 November, and by a further 12.5% from 1 January 2019 if an Executive had not been formed.⁹⁶

7.3 Political developments, 2017-19

On 6 September 2018, Karen Bradley, the Secretary of State for Northern Ireland, announced her intention to introduce primary legislation to allow certain decisions to be taken in the absence of a devolved Assembly and Executive.⁹⁷

⁹¹ [The Journal, "McDonald: 'Three language acts were included in draft DUP deal, but no agreement on marriage equality'",](#) 15 February 2018.

⁹² See Commons Library Briefing Paper CBP8122, [Northern Ireland Budget Bill 2017-19](#), 14 November 2017.

⁹³ See Commons Library Briefing Paper CBP8363, [Northern Ireland Budget \(No. 2\) Bill 2017-19](#), 4 July 2018.

⁹⁴ Commons Library Briefing Paper CBP-8266, [Northern Ireland \(Regional Rates and Energy\) Bill 2017-19](#), 21 March 2018.

⁹⁵ See Commons Library Briefing Paper CBP8267, [Northern Ireland Assembly Members \(Pay\) Bill 2017-19](#), 21 March 2017.

⁹⁶ Northern Ireland Office news release, ["Secretary of State confirms MLA pay reduced by 1 November 2018"](#), 28 September 2018. MLA pay had also been reduced during the 2002-07 period of Direct Rule from Westminster.

⁹⁷ [HC Deb 06 September 2018 vol 646 c347](#)

This followed a number of events which were perceived as increasing pressure on the UK Government to act.

Historical Institutional Abuse inquiry

In January 2017, the [Historical Institutional Abuse](#) (HIA) inquiry chaired by Sir Anthony Hart recommended compensation for victims ranging from £7,500 to £100,000. The lack of a devolved Executive, however, prevented implementation, which led one victim (known only as JR80) to [seek a judicial review](#).

In granting leave for this in April 2018, Mr Justice McCloskey said there was:

a seemingly indefinite moratorium in Northern Ireland affecting the Executive and the legislature [...] One of the consequences of this moratorium is that members of the Northern Ireland population are driven to seek redress from the High Court in an endeavour to address aspects of the void that has been brought about by the absence of a government and legislature.⁹⁸

Buick case

In September 2017, the Northern Ireland [Department for Infrastructure](#) granted planning permission for the Arc 21 waste disposal incinerator at Mallusk, after which an environmental group petitioned for a judicial review.

On 14 May 2018, Mrs Justice Keegan, sitting in the High Court in Belfast, ruled that Peter May, the department's permanent secretary, had acted unlawfully in so doing:

I do not consider that Parliament can have intended that such decision making would continue in Northern Ireland in the absence of ministers without the protection of democratic accountability.

Mrs Justice Keegan added that the case advanced by the Department for Infrastructure "would mean civil servants in Northern Ireland could effectively take major policy decisions such as this one for an indefinite period".⁹⁹

The Court of Appeal [dismissed an appeal](#) by the Department for Infrastructure against the judgment on 6 July 2018.¹⁰⁰

Northern Ireland (Executive Formation and Exercise of Functions) Act 2018

The *Northern Ireland (Executive Formation and Exercise of Functions) Bill 2017-19* was introduced to the House of Commons on 18 October 2018 and all its Commons stages were taken on 24 October. This made provision to:

- suspend the Secretary of State for Northern Ireland's "duty" to call another Assembly election for a time-limited period;

⁹⁸ Alan Erwin, "[Historical abuse victims secure judicial review in bid to win compensation](#)", *Belfast Telegraph*, 13 April 2018.

⁹⁹ [R \(Buick\) v Department of Infrastructure \[2018\] NIQB 43](#)

¹⁰⁰ [R \(Buick\) v Department of Infrastructure \[2018\] NICA 26](#)

- enable civil servants in the absence of Northern Ireland Ministers to take certain decisions in accordance with [guidance published by the Secretary of State](#);
- permit UK Ministers to make some public appointments in the absence of a fully-functioning Assembly and Executive.¹⁰¹

The [Northern Ireland \(Executive Formation and Exercise of Functions\) Act 2018](#) received Royal Assent on 1 November. Aspects of the Act were strongly criticised by political parties in Northern Ireland as well as academic observers.¹⁰²

7.4 Legacy issues

On 11 May 2018, the Northern Ireland Office launched a public consultation: [Addressing the legacy of Northern Ireland's Past](#). The consultation took forward proposals set out in the Stormont House Agreement in relation to legacy issues (see **Section 6.4**).

Prior to the consultation's publication, there was political and media speculation it would include a statute of limitations to prevent the prosecution of former soldiers for offences connected to The Troubles in Northern Ireland, something strongly opposed by Sinn Féin and the Irish Government. This was not included in the consultation, which concluded on 10 September 2018.¹⁰³

The Northern Ireland Office published an [Analysis of the consultation responses](#) in July 2019.

7.5 Talks to restore devolved institutions

The *Northern Ireland (Executive Formation and Exercise of Functions) Act 2018* set, in effect, a new deadline of 26 March 2019 for the restoration of devolved institutions in Northern Ireland, although this was later extended – by regulation – for another five months.

Towards the end of 2018, talks continued – both formally and informally – between political parties in Northern Ireland and the UK and Irish Governments, albeit with little progress.

On 18 April 2019, the [journalist Lyra McKee was shot](#) during unrest in Derry/Londonderry. The New IRA, a dissident republican group, admitted responsibility for the killing. McKee's funeral was attended by the leaders of Northern Ireland's main political parties, who subsequently agreed to a further round of talks, which commenced on 7 May 2019.

7.6 Abortion and same-sex marriage

In July 2019, the Government introduced the [Northern Ireland \(Executive Formation\) Bill 2017-19](#), which further extended the period

¹⁰¹ Commons Library Briefing Paper CBP-8418, [Northern Ireland \(Executive Formation and Exercise of Functions\) Bill 2017-19](#), 18 October 2018.

¹⁰² See Anurag Deb & Conor McCormick, "[The Bradley Bill and the Cessation of Constitutionalism in Northern Ireland](#)", Admin Law Blog, 26 October 2018.

¹⁰³ Commons Library Briefing Paper CBP-8352, [Investigation of Former Armed Forces Personnel Who Served in Northern Ireland](#), 26 June 2018.

for Northern Ireland Ministers to be appointed and imposed a duty upon the Secretary of State to report on progress to that end.

During its Commons Committee Stage, the Bill was amended so that the Secretary of State would be obliged to lay regulations changing the law on abortion and same-sex marriage in Northern Ireland by 21 October 2019, unless a devolved Executive had been formed.¹⁰⁴

Both issues had a high profile after the Republic of Ireland voted to decriminalise same-sex marriage and abortion in two constitutional referendums, in [May 2015](#) and [May 2018](#) respectively. Several MPs argued that Northern Ireland's position was anomalous given that both same-sex marriage and abortion were legal everywhere else in the UK.

Members of the Northern Ireland Assembly have debated same-sex marriage several times, [narrowly voting in favour in November 2015](#). However, it was blocked by the DUP using the Petition of Concern.¹⁰⁵

In the House of Lords, the *Northern Ireland (Executive Formation) Bill 2017-19* was further amended. This meant the deadline for the introduction of a regulation on same-sex marriage was moved to 13 January 2020,¹⁰⁶ and for abortion to 31 March 2020. A negative instrument was specified for the former and a positive instrument for the latter.

Additionally, sections 58 and 59 of the *Offences Against the Person Act 1861* – under which abortion constitutes a criminal offence – were to be repealed in Northern Ireland unless an Executive was in place by 21 October 2019.

These changes were accepted by the Government and the Commons. The UK Government also announced its intention to consult on the proposed changes to abortion law in Northern Ireland. The *Northern Ireland (Executive Formation etc) Act 2019* received Royal Assent on 24 July 2019.

The restoration of the Assembly and Executive on 11 January 2020 did not affect the Act's provisions. Same-sex marriage became legal on 13 January, while the UK Government remained bound by the 31 March 2020 deadline for regulations on abortion. Any reform after that date would be a matter for the Assembly and Executive, given both marriage and abortion were transferred matters.

The UK Government published a consultation on [A legal framework for abortion services in Northern Ireland](#), which ran until 16 December 2019. A Northern Ireland Office report on the consultation submissions was [debated in the Commons on 8 January 2020](#).

¹⁰⁴ See Commons Library Insight blog, "[Abortion and same-sex marriage in Northern Ireland: Do Westminster votes undermine devolution?](#)", 10 July 2019.

¹⁰⁵ The Assembly had conducted a [Review of the Petitions of Concern](#) in 2014 amid concerns they were "[now being played like a joker](#)" card.

¹⁰⁶ On 21 October 2019, the Secretary of State [extended the deadline for Executive formation until 13 January 2020](#), for which provision had been made in the *Northern Ireland (Executive Formation etc) Act 2019*.

8. New Decade, New Approach

On 9 January 2020, Julian Smith, the Secretary of State for Northern Ireland, and Simon Coveney, the then Irish Tánaiste, published the text of a deal, [New Decade, New Approach](#), to restore the devolved institutions in Northern Ireland three years after they collapsed.

The deal secured cross-party agreement and the Northern Ireland Assembly [convened on Saturday 11 January](#). An [Executive was therefore formed](#) two days before the statutory deadline of Monday 13 January 2020. The *New Decade, New Approach* agreement included several proposed changes to the devolution settlement in Northern Ireland.

Transparency and accountability

Annex A to the agreement proposes a number of changes, largely in response to matters arising from the [Renewable Heat Incentive controversy](#). The procedure for ministerial declaration of interests is to be strengthened, while the responsibility of Ministers for the “management, conduct and discipline” of their special advisers will be included in the Special Adviser Code of Conduct and incorporated into the [Ministerial Code](#).

Three Commissioners for Ministerial Standards are to be appointed by the First Minister and deputy First Minister, in addition to the existing [Assembly Commissioner for Standards](#). Findings from any investigations will not include recommendations regarding sanctions, which are to be a matter for the relevant party and normal “Assembly process”.¹⁰⁷

Petition of Concern

The Petition of Concern, which has been a [controversial aspect of Assembly business](#), will be reduced “and returned to its intended purpose”, although this was never explicitly set out in the Belfast/Good Friday Agreement. Petitions will, in future, only be used in the “most exceptional circumstances”.

Other changes will be given effect via [Assembly Standing Orders](#) or in legislation. While the threshold will remain at 30 MLAs, a Petition can only be triggered by members from two or more parties and will initiate a 14-day period of “consideration”.¹⁰⁸

Sustainability of institutions

The agreement also includes measures to “better withstand political difficulties, challenges and disagreements”, or in other words avoid another prolonged period without fully-functioning devolved institutions in Northern Ireland.

A Party Leaders’ forum will be established to facilitate “early warning of any issues which might cause future political tension and disagreements”.¹⁰⁹ This forum will not have any executive authority. An Executive Sub-Committee on Brexit will also be created. The parties

¹⁰⁷ Northern Ireland Office, [New Decade, New Approach](#), January 2020, pp17-19.

¹⁰⁸ Ibid., pp20-21.

¹⁰⁹ Ibid., p22.

have agreed to amend the [Assembly and Executive Reform \(Assembly Opposition\) Act 2016](#) to provide that a party can join the official opposition up to two years following the formation of an Executive.

The UK Government, meanwhile, has promised to amend the *Northern Ireland Act 1998* to extend the time for the appointment of a First Minister and a deputy First Minister from 7 and 14 days respectively to 6 weeks in each case (following the resignation of either, or an Assembly election). If this proves insufficient, then parties will have a maximum further 18 weeks to appoint a First Minister and deputy First Minister. If no appointment is made at the end of that period then the Secretary of State will be “under a duty” to propose a date for an election.

Provision will also be made for Executive Ministers to remain in office beyond polling day to allow for “greater continuity of decision making”, although they would be unable to take “significant or controversial” decisions. In the case of a First Minister/deputy First Minister resignation, the Assembly and its Committees will continue to exercise their responsibilities until the Assembly is formally dissolved.¹¹⁰

Statutory Office of Identity and Cultural Expression

The *Northern Ireland Act 1998* will also be amended by three Assembly Bills to establish a statutory Office of Identity and Cultural Expression and Commissioners for the Irish Language and “the Ulster Scots/Ulster British tradition”.¹¹¹ The UK Government has published [draft legislation](#) subject to Assembly approval.

UK Government commitments to Northern Ireland

Annex A to the agreement sets out specific UK Government commitments to Northern Ireland. These include legislation to complete implementation of the legacy aspects of the Stormont House Agreement within 100 days and the appointment of a Northern Ireland Veterans’ Commissioner.

The UK Government will also work alongside the restored Executive to “mark the centenary of Northern Ireland in 2021 in a spirit of mutual respect, inclusiveness and reconciliation”.¹¹²

Financial support and scrutiny

As with previous agreements, the UK Government has agreed to provide “additional financial support” to the restored institutions. An Independent Fiscal Council will be established in Northern Ireland by July 2020. This will provide an annual assessment of the Executive’s revenue streams and spending proposals.

Quarterly reviews and implementation of UK Government funding provided under the agreement will be overseen by a UK Government-Northern Ireland Executive Joint Board convened by the Secretary of State, and which includes the First Minister and deputy First Minister.¹¹³

¹¹⁰ Ibid., p24.

¹¹¹ Ibid., pp36-37.

¹¹² Ibid., pp46-50.

¹¹³ Ibid., p54.

9. Political leaders in Northern Ireland

9.1 First Ministers of Northern Ireland

David Trimble MLA (UUP) (1 July 1998 – 1 July 2001, 6 November 2001 – 14 October 2002)¹¹⁴

Ian Paisley MLA (DUP) (8 May 2007 – 5 June 2008)

Peter Robinson MLA (DUP) (5 June 2008 – 11 January 2010, 3 February 2010 – 10 September 2015, 20 October 2015 – 11 January 2016)¹¹⁵

Arlene Foster MLA (DUP) (11 January 2016 – 9 January 2017, 11 January 2020 –)

9.2 Deputy First Ministers of Northern Ireland

Seamus Mallon MLA (SDLP) (1 July 1998 – 6 November 2001)

Mark Durkan MLA (SDLP) (6 November 2001 – 14 October 2002)

Martin McGuinness MLA (Sinn Féin) (8 May 2007 – 20 September 2011, 31 October 2011 – 9 January 2017)¹¹⁶

Michelle O'Neill MLA (Sinn Féin) (11 January 2020 –)

9.3 Northern Ireland Assembly Speakers

Lord Alderdice MLA (Alliance) (1 July 1998 – 29 February 2004)

Eileen Bell MLA (Alliance) (8 May 2007)

William Hay MLA (DUP) (8 May 2007 – 13 October 2014)

Mitchel McLaughlin MLA (Sinn Féin) (12 January 2015 – 12 May 2016)

Robin Newton MLA (DUP) (12 May 2016 –)

Alex Maskey MLA (Sinn Féin) (11 January 2020 –)

9.4 Secretaries of State for Northern Ireland

Mo Mowlam MP (3 May 1997 – 11 October 1999)

Peter Mandelson MP (11 October 1999 – 24 January 2001)

John Reid MP (25 January 2001 – 24 October 2002)

Paul Murphy MP (24 October 2002 – 6 May 2005)

Peter Hain MP (6 May 2005 – 27 June 2007)¹¹⁷

Shaun Woodward MP (28 June 2007 – 11 May 2010)

¹¹⁴ In 1998, Ulster Unionist MLA Sir Reg Empey served as Acting First Minister. David Trimble joined the House of Lords in 2006 and left the UUP a year later to become a member of the Conservative Party.

¹¹⁵ In 2007 and 2011, DUP MLA Arlene Foster was Acting First Minister.

¹¹⁶ During 2011, Sinn Féin MLA John O'Dowd served as acting deputy First Minister.

¹¹⁷ Between 2005-07, Peter Hain also served as Secretary of State for Wales.

Owen Paterson MP (12 May 2010 – 4 September 2012)

Theresa Villiers MP (4 September 2012 – 14 July 2016)

James Brokenshire MP (14 July 2016 – 8 January 2018)

Karen Bradley MP (8 January 2018 – 24 July 2019)

Julian Smith MP (24 July 2019 –)

10. Information and further reading

10.1 Online sources of information

Northern Ireland Executive: <https://www.northernireland.gov.uk/>

Northern Ireland Assembly: <http://www.niassembly.gov.uk/>

Northern Ireland Assembly Research and Information Service (RaISe):
<http://www.niassembly.gov.uk/assembly-business/research-and-information-service-raise/>

Secretary of State for Northern Ireland:
<https://www.gov.uk/government/ministers/secretary-of-state-for-northern-ireland>

British-Irish Council: <https://www.britishirishcouncil.org/>

North-South Ministerial Council:
<https://www.northsouthministerialcouncil.org/>

Northern Ireland Life and Times Survey (opinion polling):
<http://www.ark.ac.uk/nilt/>

CAIN Web Service – Conflict and Politics in Northern Ireland:
<http://cain.ulst.ac.uk/>

History of the Northern Ireland Assembly (1998-2007):
<http://www.niassembly.gov.uk/about-the-assembly/general-information/history-of-the-assembly/>

Between [1999-2005](#) and [2006-2009](#), the Devolution Monitoring Programme at [The Constitution Unit](#) produced regular – and comprehensive – accounts of the devolution settlement in Northern Ireland.

10.2 Further reading

History of Ireland/Northern Ireland

David McKittrick & David McVea, *Making Sense of the Troubles: A History of the Northern Ireland Conflict*, London: Penguin, 2012

Richard English, *Irish Freedom: The History of Nationalism in Ireland*, London: Macmillan, 2006

Diarmaid Ferriter, *The Transformation of Ireland 1900-2000*, London: Profile, 2004

Thomas Hennessy, *A History of Northern Ireland, 1920-1996*, London: Palgrave Macmillan, 1997

Good Friday Agreement

Siobhán Fenton, *The Good Friday Agreement*, London: Biteback, 2018

David Mitchell, *Politics and peace in Northern Ireland: Political parties and the implementation of the 1998 Agreement*, Manchester: Manchester University Press, 2017

Deaglan de Breadun, *The Far Side of Revenge: Making Peace in Northern Ireland*, Cork: Collins Press, 2008

Jonathan Powell, *Great Hatred, Little Room: Making Peace in Northern Ireland*, London: Bodley Head, 2008

Politics and public policy in Northern Ireland

Sam McBride, *Burned: The Inside Story of the 'Cash-for-Ash' Scandal and Northern Ireland's Secretive New Elite*, Dublin: Merrion Press, 2019

Derek Birrell & Cathy Gormley-Heenan, *Multi-Level Governance and Northern Ireland*, London: Palgrave Macmillan, 2015

Colin Knox, *Devolution and the governance of Northern Ireland*, Manchester: Manchester University Press, 2010

Joanne McEvoy, *The Politics of Northern Ireland*, Edinburgh: Edinburgh University Press, 2008

Politicians and parties in Northern Ireland

Malachi O'Doherty, *Gerry Adams: An Unauthorised Life*, London: Faber & Faber, 2017

Jonathan Tonge et al, *The Democratic Unionist Party: From Protest to Power*, Oxford: Oxford University Press, 2014

Graham Walker, *A history of the Ulster Unionist Party: protest, pragmatism and pessimism*, Manchester: Manchester University Press, 2012.

Dean Godson, *Himself Alone: David Trimble and the Ordeal of Unionism*, London: Harper Perennial, 2011

Sean Farren, *The SDLP: The Struggle for Agreement in Northern Ireland, 1970-2000*, Dublin: Four Courts Press, 2010

Liam Clarke & Kathryn Johnston, *Martin McGuinness: From Guns to Government*, Edinburgh: Mainstream, 2001

11. Timeline of devolution in Northern Ireland, 1998-2020

22 May 1998: Referendum held on the Belfast Agreement.

25 June 1998: Elections to the Northern Ireland Assembly. Four days later David Trimble is elected First Minister (Designate) and Seamus Mallon deputy First Minister (Designate).

19 November 1998: *Northern Ireland Act 1998* receives Royal Assent.

2 December 1999: Power is passed from Westminster to Belfast and the new Northern Ireland Executive meets for the first time.

11 February 2000: Assembly is suspended following lack of agreement on decommissioning; power is restored on 20 May 2000.

6 May 2000: The IRA releases a statement saying it is ready to begin a process that would “completely and verifiably” put its arms beyond use.

11 August 2001: One-day suspension of the Northern Ireland Assembly, and again on 21 September.

6 November 2001: David Trimble and Mark Durkan elected as First Minister and deputy First Minister.

14 October 2002: Northern Ireland Assembly suspended following a major police investigation into alleged intelligence gathering by republicans.

20 March 2003: Assembly elections delayed until 29 May, and several times thereafter.

7 May 2005: David Trimble quits as leader of the Ulster Unionist Party. He is succeeded by Sir Reg Empey on 24 June.

28 July 2005: The IRA formally orders an end to its armed campaign and says it will pursue exclusively peaceful means.

26 September 2005: General John de Chastelain says the IRA has put all its weapons beyond use.

13 October 2006: The St Andrews Agreement is reached in Fife, Scotland.

13 February 2007: The last remaining British Army watchtower is dismantled in south Armagh.

26 March 2007: DUP leader Ian Paisley and Sinn Féin president Gerry Adams announce that power-sharing will return to Northern Ireland on 8 May.

8 May 2007: Direct rule over Northern Ireland by Westminster officially ends after almost five years. Ian Paisley and Sinn Féin's Martin McGuinness are sworn in as First and deputy First Ministers.

4 December 2007: Sinn Féin Education Minister, Caitríona Ruane, announces the end of the 11-plus transfer test exam. There is widespread opposition to her proposals amongst Unionists.

5 June 2008: Ian Paisley stands down as First Minister and DUP leader and is succeeded by Peter Robinson. Sinn Féin's Martin McGuinness remains deputy First Minister.

11 January 2010: Peter Robinson temporarily stands aside as First Minister. Arlene Foster becomes Acting First Minister.

5 February 2010: Sinn Féin and the DUP consent to the Hillsborough Castle Agreement on the devolution of policing and justice powers to the Assembly.

5 May 2011: Assembly elections see the two largest parties remain the DUP (with 38 MLAs) and Sinn Féin (with 29 MLAs).

23 December 2014: The Stormont House Agreement includes devolution of corporation tax and flexibility in implementing welfare reform.

August 2015: The murder of former IRA member Kevin McGuigan leads to the UUP leaving the Executive and DUP Ministers adopting a strategy of rolling resignations.

10 September 2015: First Minister Peter Robinson stands aside after failing to adjourn the Assembly.

20 October 2015: An independent assessment of paramilitary organisations reports, and Peter Robinson returns as First Minister.

17 November 2015: The Fresh Start Agreement is published, including measures on welfare and paramilitarism.

19 November 2015: Peter Robinson announces his intention to stand down as First Minister and leader of the DUP. He is succeeded by Arlene Foster on 11 January 2016.

5 May 2016: Assembly elections see the two largest parties remain the DUP (38 MLAs) and Sinn Féin (28 MLAs).

9 January 2017: Martin McGuinness resigns as deputy First Minister following a row with the DUP over the Renewable Heat Incentive. Arlene Foster also required to stand down.

2 March 2017: An extraordinary Assembly election sees the DUP and Sinn Féin remain the two largest parties.

26 June 2017: The Conservatives and DUP negotiate a confidence-and-supply agreement for the UK Government.

1 November 2018: The *Northern Ireland (Executive Formation and Exercise of Functions) Act 2018* becomes law, allowing civil servants in Northern Ireland to take some decisions in the absence of political direction.

9 January 2020: The *New Decade, New Approach* document is published and wins all-party agreement. The Northern Ireland Assembly convenes on 11 January and an Executive is formed. DUP leader Arlene Foster returns as First Minister, with Sinn Féin's Michelle O'Neill becoming deputy First Minister.

12. Elections in Northern Ireland, 1997-2019

Northern Ireland Assembly elections, 1998-2017

NORTHERN IRELAND ASSEMBLY ELECTION RESULTS												
	Share of vote (%)						Seats won					
	1998	2003	2007	2011	2016	2017	1998	2003	2007	2011	2016	2017
DUP	18.1%	25.3%	30.1%	30.0%	29.2%	28.1%	20	30	36	38	38	28
Sinn Féin	17.6%	23.2%	26.2%	26.9%	24.0%	27.9%	18	24	28	29	28	27
UUP	21.3%	22.3%	14.9%	13.2%	12.6%	12.9%	28	27	18	16	16	10
SDLP	22.0%	16.7%	15.2%	14.2%	12.0%	11.9%	24	18	16	14	12	12
Alliance	6.5%	3.6%	5.2%	7.7%	7.0%	9.1%	6	6	7	8	8	8
UK Unionists	4.5%	0.8%	1.5%	...	...	...	5	1	0	...	...	...
PUP	2.5%	1.1%	0.6%	0.2%	0.9%	0.7%	2	1	1	0	0	0
People before Profit Alliance	...	...	0.1%	0.8%	2.0%	1.8%	...	...	0	0	2	1
TUV	...	...	...	2.5%	3.4%	2.6%	...	...	...	1	1	1
UKIP	...	...	...	0.6%	1.5%	0.2%	...	...	...	0	0	0
Green Party	0.1%	0.4%	1.7%	0.9%	2.7%	2.3%	0	0	1	1	2	2
Others	7.4%	6.4%	4.4%	2.8%	4.8%	2.7%	5	1	1	1	1	1

Westminster elections in Northern Ireland, 1997-2019

WESTMINSTER GENERAL ELECTION RESULTS IN NORTHERN IRELAND											
	Share of vote (%)					Seats won					
	UUP	SDLP	DUP	SF	Other	UUP	SDLP	DUP	SF	Other	Total
1997	32.7%	24.1%	13.6%	16.1%	13.6%	10	3	2	2	1	18
2001	26.8%	21.0%	22.5%	21.7%	8.1%	6	3	5	4	0	18
2005	17.8%	17.5%	33.7%	24.3%	6.7%	1	3	9	5	0	18
2010	15.2%	16.5%	25.0%	25.5%	17.9%	0	3	8	5	2	18
2015	16.0%	13.9%	25.7%	24.5%	19.9%	2	3	8	4	1	18
2017	10.3%	11.7%	36.0%	29.4%	12.5%	0	0	10	7	1	18
2019	11.7%	14.9%	30.6%	22.8%	20.2%	0	2	8	7	1	18

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