



House of Commons  
Northern Ireland Affairs  
Committee

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**Devolution and  
democracy in Northern  
Ireland – dealing with  
the deficit: Government  
Response to the  
Committee’s Third  
Report**

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**Fifth Special Report of Session  
2017–19**

*Ordered by the House of Commons  
to be printed 11 September 2018*

## Northern Ireland Affairs Committee

The Northern Ireland Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Northern Ireland Office (but excluding individual cases and advice given by the Crown Solicitor); and other matters within the responsibilities of the Secretary of State for Northern Ireland (but excluding the expenditure, administration and policy of the Office of the Director of Public Prosecutions, Northern Ireland and the drafting of legislation by the Office of the Legislative Counsel).

### Current membership

[Dr Andrew Murrison MP](#) (*Conservative, South West Wiltshire*) (Chair)

[Mr Gregory Campbell MP](#) (*Democratic Unionist Party, East Londonderry*)

[Maria Caulfield MP](#) (*Conservative, Lewes*)

[Mr Robert Goodwill MP](#) (*Conservative, Scarborough and Whitby*)

[John Grogan MP](#) (*Labour, Keighley*)

[Mr Stephen Hepburn MP](#) (*Labour, Jarrow*)

[Lady Hermon MP](#) (*Independent, North Down*)

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[Nigel Mills MP](#) (*Conservative, Amber Valley*)

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[Jim Shannon MP](#) (*Democratic Unionist Party, Strangford*)

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### Powers

The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via [www.parliament.uk](http://www.parliament.uk).

### Publication

Committee reports are published on the Committee's website at [www.parliament.uk/niacom](http://www.parliament.uk/niacom) and in print by Order of the House.

Evidence relating to this report is published on the [inquiry publications page](#) of the Committee's website.

### Committee staff

Margaret McKinnon (Clerk), Matthew Congreve (Second Clerk), Elektra Garvie-Adams and George James (Committee Specialists), John Hitchcock (Senior Committee Assistant), Kelly Tunnicliffe (Committee Assistant) and George Perry (Media Officer).

### Contacts

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## Fifth Special Report

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The Northern Ireland Affairs Committee published its Third Report of Session 2017–19 [Devolution and democracy in Northern Ireland – dealing with the deficit](#) (HC 613), on 22 May 2018. The Government's response was received on 5 September 2018 and is appended below.

The Committee's conclusions are shown in **bold** type and its recommendations in *italic* type.

## Letter from the Secretary of State for Northern Ireland, 31 August 2018

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Thank you for sending me a copy of your report 'Devolution and Democracy in Northern Ireland – dealing with the deficit'.

I am grateful for the work of the Committee on this valuable report, and have taken time to fully consider its recommendations. As you will see, I agree with many of the recommendations of the Committee, and they have helped to clarify my thinking on how best to make progress in months ahead.

I attach the Government's response. It highlights in bold each of the Committee's recommendations (and its paragraph number) as it appears in the report and provides a brief response to each. I am pleased to see that you have updated your report to recognise two measures that have since been progressed since your report's original publication – namely taking forward legislation to provide for funding for NI departments for 2018/19 and my statement setting out my intention to introduce legislation in the autumn to enable key public appointments in Northern Ireland – including to the Policing Board – to take place.

I would like to take this opportunity to personally thank you and each of the Committee's members for the work that you do in supporting and protecting the interests of the people of Northern Ireland.

Rt Hon Karen Bradley MP  
Secretary of State for Northern Ireland

# Appendix: Government Response

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## Introduction

1. Since the Belfast Agreement was signed in 1998, Northern Ireland has had sustained periods without devolved government. However, since the St Andrews Agreement there has been a decade of sustained devolution so its collapse for well over a year is a profound backward step. A gross political failure, it cannot be sustained much longer without serious consequences for the people of Northern Ireland. The situation has been unfair on residents, the Northern Ireland Civil Service, public services and businesses. It has been particularly unfortunate since it has meant the voice of Northern Ireland has not been heard in London and Brussels as loudly as that of Scotland and Wales during the Brexit process. We are deeply disappointed that successive rounds of talks between those parties that were involved have failed to reach agreement. We note the recent response to a written question by the Secretary of State which said she had met Northern Ireland's five largest political parties on Thursday 26 April, had reviewed the current position with them and explored how they might achieve the restoration of devolution while ensuring the good governance of Northern Ireland in the interim. We urge the political parties to restart talks to restore good governance in Northern Ireland immediately. Locally elected politicians should be making decisions on behalf of the people that they represent. The recommendations we make in this report do not detract from the Committee's view that power-sharing devolution is the best governance structure for Northern Ireland and ought to be restored as soon as possible. (Paragraph 13)

The Government is in full agreement with the Committee and strongly agrees that a power-sharing devolved Government is the best, and only viable way forward for the people of Northern Ireland. The UK Government believes in devolution, and that it is right that important decisions in Northern Ireland are taken by locally elected, democratically accountable politicians.

The UK Government agrees that our top priority should be working with the political parties, and as appropriate the Irish Government, to bring about a political solution to restore the Executive. The Secretary of State is working closely with the parties to bring about a solution and continues to urge Northern Ireland's political leaders to come together to find a way forward.

## Temporary Increased Intervention

2. Effective resolution requires constant engagement with all of those involved. We were disappointed to learn that talks between the two largest parties have been paused. The Secretary of State suggested that smaller parties were to be actively involved in the talks to restore devolution. However, that has not been the experience of some party leaders. We recommend that the Secretary of State restart the active facilitation of talks between all parties. Engagement should be continuous and the Secretary of State should consider taking a more active role, including being part of those conversations rather than risk being perceived as a passive observer. *We recommend that the Government indicate within the next month whether they intend to pursue any other options.* (Paragraph 24)

The Secretary of State agrees that in order to find a solution the UK Government will need to engage actively with the Northern Ireland political parties.

She continues to hold regular meetings with the leaders of Northern Ireland's main parties and the Irish Government to discuss whether or not there is the basis for renewed political talks to restore the Executive. The Prime Minister has also visited Northern Ireland and made clear that our top priority is restoring the institutions.

The Government is ruling nothing out which could assist the parties in reaching agreement, including consideration of whether there should be an independent facilitator in further talks between the parties.

**3. The Committee recognises that MLAs continue to work hard on behalf of their constituents. However, as many MLAs themselves have noted, if they are not completing their full, legislative, role they cannot expect to receive their full salary. The Committee recommends that the Secretary of State takes action on MLA pay as soon, as possible following the conclusion of her consultation with the parties. (Paragraph 47)**

The UK Government is grateful for the Committee's continued work and interest on this subject.

The Government passed legislation in March to enable the Secretary of State for Northern Ireland to vary MLA pay and that power was subsequently exercised in order to halt a planned £500 pay rise for MLAs.

As discussed during her recent appearance before your Committee, this is a subject which the Secretary of State is considering very carefully. As set out to Parliament, she is minded to agree to the pay reduction recommended in Sir Trevor Reaney's independent report and will set out next steps in due course.

**4. The lack of an Executive and functioning Assembly has created a democratic deficit in Northern Ireland. Ministerial decisions cannot be taken, budgets have not been forecast or set in a timely manner and, as a result, policy direction, legislative change and transformation have not progressed. While care and maintenance may have been appropriate in the short term, allowing Northern Ireland departments to operate without Ministerial direction for well over a year is unacceptable. In the absence of devolution, and following the recent High Court decision, important ministerial decisions must now be made in the interest of people in Northern Ireland. Examples of these are set out in Annex 1. The Committee accepts that further ministerial intervention will be required on devolved matters. The Committee believes that accountability, oversight and the principles of power-sharing are necessary for good governance in Northern Ireland. The Secretary of State must, before the summer recess, bring forward proposals as to how she will take ministerial decisions whilst adhering to these principles. She should also affirm that ministerial intervention in Northern Ireland will not affect her efforts to restart and sustain talks aimed at restoring the Executive. (Paragraph 56)**

**The draft Programme for Government and associated delivery plans provide a useful framework from which important Ministerial decisions may be made. It provides a mandate of sorts, with support from the political parties and the public, for certain actions and decisions to be taken by the relevant Minister. The Committee recommends**

*that the Secretary of State takes the necessary steps to continue to implement, consult or legislate on policies and areas marked within the draft Programme for Government by the previous Executive. This should be undertaken in partnership with representative bodies and political representatives. (Paragraph 63)*

The Government agrees that it is important that it should continue to provide assurance that the decisions needed to uphold good governance will be taken forward in the absence of an Executive. The Secretary of State has been clear that she takes this responsibility very seriously and has on a number of occasions reaffirmed the Government's commitment to take those decisions which are necessary to provide good governance and political stability for Northern Ireland – consistent always with restoring the Executive and local decision-making at the earliest possible opportunity.

Our priority remains to continue to work with all the Northern Ireland parties - and with the Irish Government as appropriate – to remove the barriers to restoring the Executive and a fully functioning Assembly.

The Government has noted the recent ruling in the court of Appeal in the Buick judicial review, and is working closely with the NICS to consider the judgment and next steps very carefully.

We note the committee's recommendation about using the draft programme for Government as a basis for intervention in Northern Ireland. The programme for Government sets out a range of policy commitments and priorities on matters which are rightly devolved and for a locally elected and democratically accountable Executive Government. The Government continues to believe that we must have a fully functioning power-sharing Executive restored in order to take those policies forward. In the meantime we will continue to take those decisions which are necessary to protect Northern Ireland's vital public services.

**5. The Bengoa report addresses pressing needs felt by the health sector in Northern Ireland, and has received cross-community support.** *The Committee recommends that the Secretary of State set out what measures she intends the £100m funding to be used for in relation to the Bengoa report. She should also take all necessary steps to implement, consult or legislate on the recommendations made. This should be undertaken in partnership with stakeholder organisations and political representatives. (Paragraph 67)*

The Government notes the Committee's recommendation and agrees that it is vital that important reforms on healthcare are able to be taken forward. The reforms set out in the Bengoa report are complex, and it is right that they are a matter for a devolved Government. The people of Northern Ireland need a locally elected and democratically accountable Executive back in Stormont to take those decisions. It is not for the UK Government to take those decisions on their behalf.

The UK Government has a responsibility to ensure good governance and the continued delivery of public services and that is why we have taken steps to ensure Northern Ireland's critical public services can continue – including by introducing further budget legislation in June. We have been clear that we will take the decisions which are necessary to ensure good governance.

**6. The Committee recognises that the Hart Report makes important recommendations which ought to be properly discussed by the devolved institutions in Stormont. In their absence, however, this issue is too serious to delay further. Victims and survivors have already waited too long for redress, with the advancing age of many of the survivors increasing the need for urgency. We recommend that once draft legislation is prepared, and after full pre-legislative scrutiny, the Secretary of State takes a Bill through the UK Parliament without further delay.** (Paragraph 72)

We note the Committee's recommendation and agree this is an issue that needs to be discussed by the Assembly and an Executive. As the committee notes this is an important issue and one that affects many victims and survivors. The committee will be aware of the strength of feeling and complexity surrounding the issues set out in the Hart report, and the Government is steadfast in its belief that it is only right that decisions, consultation and any subsequent legislation is a matter for a devolved Government. It should not be for a UK Government to take those decisions.

### Scrutiny of Increased Intervention

**7. The Committee recognises the enormous challenges ahead for the Northern Ireland Office in the light of the collapse of devolution. If the Northern Ireland Office continues to take on additional responsibilities, there may be a need for increased staff and financial resources. The Committee recommends that the Treasury consults with the Northern Ireland Office and makes any necessary additional resources available without delay.** (Paragraph 81)

We welcome the Committee's comments and agree that it is vital that the NIO continues to keep its resourcing arrangements under review in order to ensure it is prepared for all eventualities. HM Treasury remains in close contact with the Northern Ireland Office.

**8. The Prime Minister reports that meetings to discuss Northern Ireland's interests in Brexit have been taking place and involve Northern Ireland officials. However, there is little clarity relating to these discussions and it is not clear what is being achieved. In the absence of an Executive, greater transparency would increase reassurance that Northern Ireland's voice is being heard on Brexit alongside those of Scotland and Wales. The Committee recommends the Secretary of State and the Northern Ireland Office publish details of the meetings held that are referenced in the Prime Minister's letter to us. This should include information on the individuals involved in those meetings, the frequency of meetings and matters discussed.** (Paragraph 85)

NIO officials regularly meet with the Northern Ireland political parties to discuss a range of present issues relating to Northern Ireland. Briefings, for the information of the parties, have recently taken place around every two weeks. The meetings provide parties with factual information and offer an opportunity for parties to ask questions to feed in their views, and request follow up information. The topics in the briefings include:

- EU Withdrawal legislation
- EU Exit negotiations
- Legacy issues

- Forthcoming Westminster legislation (for example the counter terrorism bill)
- Public appointments
- Northern Ireland budget bill

These are private sessions and it would not be appropriate to publish detailed minutes of discussions.

**9. The Committee restates its recommendation that a Minister be given specific responsibility for Northern Ireland's voice on Brexit. We recommend that this Minister spends a significant amount of time in Brussels to assist with advocacy, in a similar way to Welsh and Scottish Ministers.** (Paragraph 86)

We note the Committee's comments and agree that it is important that the views of the people of Northern Ireland are taken into account on this issue. The Secretary of State remains completely committed to ensuring that the people of Northern Ireland are represented in the ongoing EU Exit negotiations and has travelled to Northern Ireland to hold discussions with the EU's Chief Negotiator.

As the Prime Minister said in Belfast during her visit on 19–20 July: in leaving the European Union, as we are doing, we have a duty to ensure that the outcome we achieve works for the whole UK, including Northern Ireland.

**10. In the absence of devolution, the Northern Ireland Affairs Committee believes it has a particular duty to advance accountability and scrutiny on behalf of the people of Northern Ireland. We have increased the frequency with which we travel to Northern Ireland and take evidence. The Committee is currently exploring how its own role may change in light of the current impasse, while the absence of nationalist MPs representing Northern Ireland on the Committee will be a consideration in relation to any enhanced role. As far as possible, this should reflect the work of the Secretary of State and the Northern Ireland Office.** (Paragraph 89)

We welcome the Committee's comments, assistance and its continued important role in supporting the interests of the people of Northern Ireland.

**11. Stormont's committees provide a useful forum for scrutiny of decisions. Resurrecting them, however, can only work if they are reflective of the make-up of the Assembly and adhere to the principle of power-sharing which is at the heart of the Belfast Agreement. Nationalist and unionist voices must both be heard and the consent and cooperation of representatives from both sides of the community would be required.** *We recommend that the Secretary of State take legal and procedural advice, including from the Clerk/Chief Executive of the Northern Ireland Assembly, on how the committee system in Stormont could be reinstated to provide, at a minimum, a scrutiny function for locally elected MLAs. This may be either through the statutory committee system or, if this is not feasible, through ad hoc committees. This would allow local politicians to have a formal and transparent input into any Ministerial decisions or legislation undertaken in Westminster, albeit limited.* (Paragraph 94)

We note the committee's recommendation and are considering all options which might viably bring about the restoration of devolution in Northern Ireland.

**12. There is an important scrutiny role for all MLAs, who have been given a mandate by the people of Northern Ireland to represent them.** *We would urge all parties to engage with any process that allows for dialogue and collaboration. The Committee recommends that a consultation with all MLAs is undertaken to explore their role in some form of Assembly structure. This should be launched within a month of the publication of this report and conclude before the summer. Any shadow Assembly must be reflective of the parties who would be participating in the fully functioning devolved Assembly and must adhere to the principle of power-sharing which is at the heart of the Belfast Agreement. Nationalist and unionist voices must both be heard and the consent and cooperation of representatives from both sides of the community would be required. Options that should be considered are the Welsh Assembly model, and a consultative model which includes a role for MLAs in Committee and Departmental work. It is the view of this Committee that the committee system would be the most effective method of scrutinising actions taken by the Secretary of State and Permanent Secretaries during this period of collapsed devolution.* (Paragraph 104)

The Secretary of State has held discussions with parties about options for involving MLAs during the current absence of devolution. These discussions have included ways in which the Northern Ireland Assembly might be used to broker the current impasse.

**13. The Belfast/Good Friday Agreement acknowledges the importance of the effective operation of its institutions, including those in Strand Three, such as the British-Irish Intergovernmental Conference, during the current political impasse in Northern Ireland. The Committee notes that the British-Irish Intergovernmental Conference involves no derogation from the sovereignty of either Government. While the Committee recognises the ongoing involvement of the Irish Government as per the Belfast/Good Friday Agreement, there needs to be clarity on what constructive role the British-Irish Intergovernmental Conference could have in resolving the current impasse. Clarity is also required on the role it plays in the absence of an Executive.** (Paragraph 108)

**14. We have heard differing views on the appropriate level of funding and powers to devolve to local councils. An increased role for local government might help improve democracy and make governance in Northern Ireland more robust in the future.** *When the Executive is restored, the Committee recommends that an Assembly committee be set up to review local government finances and devolved powers. If the Executive is not formed within 12 months of the publication of this report, an independent review should be commissioned by the Secretary of State.* (Paragraph 113)

We note the Committee's recommendation.

**15. The Committee agrees that increasing civic participation could enhance Northern Ireland's governance in both the current impasse and the future. Citizens' Assemblies remain one option to increase civic engagement at a time where citizens are becoming increasingly dissatisfied with Northern Ireland's politics. We look forward to the publication of the pilot study to see whether it would be a suitable forum for Northern Ireland.** (Paragraph 121)

We note the Committee's comments and look forward to the outcome of the pilot study.

## Avoiding Future Problems

16. **The Committee commends the Northern Ireland Civil Service for trying to manage a very difficult situation over a prolonged period. As time has passed, governance has become increasingly challenging, with the boundary between a new policy decision and the implementation of the previous Executive's mandate becoming progressively blurred.** *When an Executive is formed, we recommend that the Assembly and the Northern Ireland Office produce clear guidance, and take forward any necessary legislative changes, on what decisions the Northern Ireland Civil Service may take should this situation occur again.* (Paragraph 127)

The Government agrees with the Committee that the Northern Ireland Civil Service is to be commended for ensuring the continued delivery of public services during the impasse. The Government is committed to working closely with the Northern Ireland Civil Service, and with a future Northern Ireland Executive, to ensure good governance in Northern Ireland.

17. **We agree that MLAs form an important part of the Northern Ireland Policing Board. Policing is both a vital service and is institutionally hugely significant within Northern Ireland. Above all UK constabularies, it demands sensitivity, accountability and transparency and must be free from political agenda.** *The Board must be able to function in the absence of an Executive. We recommend that the Secretary of State amends the Police (Northern Ireland) Act 2000 to ensure that the Policing Board can exercise its statutory functions now, and during any devolved but non-sitting periods of the NI Assembly in the future. The amendment should include taking the power to, if an Executive has not been formed after a statutory period, permit the Secretary of State to fulfil the appointment functions of the Minister of Justice in relation to the appointment of the Board's members. In the continued absence of the Assembly and Executive, the Secretary of State must be mindful not to allow the Policing Board to become the forum for political agendas to be advanced.* (Paragraph 133)

We welcome the Committee's recommendation. As set out in her Written Ministerial Statement on 18 July the Secretary of State has instructed officials to work on legislation over the summer that would allow UK Government Ministers to make pressing appointments to leading public bodies.

The legislation would address crucial appointments needed for the Northern Ireland Policing Board, the Northern Ireland Judicial Appointments Commission (NIJAC) and the Probation Board for Northern Ireland to function.

We hope accommodation can be reached and an Executive formed so that Northern Ireland Ministers can make these important appointments in the autumn. If not, the Secretary of State is prepared to bring forward legislation to enable these appointments to be made to ensure that these bodies can continue their vital work.

18. **We were consistently told that the petition of concern mechanism had been abused in the past. Instead of addressing a power imbalance, this veto mechanism has seemingly strengthened the imbalance. In doing so, it has stifled legislative progress. Reform to the petition of concern mechanism is long overdue.** *The Committee recommends that*

*reforms to the petition of concern process are agreed as part of any negotiations to reform the Assembly and brought into force as soon as possible once the Assembly reconvenes. (Paragraph 141)*

We note and welcome the Committee's recommendation. Reform of the Petition of Concern is a matter for the Northern Ireland Assembly and the main Northern Ireland parties. The Government would encourage the parties to discuss this matter and agrees that any reform as agreed by the parties should be brought into force as soon as possible after devolution is restored.

**19. It is 20 years since the Belfast/Good Friday Agreement was signed. The Agreement remains a significant political achievement of all those involved and signalled the end to decades of conflict. Its symbolic and national importance cannot be overstated. The fact that the Agreement resulted in an international treaty between the British and Irish Governments and was endorsed by referendum gives its principles and institutions a unique status. It was, however, not intended that the Belfast/Good Friday Agreement should be exempt from review as the situation in Northern Ireland changed. Indeed, after the last period of direct rule it was necessary to have the St Andrews Agreement. The key is the consent from both sides of the community to any proposed changes. Notwithstanding two decades of relative peace and prosperity, politics in Northern Ireland have not been serving the people well in recent years. The public are becoming disillusioned with politics and disenfranchised. (Paragraph 156)**

The Government is in full agreement with the Committee's comments. The Government's support for the 1998 Agreement remains steadfast. Support for and implementation of the Agreement remains the core of our approach in Northern Ireland.

**20. The Committee recommends that, if the Executive is restored, it should launch a consultation within 6 months. So far as it is compatible with the principles underlying the Agreement, if the Executive is not restored before the autumn, the Secretary of State should consult with the parties in Northern Ireland and the Irish Government on how a review mechanism could be progressed and what the scope of that review should be. The consultation should be wide-ranging and ensure that both sides of the community are fully heard. This could include:**

- *what matters should be the subject of review;*
- *whether changes are needed to the current power-sharing arrangements;*
- *what those changes should be; and*
- *what other institutional changes could be brought in.*

*If the result of the consultation is to review the Agreement, the review must be taken with the consent of all parties to the Agreement. As soon as devolution is restored, we recommend that the UK Government engages with the Irish Government and the Northern Ireland Assembly to launch the review on the basis of the consultation responses. (Paragraph 157)*

The Government remains focused on restoring a functioning power-sharing Executive to Northern Ireland. That is what the people of Northern Ireland voted for, and that is what we are working to deliver.

The Secretary of State keeps a number of options under review in the event of the continued absence of devolution, including the prospect of a further assembly election and ultimately other arrangements.

## Conclusion

**21. The collapse of the Executive and its subsequent absence for well over a year is deeply disappointing. The last two decades have seen relative peace and stability in Northern Ireland and the country has thrived as a result. The current impasse represents a big step backwards and it must be rectified as soon as possible. The recommendations in this report form our view on what routes to the restoration of sustainable devolution should now be taken. The most fundamental of these is that talks between the two largest parties should restart.** (Paragraph 158)

The Government shares the Committee's disappointment that successive phases of political talks have not been able to restore devolution.

The Secretary of State remains fully committed to devolution and maintains regular and frequent contact with the parties to urge them to come together to find a solution that can restore the Northern Ireland Executive.

**22. We intend to track the progress of restored democracy and accountability in Northern Ireland. We will produce a regular situation report tracking measures outlined in this report and others that we may determine, and their progress. The framework for the situation report is given at Annex 2. The pressure and impetus to reinstate devolution must not be relaxed until democracy has been restored to Stormont.** (Paragraph 159)

We thank the Committee for its diligence and support and agree that the parties must be encouraged from a number of sources to resume talks in order for devolved government to return to Northern Ireland.