

Northern Ireland Committee

Oral evidence: The effectiveness of the institutions of the Belfast/Good Friday Agreement, HC 781

Wednesday 1 March 2023

Ordered by the House of Commons to be published on 1 March 2023.

[Watch the meeting](#)

Members present: Simon Hoare (Chair); Sir Robert Buckland; Stephen Farry; Sir Robert Goodwill; Claire Hanna; Jim Shannon; Bob Stewart; Mr Robin Walker.

Questions 91-108

Witnesses

[II](#): Professor Alan Renwick, Professor of Democratic Politics, Constitutional Unit, University College London, Alan Whysall, Honorary Senior Research Associate, Constitution Unit, University College London, and Dr Sean Haughey, Lecturer, Institute of Irish Studies, University of Liverpool.

Written evidence from witnesses:

[\(GFA0031\)](#) - Professor Alan Renwick and Conor J. Kelly

[\(GFA0035\)](#) - Alan Whysall

[\(GFA0049\)](#) - Dr Sean Haughey

Examination of witnesses

Witnesses: Professor Alan Renwick, Alan Whysall and Dr Sean Haughey.

Q91 **Chair:** Dr Haughey, Professor Renwick and Mr Whysall, thank you very much indeed for joining us. We are very grateful to you for coming and we look forward to what you have to say. You heard some of our line of questioning, and you will have heard the answers. I noticed some nodding and some head-shaking, and some raised eyebrows. I will not ask you to rebut what you heard in the opening evidence. I am conscious that, with a tripartite panel, pithiness becomes ever more of a prerequisite. I want to ask the three of you for a general overview of the relative strengths and weaknesses of the formation of Government rules in Stormont, especially compared with majoritarian forms of Government, such as that in Westminster.

Dr Haughey: Shall I start, Chair?

Chair: Go on, then. Why not? You are in the middle.

Dr Haughey: When we are judging these institutions—this is something that Cathy Gormley-Heenan at Ulster University said a few years ago in one of her publications—it depends on the yardstick that we are using for performance. That determines the judgment. I think there is a lot to be said for d'Hondt in terms of its inclusivity. It is very simple. We run it whenever our MLAs come to the Assembly, and that is how the Executive is formed. In some other power sharing contexts, it can take weeks or months to form a Government. There is something to be said for the simplicity of d'Hondt, and the speed with which we get a Government.

There is also something to be said for how representative d'Hondt is. My colleague Jamie Pow at Queen's University and I have touched on that; we had a mini citizen's assembly on institutional reform about a year ago. Particularly in a divided society, people like the fact that our coalitions are very representative of the different political traditions in Northern Ireland. Clearly, there is a trade-off between inclusivity on the one hand and efficiency and effectiveness on the other. The more parties you have in a coalition, the more difficult it becomes to co-ordinate it in a cohesive fashion. It is very difficult to achieve collective responsibility in a Northern Ireland context.

That is not to say that our coalitions have not worked. The pandemic, particularly the first few months of covid, demonstrated that large, multi-party coalitions in Northern Ireland can work under difficult circumstances. In those first few months, I thought that the Executive performed reasonably well. There was a public opinion poll covered in *The Irish News*, I think in June or July of 2020, which showed that two thirds of the people in Northern Ireland thought that the Executive was handling the pandemic well. That was a good news story, because other Governments, not made up of large multi-party coalitions, were not getting that kind of press.



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However, towards the end of the year, the wheels started to come off, and Ministers were disagreeing with one another, almost in public, about public health regulations. There was use of the St Andrew's veto to override the Health Minister. We saw in that year the best and the worst of d'Hondt. It can work, but it is very difficult.

- Q92 **Chair:** Lord Bew made the point that devolution has done some things, but has not led to a qualitative uplift in political outcome for the electorate. Would an Executive-versus-Opposition system potentially address that and deliver improved policy outcomes, or are there acceptable strengths in this continual finding of balance? Does it mean that while the optimum is not arrived at, what is arrived at is something that nobody shouts and screams about, and that the middle way is always identified?

Dr Haughey: I will say something briefly, and then I will pass this on to my colleagues. As our Executives are so large—with d'Hondt, everyone and their grandmother gets to be in Government—we tend to judge them in terms of whether they survive. When the mandate lasts a full term, there is muted applause for its having lasted. That means that there is less focus on public policy outcomes and whether manifesto pledges have been implemented. If the Executive was more streamlined, and there were fewer parties in it, we would see a stronger focus on policy and outcomes.

As it happens, if we are judging Governments by whether they are cohesive, and whether all Ministers sing from the same hymn sheet, one of the slickest operations we had was the two-party coalition between Sinn Féin and the DUP. It was very short lived, and it was engulfed by a scandal after about seven months.

- Q93 **Claire Hanna:** A few scandals.

Dr Haughey: A few scandals. But before that it was a very slick operation, in terms of those two parties working together. They did seem to shift the focus away from the parties co-operating to the Executive delivering. There is something to be said for a streamlined Executive, in terms of a stronger focus on public policy.

- Q94 **Chair:** Before we leave that, by definition, therefore, if it is very hard for people to say no to anything and much easier to say yes—but with various gradations of volume in the saying of yes—does that lead inexorably to a compounding of budgetary problems and likely overspend? One group or another has a great idea, and I have said yes to the other three, so I have got to say yes to him or her. Therefore, it is spend, spend, spend, in order to placate.

Dr Haughey: I think so. The First Minister and Deputy First Minister do not have any power or authority over any of the other Ministers, so they can promise the world and there are no consequences for that. It is very difficult to remove a Minister from office unless there is a cross-community vote, but Ministers can operate their Departments like silos and promise a lot. We can relate that to the structures of the system and to d'Hondt. "Northern Ireland's Political Future", which was raised in Alan's

submission, has looked at things that could be done better to focus our public policymaking more on outcomes, budget and so on.

Chair: That segues pretty well to Mr Whysall.

Alan Whysall: Indeed. As Paul Bew was saying, the first issue that the agreement tackled was getting an acceptable form of government. That depended on a high level of inclusivity then, and I think it still does. Given the changing voting patterns and the way society is moving, you can argue about whether the rules are exactly right, but we will have to go on having a Government that brings in support across the community.

One thing that particularly worries me about that, though, is the absence of focus on good governance. In 1998, we did not think about that very much at all; we probably allowed ourselves to be lulled into feeling that, if we got an inclusive Government established, with all the goodwill coming in from all around the world, it would do heroic things in government terms. That has never quite worked, and a great deal of reform has been blocked. It has never entered particularly into the culture that we have to do government well, and the last Executive never established a programme for government at all. You have this system thrown together by an algorithm, where people who do not necessarily have any ideas in common are supposed to come together around a programme for government and work on it. However, that has never entered into the culture; there has never been public, political or media traction behind those sorts of processes.

One reason that needs to be addressed is that it leads to the Executive constantly underdelivering: look at the state now of not only the health service, but infrastructure, productivity and so many other things. We hope that devolved government can be re-established in the near future on the basis of the protocol, but that will not suffice to deliver stable, effective government. We need to think more in those terms. In general terms, it is very welcome that we are having this discussion, because discussion of the institutions is not very fashionable and is thought to be rather geeky, but I think we are all people who think geekery is heroic and essential to the public wellbeing, so I am glad this discussion is being kicked off.

Chair: That could be a new sort of superpower—geekery.

Alan Whysall: Absolutely—the revolution of the nerds in Silicon Valley. We are superheroes wherever we go. But it would be nice to see this discussion continued after your deliberations, which have elicited quite a lot of valuable written contributions.

Chair: Professor Renwick?

Professor Renwick: I must start by saying that I am the odd one out in this panel in that I am primarily an expert not on Northern Ireland, but on democratic institutions and public attitudes to them. That brings me to thinking about Northern Ireland, and I have done some work on it recently because it is important, as Alan suggests, that those of us who are not



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primarily experts on Northern Ireland engage and think seriously about what is happening there and how the system can work as well as possible.

In answer to your question, Chair, I don't disagree with anything the others have already said. We geeky political scientists refer to the Northern Irish system as a consociational system, which is used and is necessary where there is a divided society. It is a system with power sharing and guarantees for different communities. Consociational systems are hard to run; it is very tempting for those of us not brought up in and not used to life in a divided society to imagine that it is possible to get past the difficulties of a consociational system, but it is necessary in a divided society.

There are no shortcuts to successful democratic governance in a divided society. I agree absolutely with what was said earlier and what others have already said: the evidence seems very clear that Northern Ireland remains a very divided society. Therefore, at present, it is necessary to have this very frustrating and complex system of power sharing.

- Q95 **Chair:** Let us pause there for a moment. Divided, yes: you can have peaceful division, and then you will have violent division. We are all aware of that. There has been a long transition, and we are running an inquiry in parallel to this one with regards to the continued presence of paramilitaries, organised crime and so forth, so none of us are naive on this particular point. Who identifies the time when one stops to say, "We designed this system as a principal vehicle to deliver peace. That has broadly held, and nobody seriously contemplates a return to 'the bad old days'."? We compound the Northern Irish exceptionalism. We hold on in folk memory to the bloodied divisions and perpetuate them in the modus operandi of governmental formation that we have today. Professor Renwick, in your experience, when do societies make that psychological change to say, "We needed this straitjacket to stop us shooting each other, chopping each other to bits, blowing each other up, or whatever. We don't need that anymore; we need something else."?

Professor Renwick: That is a very good question. It does not happen suddenly. It does not happen in one jump, and sometimes it happens without people particularly noticing. Sometimes the institutional change happens not through a formal institutional change, but simply because certain institutions that have been put in place gradually decline in their relevance and are used less over time. They seem to be less important over time, and eventually you think, "Gosh, that thing is not really being used anymore."

The theory of consociationalism was developed first in the Netherlands, because the Netherlands was a very divided society. We do not think of the Netherlands as a very divided society these days, but the system gradually changed how it functioned in practice. It was not that someone suddenly decided, "Okay, now we don't need to have consociationalism anymore."; it just gradually changed in its function.



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You are absolutely right to say that there are dangers that some things become entrenched and become barriers to society moving on, but it is also the case that some elements will evolve away naturally. Looking at the situation currently in Northern Ireland—a lot of my thinking on this is based on some focus groups that we ran last summer, when we explored in depth how ordinary people in Northern Ireland think about these issues—it seems very clear to me that the kinds of sectarian concerns that led to the creation of those institutions 25 years ago are still there, and they need to be respected and understood.

Dr Haughey: I agree absolutely with Alan. We talk about that in political science circles as the exit dilemma, and I think the Committee had a written submission from Drs Joanne McEvoy and Allison McCulloch. Allison has written about the exit dilemma and power-sharing systems. In some systems, as Alan said, the mechanisms become used less and less, and the system evolves, changes and grows. It looked like that was happening with our system. If you think about the reforms that happened with the petition of concern in New Decade, New Approach, it never got used again. The restoration of devolution last time seemed to be about suppressing the petition of concern. Now we are talking about the restoration of devolution, and crucial to that is the petition of concern. It is swings and roundabouts.

Q96 **Mr Walker:** I am interested in addressing this dilemma. A few years ago, there was a general mood that you could continue with a degree of consociationalism and the arrangements and the balance in place, while also developing a stronger opposition within Northern Ireland. Are there other systems that you have studied where that has been developed, maintaining a balance between divided communities and building up the role of an opposition? There have always been parties represented in the Assembly that are not represented in the Executive. They are the minor parties at present, but do you see any evolving space for more of an opposition?

Partly related to this, we have talked about the exceptional circumstances in Northern Ireland, and one of the things that struck me during my time in the Northern Ireland Office was the extent to which that extends way beyond Stormont and into the role and function of local government. Has anyone on the panel looked at whether there is more opportunity for normalisation in local government than there might be in the Stormont structures?

Alan Whysall: I am not an expert—Alan is much better on this than I am—but my impression is that local government operates rather more effectively in Northern Ireland now, because some councils ran on a rather majoritarian basis, and increasingly there has been a move towards power sharing. That probably permits them to be more effective.

It is still the case that in Northern Ireland, about 80% of voters vote for parties that are drawn predominantly from one or other section of the community and that have very different outlooks in principle on the constitutional destiny of Northern Ireland, so we have not moved too far



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away from the original. There has been great growth of the “other” category—the centre ground category, or whatever you want to call it—and if that continues, at some stage, the system will need to adapt to accommodate. If, for example, a person from that category became First Minister or Deputy First Minister, it would unbalance the system entirely. Ideally, we should start having discussions about how to do that, bringing it into public debate.

Professor Renwick: On Opposition, there is no problem in having an Opposition if it is a voluntary one—if people choose to go into Opposition. The difficulties arise if there is a feeling of exclusion by some parts of the community. That kind of circumstance can only start to be tolerated if the degree of division within society is less than it is today.

Chair: I think I am going to Robin Walker now—

Mr Walker: Are you?

Chair: No. In which case I must be going to Sir Robert Buckland.

Sir Robert Buckland: Thank you. It is easy to confuse Robin and Robert.

Chair: I was trying to find the myriad messages coming from the Whips about votes and whatever.

Q97 **Sir Robert Buckland:** There are three Roberts and a Robin. I am listening carefully, and Dr Haughey I think echoed the point that I made to Lord Bew earlier about petitions of concern—there seems to be a potential contradiction with New Decade, New Approach. What struck me about New Decade, New Approach was that, once again, it was UK Government Ministers bringing together the parties. They were setting out what looked like a very credible and decent programme for Government, but I think the subtext of what you are saying is that true peace is more than an absence of conflict. That should be reflected in political parties and think-tanks coming up with their own policies, without having the NIO to help them do it, frankly. That is not in any way me being patronising, because I know that there are plenty of people in Northern Ireland who have lots of ideas and who want to see home-grown policies brought into practice. When do you think we will get to that stage where we can focus on policy and not process, which still dominates the debate in a way that I think a lot of people find very alienating—in particular people on the ground who are trying to run businesses or provide services?

Alan Whysall: I think it needs encouragement. There does need to be a culture change, and the Governments could well take a role, particularly the British Government. New Decade, New Approach rightly focused on the economic and social things that were going wrong, but generally the prescription was: draw up more strategies. People get rather cynical in Northern Ireland—I heard one wag remark, “Once we launched ships; now we launch strategies.” Launching a strategy does not actually guarantee that things on the ground are going to change. A lot of the failing of the Executive, I think, has been in the follow-through. They announce a plan



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in outline, but when it comes to the difficult decisions that are often involved in implementation, such as health reform, it rather falls behind. There is not great media or political public pressure on them to keep doing these things.

As I floated in my evidence, I was involved in setting up the think-tank Pivotal, and it was very much part of our mission to bring more focus to public policy issues. There may be room for a statutory body—the Fiscal Council is doing a lot of rather good work in elucidating these issues—that would ventilate them, bring them into public discussion, possibly draw up draft programmes for Government and longer-term visions, as a programme for Government is only five years, and measure implementation. That is not to diss private think-tanks, because I think there is scope for encouraging a mixed economy there and a range of ideas. I do think—sorry, I have said this before—that this is essential to future stability. We must have a Government that deliver, so they will rise in public esteem and therefore will be more difficult to topple. It may be less disheartening for the people who are working in it as well.

Q98 Sir Robert Buckland: It is sad to note that the Northern Ireland Law Commission has not been operational for nearly 10 years now, and that is often a generator of good law and law reform that can then be taken on by the parties or on a cross-party basis.

Professor Renwick: Just to add, in response to your question, that one of the most important requisites for overcoming communalism and sectarianism is trust. We have been through a number of years now that have not been very good for trust. Whatever you think of Brexit in itself, it has clearly led to a great distrust. The actions around the protocol, before the most recent one, led to a great distrust and a sense of betrayal. Speaking frankly, the Johnson Government in London was almost universally distrusted in Northern Ireland. If that is the context, it is very difficult to start to overcome these divisions. Fundamental to progress is having a period of trust building and, as Alan says, a strong focus from London on understanding its role in building trust and ensuring that it engages positively with all communities in Northern Ireland and does not treat Northern Ireland as a football for other games.

Alan Whysall: I strongly agree with that.

Chair: As do I, for what it's worth.

Alan Whysall: There was never perfect trust in the British Government—people were rarely coming out on the streets to declare their admiration—but Governments work hard and, of course, they worked very hard with Dublin. The London-Dublin partnership has been crucial to political advance. I think we still depend on it to help drive political advance. Those are areas that really need serious remedial work.

Q99 Bob Stewart: Talking about the possibility of reforming institutions, how do you think Government in Northern Ireland could be reformed to make it more stable?



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Dr Haughey: That is a million-dollar question.

Chair: You can answer this in three words only!

Dr Haughey: It depends on the extent of—

Bob Stewart: Let's make the slight assumption that someone might agree to reform it. How can it be made better?

Dr Haughey: There is strong public support for reform of the institutions. I was involved in two research projects. One was a quantitative survey of public opinion and the other was a mini-public. Both projects touched on institutional reform. If I had been in conversation with Lord Bew earlier when he was essentially saying, "We can't reform the institutions because the DUP and Sinn Féin won't allow it," I would have said that the public disagree. The public do not agree with that.

Mr Walker: Particularly younger members of the public.

Dr Haughey: Yes. There is strong cross-community consensus that these institutions need reform. That consensus kind of dissipates when you ask about the extent of that reform. Whenever we dived down into these issues with our mini-public last year, in the first part of the day people had many criticisms of the institutions and did not have a lot of good things to say about mandatory coalition. But in the second half of the citizens' assembly we explained the basics of a more voluntary coalition, and that did make some people anxious—people who previously, in the earlier part of the day, were very critical of mandatory coalition. When we said, "What about the prospect of a voluntary coalition?", they were anxious about that idea and were asking, "Well, is there going to be cross-community safeguards?"

Q100 **Bob Stewart:** Surely the key reform that these people—fundamentally, younger people—want is one that means government cannot be put into the cupboard. The key reform they want is one that means you cannot have Stormont suspended and government has to go on. That is, presumably, the first reform that they would want.

Dr Haughey: In the current circumstances it is easy to make the case for the removal of the veto. There will be political resistance to it, as Lord Bew said—there absolutely will be resistance to that—but that is not to say that removing that veto means removing all the safeguards that we could put in to ensure equality between the communities. We can reform the system and keep mandatory coalition; there is tinkering around the edges that we could do.

I think this was raised in a few evidence submissions to the Committee. If you throw in the First Minister and Deputy First Minister with d'Hondt, rather than the process that we use now—if it was chosen by d'Hondt and the DUP or Sinn Féin said, "We do not want to nominate," the opportunity would just pass to the next qualifying party—that might resolve that issue. That is the primary critique or concern that people have with the institutions. When we asked people in our mini citizens' assembly, "What



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do you not like about it?", the answers were about ransom politics and instability. At the end of the day, we asked people, "What is it that you want most from your Government?" People might think they would say, "Reform of the NHS," or "Better public services," but by far and away people said, "Stability." That is a pretty basic expectation of one's Government, but such has been the instability that that is what people are crying out for.

Bob Stewart: Stability and being in existence, is what you mean.

Mr Walker: I was going to say, stability includes having a Government in place, presumably.

Q101 **Chair:** Mr Stewart is right in his question and to highlight the youth, but there is a great disincentive: while the main Unionist party and the main nationalist party are in control—potentially with a greater pendulum effect, but they do very well out of this system, being top dog and second-top dog, or joint top dog—there is no incentive for them to change, is there? Why would you break or change—break is the wrong word—the model that rewards you? Why would you change or evolve the model if that might see you on the Opposition Benches?

Alan Whysall: That is why we need more discussion of the possibilities here. The increasing vote for centre-ground parties—other parties—may well reflect that sort of—

Q102 **Chair:** If one accepts that—"If we are doing frightfully well out of this, let's not bother changing it because we might not do as well as we are doing"—do you think it is better for the Secretary of State to convene discussions around this rather than respond to requests?

Alan Whysall: I think that, in the present circumstances, the Secretary of State probably has slightly more urgent things to do than convene—

Chair: I am not suggesting that he does it tomorrow.

Alan Whysall: No, but we need to start the discussion on how the system may evolve and, from that, pressure may begin to emerge to do it.

On the question about how you restore stability generally, that is a very big question. I do not think the answers are primarily institutional; it is about culture. It is about, as I suggested, restoring some of the hope and momentum of the agreement, and the other things that the agreement was focused on, such as promoting reconciliation, dealing with the past, ensuring policing by consent and so forth. Those underpinnings that are really vital to stability really need to be looked at again. Progress has stalled and the public has become, to some degree, more disenchanted and needs to be revived.

On the question of what you should do to break deadlocks, it is very difficult to do institutional reform other than by cross-party consensus, because the agreement was agreed by a large measure of consensus and approved in referendums. But if the deadlock continues, I think there is a



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strong case for the Government, on a temporary basis at least, to decide on changes to the institutions to permit government to go on, because there is no agreement-compliant method of delivering government if the institutions do not function, as at present.

I come back to this point: it is absolutely essential that government is done, and the civil servants cannot do it—they cannot deal with the longer-term issues. If, perhaps after the local government elections, we do not get back to a devolved Government quite quickly, there is a strong case for tweaks to permit the institutions to resume, with some parties in opposition, while discussion goes on about longer-term reform.

Chair: I have just been looking at messages from the Whips Office. Votes are expected shortly, and I think we are expecting three of them. What I am quite keen to do, if we can—if we cannot, we will come back—is to try to draw this session to a conclusion a couple of minutes after the bell has rung, rather than keep you three waiting.

Q103 Mr Walker: On the point about possible reform that you were talking about, coalitions of the willing have been talked about in the past, and so on and so forth, as arrangements to go forward. The current arrangements clearly do discriminate in some way in favour of the two main groups, versus those who would designate themselves as “other”, and we have seen that “other” group emerge as a stronger force in Northern Irish politics. At the same time, we have seen the concept of Northern Irish identity growing, versus people who identify as Irish or British. Is there an argument, from that perspective, for offering greater influence to parties that designate as “other” and allowing for reforms that would give them a greater role in the structure, while maintaining some degree of balance? It relates to the point that Alan Renwick made about the importance of having a balance built into the structure.

Alan Whysall: There are very strong arguments for that in principle; the politics of doing it is different. The agreement is basically founded on the assumption that there are two tribes in Northern Ireland and that is all that really matters. We have moved on from that quite substantially.

The voting rules in the Assembly clearly discriminate: they do not give the veto rights to people from the centre ground. What you do about it, without creating even greater obstacles to decision making within government and within the Assembly, is a more complicated question, but it is one that should certainly be addressed.

Dr Haughey: On the process, Robin—I think this speaks to the previous question as well—there is low-hanging fruit in terms of keeping the conversation going. In different guises, we have come back to this idea that reforms may be desirable but there won’t be the political will to implement them.

The Government could establish the civic advisory panel that all the parties wanted with New Decade, New Approach, and then it fell by the wayside because covid took over. That would show fidelity to the Good



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Friday agreement. There was a civic forum in the Good Friday agreement that was allowed to wither on the vine, and then the DUP and Sinn Féin didn't want to re-establish it again. That is as much a part of the Good Friday agreement as all the other bits and pieces. This Government could establish the civic advisory panel as a stand-alone body that exists with or without the devolved institutions, and they could keep the conversation going and speak with the public to find out how much appetite there is for various degrees of institutional reform.

The final thing I will say on that is that Professor Renwick is absolutely right that consociational power-sharing systems are very difficult to change, but they are changeable. We have had institutional reforms of our system over the years. We used to have 108 MLAs; now we have 90. We did not have provisions for an Opposition; now we do. I was reading a book the other day by an academic called Camille Bedock, who wrote an excellent book about institutional engineering. Even systems that look very concrete and immovable can change. They usually change when the reform is bottom up, when there is pressure from below that confronts—

Chair: Those volcanoes.

Dr Haughey: When there is pressure that confronts the reluctance at the political elite level. We have reached the end of the road of the reform of our institutions by political leaders. Some of the time, those reforms—you think of St Andrews—have had unintended consequences, because it is left to party political leaders to cook up behind closed doors. I think we have reached the end of the road for that. We need to establish mechanisms for civic society to have a significant voice in this, and unless that happens we are not going to get institutional reform because there are too many people who benefit from the current system.

Professor Renwick: I completely agree with that, but at the same time you cannot use these sorts of processes to circumvent politicians, political parties and the need to build consensus across the parties. We do not have the DUP or Sinn Féin in the room currently, but they both clearly matter a great deal. These kinds of processes can help the process of the parties coming together, and need to be designed carefully to enable that, but they cannot be used to try to get past the parties.

Q104 **Mr Walker:** I absolutely accept that they matter a great deal, and that you have to have the engagement of both traditions and the key parties, but it is not inconceivable that, within the next few years, we could be in a situation in which those are no longer the two biggest parties in the Assembly. Were one of the biggest parties in the Assembly one that did not identify with one of the major traditions, there would be a clear case for a reform of the institutions that would allow things to function. I guess the question is, partly: should talks, conversations and civic dialogue attempt to pre-empt that, or should people wait until that happens?

Alan Whysall: We should certainly be discussing that, as I have said. To end on Sean's point, I think it is very important to bring civic society into



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the discussion more, on not only this but a wide range of issues. I have tried to engage people in various initiatives over the years—successfully with Pivotal, less successfully with others—and there is a strong resistance among a lot of people outside politics to putting their heads above the parapet, because at times they got them chewed off by devolved politicians. Those are often people with great influence and great largesse at their disposal. If you are the leader of a business, you will hesitate to pipe up and say, “No, that’s wrong.” The Governments could provide forums, whatever the institutional form, in which that is encouraged rather more, and I think at times that has been a very positive force. Forces for encouraging constructive politics are rather missing at the moment.

Q105 Claire Hanna: This has been really interesting. I enjoyed your submissions as well—I had a nice afternoon of nerding out. To pick up on what Bob and Robin were asking, I happen to think that the core defects and most urgent areas for action are around veto and the general disincentive to compromise, including the issues around the St Andrew’s changes and the privatisation of First Minister elections and all that. But I think that, symbolically at least, the designation is problematic.

I remember doing an interview about exactly this with you, Sean, when I was a new MLA in about 2015. I am not saying that people are saying otherwise in this room, but I will always take the opportunity to reiterate that it is not regressive or irrational to have a view on the constitutional issue. While the UK has been having this tremendous meltdown, the Republic of Ireland is booming and Northern Ireland is not working, it is certainly rational for people to want to pursue that. I would separate the symbolic act of dividing into sheep and goats—the very first thing you do as an MLA—from the perfect validity of having constitutional views. But I think it is, essentially, bad craic, and it puts people off. It foregrounds constitutional and process issues. So I am interested in how you think we would step away from that.

Somebody used the analogy earlier of pulling a thread and all that. It may not be as simple as deleting it out, because obviously that has implications. We advocated and put down amendments to the MEPOC Bill around looking at, say, two-thirds thresholds, qualified majorities and all that sort of stuff, as alternatives to the weighting. How do you think we should address that? You have talked, Alan, about there being discrimination because of some not having a veto; to me, the way to address that is to level down and take the veto off others, rather than adding a veto. I think there is almost too much focus on it, but it is still worth, at the very least, toning down the impact of designation. I am interested in how you think we would do that. Who would particularly like to answer that?

Alan Whysall: It is not straightforward. There will be a great deal of institutional resistance, I suppose from the two main parties, which are—

Claire Hanna: Even—

Chair: Claire—

Claire Hanna: Sorry, I just want to clarify: we are going to come on to—

Chair: Let him answer the question.

Claire Hanna: Can I just finish my point? We are going to come on to the process, but let's not start the conversation with, "The DUP and Sinn Féin won't let us, so we can't." Let's talk about how it should happen and then we can get on to—

Alan Whysall: That is why I—perhaps rather feebly—suggested earlier that the starting point is at least to have more public discussion. The experts on the institutional questions generally tend to be people within the institutions or within the parties and not really within academia. There has been quite little public discussion, and we could usefully have more of that and more ideas ventilated, and then they may acquire a political impetus of their own.

The other thing is of course that political crisis is the time when these things may happen. I think it is an imperative to get the institutions back up and running, in some form, quite soon, because lots of government isn't being done and the long-term damage is very serious. The absence of government completely—traditionally, the absence of politics; a political vacuum—has always been bad, for all sorts of reasons. One doesn't want to talk them up, but they are there.

There is potentially a malign scenario in which we lose slowly over time a lot of the gains of the agreement if the institutions cannot come back, so I would argue that it is important to bring them back in some form. As I say, there are legitimacy issues over that, so you would do it temporarily while you continue to have discussions with the parties about how to move forward. I suggested in the paper, I think, that there would be an argument there, because you would have to set up a Government that would be able to get its business through the Assembly.

The obvious way to move is towards a weighted majority threshold system and have that running on a temporary basis, both for the formation of the Executive and for votes within it. In that way, you might get an Executive that was still reasonably representative—politically, whether you got the UUP in if the DUP was intent on staying out would be crucial—and which could then operate as an Executive and carry its business through. This is all assuming the DUP doesn't decide to come back in.

Q106 **Claire Hanna:** I am kind of assuming that we are doing this from a place of restoration—I always think of Homer Simpson: "It's been x days since our last disaster." If and when, hopefully, we come back this spring, from looking at this you would think we would need to transition. Obviously, there is no question that we would have designation gone before we came back. How do you still manage power sharing and Executive formation if people aren't designating? That is what I'm asking. Is there a way to do that?

Alan Whysall: Sorry, this was slightly the other way round. It's "if" we don't get the DUP coming back into the institutions. Then, I think, there



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would be a good case for a Government in which designation did not apply. You would have some sort of majority voting system before securing at least the top jobs—the FM and DFM. I daringly suggested that if you are moving away from—there is a case for three joint First Ministers, which sounds absurd, but—

Claire Hanna: A third tribe!

Alan Whysall: Well, in a sense, the absurdity is moving away from having one leader of a Government, isn't it? Once you have got there, having to suggest—

Chair: Once you've got two, you might as well have three. My wife and I had the same discussion about children, so there is form on this.

Claire Hanna: One for everybody in the audience.

Chair: Exactly.

Alan Whysall: It is difficult otherwise to say that you are completely representative. Ultimately, the First Minister and the Deputy First Minister effectively have a veto over Government policy. It is difficult to say that you are completely representative of all groups in society, but that is another question. You would have a weighted majority system for selecting them, and a weighted majority system for them to get their key votes through the Assembly. Otherwise, the party staying out, if sufficiently large, could stymie all government. It is very important that we get a Government with an agenda that carries through the necessary reforms.

Dr Haughey: Following on from what Alan was saying, Professor Renwick is absolutely right that, particularly with power-sharing government, we can't step over political leaders. As frustrating as the vetoes may be, if we reform the system without political buy-in from them, the new system will not have legitimacy. The DUP fought the election saying that they wouldn't go back into the Executive until the protocol was resolved to their satisfaction—fair enough.

As a minimum, we could think about reforming the rule for electing the Speaker, so that the weighted majority cross-community golden rules apply for everything else, but we can elect a Speaker by a simplified super-majority—say 65%. If that had happened, we would have had a Speaker in May, because Patsy McGlone got 71% support, including support from Unionists, nationalists and others. That, crucially, would have meant that the Assembly would have been able to form. The Committee system would have been able to form, and we wouldn't have had caretaker Ministers in office without an organised accountability mechanism holding them to account. That is just untenable.

People think that caretaker Ministers don't have any power, but that is nonsense. They do not have any new power, but they were in for six months, or thereabouts, with no Assembly to hold them to account. There is a democratic case for reforming just the rule for electing a Speaker so

that we can have an Assembly for when we don't have an Executive but we do have caretaker Ministers.

Chair: I reckon we have three or four minutes.

Q107 **Claire Hanna:** For what it's worth, you may be aware that we formally made that proposal about the Speaker. We wrote to the Secretary of State and the parties, and we are engaging with those who wish to engage on it.

You briefly touched on public opinion; can you clarify what we know about that? Can you quantify the percentage? Obviously, it is polling, focus grouping or whatever, but how substantial is that, and how do you think it would be good to approach it? Bear in mind that the agreement was broadly negotiated and endorsed by the people. The changes at St Andrews and elsewhere were done over the heads of the people, as well as some of the parties, so those who would gatekeep have not been the purest about inclusion to date. On the idea of demonstrating the weight of public opinion bottom-up and nudging the more recalcitrant interests, how substantial is the public opinion, and how do you think it should be approached? What are the next steps to building the case for reform?

Dr Haughey: On the question of whether the institutions should be reformed, about 65% to 70% of the people are in favour of institutional reform. We are limited by survey questions: you cannot make them too complicated because you will lose people. The Institute of Irish Studies had a survey last year about how the reform process should come about, and 72% of people thought there should be a citizens assembly first, or a series of citizens assemblies, to flesh that out. About 80% of people thought that when this is eventually fleshed out, there should be a referendum on it. The referendum needs to be at the very end of a very long and deliberative process that has political buy-in.

There is public appetite out there for discussions about institutional reform. When we in the citizens assembly talked about voluntary coalition, most people thought that Northern Ireland is not yet ready for a voluntary coalition, and they wanted some safeguards. If you have safeguards, sometimes they necessitate designation. If we are using a cross-community vote for the Stormont brake, that might be baked in and locked in for a while anyway.

Claire Hanna: It is one of those things that people like the sound of until you start to unpick it.

Q108 **Chair:** Does anyone have a burning, pithy three-worder?

Professor Renwick: Remember that there are minority communities that will find this kind of thing very hard. They need to be thought of as well.

Chair: For a session that has taken us from high nerdery through to Homer Simson, I thank our second panel for taking our questions. You have given us a lot to think about.