

# Northern Ireland Affairs Committee

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

Wednesday 28 June 2023

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

Questions 285 – 315

Witnesses

I: Rt Hon Sir Jeffrey M Donaldson MP, Leader of the Democratic Unionist Party (DUP).



## Examination of Witness

Witness: Rt Hon Sir Jeffrey M Donaldson.

Q285 **Chair:** Welcome to this sitting of the Northern Ireland Select Committee. We are continuing our inquiry into the effectiveness of the institutions of the Belfast/Good Friday agreement. We are very pleased to have two witnesses today. The first session will be with the Rt Hon Sir Jeffrey Donaldson, leader of the DUP, and the second session will be with Naomi Long MLA, who is leader of the Alliance Party.

Welcome, Jeffrey. If I could start off the questioning with an exam question, I suppose, could you outline briefly to the Committee why your party opposed the 1998 settlement and what your position is now with regard to each strand of the agreement and the institutions that they created?

**Sir Jeffrey M Donaldson:** Thank you, Sir Robert, and thank you to the Committee for this opportunity to give evidence on what is clearly a very important subject.

I was not, of course, a member of the DUP in 1998, so it is difficult for me to speak for the party on that occasion, but I took a similar stance to them on the agreement in opposing it at the time, and I would be fairly familiar with the reasons why the DUP decided not to back the agreement. As you will know, the agreement is multifaceted. The key elements of the agreement relate to what I would call the peace process, and others to the constitutional arrangements for Northern Ireland and the political institutions that were established by the agreement.

Many of the concerns that were held by unionists who opposed the agreement at that time related to the elements linked to the peace process—for example, the early release of prisoners and the failure to link that process with the process of decommissioning. In other words, if paramilitary terrorist organisations were going to benefit from aspects of the agreement, they should be compelled to honour their obligations, which included the decommissioning of their illegal weapons.

Indeed, from 1998, right through to 2005, 2006 and 2007, we saw nothing from the Provisional IRA by way of decommissioning, despite the fact that, two years after the agreement, all of their prisoners had been released. Similarly, with loyalist paramilitary groups, there was a release of prisoners but very little by way of progress on decommissioning.

I should also say two other things on the peace process. The first is about the absolute failure of the agreement to get to grips with the legacy of our troubled past. There was absolutely no proposal in there to give victims the opportunity to pursue truth and justice. It was merely aspirational, with nothing by way of institutional arrangements or processes that would enable over 3,000 victims of the Troubles, and their families, to have a process that they could follow.

When you balance that against the early release of prisoners, you can see



why the victims felt that the agreement failed to address their concerns, notwithstanding, of course, that the agreement was about delivering a peaceful outcome for Northern Ireland. I am not suggesting that those who were pursuing peace were motivated by a desire to do wrong by the victims, but it was a major failing of the agreement.

We also had concerns around the proposals for policing and what that might mean for the reputation of the Royal Ulster Constabulary, a police service that had suffered grievously during the Troubles. We did not want them to become some kind of a scapegoat in the process of building a more peaceful society in Northern Ireland.

**Chair:** So it was not so much the political structures themselves.

**Sir Jeffrey M Donaldson:** I am coming to that.

**Chair:** It was the whole package.

**Sir Jeffrey M Donaldson:** Yes. On the constitutional side and the institutional arrangements, there were concerns that the DUP articulated at that time about some of those arrangements around accountability, for example at Executive level. There was a concern that Ministers could act almost in a solo capacity within their Departments, and that there was not really a sense of collective responsibility within the Executive.

We were also concerned that, for example, a party like Sinn Féin, which was linked to a fully armed group at that time, might have access to ministerial office without that armed group standing down and removing their weapons. That went to the heart of, "What is democracy? How should democracy function? Do you corrupt democracy if you place people in ministerial office who are still linked to a fully armed, proscribed terrorist organisation?" and so there were concerns about how the institutions would operate in those circumstances.

It is fair to say that many of those concerns were dealt with in the St Andrews agreement and, of course, Sinn Féin was eventually brought to a point where the IRA decommissioned weapons and Sinn Féin signed up to support policing and justice, but it took almost 10 years from the agreement to achieve those changes.

In summary, we did feel that there were significant flaws in the agreement. No agreement is ever going to be perfect, but those flaws were so significant that, on balance, the decision was taken to not support the agreement at that time.

Q286 **Chair:** Insofar as the north-south arrangements were concerned, we are probably in a much better place now than we have ever been in terms of relations across the border. Back then, were there concerns with some of the links in the south and that some paramilitary groups were maybe not quite as effectively policed south of the border, dare I say?

**Sir Jeffrey M Donaldson:** That had been a concern, of course, during the whole of the period of the Troubles. There were issues around the extradition of terrorist suspects from the Republic of Ireland to the United



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Kingdom. There were issues around serious failings at times in investigations by the Irish police into incidents that occurred either in their jurisdiction or across the border.

I want to say, though, that there has been a step change in co-operation between the police services on the island on both sides of the border. Today, that co-operation is at the best that it has ever been, and we need to acknowledge that. At the time, our concern about policing was not so much what was happening in the Republic of Ireland, but more what the potential reform of policing would mean for the capacity of the then RUC to deal with an ongoing terrorist threat.

Let us not forget that 1998 did not bring terrorism to an end in Northern Ireland—it is still with us today—and we were concerned that any reform process might undermine the capacity of the police to counter that terrorist threat. Of course, we desired greater co-operation from the Irish police in that endeavour, and I would say in, truth, that that co-operation is more forthcoming today.

**Chair:** Thanks very much indeed. It is interesting. We had evidence from PSNI recently about the problems that they are facing in terms of funding, and some of that seems to stem from the fact that there is no functioning Executive in Stormont, so we hope that there might be progress there as well. That was not a question but just a comment.

**Sir Jeffrey M Donaldson:** I might deal with that later.

Q287 **Claire Hanna:** What do you make of the changes to the agreement established at St Andrews? Are there any that you would wish to alter?

**Sir Jeffrey M Donaldson:** At St Andrews, there were a number of changes made, particularly in relation to how the Executive functioned at that time. For example, one of the key changes was a requirement that Ministers would bring all major decisions to the Executive for approval, and that has helped to enhance a degree of collective responsibility.

We are still some way off from what a proper collective responsibility-type Executive might be, but there were improvements made as a result of changes at St Andrews. Allied to the eventual devolution of policing and justice powers, there was also a new requirement in the pledge of office that a Minister would support the police, and it was very important to secure that commitment.

In terms of accountability, there were new measures to ensure that north-south co-operation and decisions taken in the context of the North/South Ministerial Council would be accountable to the Executive. There was a subsequent change made in the legislation that is not included in the text of the St Andrews agreement, which relates to how the First Minister and Deputy First Minister are elected.

It has often been said by some of our opponents that this was a change secured by the DUP at St Andrews. I was part of the DUP negotiating



team. I attended most of the meetings—bilateral and multilateral—in which the DUP was involved, and that was not something that the DUP pursued at St Andrews. It was not discussed in my presence at any meetings. It was the result of an amendment that the Government brought forward during the passage of the St Andrews agreement Bill in the House of Commons, and we know that it continues to this day to be a matter of controversy in Northern Ireland. St Andrews represented significant progress as far as we were concerned. It helped to repair or to deal with many of the flaws that we had identified in the original Belfast agreement.

Q288 **Claire Hanna:** Many would characterise it as a logjam in terms of the veto within the Executive, but it is interesting that you are saying that the change to First Ministers is not a DUP request. In a “Spotlight” programme in 2019, you said that it is wholly undemocratic that one party can veto the mechanisms of Government. Is that still your view?

**Sir Jeffrey M Donaldson:** It is my view that we need to move to a situation in the future where, hopefully, we can have a greater normalisation of politics in Northern Ireland. That has consistently been the DUP’s position. It was with great reluctance that I took the decision in February 2022 to withdraw the First Minister. I felt that it was a proportionate decision that would buy time to allow for negotiation to take place while all the departmental Ministers remained in place.

Although the Executive could not meet, at least there were Ministers in post, and that enabled a degree of decision-making within Government Departments. I was hoping that, within that period, we would see meaningful engagement and negotiation leading to solutions in terms of the concerns that unionists have about the agreement.

For me, this a fundamental point. What I am about to say is not something I am simply saying for the purposes of making an argument to this Committee. Claire will be aware that, in the past, I have praised her former party leader, John Hume, as being the architect of the process in terms of the three-stranded approach and so on to the agreement.

At the heart of that process, John Hume said many times—and it was part of what became known as his single transferable speech—that he recognised that, in a divided society like Northern Ireland, you cannot operate on majority rule. You have to operate on the basis of consensus. John Hume championed the concept of consensus, and the reality is that, at the moment in Northern Ireland, some very fundamental issues that impact the day-to-day lives of the people of Northern Ireland arising from the Northern Ireland protocol as part of the EU withdrawal agreement mean that that cross-community consensus has been seriously undermined.

We sought to resolve those issues while an Executive remained in place. We were party to the New Decade, New Approach agreement at the beginning of 2020. We worked in good faith, and a key commitment in



that agreement was an undertaking by the United Kingdom Government to ensure that our place in the internal market of the United Kingdom would be protected in any post-Brexit arrangements.

The protocol does not do that, and it is now acknowledged by the Government—and, indeed, by the Irish Prime Minister and the current Taoiseach—that the protocol harmed our ability to trade with the rest of the United Kingdom.

- Q289 **Claire Hanna:** Can you outline times that you operated or demonstrated that principle of consent and consensus in the early years of the Brexit negotiation and how the DUP attempted to create a solution that would be acceptable to the broad cross-community view in Northern Ireland? Can you outline what your proposed legislative fix would be to allow us to get back to basic governance?

**Sir Jeffrey M Donaldson:** First of all, even as early as the summer of 2016, within weeks of the Brexit referendum vote, when the United Kingdom voted, in the largest ever democratic exercise in the history of this nation, to leave the European Union, the then First Minister, Arlene Foster, and the then Deputy First Minister, the late Martin McGuinness, sent a joint letter to both the Prime Minister of the United Kingdom and to the Taoiseach, making clear that, in the context of negotiating our exit from the European Union, cognisance would need to be given to the distinct situation that Northern Ireland finds itself in.

- Q290 **Claire Hanna:** Can you outline what ways you did that in this House, Sir Jeffrey, and, in terms of the power that your party had during the confidence and supply period, how it attempted to represent and give honour to consent and consensus?

**Sir Jeffrey M Donaldson:** I will come to that, but I do not want the Committee to think that our starting point in all of this was just to get Brexit done, come what may. Consistently and throughout the period from 2016, we worked with the UK Government on the basis that we recognised that there could not be a hard border on the island. We have said that very clearly, so any solution does not involve a hard border on the island.

Here is the problem. We took that approach because we recognised that a hard border on the island would fundamentally undermine nationalism's confidence in the political institutions and the arrangements that flowed from the agreement. There are two sides to this coin, and the other side of the coin is that a border in the Irish Sea does exactly that for unionism. It undermines our confidence in the agreement in terms of how Northern Ireland operates and functions as part of the United Kingdom. Others disagree, but, in our opinion, it undermines the principle of consent. The late Lord Trimble made that absolutely clear in his view.

We have ended up with a situation where, in unionism's and the UK Government's desire to ensure that nationalism was not put offside by post-Brexit arrangements, unionism has, in fact, been put offside in that



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sense. What we are looking for is a landing zone that restores the consensus.

What does that look like? I believe that it looks like this: where goods are moving from Great Britain via Northern Ireland to the European Union, there should be checks, and we—the United Kingdom—should ensure that those goods comply with EU regulations in order to avoid a hard border, but where goods are moving and staying within the United Kingdom, those goods should flow freely, because they do not present a threat to the EU. Any risk is minimal to the European Union and, therefore, a sense of proportion is needed.

That is why our concerns around the protocol—and, indeed for that matter, the Windsor framework—are to ensure that, while we have arrangements that keep an open border on the island, which allow businesses in Northern Ireland to trade into the single market, we do not allow those arrangements to then get in the way of our ability to sell our goods in our biggest market, which is the United Kingdom. We manufacture £77 billion worth of goods each year in Northern Ireland. Those are the figures from the statistics agency. Of that £77 billion, £65 billion is sold in the United Kingdom, and £8 billion is sold to the EU.

What we need is a sense of proportion and balance, so that we get back to the consensus. The principle that I have outlined is that, where goods are staying in the United Kingdom, they should flow freely. Where they are moving to the EU, we take responsibility for checking.

**Q291 Claire Hanna:** I hope that you would agree with me that the business community, which has engaged in detail on this for many years, also has a sense of proportion and perspective. Will the succession of public servants, civil servants, voluntary actors, business voices, policing and others who have sat where you are sitting now, talking to us about their hopes and what they need in terms of legislation, reform and funding, take any hope or comfort from seeing you giving a speech yesterday to the ERG about rehashed proposals on mutual enforcement that bear no relation to what the business community is saying is plausible or necessary for Northern Ireland? Does that give people the hope that they will need to get through a very difficult summer?

**Sir Jeffrey M Donaldson:** Claire, you could do worse than read the article in today's newspaper—I think it is in the *Belfast Telegraph*; it might be the *News Letter*—by Peter Summerton, who is a businessman, who is an expert on logistics and who has endorsed the concept of mutual enforcement as a long-term solution.

I am not saying that mutual enforcement is going to become the solution today or tomorrow. I wish that it would, because it does offer an outcome that both the EU and the UK can work with and would resolve many of the problems that I have identified, but we have the Windsor framework, which is due to come into force in October this year. We have put proposals to the Government around our concerns.



Q292 **Claire Hanna:** Will you publish those proposals, so that people could understand what the barriers are? I understand that there is a paper. Will you publish that?

**Sir Jeffrey M Donaldson:** We have put that paper to the Government. We want to give the Government time to respond to that. It is important that we respect the integrity of that process. We will see what the Government respond with, and then we can determine what we say publicly. Obviously, the outcome of this process will and has to become a matter of public record, but I want to ensure that we get the right outcome.

When it comes to the business community, we were the only party that took the time to set up a consultation panel that spent countless hours out and about across Northern Ireland, meeting large businesses, small businesses and self-employed people from right across the business community and listening to their views and concerns in relation to the proposals in the Windsor framework.

I can say to you that a large element of our proposals reflect what we heard from business around their concerns about how the Windsor framework would work in practice. We are looking for greater clarity around some of that. We are looking for protection of the ability of Northern Ireland's businesses to trade with the rest of the UK in the event that there is future divergence between UK law and EU law.

In relation to the movement of goods within the internal market, not with the EU—I am not talking about trade with the EU, but about goods moving inside the United Kingdom—I do not think that it is unreasonable to say to the Government of the United Kingdom, "We need to ensure that, where divergence may occur in the future between EU law that applies to the manufacturer of goods in Northern Ireland and UK law, the Government will ensure that we can continue to have access to the internal market of the United Kingdom, and that changes to either UK or EU law will not inhibit our ability to trade within our own country". That, in essence, is what we are looking for.

Q293 **Claire Hanna:** Having engaged with businesses in the seven years since and before the referendum, I have a fair handle on what they are asking for. In terms of consent and consensus, is it the case that the DUP is seeking to resile from the principle of consent that is contained in the agreement and the principle that our constitutional status is determined by a simple majority of people voting in Northern Ireland?

**Sir Jeffrey M Donaldson:** No.

**Claire Hanna:** That is not the DUP's policy.

**Sir Jeffrey M Donaldson:** The DUP's position is very clear. We believe in the principle of consent, but our interpretation of the principle of consent is not a narrow concept. As the late Lord Trimble said—

**Claire Hanna:** But you said that there will not be any party support for





efforts to repeal it.

**Sir Jeffrey M Donaldson:** —consent should not just apply to the ultimate question as to whether you want to remain in the United Kingdom. The principle of consent should ensure that, for as long as that is the democratic wish of a majority of the people in Northern Ireland, that should be reflected in the arrangements for Northern Ireland as part of the United Kingdom, notwithstanding that we want to have a good relationship with the rest of the island and, through the North/South Ministerial Council, to co-operate and to share, where we can, in joint endeavours.

In relation to the principle of consent, our dispute is that some seek to interpret it in a very narrow way. There will always be a debate around what the conditions should be for any border poll in the future and how it should be measured.

I do have some sympathy with the comments of the late Seamus Mallon. It is not just DUP members who contribute to this debate. The late Seamus Mallon was very clear. He felt that it would be unhealthy and wrong to proceed to create a united Ireland on the basis of a 50-plus-one majority in a referendum.

This is a debate within society. Let it go forward. We have endorsed and accepted the principle of consent as it is. If it needs to change in the future, it would have to be by consensus. I cannot, on the one hand, argue for consensus here on some things and then not apply the principle of consensus on others.

Q294 **Claire Hanna:** I have just one last question. I recommend you read the whole book, Jeffrey, and not just that chapter. I will take that as confirmation that there will not be party support for any legislative efforts here to repeal that or to put in a supermajority.

**Sir Jeffrey M Donaldson:** DUP policy has not changed on this.

Q295 **Claire Hanna:** I believe that you are very genuine in your desire to maintain the union. Do you accept that the DUP effectively telling nationalists and others that devolution within the UK is no longer available is accelerating the desire for constitutional change if we cannot have the strand 1 institutions in a devolved setting?

**Sir Jeffrey M Donaldson:** I want to have the strand 1 institutions up and running. I believe fundamentally that power sharing and Government by consensus is the way forward in Northern Ireland. I am working, I can assure you, every day to resolve the problems that have given rise to the undermining of that consensus, so that we can rebuild it. Therefore, I am not reviewing this as a long-term outcome. I want to see devolution back. I want to see the Assembly fully functioning and doing its job even better than before. I want to see an Executive that works, and maybe we can improve that too in the future.



As Claire has given me the opportunity, let me be absolutely clear. There are some who allege that the DUP's reluctance to go back into power sharing is because of the way in which the First Minister and Deputy First Minister will operate going forward. They are joint offices. When devolution returns, we will nominate a Minister to that office. We are very clear about that. That is not the issue for us, so let me just put that on the record.

Q296 **Jim Shannon:** Jeffrey, it is always nice to see you. Thank you for the leadership that you quite clearly give not just for unionism but for all of the people of the province.

The DUP had some concerns with the 1998 agreement. They moved on to St Andrews in 2006 and improvements were made. In that agreement of 2006, was there anything that perhaps we, as a party, could see being done better to enable the democratic institutions in Northern Ireland to work better?

**Sir Jeffrey M Donaldson:** We have never been against reform of the institutions, and we have indicated in the past that we are willing to look at further reform in the future. The timing of that is very important. No doubt, we might hear from Mr Farry in due course. The Alliance Party has a very clear view that reform should happen, and happen now. My view is that we need to get the institutions back up and running. We need to have a basis on which that can happen, hopefully soon.

Once we have done that, we are into a period of consolidation. There is a lot of reform that is required to our public services before we start thinking about reform to our political institutions. Frankly, my priority in those circumstances will be reforming the health service, ensuring that our schools continue to deliver the best form of education in the United Kingdom, growing our economy and building the prosperity agenda for everyone in Northern Ireland. Yes, reform is important, but reform of the political institutions does not trump reform of our public services.

Q297 **Jim Shannon:** I agree with you. The importance of health, education, roads, fishing and farming are really critical issues.

Just to take this a bit further in relation to where we are in terms of the Assembly and the process, when we look forward, the DUP speaks for the majority of unionists. While other parties might have a different shade of unionism, the issue of the Stormont brake and the Windsor agreement, as it was put forward, has quite clearly united unionism in its opposition.

What would you like to see in the process moving forward? What needs to be done to make the Northern Ireland Assembly workable, not just for unionists, because you cannot ignore them? You and I know, as does the Chair, that both Tony Blair and Bernie Ahern made it clear that this agreement could not work without the input of the unionism and, therefore, it would never happen. If we are going to find a way of going forward, I am just wondering in what way you would see that working.



**Sir Jeffrey M Donaldson:** If that relates to political institutions, the first thing that we need to do—it is my priority right now—is to ensure that we have the conditions for the restoration of devolution as quickly as possible, and I have given some indication to Claire as to what that might look like.

In terms of going forward, what we need to do is to get down to business. The big challenge that is going to face the incoming Executive is reform of our public services. Alongside that, of course, we have the current budgetary pressures. I am glad to say that, despite some who do not recognise this, the four parties that will form the Executive are meeting every week at the moment. They are meeting with senior civil servants. They are examining where the budgetary pressures are. They are putting together proposals that we hope to take to the Treasury. They are looking at what the priorities are for reform of our public services. They are looking at what the main elements of a programme for Government might be for an incoming Executive, which, of course, will have to go through a formal process once an Executive is formed.

Preparatory work is already happening. I am not saying that that means that the restoration of devolution in the short term is inevitable. A lot depends on how the Government respond to the proposals that we have put forward, which we believe are fair, reasonable and balanced and will help to restore the consensus that is essential for the institutions to operate effectively.

Reform of our institutions has to take second place to resolving our budgetary pressures in the short term and then reforming our public services. Going forward, we want to see a greater normalisation of politics in Northern Ireland. We need to look at the voting mechanisms within the Assembly. We need to look at how an Executive is formed in the future. We will go into any discussions with the other parties on that, with a view to getting agreement and consensus on how we take this forward.

Q298 **Jim Shannon:** My final point is in relation to the document launched yesterday on mutual enforcement that you referred to. My thoughts, Sir Jeffrey, are that the mutual enforcement document offers a way forward not just for unionism but for the whole of Northern Ireland to have a working relationship within that. If you do not mind, perhaps you could just set out what mutual enforcement offers for everyone in Northern Ireland.

**Sir Jeffrey M Donaldson:** Very briefly, what it would entail is that the European Union and the United Kingdom would come to an arrangement whereby, where EU goods are coming into the United Kingdom, the EU would ensure that those goods comply with UK rules and, equally, where UK goods are moving into the single market, the UK Government would take responsibility for ensuring that those goods comply with EU rules. That is a very short summary of what it means.



It would do away with a lot of the bureaucracy and, fundamentally and importantly, a lot of the cost. Let us not forget that, in the first year of the operation of the trusted trader scheme set up under the protocol, it cost £350 million. You think what you could do with £350 million in terms of driving down waiting lists in the health service in Northern Ireland. That is why it benefits everybody to simplify the process as much as we can, but it requires a building of trust between the UK and the EU for the system to work effectively, and I hope that we can get to that place.

**Jim Shannon:** The issue is that it is a simple system and it can work.

Q299 **Mr Walker:** Sir Jeffrey, you talked about the importance of building consensus and working together. We have heard quite a lot of evidence during the course of this inquiry from former senior civil servants that the checks and balances built into the design of the institutions have made it quite difficult to pursue policies that would be routinely agreed in other jurisdictions. Is there something to be done about that? You were talking about particularly having a focus on delivery of public services. Is there perhaps more that could be done to normalise the working of the institutions?

**Sir Jeffrey M Donaldson:** We favour normalisation. You were a Minister in the Northern Ireland Office. I am not faulting the Civil Service here. The Northern Ireland Civil Service operated for many years under a system of direct rule, with, effectively, Ministers arriving in Northern Ireland and, for one or two days a week, sitting at their desk and signing lots of documents, which I am sure they scrutinised very closely. Let us be honest about it. It was hardly the most accountable form of democracy in the world.

They went from that to having one of the most complex forms of democracy in the world in the form of Northern Ireland's power sharing. A lot of those safety valves and safety nets were important to build confidence in the first period of the operation of those political institutions, but I hold an aspiration that, as our society changes—and it is changing—and as people develop their political perspectives and we build a degree of trust in terms of how Government works here, we can begin to let go of some of the crutches and move to a more normalised process.

I am going to be very frank here, Sir Robert. I had the pleasure of serving in the Assembly and the Executive for a period of time as a junior Minister in the First Minister and Deputy First Minister's office, and saw up close how that office works. Sinn Féin is not a normal political party. It does not function like a normal political party. I can assure you that the frustration of civil servants in Northern Ireland is one that is shared by Sinn Féin's partners in the Executive.

Very often, in what is now the Executive Office, when decisions would come forward—which, of course, in the Executive Office, required joint approval—Sinn Féin would take those issues away, sometimes for weeks



or months. I do not know who they were going to consult or where that consultation took place, but it was very frustrating, not just for civil servants but for DUP Ministers, that some important decisions were constantly delayed.

Of course, there may have been occasions when we had concerns and had to take our time about making decisions. There is a balance to be struck here, Robin, between what is reasonable and a lengthy period of time. We have been discussing among political parties whether, for example, we should be bringing reports or papers to the Executive from Ministers, and whether we should look at timetabling some of that work. It is not easy, but I would like to be in a position in the future where Ministers cannot indefinitely hold up decisions that need to be taken.

Of course, Ministers can have genuine concerns, but there are mechanisms within the Executive to deal with that, so maybe we need to simplify it to a degree. We will not be able to remove all of those safeguards.

**Q300 Mr Walker:** In terms of safeguards, the mechanisms for, effectively, a veto going forward are one of those. The principle of cross-community consent, which we all understand, is hugely important, but the nature of the communities has evolved. We now have many more people not designating in Northern Ireland. Is there scope for reform to reflect that and to make sure that you do not, effectively, have a third group that is denied the same rights as nationalists or unionists?

**Sir Jeffrey M Donaldson:** We will still need to retain the principle of cross-community consent, because that is the basis for power sharing. I would not subscribe to a view that says that, in the future, you could have a power-sharing Executive that excluded people. In the future, we might look at the concept of voluntary coalition, but it would still require some cross-community test, in my opinion, for the good of everyone in Northern Ireland.

We should look at the voting mechanisms in terms of how the Assembly operates. We have suggested in the past that you could look at some kind of weighted majority vote system that is not necessarily based on designation but on Members in the Assembly, which would still have a cross-community element to it, because of the nature of the weight of the vote required.

Let us not forget that, for many votes in the Assembly, it is a simple majority vote. There is this notion that everything that the Assembly does has to be by cross-community consent. It is only certain areas of law and policy that come under what is deemed to be sensitive or controversial where that cross-community consent mechanism kicks in.

We are up for conversations around that, but I go back to the point that I made to the Member for Strangford, which is that we need to have a sense of priority here. Let us get back to the Executive when we can and when we have resolved the outstanding issues, and then let us show that



devolution can deliver for people. In the end, the public are less interested in how we do it. What they are interested in is the outcomes, what it means for them and what difference it makes to their lives.

- Q301 **Mr Walker:** Absolutely, and the public are very keen to have working devolved institutions up and running as much as possible. Is there enough of an incentive for parties to stay in those institutions? Some of our witnesses have talked about the jeopardy situation. Claire quoted you back, on a previous iteration when Sinn Féin walked out of the Executive, the frustration that that causes. We have debated stick and cutting pay and all that kind of thing, but is there enough carrot there to say that it is worthwhile for the major parties that represent very substantial parts of their community to be in the institutions?

**Sir Jeffrey M Donaldson:** I have been around politics in Northern Ireland for long enough to have formed the view that the vast majority of people who stand for election in Northern Ireland want to get things done. They want to work the institutions in a way that delivers for the people they represent. In my experience as an MP of 26 years, delivering for your people is the best way of winning elections and securing the votes of people.

It is not to leave them feeling frustrated, although, in fairness, as has been said by the Member for Strangford, in terms of where we are at the moment, we believe that we have a mandate for the course of action that we have taken. We have had two elections, and a very clear majority in unionism has backed the stance that we have taken, but that stance is about getting this sorted out. It is not a long-term strategy to frustrate the political institutions or to deny the people of Northern Ireland a functioning Government. All parties in the Executive are there, ultimately, because they want to deliver for the people they represent, albeit we have different aspirations in terms of the long-term future of Northern Ireland.

- Q302 **Chair:** We have had too often a situation where some issues that are relatively unimportant compared to education, health and policing, such as the flying of flags or the Irish language, are given undue political prominence as a way of becoming a roadblock to progress in other areas.

**Sir Jeffrey M Donaldson:** There is no doubt that our constitutional arrangements are important, maybe not to everyone but to many in Northern Ireland. Many people in Northern Ireland have a view on Northern's constitutional future and, in those circumstances, when issues arise that raise a question mark for people about what they felt was a settled position under the agreement being disrupted, that does give rise to public debate, and it has.

I hope that we can get back to a place where, of course, we continue to discuss those constitutional arrangements. We have always said that, provided people pursue their aspirations by peaceful means alone, that is a valid political engagement. Fundamentally, in my experience, what



matters to most people in Northern Ireland on a day-to-day basis is that mum can get her surgery, that someone is not going undiagnosed with cancer, that the kids have access to good education, that there is the prospect of jobs for our young people, so that they do not leave Northern Ireland, and that people can put bread on the table.

I am not suggesting for one moment that those matters are less important. They are absolutely important to every household in Northern Ireland, but our politics is also, to a degree, shaped by our attitudes towards the constitutional future of Northern Ireland.

**Q303 Stephen Farry:** Good morning, Sir Jeffrey. You mentioned just there that the current withdrawal from the Executive is not a long-term strategy, but it is now 16 months on since you removed the First Minister, so it is becoming fairly deeply embedded. You just talked there about the various priorities that people have. No doubt you are hearing the same voices that we are hearing, in that, if we listen to the business community, they want the Executive back; if we listen to trade unions, they want the Executive back; if we listen to every professional in the health service, they say they want an Executive back. It is the same in the community and voluntary sector. I can go on and on in that particular regard.

Do you see that there is a danger in what you are framing around the protocol and Windsor framework issues, and that they are, in your view, being put on a greater pedestal than those issues that you talk about and are hearing about on a daily basis, like the health service and education?

**Sir Jeffrey M Donaldson:** No, I do not, because aspects of the Windsor framework and the protocol impact on these issues. We know that there have been problems with access to medicines, for example. Veterinary medicines is another issue that remains unresolved. That is important to our agri-food sector, which is our biggest sector, providing employment for tens of thousands of people in Northern Ireland. It is their livelihood.

Resolving these issues is important. I am not in the business of grading them in terms of what is more important than anything else. What I am saying is that Stormont functions when there is cross-community consensus, and I would have hoped that the Alliance Party, which has prided itself on its support for cross-community politics in Northern Ireland, would understand this.

The protocol cut so deep for unionism that we held on and held on, and we urged the Government to do something about it and to go beyond just extending grace periods. They did publish a command paper way back in July 2021, which offered the prospect of progress being made, so I held on. Indeed, I remember standing on the green out here being goaded by Claire's party leader as the boy who cried wolf, in that I said that I was going to act on the Executive and had not. The reason was because I tried to give as much time as possible, right through to February 2022, for action to be taken and for some process to get under way, and



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nothing happened. It was only after I took that decision that, finally, some months later, the EU and the UK Government got round the table and began a serious negotiation around these issues.

Some progress has been made, Stephen, in relation to the Windsor framework. There are areas of concern that we have that relate to the operation of the internal market of the UK. What we are asking for is reasonable. I do not believe for one moment that what we are asking for would be offensive to anybody else. It is simply about the ability of our businesses to trade in our biggest market and that that is futureproofed and protected going forward if there is change to EU or UK law. I do not think that that is unreasonable.

That is important, because it will be your and our Ministers who will be in the Executive overseeing any new arrangements that are put in place, and I want to be sure that they operate as effectively as possible. The last thing that I want is another crisis in six months' or a year's time. That is why I want the foundations to be strong.

Q304 **Stephen Farry:** We will give a fair hearing to anything along those lines, but I would have to make the point that most people think that those issues can be resolved alongside a sitting Executive.

**Sir Jeffrey M Donaldson:** We tried that.

Q305 **Stephen Farry:** The scale of what you are talking about around veterinary medicine flows and other issues, for many, pale into insignificance compared to the other side.

**Sir Jeffrey M Donaldson:** They were only examples.

Q306 **Stephen Farry:** To frame this in a different way, Sir Jeffrey, you approach your politics as a unionist. That is a defining issue for you as a politician. Some people would argue that, in terms of trying to save the union in your own terms, you are killing the union, because what other people see is that the union is based upon consent. It is based upon a working Assembly and other institutions. It is based upon equality and inclusion in Northern Ireland. People are seeing none of that. Do you not see that your current approach and tactics are eroding support for the union?

**Sir Jeffrey M Donaldson:** I would argue very strongly that my approach is to ensure that the union is what it says. Let me just make this point. It is utterly ridiculous that, in the first year of the operation of the Northern Ireland protocol, we had tens of thousands of customs declarations being made on goods traveling from one part of the United Kingdom to another, which cost businesses in Northern Ireland millions of pounds. It cost the UK Government £350 million just to support those businesses with that process. Is that how I see the union?

As a unionist, do I believe that the way the union should function is that, when you move goods from London to Belfast, you have to make a





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customs declaration, that you have to pay fees to move those goods within the United Kingdom, or that you have to have millions of pounds of public money spent on supporting businesses to operate a system that should not be necessary?

Maybe you and I view the union differently, but article 6 of the Acts of Union infers on the people of Northern Ireland certain economic rights. Those rights should be respected, and they were undermined by the protocol, because article 6 says that there should be no barriers to trade between the constituent parts of the United Kingdom. The protocol put barriers in place. It created a border in the Irish Sea.

You would argue, quite rightly, that, if we put a land border on the island, that would be offensive to nationalists. I do not understand why you do not understand that your unionist constituents in North Down who talk to me find it offensive that there is a border in the Irish Sea, and that that, for them, undermines the union. That is not the union that they voted for, supported or gave their consent to.

**Q307 Chair:** Some of that might be due to overzealous application of the at-risk criterion, because we all thought, "Great. If it is not at risk, it will not be a problem", but lots of things seemed to be deemed as at risk, even though they were not.

**Sir Jeffrey M Donaldson:** It is more than that, Sir Robert. The current Taoiseach accepted—and I will quote his words—that the EU overreached in terms of the arrangements that were put in place under the protocol, and that some of it, they accept, was not necessary. It is not about the zealous implementation of the protocol arrangements, but that the protocol itself went too far. There were arrangements put in place that, frankly, were not necessary.

Of all the trade that crosses EU borders around the whole of the single market, 0.05% crosses the Irish border. The risk to the EU is minimal, and yet the solution is a maximalist approach. I have described it before as a sledgehammer to crack a nut. We need to get a sense of proportion and balance here.

**Q308 Stephen Farry:** The Windsor framework has been agreed by Parliament, and the scope for any further clarification or reassurance has to be seen in those tramlines that exist, in the sense that we cannot reopen that negotiation with the European Union as such.

Just moving back to reforming institutions, most of the questions have been asked around reform, including the formation of an Executive with a majority and designations. Just to clarify, Sir Jeffrey, you are at present resisting the notion of a different form of Government being set up to give those of us who wish to govern the chance to do so. Can you just state this for the record? Your party has advocated a voluntary coalition over the past 20 years. It has been in your manifesto consistently for the past 20 years, as it has been in ours. Why is that not your policy today?



Is it simply a reflection of the conditions not suiting as opposed to being something that is a matter of principle to the party?

**Sir Jeffrey M Donaldson:** Stephen, there is a difference between a solution to the problems around the Northern Ireland protocol and a solution to how we do things better within a functioning Northern Ireland Executive. If you are saying, "In order to restore Stormont, let us exclude the unionists who are concerned about the protocol, and that will offer the solution", that is, frankly, Stephen, not real-world politics. Excluding people and ignoring their concerns, as we have seen time and time again, does not offer the best way forward for Northern Ireland.

Let us get the institutions back up and running. Let us get the progress that we need, and I hope that that progress will come soon. Let us get the institutions restored. Let us get on with the process of reforming our public services and delivering for our people. In that context, we can also look at having that conversation around what reform of the institutions will look like.

You are right, Stephen. We remain committed to a greater normalisation of politics going forward, but, for goodness' sake, let us not go down the road of the politics of exclusion. Let us go down the road of the politics of consensus. Voluntary coalition implies that there is still the need for consensus.

Q309 **Stephen Farry:** People would argue that, through your own approach, you are excluding the 75% of the population who do want to see the Executive and Assembly functioning.

**Sir Jeffrey M Donaldson:** Stephen, I did not make the rules, nor did I vote for them in 1998. With respect, Alliance did. Alliance signed up to an agreement that created those rules. It voted for that agreement and accepted the rules, and you cannot now complain when those rules are the basis for the actions that we have taken. I am sorry, but that does not work. The rules are there. They operate as they are and, until in the future there is a consensus—and it should be a consensus—I hope that the Alliance Party is not suggesting that we do reform by way of majority rule. The Alliance Party has prided itself, in all of its existence, on resisting the notion of majority rule.

**Stephen Farry:** We would love to have power sharing, including all parties.

**Sir Jeffrey M Donaldson:** Let us work towards that.

**Stephen Farry:** Sadly, it is not happening at the moment.

Q310 **Carla Lockhart:** Thank you, Sir Jeffrey, for your comments so far. I have just a couple of quick points. You make a very valid point about the fact that it was your leadership that brought about some of the positive changes within the Windsor framework. In terms of any debate that has happened in this House in relation to the protocol and the limited debate



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around the Windsor framework, it has been said that the arrangements are needed to protect the integrity of the Belfast agreement. I know that you share my views that that is not what the protocol or the Windsor framework does. It is the opposite. Would you like to just take this opportunity to reiterate to the Committee why this is the case?

Also, when you speak of the protocol and the Windsor framework, Stephen minimised the impact on medicines. Can you just outline some of the major issues for businesses? I think particularly of manufacturing, for instance, in my own constituency. It is a huge industry and a huge employer in Northern Ireland. Can you just reiterate to this Committee the problems that these industries are facing and will continue to face under the Windsor framework?

**Sir Jeffrey M Donaldson:** Of course, we felt that the objective in the negotiations between the UK Government and the EU was to put in place new arrangements that would respect both the integrity of the EU single market and that of the United Kingdom's internal market.

The Windsor framework takes us some way in that direction, but not all of the way. I have real difficulty with the notion that, when we sell a minority of our manufactured goods to the European Union, there is still this requirement that all goods manufactured in Northern Ireland must be subject to EU law, despite the fact that the vast majority of those goods are not sold to the EU. That has major implications, even under the Windsor framework. It could mean that, in the future, as EU law changes, you will get divergence between the laws that apply to the manufacture of goods in Northern Ireland and those that apply to the manufacture of goods in our biggest market, which is Great Britain.

Potentially a greater threat comes as UK law changes in the future. I imagine that EU law change will be evolutionary, whereas a United Kingdom outside the European Union, as we have seen in REUL, is going to look to regulatory reform perhaps on a bigger scale. Where regulations in the United Kingdom change and vary from those which apply under EU law, if EU law covers the over 300 areas of law that still apply in Northern Ireland, and if the change in the UK impacts on that law in Northern Ireland, the UK change cannot apply to North Ireland, because EU law exists.

That creates the potential in the future for not only divergence because of change to EU law, but divergence because of change to UK law. That could impact on the ability of our businesses to sell their goods competitively in Great Britain, our biggest market, and that is a real concern for businesses. I have had many businesses in Northern Ireland that have said to me, "We sell very few goods to the EU, but we sell a lot of goods to England, Scotland and Wales, and we are really worried about what this will mean in the future if this divergence takes place".

That is why what I am looking for the Government to do is to ensure, in law, that there is a duty on the Government that, where UK law changes



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in the future, they take account of the arrangements for Northern Ireland and do not prevent Northern Ireland businesses selling their goods competitively in Great Britain.

We have this so-called Stormont brake, which applies only to changes to EU law, and it remains to be seen how effective that brake will be, but that brake does not apply to changes to UK law, which is why we need a system that protects business.

In terms of the practical out-workings of the protocol, you and I have visited agri-food businesses in your constituency. Some of your potato growers and merchants and horticulture businesses in the Upper Bann constituency find it difficult, for example, to get access to seed potatoes. Even under the Windsor framework, there are still certain species of plant and tree that are excluded. You cannot bring trees from Great Britain into Northern Ireland. There is an exclusion there.

I also have a concern. Let me very briefly put this on the record. The UK Government recently published a consultation on the future border operating model for the United Kingdom. I worry about what might happen in the future if, for example, we have an outbreak of bird flu or any avian-based or animal-based disease, whereby Great Britain will lock down and Northern Ireland will be left outside of that regime in terms of controlling movement and so on. That has serious consequences. Northern Ireland feeds 5.5 million Britons every year. We box way above our weight. We help the United Kingdom to deliver food security for all the people of the United Kingdom.

It is not just how the Windsor framework works, but the implications that the Windsor framework has for future UK policy even on, for example, controlling disease within the United Kingdom in its entirety.

Q311 **Carla Lockhart:** We have MPs and MLAs continually saying that the train is leaving the station without the DUP. Given that the DUP represents over 60% of unionists in the Assembly, how damaging is this? Would you say that it is dangerous?

**Sir Jeffrey M Donaldson:** The first thing that I would want to say is that that there is no unionist elected to the Northern Ireland Assembly who supports the protocol. The Ulster Unionist Party, to its credit, shares many of the concerns that we have about the Windsor framework.

There is a difference of opinion on how best to deal with that. The Ulster Unionist Party's view is that you should go back to Stormont and continue to battle within Stormont for further change. My view is that it is better to try to resolve these issues now, before Stormont is restored, so that we restore Stormont on a sound foundation and do not then get into squabbling around how this or that works.

There is a difference of opinion, to a degree, on tactics, but unionism is broadly united in its view that the idea of an Irish Sea border is harmful to the union. Therefore, it is important—this goes back to what I said in response to both Claire and Stephen—that, if we are going to move



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Northern Ireland forward on a stable basis, these concerns need to be addressed properly, so that our institutions can function again on the basis of that cross-community consensus.

**Q312 Mr Walker:** You mentioned concerns in the early days about the accountability of the North/South Ministerial Council. Do you feel that those have been addressed? What is the DUP's position now in terms of the role of that council in facilitating co-operation between the Executive and the Irish Government?

**Sir Jeffrey M Donaldson:** I am glad that has been mentioned, because I do believe that, in the post-Brexit era, we need to look at how we can improve those relationships north-south and east-west. Perhaps the east-west relationship is, of the three sets of relationships covered by the agreement, the one that has been least invested in. We would like to see that addressed. We are broadly content with the way in which the North/South Ministerial Council operates. There is now greater accountability in New Decade, New Approach. We signed up to the idea of this new Belfast-Dublin economic corridor, thus enhancing the level of economic co-operation. Indeed, we can look at expanding that kind of co-operation.

We are up for strengthening those relationships, but, Sir Robert, we need to do more on the east-west relationship. In the post-Brexit era, there is a need to enhance the relationship, and the institutional reflection of that relationship, between the United Kingdom and the Republic of Ireland. The Republic of Ireland is our nearest neighbour. It is the nearest member state for most parts of the UK, so I would like to see co-operation enhanced.

**Q313 Mr Walker:** Does that mean the Prime Minister continuing to attend British-Irish Council meetings?

**Sir Jeffrey M Donaldson:** That is a positive development, but we need to look at how the council functions. There is scope to do more. There is scope to broaden the remit of the British-Irish Council in terms of co-operation.

**Q314 Chair:** It is even more important, now that we do not attend European Council meetings. When I was Transport Minister, Leo Varadkar was my opposite number, and those conversations are not taking part at the sides.

**Sir Jeffrey M Donaldson:** Yes, exactly. Let me just take the example of agri-food. The North/South Ministerial Council enables us to continue co-operation with our neighbours in the Republic, even though we are now outside the EU and they remain in, but what about east-west co-operation on agri-food and on the spread of disease among animals, for example?

Rather than the UK Government taking the view that we lock down Great Britain, should we not be talking to the Republic of Ireland about how we



co-operate to prevent the spread of disease among animals in circumstances where there is a new avian flu pandemic or whatever it might look like? We do have a common travel area. Why should that apply only in terms of human beings? Should we not be putting in place measures that ensure that we co-operate also on other things that travel?

**Q315 Claire Hanna:** In our inquiry, we have found a strong public appetite for some reform of strand 1, and you have indicated some suggestions that you think could work. How do you think that should be done? How do we progress a review of the agreement?

**Sir Jeffrey M Donaldson:** The Belfast agreement envisaged a process and set out in the agreement that there is a process for review. When I was elected to the Northern Ireland Assembly, I was appointed chair of the Assembly and Executive Review Committee, so we have a standing committee of the Assembly that constantly looks at these areas. It tends to focus more on the Assembly's functioning, but there is a job of work that could be done there in terms of looking at options for the future. It is a cross-party group and is representative of the membership of the Assembly.

The Assembly is going to have its hands full with the new scrutiny committee that is going to be established for the purposes of scrutinising the issues around EU trade and so on and so forth. That is why we need to be careful in talking about reform. Timing is important. The desks of Ministers going into an incoming Executive are going to be full of decisions that need to be taken and issues around budgetary pressures, as well as the reform agenda itself, such as reform of the health service, et cetera.

We need to approach this with a degree of caution and to prioritise the areas that need to be prioritised, but there is a mechanism there. There is, of course, the ability for the Assembly to consult and take evidence from civic society as well, but, fundamentally, these are political issues. They should be dealt with within the context of the political institutions themselves and by the political parties that operate those institutions, but with wider consultation.

**Claire Hanna:** Hopefully we get in there to do that.

**Chair:** Thank you very much, Sir Jeffrey, for giving us such useful evidence and exhibiting the consistency that the DUP has shown for many years over some of these issues. Thank you very much indeed.