

Submission to the Northern Ireland Affairs Committee's Inquiry into the New Decade, New Approach Agreement

This response has been prepared by the Centre for Cross Border Studies as a contribution to the House of Commons Northern Ireland Affairs Committee's inquiry into the New Decade, New Approach Agreement (NDNA).¹

About The Centre for Cross Border Studies

The Centre for Cross Border Studies, based in Armagh, Northern Ireland, has a strong reputation as an authoritative advocate for cross-border cooperation and as a valued source of research, information and support for collaboration across borders on the island of Ireland, Europe and beyond.

The Centre empowers citizens and builds capacity and capability for cooperation across sectors and jurisdictional boundaries on the island of Ireland and further afield. This mission is achieved through research, expertise, partnership and experience in a wide range of cross-border practices and concerns (for more details visit www.crossborder.ie).

The response that follows is informed by the Centre's particular knowledge of and experience in engaging with political representatives and officials on cross-border socio-economic development involving a range of sectors from both Northern Ireland and Ireland, including public bodies, business and civil society. It does not address all of the questions listed in the call for evidence, and instead focuses on those issues of greatest relevance to the Centre for Cross Border Studies' work. It is also not exhaustive, and is only intended to outline the Centre's main concerns.

Whether the UK Government's commitment of £2 billion is sufficient to transform public service provision in Northern Ireland

1. In terms of the economic sufficiency of the UK Government's financial commitment to transform public service provision in Northern Ireland, the Centre for Cross Border Studies would in the first instance underscore the evidence already provided to the Committee by Dr Esmond Birnie and Paul Mac Flynn.² Both, for somewhat differing reasons, do not regard the figure of £2 billion as being sufficient to achieve the stated objective.

2. Failure to provide the financial resources to maintain adequate public service provision – let alone to *transform* it – is corrosive of citizens' belief in the ability of the devolved institutions in Northern Ireland to deliver basic wellbeing needs, and feeds into a narrative that Northern Ireland and its citizens are marginal to the concerns of Westminster.

¹ This response was authored by Dr Anthony Soares, Director of the Centre for Cross Border Studies.

² "Written evidence submitted by Dr Esmond Birnie, Senior Economist, Ulster University Business School (NDE0001)" (2 April 2020), and "Written evidence submitted by Paul Mac Flynn, Co-Director, Nevin Economic Research Institute (NDE0002)" (2 April 2020), <https://committees.parliament.uk/work/113/new-decade-new-approach-agreement/publications/written-evidence/> [last accessed 10/04/2020].

3. Undoubtedly, the provision of sufficient financial resources to deliver transformed public service provision in Northern Ireland will be severely challenged by the impacts of the COVID-19 pandemic. This objective will be faced with the competition for resources to address both the immediate needs arising from the spread of the virus, as well as the needs of the private sector as it looks for support to recover in the pandemic's aftermath. It is important in this regard that the UK Government recognises how Northern Ireland tends to be the region most negatively affected by global shocks, and the region that takes longer to recover. Therefore, to fully demonstrate its commitment to NDNA's programme for public service provision transformation in Northern Ireland, the UK Government must ensure that its financial allocation to this agenda is not unnecessarily diverted to addressing the COVID-19 crisis. Whereas there may be instances where the transformation of public service provision in Northern Ireland could make a vital contribution to addressing the effects of COVID-19 or of potential future pandemics, additional financial resources from HM Treasury must be allocated for the Northern Ireland Executive to address others, thus avoiding the excessive depletion of resources aimed at the NDNA's transformation agenda.

4. However, financial resources provided by the UK Government will not of themselves guarantee the transformation of public service provision in Northern Ireland if there is not full recognition of what such transformation requires from all those responsible for leading its implementation, or indeed agreement on what the results of that transformation will look like. This means all parties (including the UK and Irish Governments) coming together to enact *all* the NDNA commitments (many of which are commitments made in previous agreements), instead of individual parties privileging certain elements of NDNA over others. It also means all parties fully engaging with what the acknowledgement in NDNA "that a significant challenge arises in seeking to tackle the financial burden associated with delivering public services in a divided society" (Annex D: Programme for Government, paragraph 4.6.6.) actually means, and delivering on the changes necessary to end the duplication of public services due to the continuation of a divided society. This will require a shared determination to take bold policy decisions and for parties in the Executive to remain united as these are followed through, including on moving towards a single education system where our children and young people are educated together in the classroom, which is to move well beyond the current concept of shared education. It also means acting on the reforms to health and social care called for in the 2016 expert panel report led by Professor Rafael Bengoa,³ and subsequent reports listed in NDNA (p.6).⁴ Again, although it is vital that the UK Government ensures the Northern Ireland Executive is furnished with the requisite financial resources to enact these reforms, it is also essential that the parties in the Executive act in the interests of Northern Ireland citizens as a whole by delivering on the Bengoa recommendations.

How UK Government funding should be allocated to Northern Ireland and whether it should be linked to the functioning of devolved institutions in Northern Ireland

³ Rafael Bengoa et al, *Systems, not Structures: Changing Health & Social Care* (October 2016), <https://www.health-ni.gov.uk/sites/default/files/publications/health/expert-panel-full-report.pdf> [last accessed 17/04/2020].

⁴ Department of Health, *Health and Wellbeing 2026: Delivering Together* (May 2017), <https://www.health-ni.gov.uk/sites/default/files/publications/health/health-and-wellbeing-2026-delivering-together.pdf>; Des Kelly and John Kennedy, *Power to People: Proposals to reboot adult care & support in N.I.* (December 2017), <https://www.health-ni.gov.uk/sites/default/files/publications/health/power-to-people-full-report.PDF> [last accessed 17/04/2020].

5. Although, since this is not an area of its expertise, the Centre for Cross Border Studies is not in a position to recommend changes to the current mechanisms employed by the UK Government to allocated funding to Northern Ireland, the underlying principle must be that funding meets Northern Ireland's specific needs. Therefore, whereas the initial allocation to Northern Ireland may be done in line with the mechanism used to distribute funding across all devolved administrations, the overall allocation must include mitigations for Northern Ireland's specific needs, such as those arising from the particular impacts of the UK's withdrawal from the European Union.

6. The Centre for Cross Border Studies does not support a simplistic linkage between UK Government funding to Northern Ireland and the functioning of the devolved institutions. The citizens of Northern Ireland should not be punished for political failures by starving vital public services of funding. The Centre is also acutely aware of the invidious position the Northern Ireland Civil Service was placed in during the latest absence of a functioning Northern Ireland Assembly and Executive, anxious to take decisions in the best interests of the public, but reluctant to do so as unelected officials.

7. Bearing in mind NDNA includes a number of initiatives, including those aimed at providing continuity of decision making, which should avoid a future collapse of the devolved institutions (paragraphs 3.10. to 3.15.), there is nevertheless scope for discussions to put in place more formal and transparent structures that would allow the Northern Ireland Civil Service and/or UK Government to engage with civic society and local government around funding priorities or Northern Ireland's specific views on issues that will impact on it (such as Brexit) in the absence of a functioning Northern Ireland Assembly and Executive. Such discussions must have at the forefront the principle that structures of this kind will never be a substitute for elected representatives taking strategic decisions in the interests of those who elect them, and that they can only act as a support for the Northern Ireland Civil Service and/or UK Government as they make decisions on more immediate needs or look for a Northern Ireland-specific response to an issue of wider concern.

The potential merits and/or demerits of establishing an Independent Fiscal Council in Northern Ireland to assess the Executive's use of public money

8. The Centre for Cross Border Studies believes there is merit in the establishment of an Independent Fiscal Council in Northern Ireland *only if transparency is its overriding principle*: ensuring transparency of its own operations, and transparency of the Northern Ireland Executive's use of public money. However, if such a body were to be established, its independence must be guaranteed, both in terms of its position outside government and of its ability to undertake its core work in-house. This in turn means providing it not only with a mix of Commissioners with the necessary independence *and* direct knowledge of Northern Ireland, but also with an appropriate number of staff. There must also be clarity as to how the Council's responsibilities differ from those of existing bodies, such as the Northern Ireland Audit Office.

The potential effect of the New Decade, New Approach agreement on the future sustainability of devolved institutions in Northern Ireland

9. While NDNA introduces a range of measures aimed at ensuring the future sustainability of devolved institutions in Northern Ireland, which the Centre for Cross Border Studies broadly welcomes, by its repeated references to commitments made in previous agreements it also

underlines a fundamental reality: that *the most intricate and well-designed institutions will not function if those who inhabit them are not fully and actively supportive of all of their constitutive elements and functions and of the Agreement that established them.*

10. The Northern Ireland Executive Formation Agreement contained in NDNA states that “The parties reaffirm their commitment to the **Declaration of Support contained in the Belfast (Good Friday) Agreement and successor agreements**” (paragraph 20, emphasis in the original). Without a shared and constant commitment by *all parties* to the content and spirit of the Declaration of Support in the Belfast/Good Friday Agreement, the future sustainability of the institutions established by that Agreement cannot be guaranteed, no matter what measures are introduced by NDNA. Moreover, the Centre for Cross Border Studies’ recent project, “Bringing the Agreement Home: In all its parts”,⁵ showed a clear desire from citizens that the *spirit* of the 1998 Agreement – embodied in the Declaration of Support – be enacted by all political representatives, and not just the “mechanics” of the Agreement that allow them to sit in the Northern Ireland Assembly and form an Executive. Those who participated in this project also expressed their concerns that the Bill of Rights for Northern Ireland envisioned in the 1998 Agreement had yet to be realised, therefore it is important that political representatives do not limit themselves to the *consideration* of “the creation of a Bill of Rights that is faithful to the stated intention of the 1998 Agreement”, as set out in NDNA (Annex E: Rights, language and identity, paragraph 5.26.), but that they move from consideration to production as soon as possible.

11. NDNA rightly identifies the crucial role civil society must play in assisting the devolved institutions in solving complex policy issues, thereby strengthening the support for and sustainability of those institutions. This role was also highlighted by those attending workshops as part of the Centre for Cross Border Studies’ “Bringing the Agreement Home” project, who lamented the lack of an adequate replacement for the Northern Ireland Civic Forum, *and* the failure to establish an All-Island Consultative Forum as suggested by the Belfast/Good Friday Agreement,⁶ and called for in the 2006 St Andrews Agreement.⁷ Community organisations who participated in the Centre for Cross Border Studies’ “Towards a New Common Chapter” project also expressed a genuine desire to participate in the development of policies that will affect their communities, which is reflected in their *New Common Charter for Cooperation Within and Between these Islands*,⁸ and echoes the parties’ agreement expressed in NDNA to “introduce reformed measures to **put civic engagement and public consultation at the heart of policy-making**” (paragraph 17, emphasis in the original).

12. However, the potential civic engagement can provide to the sustainability of the institutions is curtailed by NDNA. The claim that the “parties recognise the value of structured and flexible

⁵ For more information see <https://crossborder.ie/bringing-agreement-home-parts/>.

⁶ Paragraph 19 of Strand 2 states: “Consideration to be given to the establishment of an independent consultative forum appointed by the two Administrations, representative of civil society, comprising the social partners and other members with expertise in social, cultural, economic and other issues”.

⁷ Paragraph 22 of the Agreement reads: “The Northern Ireland Executive would support the establishment of an independent North/South consultative forum appointed by the two Administrations and representative of civil society”.

⁸ For more information on the “Towards a New Common Chapter” project see <https://crossborder.ie/towards-a-new-common-chapter/>, and the *New Common Charter for Cooperation Within and Between these Islands* can be accessed at <https://crossborder.ie/site2015/wp-content/uploads/2019/05/A-New-Common-Charter-FINAL.pdf>.

engagement with civic society to assist the Government to solve complex policy issues” (Annex C: Sustainability of the Institutions, paragraph 3.8.) is incompatible with the reformation of a Compact Civic Advisory Panel whose membership is extremely limited, and therefore restrictive in terms of its ability to be representative. While a Public Appointments process may bring some welcome element of transparency, any Compact Civic Advisory Panel that is limited to six members (as was the case before the collapse of the previous Executive) cannot be seen as clear evidence of the willingness of parties to genuinely engage with civic society.

13. Paragraph 3.9. of Annex C of NDNA states:

“The Parties have agreed that about 1-2 issues will be commissioned per year for civic engagement. The Panel will be invited to propose the most appropriate model of engagement for specific issues, including one Citizens’ Assembly a year. The issues will be identified by the Executive. Following consideration of the assigned issues recommendations will be made to the Executive by the Panel”.

The prescriptive, narrow and top-down nature of the civic engagement outlined here will not contribute in a sufficiently meaningful way to the active participation of civic society in helping Government to identify and solve complex policy issues and to ensure the sustainability of the institutions, nor does it attest to the parties’ valuing of engagement with civic society.

14. NDNA’s measures in relation to rights, language and identity have considerable potential in contributing to the sustainability of the institutions. However, whereas according to NDNA the “parties affirm the need to **respect the freedom of all persons in Northern Ireland to choose, affirm, maintain and develop their national and cultural identity**” (Part 2: Northern Ireland Executive Formation Agreement, paragraph 25, emphasis in the original), sustainability cannot be guaranteed if the approach to issues of identity is not one where *all parties are actively committed to the protection of all identities in Northern Ireland, and their connections to other parts of this island and these islands*, and instead an approach is taken that while perhaps not actively inimical to other identities, chooses to be actively protective of only one identity and its sets of relations.

15. In respect of 14 above, it is worth noting an introductory section of the *New Common Charter for Cooperation Within and Between these Islands*, produced by a range of community organisations from Northern Ireland, the Republic of Ireland, England, Scotland and Wales, which encapsulates the approach needed to ensure the sustainability of the institutions:

“Recalling the “Common Chapter” on cross-border, North-South and East-West cooperation that existed in Ireland’s National Development Plan and Northern Ireland’s Structural Funds Plan, **we hereby propose a New Common Charter for Cooperation Within and Between these Islands** by grassroots community organisations that promotes social justice and equality, but do so:

- Acknowledging and respecting the differences that make these islands what they are, while also recognising and cherishing the relations between the people and communities that live in its different nations and regions;
- Recognising, valuing and accepting languages whose roots may cross the borders within and between our islands;
- Recognising that faith traditions are organised and followed by people and communities within and across these islands;

- Valuing the musical, literary and other artistic and cultural traditions and their expression that have spread across the world and whose development has been assisted through relations within and between these islands;
- Realising that whilst we can compete against each other, sport and sporting organisations also unite us within and between these islands; and
- Recognising that our islands are connected by family bonds that cross the borders that separate them”.

16. While NDNA contains a recognition by the parties of “the need to address the legacy of the past” (Part 2: Northern Ireland Executive Formation, paragraph 24), in order for the sustainability of the institutions not to be placed at risk when addressing that legacy, the UK Government has a responsibility, along with the Irish Government, to fully share in this task, as the legacy of the past and its creation are not the unique responsibility of the parties or citizens of Northern Ireland

17. It is important to ensure the sustainability of the institutions that they are engaged with matters of wider importance where the voice of Northern Ireland needs to be clearly articulated. In this regard, NDNA’s stipulation that the Executive establish a Brexit sub-committee is a potentially positive contribution. NDNA states that “As a matter of urgency the sub-committee will consider Brexit-related issues and will initiate, as soon as is practicable, an assessment of the impact of Brexit on the institutions and North/South and East/West relationships” (Annex C: Sustainability of the Institutions, paragraph 3.5.). Although it is absolutely critical that the Northern Ireland Executive should have a clear understanding of and position on the impacts of Brexit, the success of the Brexit sub-committee will be dependent on the parties’ adopting an approach to the sub-committee’s work that considers those impacts on the *totality* of relations (North-South *and* East-West), and not one where individual parties take a selective approach to the relations impacted by Brexit (*either* North-South *or* East-West). Moreover, the UK Government must listen, respond to and act upon the views expressed by the Northern Ireland Executive in relation to ways of mitigating negative impacts, as informed by the work of the Brexit sub-committee. Otherwise, the Brexit sub-committee cannot effectively contribute to the sustainability of the institutions.

18. Included in the NDNA’s priorities for a Programme for Government is the statement that in view of the “immediate and significant challenge facing the Executive [...] in relation to dealing with the impact of Brexit [...], the parties are agreed that the first priority for the Executive must be to ensure the best possible outcome for citizens and the economy, reflecting the priorities set out in the letter of August 2016 from the First Minister and deputy First Minister to the Prime Minister” (Annex D: Programme for Government, paragraph 4.6.8.). The UK Government must assess the extent to which the priorities set out in the August 2016 letter have been accommodated in its approach to Brexit and to the post-Brexit landscape it is developing. Its responsiveness to the Northern Ireland Executive’s expressed priorities in relation to the UK’s withdrawal from the EU will have an important bearing on the future sustainability of institutions, and perhaps an early test for both will be in terms of calls for an extension to the current transition period in view of the impact of the COVID-19 crisis on the negotiations over the future relations between the UK and the EU.