

IN CONFIDENCE

From: Nicola Torres  
Constitutional & Political Division  
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NC/50/3

File

PS/Mr Murphy (B&L)  
Mr Thomas  
Mr Stephens  
Mr Bell  
Mr McCusker  
Mr Brooker  
Mr Hill  
Mr Ferguson  
Mr Maccabe  
Ms Mapstone  
Mr May  
Ms Bharucha  
Mr Whysall  
Ms Salters  
Mr N Warner  
Mr Fergusson, RID FCO  
Mr Hallet, RID FCO  
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- 6 MAR 1998

**STRAND ONE: INSTITUTIONAL ARRANGEMENTS**

Attached is a copy of the SDLP's submission of earlier today on 'Institutional Arrangements'.

(Signed)

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IN CONFIDENCE

# **SOCIAL DEMOCRATIC AND LABOUR PARTY**

## **Strand 1: Institutions**



## SOCIAL DEMOCRATIC AND LABOUR PARTY

### Strand 1: Institutions in Northern Ireland

#### Introduction

1. The SDLP believes that it is necessary to establish agreed, shared political institutions in Northern Ireland as an integral part of a settlement based on the three-stranded approach to the relationships which are at the core of our conflict. Such institutions, involving both communities, would be essential to the creation of a strong and meaningful North-South Council of Ministers bringing both parts of Ireland together in a new dynamic relationship.

A power-sharing executive, drawn from an Assembly elected by PR, would involve representatives from both communities in the task of administering the North of Ireland together. In itself this would be a powerful message for reconciliation as well as for economic and social renewal.

#### Sufficient Consensus

2. Safeguards against abuse and discrimination would include strong sufficient consensus rules together with firm guarantees and mechanisms to protect human, civil and cultural rights. All business in the new institutions would be conducted on the basis of "sufficient consensus" decision making.

3. Sufficient consensus would consist of (a) 2/3 of the total membership of the Assembly/Executive/Committee and (b) majorities of those representing both the unionist and the nationalist communities [on election, members would be invited to declare a community identification - such a declaration would be optional]<sup>1</sup>.

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<sup>1</sup> It is recognised that this might be regarded as institutionalising division. It would be one of a number of issues the necessity and desirability of which could be reviewed after a limited period, as proposed in paragraph 18 below.

4. Essential to any settlement would also be firm guarantees on reform of policing and of the judicial system.

#### Matters to be remitted

5. The powers to be remitted to the new institutions would include as a minimum the responsibilities and functions presently exercised by the Northern Ireland departments of government.
6. Those matters currently defined as either reserved or excepted should be carefully examined with a view to transferring the maximum number possible either from the outset or within a specified period. The new structures should have certain powers, to be defined, in relation to justice and policing. The Assembly should have certain fiscal powers, to be defined.

#### Assembly

##### *Formation*

7. There would be an elected unicameral Assembly of 90 members, to be elected by STV from 18 five-member constituencies. Any casual vacancies arising during the term of the Assembly would be filled by appointment, in a manner to be defined.

##### *Structure*

8. The Assembly would elect a Chair and Deputy Chair, by sufficient consensus of all its members.
9. Committees of the Assembly would be established with powers of scrutiny and investigation, as well as the conduct of Assembly business.



### *Powers*

10. The Assembly would have the power to make primary legislation on all transferred matters; there would be mechanisms, to be defined, for scrutiny and, where appropriate, approval of secondary legislation. The Assembly would have the power to approve or reject the budget proposed to it by the Northern Ireland executive. It would scrutinise the work of the executive through questions in the full Assembly and through the activity of a number of standing committees.

### *Safeguards*

11. The Assembly would operate according to rules of procedure agreed in advance on the basis of sufficient consensus, and formally adopted on a similar basis.

12. All decision making within the Assembly would be on the basis of sufficient consensus.

13. The chairs of the committees would be nominated by the parties on a proportional basis, in an order to be determined by either the d'Hont or Saint-Lague system. Decision making within committees would be by sufficient consensus.

14. The composition of committees would be determined on a proportionate basis, having regard to the strengths of the parties in the Assembly

15. In the execution of their scrutiny role, Assembly Committees would have a particular responsibility to ensure fairness and justice in all areas of Executive and Assembly business.

16. The Assembly would have a fixed term, to be agreed, unless resolved otherwise by a sufficient consensus of its members or where, in exceptional circumstances, new elections were required to allow for the possibility of an executive with the support of a sufficient consensus.



## Executive

### *Formation*

17. An Executive Council would be drawn from among members of the Assembly and ratified in office by a sufficient consensus of all the members.

18. Membership of the Executive would be open to all parties attaining a defined threshold of electoral support in the elections to the Assembly. The portfolios in an executive would be allocated on a proportionate basis - e.g. D'Hondt or Sainte-Lague - reflecting the strengths of parties represented therein.

### *Structure*

19. The Executive would be headed by a First Minister and Deputy First Minister and would have a number of other Ministers to be agreed, with responsibility for particular departments of the administration. The First and Deputy Ministers should be assigned general overview and co-ordination roles, particularly with respect to relationships with other bodies. A limited number of junior Ministers might also be appointed (for example to deal with areas of responsibility which cross departmental boundaries). Junior Ministers would not be full members of the Executive.

### *Powers*

20. The Executive would have executive responsibility for all transferred matters, including the power to initiate legislation and the appointment of members of public bodies.

### *Safeguards*

21. The executive would operate on the basis of collective responsibility with decision making on the basis of sufficient consensus.

22. All Ministers would be required to subscribe to a Code of Practice for Ministers enshrining a commitment to strict fairness and equality in the conduct of their Ministerial duties.

23. All Ministers would exercise their responsibilities on a 'duty of service' basis.

24. Confidence motions in the Assembly would be decided on the basis of the sufficient consensus rule.

### **Finance**

25. As under current arrangements, a block grant of funding will be made each year to Northern Ireland, calculated on the basis of a formula to be agreed. Consideration should be given as to whether the Assembly should have a degree of fiscal discretion. Consideration should also be given to ensuring that any savings achieved under new arrangements are retained.

### **Relations with Other Arrangements**

26. The Executive would provide the Northern element of all-Ireland structures to be agreed in the negotiations. Participation would be a duty of service for all members who, in the performance of this duty, would continue to be bound by collective responsibility, and who would also be subject to scrutiny by the Assembly. Members of the Assembly would take part in any all-Ireland parliamentary tier.

27. The Executive would be closely associated, in a manner to be agreed, with whatever arrangements were agreed for continuing consultation and co-operation between the British and Irish Governments on non-transferred matters.

28. Likewise, the Executive and Assembly would play appropriate roles in whatever wider East/West structures may be developed.



29. The Executive would promote Northern Ireland's interests in the EU policy-making process by establishing a Northern Ireland Representation in Brussels, and by other means to be agreed in consultation with the sovereign governments. The Executive would also implement EU directives and programmes within Northern Ireland, insofar as they related to transferred matters, and subject to whatever role had been agreed for all-Ireland structures in respect of these matters.

30. As indicated in paragraph 19, there should be a particular responsibility within the Executive for co-ordinating these wider relationships which might be assigned to the Deputy First Minister.

### Review

31. After a specified period (3 years) there might be a review of these arrangements, including the details of electoral arrangements and of the Assembly's procedures, with a view to agreeing by sufficient consensus any adjustments necessary in the interests of efficiency and fairness. This review would be led by the First Minister and Deputy Minister.