

Sharing Power to Build A Shared Future

Introduction

The Alliance Party is committed to stable and sustainable power-sharing that respects liberal, democratic principles and enables the development of a shared future.

We support the Good Friday Agreement (GFA) and endorse its underlying principles, values, and interlocking relationships. However, as far back as 1999, we wrote of the inherent risks in embedding rigid consociationalism within our political structures without a path to integration and normalisation.¹ Recognising the need to use the GFA as a foundation for future progress, rather than a permanent solution to a divided society, we have always been pragmatic about the need for our political structures to evolve. We believe the case for reform is now indisputable.

The GFA provided us with a mechanism to manage divisions in 1998; its success is demonstrated powerfully in the growing number of people who now reject the binary, divisive “two communities” model, and instead, embrace the concept of a pluralist, shared community, rich with diversity. This transition, evident in surveys and census data for some time, is now impacting the political sphere with a record number of MLAs elected in the most recent Assembly elections who do not define as either unionist or nationalist. Despite that change, the architecture of the GFA continues to afford additional rights and privileges to those who remain wedded to binary politics, at the expense of stability and progress, and to the detriment of other minorities.

The last election was a watershed moment for Northern Ireland and the institutions: the current mandate must therefore be transitional, moving us towards sustainable and stable institutions that enable Northern Ireland to reach its full potential, and which recognise and reinforce the positive changes that have been taking place throughout our community.

Both immediate and medium-term reforms are necessary. We see the immediate changes required as falling under three broad strands: Executive formation, effective government and Executive functioning.

This paper details our proposals in each of these strands and outlines how we believe reforms could be sequenced to achieve meaningful change in a logical and manageable way.

¹¹ Stephen Farry; Sean Neeson, "Beyond the Band-Aid Approach: An Alliance Party Perspective upon the Belfast Agreement," *Fordham International Law Journal* 22, no. 4 (April 1999): 1221-1249.

Immediate Measures

1. Executive Formation

Nomination of First and Deputy First Ministers

The St Andrew's Agreement significantly altered the basis upon which the First and deputy First Ministers are nominated. The Irish and British governments supported this change in order to restore devolution and, whilst on the one hand this demonstrates that the Agreement can be amended, it is also an important example of changes which were made to alleviate the concerns of a single political party which have had unintended long-term consequences.

Therefore, we must use this opportunity to improve the arrangements for nominating the First and deputy First Ministers to reflect the realities of contemporary society in Northern Ireland and to prioritise the stability and sustainability of our political institutions.

We believe it is possible to remove nomination as a constant potential blockage in establishing an Executive. In a situation whereby the party eligible to nominate First or deputy First Minister is unwilling to do so, we propose to amend the 1998 Act to permit the entitlement to be passed to the next largest party, therefore creating the ability for those willing to nominate to do so.

Should a party wish to refuse its entitlement, it would be able to do so without exercising an effective veto on Executive formation.

Although procedurally unique, this would be consistent with the current position of the allocation of other Executive Ministers under D'Hondt.

This change should be implemented before the current 24-week period for Executive formation expires.

2. Assembly Functioning

Cross-Community Votes

Currently, the 1998 Act requires "cross-community support"² on key votes such as the election of a Speaker, the nomination of the Justice Minister and the passing of certain money bills. This mechanism perpetuates instability by granting an effective veto to the

² Northern Ireland Act 1998, section 4(5).

largest unionist and nationalist parties, by requiring that so-called “cross-community support” is achieved by parallel consent.

Most recently, on Friday 13th May, although 72% of MLAs present and voting supported the election of a Speaker, cross-community support was not achieved due to DUP opposition. DUP MLAs constitute just 28% of the Assembly, yet were able to veto the election of a Speaker and, therefore, the Assembly itself functioning. The same situation would also arise should Sinn Fein withhold support on these key votes.

It is worth noting that, had parallel consent applied in the NI referendum on the GFA itself, it would have been unlikely to have passed. Instead, 71% of voters demonstrated that sufficient consensus for progress, including unionists, nationalists and those who are neither, had been achieved.

Currently, the Alliance Party’s votes count for less as they are excluded when calculating whether cross-community support is reached. Aside from the obvious democratic deficit and inequity it represents, when our MLAs have an equal mandate to those of any other party, it is absurd that an avowedly anti-sectarian and cross-community party, which represents people from unionist, nationalist and neither traditions, is explicitly disregarded in a so-called “cross-community” procedure.

It is our preference that **weighted majority voting** should replace parallel consent in the 1998 Act as a means of determining cross-community support; this would then be reflected in updated Standing Orders.

Parallel consent never adequately reflected the plurality of identities or political ideologies in Northern Ireland. The current arrangements were imperfect in 1998, and are inexcusable in 2022.

As the most recent Assembly elections have borne out, the number of people who do not identify as unionist or nationalist is growing. Whilst this rise was not anticipated in Good Friday Agreement, there must now be change, both to accommodate those people and the mandate they have given to Alliance and to future-proof the Assembly. We believe the level of weighted majority should be calculated after each election (around two-thirds of members) to ensure that it includes unionists, nationalists and those who are neither.

This change is critical to ensure that, where an Executive can be formed, it is able to pass a budget and govern effectively. Without weighted majority voting, the possibility of deadlock is not removed, it is only shifted from the formation of an Executive to Assembly business.

Petitions of Concern

Alliance is committed to the protection of minorities in Northern Ireland and we understand the rationale for the petition of concern arrangements. However, the use of petitions of concern has moved far beyond the original intentions and they are now abused as a veto. Rather than being a critical check to protect minority communities, petitions of concern have more frequently been used to deny minority rights.³

Whilst the most recent reforms to petitions of concern are welcome, they do not go far enough. Our preference is that their application is restricted to three key areas: matters of national identity; matters which relate to the legacy of the conflict in Northern Ireland; and matters which relate to the constitutional structure and institutions established under the Good Friday Agreement.⁴

A petition of concern invoked validly on one of these key issues would trigger a cross-community vote, calculated using a weighted majority.

3. Executive Functioning

Cross-Community Votes

The Executive itself is too often a site of deadlock and ransom politics. The cross-community voting mechanism within the Executive, whereby any three ministers can propose that a vote require “cross-community support” (i.e. parallel consent), operates as an effective veto for the two largest parties, whilst offering no protection to other minorities.

This mechanism was agreed upon at St Andrew’s in 2006 and has resulted in another barrier to effective government in Northern Ireland. The mechanism is not qualified in any way and contains no criteria by which to constrain the use of such votes.⁵

We propose a re-alignment of the trigger for cross-community votes in the Executive with our proposed threshold for petitions of concern: they should both serve the same function (a safeguard to protect minorities) and should operate in the same way.

³ [Same-sex marriage: Proposal wins assembly majority but fails over DUP block - BBC News](#)

⁴ See our paper ‘Alliance Proposal For The Reform Of The Petition Of Concern’, available via: [Policy Proposals - Alliance Party](#)

⁵ St Andrews Agreement, Annex A, paragraph 2.

Like the reformed petition of concern, a cross-community vote could only be invoked on the same discrete set of key issues.⁶ The Minister proposing a cross-community vote would have to state how the matter under consideration fits one (or more) of those criteria and other Ministers supporting that proposal would have to endorse that reasoning. This would allow other Ministers to challenge that rationale. Such disputes should be referred to the Attorney General for determination.

The changes made at St Andrews on how the Executive operated were a significant departure from the GFA and increased both instability and the unfettered power of the two largest parties to the detriment of good government. Our proposals would move us closer to the original purpose of the GFA provisions and would improve Executive functioning, restoring the checks and balances for other Executive parties.

Agenda

The rationale for the First and deputy First Ministers agreeing the Executive agenda is sound, given that they are co-chairs of the Executive Committee but, in practice, this gives one or other of them a veto over items appearing on the agenda. This means that even where a majority of ministers within the Executive (and a majority of Executive parties) would support a particular paper appearing on the agenda, the First or deputy First Minister can prevent this from happening.

Three ministers can make a joint request that an agenda item not be delayed for more than three meetings but this is a convention which has been almost entirely disregarded for some time. It does not represent an effective safeguard against this covert veto of Executive agenda items and should, therefore, be placed on a statutory footing, rather than depending on good will and convention.

When items are permitted onto the Executive agenda, they can be vetoed using so-called “cross-community votes”. **It is therefore only through the combination of the measures listed in sections 1, 2 and 3 that we can deliver a path to effective government: an Executive can be formed, can agree a budget and Programme for Government, and can pass these in the Assembly.**

⁶ Matters of national identity, matters which relate to the legacy of the conflict in Northern Ireland, and matters which relate to the constitutional structure and institutions established under the Good Friday Agreement.

Medium-term Issues

In addition to the aforementioned immediate changes, Alliance proposes that a series of other reforms be implemented ahead of any new Assembly mandate.

1. Removal of Designations

The requirement that new members of the Assembly designate upon signing in is unnecessary, imbeds division and creates instability within the institutions.

The Good Friday Agreement provided a stepping stone for peace and prosperity in Northern Ireland, but it must be modified in line with the principles and values it was intended to foster: partnership, equality and mutual respect.⁷

Replacing parallel consent with weighted majority voting is an important change to reduce the significance and role of designations.

However, we propose that whilst these provisions should be put in place for the remainder of the current mandate, there is no justification for the designation system continuing in the next mandate. This should, therefore, be the last mandate where designations are required.

2. First and deputy First Minister Roles

Joint Office and Title

The positions of First and deputy First Minister were always intended to be co-equal and their joint office reflects this. However, the changes made at St Andrew's cemented a common misconception that the First Minister is senior to the deputy First Minister position.

The roles should, prior to the next Assembly elections, both be renamed 'Joint First Minister' to ensure that the positions are equal in name as well as in practice.

D'Hondt Allocation

We would also welcome the inclusion of the First and deputy First Minister posts in the D'Hondt calculation, in the same way that the Justice Minister post is allocated by a separate procedure but counts towards that party's allocation under d'Hondt.

⁷ The Belfast Agreement: An Agreement Reached at the Multi-Party Talks on Northern Ireland, 'Declaration of Support', para. 2.

3. Enabling Voluntary Coalition

Our strong preference remains for an Executive to be formed through voluntary coalition, subject to a confirmatory vote in the Assembly⁸. However, we recognise this would be a substantial change to the status quo, which would require significant further consultation and confidence-building measures to deliver over time. In particular, we are conscious that it may be viewed as a means to exclude particular parties from government on a semi-permanent basis.

Our proposed immediate changes to the nomination of the First and deputy First Minister would provide a useful transition towards voluntary coalition, which we propose should be the subject of further engagement during this mandate to permit enabling legislation to be passed, allowing adoption in a future mandate.

⁸ See our paper '*Alliance Party Governance Paper: Solutions for transparent and accountable Government*', available via: [Policy Proposals - Alliance Party](#)

Recommendations

Alliance has consistently played a constructive role in negotiations over the last few decades, but without changes to the mechanisms of how we govern, we will inevitably continue to repeat the cycle of crisis and collapse, whilst failing to put the best interests of society at the centre of our politics.

This is not an acceptable way to govern and must no longer be tolerated. The proposals outlined in this paper are modest, in that they do not alter the fundamental principles of the Good Friday Agreement, but they will be significant in restoring public confidence in devolution and in ensuring the long-term stability of the Assembly and Executive.

The case for reform is indisputable and uncontroversial. Through an Alliance Party motion in October 2021, the Assembly indicated its support for reform.⁹ The Assembly and Executive Review Committee (AERC) have also carried out significant work on reform and have prioritised consideration of ‘Designations and the Appointment of the First Minister and deputy First Minister’ as their first strategic priority for the new mandate.¹⁰ This further demonstrates the cross-party support for reforms such as those we have proposed in this paper.

We therefore recommend the following package of measures are implemented immediately:

1. **To facilitate Executive formation**, the process of nominating First and deputy First Ministers must be amended. In a situation whereby the largest party eligible to nominate the First or deputy First Minister is unwilling to do so, the entitlement should pass to the next largest party, therefore creating the ability for those willing to nominate to do so.
2. **To facilitate a functional Assembly**, a weighted majority should replace parallel consent in “cross-community” votes. This should be a majority of approximately two-thirds of the whole Assembly, determined after each election to ensure it includes unionists, nationalists and others. Without this, the Executive may not be able to pass a budget and the Assembly may be unable to elect a Speaker. Further, the petition of concern mechanism should be reformed, restricting its use to key issues. Once triggered successfully, votes should proceed by weighted majority
3. **To facilitate a functional Executive**, the threshold for triggering a “cross-community” vote within the Executive should also be raised to reflect the reforms proposed to the petition of concern in the Assembly, used only on key issues, and the “three

⁹ See Official Report: Tuesday 19 October 2021 via: [Official Reports \(niassembly.gov.uk\)](https://www.niassembly.gov.uk)

¹⁰ Assembly and Executive Review Committee – Legacy Report 2017 – 2022 (NIA 197/17-22), 8.

meeting convention” for adding items to the Agenda be placed on a statutory footing.

We recommend the following measures are legislated for during the current mandate, to take effect in future mandates:

1. The titles of both ‘First Minister’ and ‘deputy First Minister’ are changed to ‘Joint First Minister’.
2. The positions of ‘Joint First Ministers’ are counted against D’Hondt calculations.
3. The system of designations is abolished.
4. Arrangements for an Executive to be formed through voluntary coalition should be put in place.