



Northern Ireland
Assembly

ASSEMBLY AND EXECUTIVE
REVIEW COMMITTEE

OFFICIAL REPORT
(Hansard)

Devolution of Policing and Justice

03 November 2009

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Jimmy Spratt (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Alex Attwood
Mr Nigel Dodds
Mr Simon Hamilton
Mrs Carmel Hanna
Mr Danny Kennedy
Mr Alan McFarland
Mr A Maskey
Mr John O'Dowd

The Chairperson (Mr Spratt):

The first item on the agenda is correspondence. We are now in possession of a letter from the First Minister and deputy First Minister. We also have a paper from the specialist adviser, which analyses the Prime Minister's letter. There is also an acknowledgement to Lord Morrow; a reply to the Bar Council of Northern Ireland that we discussed at the previous meeting; a letter to the First Minister and deputy First Minister sharing information that was provided by the Policing Board; a letter from the First Minister and deputy First Minister asking for a further update on the efficiency review panel; a letter to the First Minister and deputy First Minister sharing information that was provided by the Secretary of State; a letter of thanks from the Northern Ireland Policing Board; and a letter to the specialist adviser sharing information from the Northern Ireland Policing Board, as agreed at the previous meeting. I ask members to note those

letters.

Mr Attwood:

Are we going to discuss —

The Chairperson:

Those are just the outgoing letters.

Members have a copy of a letter from the Prime Minister, which has pretty much been in the public domain. There is also a letter from the Secretary of State in reply to the Committee's letter of 7 October 2009 about the costs of the training college and the destruction of DNA records. We also have a letter from the Policing Board to the First Minister and deputy First Minister about issues that arose during a special meeting of the board on 23 October 2009. The board agreed to copy that letter to the Committee. There is also a paper from the specialist adviser that contains an analysis of the Prime Minister's letter of 21 October 2009 in response to the decision taken on behalf of the Committee just before the Halloween recess to invite him to provide comment. A letter from the First Minister and deputy First Minister arrived late yesterday afternoon, and that is now being tabled. I understand that that has also been copied to Danny Kennedy, in his role as Chairperson of the Committee for the Office of the First Minister and deputy First Minister. I saw an e-mail last night with that letter attached, which is about our request for a meeting with the First Minister and deputy First Minister. I will give members a few moments to read that letter. The Prime Minister's letter, which everyone has already seen, is attached.

Mr McFarland:

Is the specialist adviser going to come before the Committee?

The Chairperson:

No. His response has been provided, and is included in members' packs.

Mr McFarland:

Is he going to come before us to discuss that?

The Chairperson:

No, he is not coming.

Mr Kennedy:

Why is that? Is he not available?

The Chairperson:

The Committee had not decided to invite him at this point, although I am quite happy to call him if members want him to attend a subsequent meeting.

Mr Kennedy:

We should discuss that.

The Chairperson:

Everyone has had a chance to read letter, so it is now open for discussion.

Mr McFarland:

Although some bits of the Prime Minister's letter are clear, other bits are not quite so clear in what is being referred to or what is behind it. Many of us have been involved in such issues for 10 years now, and we know that behind every letter, there is a lot of detail that is not always clear. Hopefully, when the First Minister and deputy First Minister come before us, they will be willing to explain what it all means.

It would be useful if we get our specialist adviser to talk us through the implications, as Danny suggested. There has been talk in the press of this being a £2 billion package, but the letter identifies approximately £700 million. There appears to be a disparity between what has been spun in the press and what has been identified in the letter.

Mr Attwood:

I agree with Alan. To understand the letter, we need to get in our own adviser and an official, because if we were to merge the questions that were raised by Mr Hewitt and those that were raised in the letter from Barry Gilligan, a substantial piece of work would be required to work out the possible consequences. Therefore, although I agree with bringing in Victor Hewitt, to more fully understand the letter, we also need to bring in officials from the Department of Finance and Personnel (DFP) and the NIO. Furthermore, Victor Hewitt should have access to those officials so that he can understand the letter more fully and give us best advice.

I welcome the fact that the letter from the First Minister and deputy First Minister got back to us, but I do not see why they are arguing that any session should be held in private.

The Chairperson:

We have always discussed financial issues in private, as we did with discussions about the Policing Board.

Mr Attwood:

Precisely, but the difference now is that the Prime Minister has published a letter, so he has decided that some of those matters can be discussed in public. Whatever the requirements for privacy heretofore, the Prime Minister has decided that those matters can be probed and discussed in public, and other people have not dissented from that. Therefore, given how important financial issues have been for the devolution of policing and justice and that the privacy principle has been breached, which I welcome, it is appropriate to discuss the matters in public session. Of course, there is another reason: no report about any of the financial discussions to date has been brought to the Assembly. I was minded to raise a point of order with the Speaker about that. Given that privacy is no longer an issue, our discussions are all but concluded and those matters are in the public interest, there should be a public conversation, which should happen next week. In addition, we should determine from the First Minister and the deputy First Minister how early they can attend the meeting.

The Chairperson:

They said 10.30 am.

Mr Attwood:

They should come earlier because, on that basis, they could give us up to an hour and a half. However, depending on business in the House, it could end up being only half an hour, and, given that they will have met us only twice in the course of a year, we will need a minimum of half an hour and a maximum of an hour and a half. Therefore, to ensure that we do not run out of time, we should ask them how early they can come. We need an hour and a half with them.

The Chairperson:

We can check that out, but I imagine that it should not be a problem.

Mr Kennedy:

On a practical basis, if we need to hear from Victor Hewitt and/or officials — and it would be helpful to do so — it would be important to have that briefing before we meet the First Minister and deputy First Minister. That might lead us into logistical problems. It might be necessary to meet Victor Hewitt and the officials on Monday, which is not ideal because it is a sitting day, but we will need time to digest the responses from the special adviser.

Mr McFarland:

Logically, given that the First Minister and deputy First Minister will probably have only a short time when they get here, having an understanding Victor's take on what it all means would probably lead to a more productive discussion with them.

The Chairperson:

Obviously, we will have to check whether the specialist adviser will be available, and that can be done reasonably quickly. Do you know of his availability?

The Committee Clerk:

No; but, if it helps, we can make that call now. One option is an earlier start on Tuesday morning, and the other is a separate meeting on Monday. It would be helpful to know what option the Committee prefers so that that can be conveyed to the specialist adviser, and, while the Committee continues with its discussions, we could probably even call officials in the NIO and DFP and alert them to the Committee's preference.

The Chairperson:

First and foremost, we need to know how members are fixed with Committee meetings or whatever else they are involved in on Monday.

Mr A Maskey:

We are not opposed to that idea. However, first, I would have thought that we need hear from the First Minister and deputy First Minister and then take it from there. If people want to meet on Monday, and if it is feasible, I will not object, but I am not sure whether I will get much more out of it. Victor's letter is Victor's letter, and his analysis is in front of us. People around the table have had opportunities to discuss the matter at length, including with the Chief Constable. I am

not sure what additional light it will shed. It might help if Victor were to give us a bit of a critique after we hear from the First Minister and deputy First Minister.

The Chairperson:

If people are not objecting to a Monday meeting, we can set it up. We will have to make a telephone call now. I imagine that we will be able to get a room as Monday is not the busiest day for Committee meetings.

Mr Kennedy:

I do not think that there is a lot of business scheduled for Monday. Perhaps we could meet immediately after Question Time?

The Chairperson:

I can make myself available at whatever time suits. I do not have any objections, and I am happy to do that. Do members agree that we should try to slot a meeting in for Monday and to bear with the Committee Clerk in making the best arrangements for the time of the meeting? Obviously, that will have to tie in with when Victor is available.

Members indicated assent.

The Committee Clerk:

We need to clarify whether that meeting will be in public or in private session.

The Chairperson:

We will clarify whether both meetings are in public or private session. Alex Attwood raised an issue about meeting in private or public session. The First Minister and deputy First Minister have requested a closed session. Until now, we have dealt with all such issues in closed session. What are the Committee's views?

Mr Hamilton:

I understand the point that Alex Attwood made about the letter being in the public domain. Given the previous practice of holding meetings in closed session and the freedom that that has given everyone — Committee members and witnesses — it would be right and proper that we continue in that vein.

Mr McFarland:

We are happy with that. In my experience, a lot more information can be gleaned during meetings that are held in closed session, as opposed to everyone being guarded if they are held in open session. We need to know what some of the content means. Clearly, a lot of understandings have been given throughout this process at the meetings in Downing Street, and it would be useful if we had some idea of what those understandings were. At the moment, lots of questions are left begging. It would be useful to know what other discussions have taken place, what they mean and where it is all going. We are more likely to get answers to those questions in a private session than a public session.

The Chairperson:

The consensus seems to be —

Mr Attwood:

I want to put the matter to a vote, simply because there is no evidence from our previous conversations with the First Minister and deputy First Minister that having the meeting in private would add much enlightenment. The evidence base is not there to say that things will necessarily be better in private session.

Mr Hamilton:

Maybe the questions were not probing.

Mr Attwood:

We had the chance to ask only two questions, and even that was a stretch.

The Chairperson:

I will come to the questions in a moment. I want to be fair to all Committee members.

Mr Attwood:

The Committee has an obligation to the wider public. There has been a great deal of toing and froing over the devolution of policing and justice powers. We are where we are now, but we have an obligation to fulfil our responsibilities to the people by holding further discussions in public.

Such discussions would confirm the good parts to the offer and parts where ambiguity endures, even though we may never get any further clarification to such ambiguity. Therefore, I propose that our meeting with the First Minister and deputy First Minister should be held in public.

Mr A Maskey:

The Office of the First Minister and deputy First Minister (OFMDFM) asked for the meeting to be held in closed session, so it might be useful for the Committee to ask that Department why that is the case. As Alan McFarland suggested, OFMDFM may come back and say that the First Minister and deputy First Minister do not want to appear in front of the Committee in a public session. I do not know whether that is the case, but I am happy for OFMDFM to be consulted.

The Chairperson:

The Committee Clerk has held discussions with departmental officials in OFMDFM; perhaps he can give the Committee his view?

The Committee Clerk:

Departmental officials from OFMDFM have discussed not whether the session should be closed but whether there should be a transcript of the proceedings of a closed session. Those officials indicated that that transcript could be used as part of the Committee's report and, as such, could constrain the conversation between the First Minister and deputy First Minister and the Committee.

As a precedent, the officials cited the previous appearance of the two Ministers before the Committee when the meeting was held in closed session and there was no transcript. The officials suggested that the same arrangement should apply in the future.

The Chairperson:

That concurs with what Mr McFarland said a few moments ago.

Mr Attwood:

That is a useful suggestion, but Alex Maskey's suggestion that the Committee should check whether OFMDFM will agree to the session being held in public is a better one.

What I do not understand is that the letter before the Committee is a joint letter, which refers to continued sensitivity in the discussions between OFMDFM and the Prime Minister and Treasury. I understood from at least one of the authors of the letter that those discussions had concluded. Therefore, in those circumstances, there should not be any continued sensitivity. However, I am prepared to suspend my proposal on the basis that the Committee consults OFMDFM, as Alex Maskey said.

The Chairperson:

Before I put the proposals to the Committee, a telephone call must be made to OFMDFM. Hopefully the Committee will get an answer, although it is not the easiest thing to get from OFMDFM. The Committee Clerk has had to make a number of telephone calls in the past, and Committee members will know how many letters the Committee has written to the Department.

However, with the Committee's agreement, I will suspend the meeting for five to 10 minutes to allow us to try to get an answer to the suggestion. A definitive answer from the Department would probably prevent us from needing to have a great deal of chat about the issue.

Committee suspended.