



**Northern Ireland
Assembly**

**ASSEMBLY AND EXECUTIVE
REVIEW COMMITTEE**

**OFFICIAL REPORT
(Hansard)**

**Devolution of Policing and Justice
Matters**

17 November 2009

NORTHERN IRELAND ASSEMBLY

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REVIEW COMMITTEE**

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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 Simon Hamilton
Mrs Carmel Hanna
Mr Alan McFarland
Mr John O'Dowd
Mr Ian Paisley Jnr

The Chairperson (Mr Spratt):

We move to matters arising. I refer members to item 3 and item 6 of the minutes of proceedings of our meeting on Monday 9 November, and to item 4 of the minutes of proceedings of our meeting on Tuesday 10 November. I also refer members to the memo from the Clerk at tab 2 of their meeting packs. Those papers relate to the Committee motion. I ask the Clerk to talk members through his paper.

The Committee Clerk:

The paper reflects on the decision that was taken by the Committee on 3 November, and the subsequent deferrals of any further progress on submitting the Committee motion to the Business Office, or on rescinding that decision. The paper reflects conversations and discussions during last week's meetings. If the Committee wishes to rescind the decision on the motion, it will have to follow the arrangements set out at annex B. However, the Committee is at liberty to take other

decisions, and some of those options are discussed on the second page of my paper. I remind members that there is a formal arrangement for rescinding a Committee decision.

The Chairperson:

There are three options that are open to the Committee.

Mr McFarland:

Did the Secretary of State agree to our request to receive the memoranda of understanding at the same time as the First Minister and deputy First Minister?

The Committee Clerk:

I will table a letter dated 31 May that the Secretary of State sent to the Committee, in which he indicates that it was his intention to share the memoranda of understanding and protocols with the Committee at the same time as they were cleared for the First Minister and deputy First Minister. That letter was the result of pressure that has previously been applied by the Committee to request sight of those papers. That letter is being distributed to members.

Mr McFarland:

It would be useful to know why that did not happen, whether First Minister and deputy First Minister were unhappy that the Committee would have those papers at the same time as them, or whether the Secretary of State forgot about it. Why is it that, having agreed to provide the papers to us at the same time, the First Minister and deputy First Minister have had their copies for some time?

The Chairperson:

Perhaps option 3 might be the way forward. That is to rescind the Committee's decision on the motion and to write to the Secretary of State to say that the Committee has been informed by the First Minister and deputy First Minister that they have received the papers.

Mr Attwood:

I will continue to press my motion for the reasons that have emerged on the day of our meeting with the First Minister and deputy First Minister. First, there are four memoranda, one of which refers to the work of the Serious Organised Crime Agency (SOCA) in the North. Last Tuesday, SOCA commenced an exercise involving a person in the North, which gave rise to various

political views and public debate. Without prejudice to what anybody said at that stage, the fact is that there was that intervention by SOCA, and the consequences of that only justify to me why we need to see the memoranda. If there was ever an example that proved why this Committee should see papers relating to the work of SOCA, that is it, and it is a good reason why we should press on with our motion.

Secondly, the First Minister and deputy First Minister confirmed that they have had those documents since the summer. We do not have a Hansard report, and they did not indicate exactly when they received the papers, but it was during the summer. That means that they received the documents up to three months ago. We have been chasing the Secretary of State for the same documents, and three months after OFMDFM got them, we have not received sight of them. That is not a good way of doing business on sensitive and important matters.

Thirdly, and I will come back to this under “Matters Arising”, there are four Committee meetings scheduled before the Christmas recess. When we finish here in an hour, we will have just three more meetings. We are not doing our job if we do not probe into those memoranda and protocols. Regardless of proposals to have a debate before Christmas, which I want to talk about under “Matters arising”, we are not being real about dealing with this work if we do not get those documents. The Secretary of State knows that we have had this conversation over the past couple of weeks, but have we received anything? Are there any officials in the room today? I do not know. We all know that the Northern Ireland Office knows that we have had this conversation, and nothing has been forthcoming. Therefore, I want to press ahead with the motion.

Mr O’Dowd:

If the objective is to get our hands on the memorandums and concordats, option 3 progresses that, and if the objective is to stand in the Chamber and make lofty speeches, then proceeding with the motion is the way forward. Our objective is to get our hands on the memorandums of understanding and to study them. Option 3 is a fair enough way forward, and it allows us to return to the question of a motion at a future date, if we so wish.

Mr McFarland:

Am I correct in recalling that, on at least two occasions since this letter, we have asked the Secretary of State for the memoranda of understanding and that he has written to us to state that they were still under consideration? I understood that we could not have them because they were

still being looked at. That is why it is disconcerting to discover that OFMDFM has had them since the summer.

The Chairperson:

I do not know whether the Secretary of State has written back in the terms that you have described.

Mr McFarland:

Since the summer, we have asked for the memoranda of understanding twice, and we have been told that they were not ready and that they would be forwarded to us in due course. I seem to recall a recent letter in which we were told that the memoranda of understanding were still being considered and that we would get them as soon as they were ready. If OFMDFM has had them since the summer, I do not think —

The Chairperson:

The intention has always been to share them with the Committee in parallel with the First Minister and deputy First Minister.

Mr McFarland:

I think that we have written to the Secretary of State on a couple of occasions since the summer and told him that we are getting agitated about these matters. We have been told on several occasions that they were not ready, that we would get them in due course, and that is why we have ended up with Alex's motion. If we were told in May that we would get them in parallel with OFMDFM, and it has had them since the summer, we have been deliberately denied them at someone's request, and it is not clear whether it was at the request of OFMDFM or the NIO.

The Chairperson:

They were never requested of OFMDFM.

Mr McFarland:

They were not, but someone has made the decision not to send them to us and OFMDFM, in parallel. That has been a conscious decision by someone.

The Chairperson:

I would not say “in parallel”. There might be a debate around what that means.

Mr McCartney:

I do not like straying into what, last week, was agreed would be a private and confidential meeting.

The Chairperson:

Yes. I am getting concerned about the thrust of the conversation.

Mr McCartney:

My recollection is that, in response to a question from Alex, OFMDFM said that it was considering the memoranda of understanding. In fairness, there was a position which was not explored: they may not yet be agreed.

The Chairperson:

If we are going to stray into any further discussion in relation to what was agreed at a private meeting, I will clear the room.

Mr McFarland:

We do not need to discuss last week’s discussion.

The Chairperson:

Can I have that assurance from all Committee members?

Mr McFarland:

You have that assurance from me. Most people will believe that “in parallel” means “at the same time as”. We asked to receive the memoranda of understanding at the same time as OFMDFM, and the Secretary of State wrote back to tell us that we would receive them at the same time. On at least two occasions since then, we have asked for them, and that is why Alex has got so fed up. Leaving aside the fact that we discovered last week that they have been with OFMDFM since the summer — and that is as much as I am going to go into that discussion — there is something very strange going on, because we were assured that we would get them at the same time as OFMDFM. They got them in the summer and, on two occasions since then, NIO officials, who said that they

would release them at the same time, told us that we could not have them, because they had not finished with them. There is something odd about that.

Mr McCartney:

I am not 100% certain that they said last week that the protocols had been finally agreed.

Mr McFarland:

They do not have to be agreed. We asked to see them at the same time.

The Chairperson:

Please address your remarks through the Chair.

Mr Hamilton:

I do not think that we have ever had a difficulty with pursuing sight of the documents, where it is appropriate for the Assembly to be involved in seeing them. We have always made it clear, particularly on issues relating to national security, that there was scope for the Committee or the Assembly to interfere, and we are very defensive of that position. Even though we have supported the pursuit of sight of the documents, I do not think that we have shared the position of other Committee members in respect of what the end result would be of having had sight of them.

If I have understood Alex's comments correctly, and his remarks about SOCA confirm some of my worries, and our position may alter somewhat. I have said before that I have no issue with having sight of the memoranda. Our collective understanding from previous correspondence from the Secretary of State was that we would receive the memoranda of understanding at the same time, but having gone back and looked at his letter, we see that the words "in parallel" were used, and, of course, things can be parallel, but behind. Different parallel points can be on the same line.

I do not wish to get into a semantic word game, but I think that the Committee had the distinct impression that we would get the memoranda of understanding at the same time as OFMDFM. I am still content that we pursue sight of them, but I am not convinced that, at this stage, a motion in the Assembly is the way to achieve that aim. In fact, it may make it more difficult. The motion can be held in the arsenal and used at some stage, but before we get to that stage, it might be useful to go back to the Secretary of State to tell him that our understanding was that we would

get the memoranda of understanding at the same time as OFMDFM. That has not happened, and we know that the Office of the First Minister and deputy First Minister have had them for some time. Could we ask why have we not got them, and whether we can expect to have sight of them soon? I would include the caveat that although our party is happy to have sight of them, if people want to try to negotiate them or to force an opinion on what they include, that is a no-go area for us. In short, there is an option to rescind the decision on the motion and write a letter. Perhaps we could write a letter along the terms that have been described and see what response comes back. The option of the motion will still be there if the Committee believes that it is required at that point.

The Chairperson:

I have been told that further pursuit of the Committee motion could be deferred in the meantime.

The Committee Clerk:

However, the Committee will still be obliged to address the issue of what it should do with the Committee motion that was, effectively, agreed at Committee on 3 November.

Mr Attwood:

Following Simon's point about where parties may want to go with the issue, the SDLP would like all of it to be revisited — we do not deny that. We know that, because what has been agreed include transferred, reserved and excepted matters, there are some areas that we will not be able to pursue, despite our ambitions and intentions. In any case, there would not be much agreement around the table on that. Although the SDLP might wish to go in certain directions, we are not naive, and we realise that it is not possible to go in those directions.

The Assembly can act consistently with its transfer function and with the letter of 31 May 2009 from the Secretary of State. In that letter, the Secretary of State confirmed what he will and will not share with this Committee, and he outlined what might ultimately be shared with a future justice Committee. In two subsequent paragraphs, he outlined, as one would expect, the parameters of national security and accountability. His letter then indicates what could be shared, not with a justice Minister, OFMDFM, the Policing Board or the Chief Constable, but with a justice Committee of the Assembly.

Given that, to some degree, this Committee has the responsibility of working out that issue

and relationship, we should have sight of those documents to see how far we can go. I am not suggesting that we go ultra vires, but we should see how far we can go.

I wish to reassure Simon of the reason why I raised the example of what arose with SOCA last week. I do not wish to go into the details, but without prejudice to anyone's views on the matter, it demonstrates a potential rubbing point in the future, post-devolution. In the view of some people, it has been a rubbing point pre-devolution. Given that experience and the fact that other similar experiences could emerge, it seems sensible to plot our way through that by looking at the various protocols on national security, SOCA, the independence of the Public Prosecution Service, and so on. That is the height of what we are discussing; it is not about bringing something to the Floor of the Chamber to make a lofty speech. I have given enough evidence to suggest that the matter is certainly relevant to the authority of the Assembly and how it will function in the future, and on where issues, perhaps acute ones, could arise.

The Secretary of State, through one of his officials, told us that everything could be devolved by May 2008. Therefore, one can only work on the assumption that those protocols were in a fit state at that time. Eighteen months later, we are still chasing our tail trying to get them. The Secretary of State cannot explain how devolution of justice, which would have involved all those protocols and concordats, could have taken place 18 months ago, but we cannot have the memoranda of understanding yet.

We can go off and plead, but, two weeks after the motion first arose and has, presumably, been reported somewhere, we have not received anything. If members think that the Secretary of State will respond to a letter, they should learn from the past two weeks, when the NIO has not responded to our conversation. It does not need a letter; it ignored our conversation in a situation in which we are trying to get the devolution of justice over the line in a short space of time. That is why I am pressing on with the motion, and I so propose it.

The Chairperson:

That is, of course, a matter for the Committee, and we will test that shortly.

Mr Attwood:

I am proposing a motion.

The Chairperson:

Just hold on. Other members wish to speak. You made it clear at the start of the meeting that you wished to propose the motion.

Mr Paisley Jnr:

Last night, a debate took place in the Assembly on fishing, and I think that that is continuing now — the motion is just a fishing exercise, and if the Committee were to pursue it, it would end up looking ridiculous.

The wording of the motion will only be relevant to whoever decides that it is relevant. It will not be relevant to us. The intergovernmental agreement on North/South justice matters is available for everyone to see. We have been given information about the project advisory groups, and it appears to me, from reading the letter, that work is ongoing, especially on forensics, drawing up better management sequences, and handling exhibits. There appears to be ongoing work between the PSNI and the guards on public-notice activities and the Youth Justice Agency. A lot of that work appears to be at a developmental stage. The Committee will look pretty ridiculous if it fishes for documents without knowing what it is after.

Alex has been on a crusade for a number of years to gain access to information that is, frankly, information that John le Carré knows but no one in the Northern Ireland Office knows. Moreover, it is information that — it is spelt out loudly and clearly in three paragraphs of the Secretary of State's letter — we cannot see for national security reasons. If we see that information, we will damage national security and, more importantly, probably let crooks off the hook. We must get real on these matters. Alex is on a crusade to get sight of information; sometimes we have to accept that we cannot see certain information. Some realism must be injected into the discussion. The motion would make the Committee look completely ridiculous.

The Chairperson:

We have three suggestions in front of us.

Mr McFarland:

We were told that we could see the memoranda of understanding, and it is vital to know how the process will operate. We were told that they were ready and that we could see them in parallel with OFMDFM. Normally, I am more than happy to indulge Alex's enjoyment of the Chamber.

He spent an hour and a half on his feet in the Chamber last week. However, in this case, I am content that his suggestion would not solve anything.

The Committee needs to find out why, having been promised sight of the documents, it has since been told that they were not available, even though they have been available for several months. Why has the Committee been left out of the loop? We need to see those papers; they will be non-contentious and will not be full of secrets. However, they will outline how functions will operate after devolution, and it is perfectly valid for the Committee to see that information.

The Chairperson:

I understand that there are three proposals in front of us; someone can correct me if they are not proposals. First, Alex Attwood has proposed to press ahead with the motion as laid out. Secondly, John O'Dowd suggested that we run with option 3, through which the motion would be rescinded. I remind members that, in order to comply with conventions, the Committee would have to deal with that issue next week. Therefore, we cannot rescind it today. Moreover, he suggested that we write a letter to the Secretary of State. Is that a fair reflection of your suggestion, John?

Mr O'Dowd:

Yes. Raymond has pointed out that we should perhaps check matters with OFMDFM because we are, in a sense, reporting the conversation on option 3 that we had with officials last week.

The Chairperson:

The third suggestion came from Simon Hamilton.

Mr Hamilton:

I did not make a suggestion or a proposal; I am happy to go with option 3.

Mr McFarland:

I think that Simon's suggestion is good, because it parks the motion until we find out what has gone wrong with the memoranda of understanding. That seems like a good idea. If we decide to rescind the motion, we will have to return next week to do so. However, if we agree to park it, it will remain on the shelf somewhere. We should try to find out what has happened to the memoranda of understanding and, if possible, look at them. That would solve the problem.

Mr Hamilton:

I did not propose anything; I simply asked whether the Committee could do that.

The Chairperson:

The advice is that we could. Therefore, we have two proposals in front of us.

Mr McFarland:

What Simon enquired about would be quite a good idea, because it would save a whole hoo-ha —

The Chairperson:

It was not a proposal but a suggestion of a way around —

Mr McFarland:

If he were to make it a proposal, it would be sensible.

The Chairperson:

I think that he has made it clear that he is not going to do that.

I will put the proposal on option 1 for dealing with the Committee motion.

Question put, That the Committee agree and sign the motion, and forward it, with recommendations on the scheduling and duration of the debate, to the Business Committee.

The Committee divided: Ayes 2; Noes 6.

AYES

Mr Attwood, Mrs Hanna.

NOES

Mr Hamilton, Mr McCartney, Mr McFarland, Mr O'Dowd, Mr Paisley Jnr, Mr Spratt.

Question accordingly negatived.

The Chairperson:

We now move to the next suggestion, which is option 2. Members should bear in mind that the decision on the motion cannot be rescinded today but must be returned to in Committee next

week. If it is rescinded, we will then write to the Secretary of State to say that we were informed by the First Minister and the deputy First Minister that they had received the memorandums of understanding, protocols and concordats, and ask why they had not been provided to us in line with the Secretary of State's letter to the Committee of 31 May 2009. Do members agree?

Members indicated assent.

Mr O'Dowd:

To clarify, are the First Minister and the deputy First Minister happy for us to report that conversation?

The Chairperson:

Yes.

Mr McFarland:

The First Minister and the deputy First Minister were aware of the Secretary of State's letter, so we could ask why they did not think to pass it to us. Unless they were told not to.

Mr Hamilton:

They cannot pass the letter to us; it is not theirs to do so.

The Chairperson:

Let us not get into another debate. There is a proposal before the Committee. Members should bear in mind that the proposal has to come back before the Committee next week.

Question put, That the Committee should agree to bring a proposal to the Committee seeking to rescind the motion to the Assembly and write to the Secretary of State to say that the Committee had been informed by the First Minister and deputy First Minister that they had received the memoranda of understanding, protocols and concordats and to ask why they had not been provided to the Committee in line with the Secretary of State's letter to the Committee of 31 May 2009.

The Committee divided: Ayes 6; Noes 0.

AYES

Mr Hamilton, Mr McCartney, Mr McFarland, Mr O'Dowd, Mr Paisley Jnr, Mr Spratt.

Question accordingly agreed to.

The Chairperson:

No abstentions have been recorded.

The Committee Clerk:

I need some clarity on the suggestion that we seek clarity from OFMDFM. Is that clarity to be sought today, in time for the formal consideration of rescinding the decision, and in time to draft and send a letter to the Secretary of State after the Committee has that discussion next week?

Mr O'Dowd:

We had a private meeting with the First Minister and deputy First Minister, and we agreed that they would not be recorded and the conversation would not be repeated. This is a minor issue, but we are repeating some of that conversation here, and we are proposing to repeat it to the Secretary of State, so only a courtesy call to OFMDFM is needed, on order to ensure that we are not breaching that agreement.

The Chairperson:

To clarify, I pointed that out to members who raised the matter. If we have future conversations about the meeting with the First Minister and the deputy First Minister, which was confidential, they will be in private session. I will stop any conversations that members are having and clear the room. We will have that conversation in private because, everybody around the table made a commitment that the meeting with the First Minister and the deputy First Minister was to remain confidential.

Mr McFarland:

It is fair to say that that commitment was to do with our private discussions rather than anything that we take to the specialist adviser. What is to stop us from writing to the Secretary of State now, ahead of the decision? Surely we want to know anyway, whether or not the decision is rescinded next week. We would still like to know what has gone wrong. Why can we not write to the Secretary of State pending next week's decision?

The Chairperson:

Do members have any problems with that suggestion?

Mr Paisley Jnr:

Alan is arguing from a position that something has gone wrong. There is a very explicit intention to share information with the Committee in parallel with the First Minister and the deputy First Minister. Nothing has changed in that regard. There are clearly matters that will be shared with us. The issue is whether we get up-front sight of certain material, and it is pretty clear that we do not. We have to wait for other things to happen before information is shared with us. I know that the Committee has been an example of patience, but we have to be a little more patient about getting access to some of the material.

What has gone wrong for some parties is that they did not get their way. That is not a matter on which the Committee can make a point. Alan suggests writing to the Secretary of State, asking him to amplify what he means in the first paragraph of his letter. I am happy for us to do that. However, we are getting to the point at which we are looking to be nursemaided through this stuff.

Mr McFarland:

It is fair to say that we have had several —

The Chairperson:

A couple of other members wish to speak, Alan.

Mr McFarland:

It is just on that particular point.

The Chairperson:

I am sure that they are looking to speak on to the same point.

Mr O'Dowd:

I wish to draw the Committee's attention to a procedural matter. We are in limbo at present. We have decided to propose a rescinding motion at our next meeting, so the status quo remains until the Committee rescinds its intention to bring the motion to the Assembly. To all intents and purposes, the Committee still intends to bring a motion to the Assembly. Alan McFarland's suggestion precedes doing that. I have no difficulty with our writing to the Secretary of State but,

procedurally, we must rescind our motion and then write to the Secretary of State. That will keep us correct.

Mr Attwood:

I refer Ian Paisley Jnr to the comments that his colleague made on Monday 9 November on how we have been treated by the Secretary of State. Simon Hamilton referred to the paper and described the Secretary of State as “weak”. That was the term used.

Mr McFarland:

One would think that this has come out of the blue. We have now spent two months agitating with the Secretary of State to have sight of the memoranda of understanding, and we have had two replies from NIO. We were promised back in May that we would see them. We did not reach Alex Attwood’s point of bringing something to the Assembly quickly. It came at the end of a very long road, and we had been assured that the memoranda of understanding were not ready. It is in order for the Committee to wonder why, if the memoranda of understanding are not ready, why OFMDFM had them in the summer. The Secretary of State said that he would share them with us and OFMDFM at the same time.

It was not just the letter. We had him in front of us and he said, at that stage, that he was happy enough to let us have them. I am just confused. This is a separate issue from Alex Attwood’s agitation for a debate in the Chamber. The Committee was outraged three weeks ago when Simon made his comments at being treated like this. I do not see how the Committee can not be any less concerned with the latest information, which we discovered last week. It is in order for us to try to find out why we are not being treated properly.

Mr O’Dowd:

I am not arguing with any of the points that Alan McFarland has made. All that I am saying is that the Committee has just made a decision to set in course a procedure. We need to follow that procedure, and then what Alan is arguing may be enacted.

The Chairperson:

There seems to be a difference of opinion on the letter, and so on. I detect that the Committee is split down the middle on that. Members do not object to the letter, and it will go after next week’s meeting.

Can we leave option 3 and return to it next week? Then the letter can go off to the Secretary of State. Is that agreed?

Members indicated assent.

The Chairperson (Mr Spratt):

We will move to our consideration of the devolution of policing and justice powers. The meeting is being recorded by Hansard. I declare an interest as a member of the Northern Ireland Policing Board.

Mr Paisley Jnr:

I am a member of the Policing Board.

Mr Attwood:

I am also a member of the Policing Board.

The Chairperson:

I suppose that I should ask the question that I normally ask. Before I ask it, however, I refer members to new issue E. Do members feel that there is further work to do on that issue? Several issues under new issue E involve the specialist adviser. The Committee Clerk will have to put some suggestions to us about that in the not too distant future. We have retained the specialist adviser beyond the period for which he was appointed, although he has done some additional work for us. It would be wrong of me to talk about figures, but we will have to have a discussion on the subject in closed session to allow the Committee Clerk to obtain the necessary finance for the additional work that the specialist adviser has had to do.

Do members envisage the need for the specialist adviser to do any other work, particularly on finance matters?

Mr Hamilton:

It is not obvious at this stage.

Mr McFarland:

Some areas are still not fully clear, but there is none on which work can be done immediately. There may be more decisions to make on parading or on the Eames/Bradley group.

The Chairperson:

I will probably call him back at that stage. Does anyone else have any comments to make?

Mr O'Dowd:

We are happy enough to conclude.

The Chairperson:

Can we agree that, from our point of view, the work that has been done on new issue E has been concluded?

Mr Hamilton:

The broad swathe of the Committee's work on the issue has been done. Much of it was about informing others about the issues that existed, and we have identified those. There is no overall agreement on the issue of finance at this point. As a result of that, we can say that we have done most of our work. However, I can envisage a time when we will have to get involved in finance issues. I would not put a lid on new issue E at this stage. The specialist adviser could seek advice and opinions when finance becomes an issue, or if there are developments on certain aspects of the financial package.

The Chairperson:

Will we suggest that most of the work has been done on new issue E? We may need to revisit some matters in the run-up to a report's being produced. However, if I am accurately reflecting what has been said, we do not envisage asking the specialist adviser for further support. We should park the issue to allow the Committee Clerk to come back with a paper on financial issues to be agreed by the Committee.

Mr McFarland:

We should thank the specialist adviser for the work that he has done.

The Chairperson:

We will do that.

Mr O'Dowd:

Send him a Christmas card.

The Chairperson:

I am happy to do that, Mr O'Dowd.

Mr Attwood:

How will that be recorded in the minutes of the meeting? I agree with Sinn Féin that the work has been concluded. I do not envisage that there will be a requirement to invite Mr Hewitt back to the Committee.

The Chairperson:

Alan said that we may need assistance if there is movement on the financial issues to do with parading. Like Simon, I do not envisage his having to be brought back unless something new emerges.

Mr Hamilton:

A distinction must be drawn between "our work" and "the work".

The Committee Clerk:

The Committee effectively asked the specialist adviser to do additional work. The number of days that was originally designated in his contract has increased, and I will have to get the Committee's permission to pay him for those additional days' work. There is one remaining element of his contact, which is that he assists in drafting a section of the Committee's report based on his papers. There is scope for that work to be done separate to the additional work that he did over additional days. The specialist adviser's work is essentially done, but, if necessary, he could assist the Committee in drafting the report and on clarifying issues.

The Chairperson:

Are Members in agreement on that?

Members indicated assent.

The Chairperson:

Has any further progress been made on the category two list of issues?

Mr Hamilton:

No; there is none to report.

Mr O’Dowd:

Unfortunately, there has not been any further progress.

Mr Attwood:

I have a number of proposals and will deal first with issue A on the category two list of issues. Mindful of our previous conversation, we should write to OFMDFM to ask whether it has received a copy of the report from the Attorney General designate and whether it is in a position to share that report with us. I understand that the Attorney General designate has not yet responded to our request for him to attend the Committee.

The Chairperson:

I will now put Mr Attwood’s proposal to a vote.

Question put, That the Committee write to OFMDFM to request that they share the Attorney General’s report with the Committee.

The Chairperson:

I count four members in favour.

Mr McFarland:

What are we voting on?

The Chairperson:

The vote is on whether we should send a letter to OFMDFM to ask about the Attorney General designate’s report.

Mr McFarland:

Did we not enquire about that last week or the week before?

The Committee Clerk:

Yes. The Committee did ask, and the First Minister and the deputy First Minister declared that they had received a report and were considering it.

Mr McCartney:

Are we going to rerun that meeting?

The Committee Clerk:

Before last week's discussion in closed session, there was a formal indication that the First Minister and the deputy First Minister had received a paper, that they were considering that paper, and that they would be in touch with the Committee in due course. I am not breaching confidentiality in referring to the remarks that they made at the end of the meeting in response to a question. They indicated that they were willing to come back to the Committee to discuss the category two list of issues and the role of the Attorney General.

Mr McFarland:

Do we need to do it again?

Mr Hamilton:

We do not need to do it. It is superfluous.

Mr Attwood:

It is asking for the First Minister and the deputy First Minister to share that report with us.

Mr McFarland:

I thought that we did.

The Chairperson:

We have voted on it. Four members —

Mr Hamilton:

I think that it is totally against the —

Mr McCartney:

The proposal is to write a letter asking whether the First Minister and the deputy First Minister have the report and, if so, whether they will share it with us.

Mr Hamilton:

We have already asked that.

The Chairperson:

We are repeating ourselves, but that is nothing unusual.

Mr Attwood:

We are asking whether OFMDFM is in a position to share it with us. That is different from asking whether OFMDFM has received anything.

Mr Hamilton:

The indication was that it is not.

Mr Hamilton:

I wish to be registered as voting against that proposal.

Mr McFarland:

I am for it.

Mr Hamilton:

It is absolutely pointless.

Question put, That the Committee write to OFMDFM to request that they share the Attorney General's report with the Committee.

The Committee divided: Ayes 5; Noes 1.

AYES

Mr Attwood, Mrs Hanna, Mr McCartney, Mr McFarland, Mr O'Dowd.

NOES

Simon Hamilton.

The Chairperson:

I abstained from that vote. What is your next proposal, Mr Attwood?

Mr Attwood:

My next proposal is on new issue D. Given that the Secretary of State has indicated that the new North/South justice agreement that would be in place on the devolution of justice powers is being finalised with the Government in Dublin, we should write to him asking whether he is in a position to share the details of that. It is not a new North/South justice agreement, but an amended version of the existing British-Irish justice agreement, dealing with what falls to Dublin and what falls to Belfast on devolution. I understand that there is no difference of opinion, so are they willing to share that amended document with us?

The Chairperson:

You are proposing a letter to the Secretary of State?

Mr McFarland:

Go for it.

The Chairperson:

Is everybody agreed to that?

Mr Hamilton:

Have we requested that in the past?

The Chairperson:

No; we have not. It is a new one.

Question put, That the Committee write to the Secretary of State to ask, given that he has indicated that the amended British Irish justice agreement is being finalised with the Government in Dublin, whether he is in a position to share the amended document with us.

The Chairperson:

What is the next proposal?

Mr Attwood:

On new issue F, Paddy Ashdown wrote a highly helpful letter in which — one has to give it to him — he cut through many of the issues around his report.

The Chairperson:

In your view.

Mr Attwood:

Yes, in my view. Given that we previously had a seven-second conversation with him, he clearly took some time to put matters on the record accurately from his point of view, whether you think it clears issues up or not. It is clearly a very helpful letter. However, there seems to be a tension between what Lord Ashdown is saying in that letter and what the Secretary of State said in a letter to this Committee, when he indicated that he was content with the Ashdown proposals, believed they were a sustainable way forward and would fund them. However, the letter from Lord Ashdown indicates that he could not appear before the Committee — he is right to make this point — because there is no final report and there are matters about which he is still in conversation with his colleagues. We should send a copy of the letter from Lord Ashdown to the Secretary of State for his information.

The Chairperson:

The Committee did write to the Secretary of State to clarify his comments about the Ashdown report in a previous letter.

Mr McCartney:

He has it already.

The Chairperson:

We have not yet received a reply to that.

Mr Attwood:

Mindful of that, we should pass a copy of Lord Ashdown's letter to the Secretary of State for

information, in order to keep us right as a Committee, although no doubt it has been copied to him anyway.

The Chairperson:

Are we agreed on sending that letter?

Mr O'Dowd:

What has happened thus far?

The Chairperson:

A letter has been sent to the Secretary of State from the Committee asking for clarification about his comments on the Ashdown report. We have not received a reply to that yet.

Mr O'Dowd:

OK.

The Chairperson:

Are we happy to send another letter, which is basically a —

Mr McFarland:

We will just copy the Ashdown letter, as has been suggested.

Members indicated assent.