



**Northern Ireland
Assembly**

**ASSEMBLY AND EXECUTIVE
REVIEW COMMITTEE**

**OFFICIAL REPORT
(Hansard)**

**Devolution of Policing and Justice
Matters**

9 February 2010

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
Mr Danny Kennedy
Mr Alex Maskey
Mr Alan McFarland
Mr Declan O'Loan
Mr Ian Paisley Jnr

The Chairperson (Mr Spratt):

We move to devolution of policing and justice matters. In light of the Hillsborough Castle Agreement and the outcome of discussions over the past weeks, we need to go through the category 2 list of issues, item by item. I declare that I am a member of the Northern Ireland Policing Board.

Mr Paisley Jnr:

I declare that I am a member of the Policing Board.

Mr O'Loan:

I am a member of Ballymena District Policing Partnership.

Mr A Maskey:

I am a member of the Policing Board.

The Chairperson:

It seems a long time since we went through the category 2 list of issues in detail. A number of issues are still to be resolved. The first is issue A, which concerns the role of the attorney general. Members will recall that a commitment was given by the First Minister and deputy First Minister towards the end of last year to appear before the Committee to discuss the role of the attorney general, after they had considered the paper in respect of John Larkin QC.

Do members agree that we should write to the First Minister and deputy First Minister to ask them to come before the Committee at an early stage that is convenient to them over the next number of days or weeks? Given the timescales that have been laid out, we do not have a lot of time. The indications are that that meeting will take place. I will have an opportunity to raise that matter in a question that I will put this afternoon in the House on the OFMDFM statement on the outcome of the Hillsborough talks.

Mr Paisley Jnr:

Securing an early and urgent meeting with the First Minister and deputy First Minister is the best way forward. Indeed, if they came to the Committee, they could deal with item A; item C, which concerns national security arrangements; item E, which is about finance; and item F.

I would be interested to hear their position on those points, and on many of the points that will be raised today, to gain clarity, certainty and sign-off on a number of matters. I agree with any proposal to invite them to appear as a matter of urgency.

The Chairperson:

I am seeking consensus in the Committee. I intend to address each issue individually, and issue C is one for the Secretary of State. The Committee had decided that we need to call the Secretary of State about the memoranda of understanding (MOUs), the protocols, and so on. Therefore, I am quite happy to include those two issues at this point because that is necessary to progress matters. Are members content that we issue invitations to the First Minister, the deputy First Minister and the Secretary of State today to ask them to meet us to discuss national security and the Serious Organised Crime Agency (SOCA) at their earliest convenience?

Members indicated assent.

The Chairperson:

We move to issue B, which concerns appointments to the judiciary. The Committee agreed previously that it was content with the existing and planned legislative arrangements for appointments to the judiciary. My view is that we had already cleared that issue and agreed that the matter will remain with the Judicial Appointments Commission (JAC). Do members agree?

Members indicated assent.

The Chairperson:

We need formal agreement to call the Secretary of State to the Committee to deal with issue C on national security and SOCA. Are members agreed?

Members indicated assent.

Mr McFarland:

Can we try to get the MOUs before the Secretary of State visits?

The Chairperson:

We intend to do that. My recollection is that there were some modifications to one or two MOUs. We will endeavour to get those pretty quickly and distribute them to members as soon as they arrive at the Clerk's office. The MOU on national security has not been forthcoming. We need to push that one.

The Committee Clerk:

Altogether, there are seven documents: the memorandum on national security; the intergovernmental agreement on co-operation on criminal justice matters; a concordat on the independence of the judiciary; the protocol on policing architecture; the intergovernmental agreement on policing co-operation; a concordat on the independence of the Public Prosecution Service (PPS); and a memorandum of understanding on sex offenders. Some of those drafts have been shared and, in one case, a revised draft has been submitted to the Committee. The Committee decided that it might want to talk to the Secretary of State about all those documents

at a meeting that it will confirm soon. I will request that all drafts are provided in advance of the meeting.

The Chairperson:

Issue D concerns North/South policing and justice arrangements, and the possibility of a North/South Ministerial Council justice sector. I remind members that, on 8 December 2009, NIO officials briefed the Committee on the updated intergovernmental agreement on co-operation on criminal justice matters. On 15 December, officials briefed the Committee on the concordat between HM Government and the Northern Ireland Executive on the independence of the judiciary and on the protocol on policing architecture.

On 15 January, the Committee received a briefing from officials on the intergovernmental agreement on police co-operation, the concordat on the independence of the PPS, and a further briefing on the joint working groups on criminal justice. On 26 January, the Committee considered a revised draft of the concordat on the independence of the judiciary.

Do members agree that, in keeping with the proposed handling of the agreement on national security, we should write to the Secretary of State to ask him to provide the concordats, including the one on national security?

Mr Paisley Jnr:

I state for the record that my party is opposed to a North/South Ministerial Council justice sector. That has been stated on numerous occasions, but I repeat it for the sake of clarity.

Mr A Maskey:

I do not think that we have agreement on that at this stage. The matter is still to be discussed. Our view is that there needs to be North/South justice sector.

Mr Attwood:

I formally proposed in November that we recommend to the Assembly the establishment of a North/South Ministerial Council justice sector at the time of devolution. That continues to be our view. Clearly, there is another process under way in respect of the working group. We proposed our support for the establishment of a NSMC justice sector at Hillsborough.

I hear what Ian is saying, but given that there was no issue with the North/South justice agreement being amended to become a Belfast/Dublin arrangement, it would seem to me natural that we move to the point of having a justice sector in the North/South Ministerial Council.

The Chairperson:

We need to discuss progress on the report before the end of the meeting, given the signposting that is now in place. It may well be that we will have to report to the Assembly that we cannot come to a consensus. There may be a divide on the issue, and it may need to be discussed elsewhere. I remind the Committee that our time is reasonably short, given some of the calendar signposting that is now in place.

There is no consensus that aspect of issue D at the moment, and no one has indicated that they have any other comments on that issue.

We move to issue E, which relates to finance. We have done a lot of work on this issue. The one issue that is outstanding and remains a question that has been asked is for the NIO to indicate what part of the block budget for policing and justice would be devolved and what part would remain for the issues that are not being devolved as reserved matters. That question has to be asked of the Secretary of State. I expect that, when he comes before the Committee, he and his officials will be able to give us some indication of that.

Mr Paisley Jnr:

I welcome the work that has been done on the budget. This Committee was the frontiersman in making sure that there was a proper economic settlement. I think that we should be very pleased with those efforts and foundation work that we did. However, it would be useful if we could get some clarification on particular aspects of that.

If the Secretary of State is coming, I would like him to indicate to us how the £20 million that is set aside for the part-time reservists will be paid, and when it will start to be paid out. There seems to be a proposal that that money is available, but there is no clarity on the mechanism. I would like clarity about how and when the mechanism starts.

The Chairperson:

Are there any other comments? I must leave the room to speak to somebody for a minute. If

there are no other issues on that subject, I propose to move on to issue F.

(The Deputy Chairperson [Mr McCartney] in the Chair)

The Deputy Chairperson:

Issue F asks:

“What, if any, consideration should there be of the Ashdown Report on Parading, and is there a need for further clarity of the powers to be devolved, and, if so, should they include matters relating to the Public Processions (Northern Ireland) Act 1989, flags and symbols and recruitment to the PSNI?”

Do members have any comments?

Mr Paisley Jnr:

I understand that a meeting on that issue will proceed today in line with the Hillsborough arrangements. I welcome that development and I hope that the working group dealing with the issue concludes soon. I do not know if we can add anything to our most recent stated position, which, I think, was in December 2009.

Mr McFarland:

I think that the business of dealing with the parading issue is ongoing. The Ulster Unionist Party sees no need to reopen the issue of flags and emblems, which was settled in the first Assembly. The PSNI's 50:50 recruitment policy has been extended for a final year, after which it should end.

Mr A Maskey:

At this moment, as far as Sinn Féin is concerned, those matters are being taken forward or have been dealt with.

Mr Attwood:

My comments are by way of observations, because, clearly, the Committee will take a majority view about how this matter is to be handled. The Committee Clerk may be able to advise me, but I cannot remember when we agreed on the category 2 list of issues. Was that list made last year?

The Committee Clerk:

The final agreement would have been when the Committee completed its report on the category 1 list of issues.

Mr Attwood:

That was in January last year.

The Committee Clerk:

Yes.

Mr Attwood:

For over a year, this Assembly Committee, without any objections from any of its members, has agreed that we, as a fully functioning Committee, should be looking at the issue of parading and the Ashdown report. We have had correspondence with Lord Ashdown, and so on, but the authority to consider the matter rested with this Committee. Last week, that authority was taken elsewhere in a move that is being publicly justified. Therefore, there is a tension between the Committee taking forward issues around parading, and other people deciding that it falls to them to take those issues on. I find a tension in that approach to managing the parading issue.

Secondly, I want to make it very clear that paragraph 4 of the section on parading in the Hillsborough Castle Agreement states that the Ashdown report is back on the table. I think that paragraph 4 of section 2 refers to “building on” the interim recommendations of the Ashdown strategic review of parading. We are very anxious about that, because, as I have said in this Committee, and as my party has said elsewhere, we believe that Ashdown’s model is deeply flawed in that it escalates responsibility for parading disputes from a local council level to a high political level. That is folly.

We submitted a paper at the Hillsborough discussions on how we thought that issues around parading could be best managed, taken forward and developed. Throughout all the reviews on parading — by Ashdown, Mandelson, Quigley and another governmental review that people do not remember much about — we have always argued that there are ways in which the Parades Commission’s constitution can be developed and enhanced. However, it is the Parades Commission that gets developed and enhanced. In particular, its mediation efforts can be made more specialised and upgraded. We consider that the way to go, but it is quite clear that that is noted, but ignored.

Given that we will not get an opportunity to have an input because of yesterday’s announcement, we want to make it very clear that the essential architecture around parading and

the Parades Commission must be retained because, despite making a number of bad decisions, it has made many good ones. We are prepared to publish our proposals on how to upgrade and enhance the Parades Commission. We are also prepared to outline how we think mediation can be specialised and developed. However, those proposals are in the context of the architecture of the Parades Commission — which has, by and large, served the North well — remaining in place.

Mr Paisley Jnr:

It is all very well for members to give a history on how the Committee has handled things, but a flawed history should not be allowed to sit on the record unchallenged. Someone once said that victors, not the vanquished, should write history, because otherwise there will be an inaccurate spin put on events.

Since October last year, Lord Ashdown has been unavailable to meet the Committee, despite efforts by the Committee to arrange a meeting. To say that nothing happened between January 2009 and October 2009 is unrealistic, given that events happened both on the ground and behind the scenes. Members of the Committee were involved in those events. One cannot reach the conclusion that the Ashdown model is deeply flawed when it has not been published and is not available for members to see, other than in draft form.

There has to be a realisation that, when representatives of almost 60% of elected representatives, who are from the majority section of the community, reject the current Parades Commission model, jumping up and down and protesting that you want to keep it because it works bears no semblance to what is happening on the ground and is not a sustainable position.

It is wrong for any member of the Committee to claim that he or she does not have any input into the discussion. We are having a discussion today, our table of events and our calendar show that there have been numerous discussions on parades and that Mr Attwood made contributions at meetings of the Committee and, importantly, in discussions with the Governments of the United Kingdom and the Republic of Ireland, and with other parties. For him to say that he has had no input is false, and, although he is entitled to take that position, it is flawed, inaccurate and wrong.

Mr McFarland:

It is unfair for Alex Attwood to say that the Committee sat back and did nothing; we tried on several occasions to get Lord Ashdown to meet with us. It became clear, from comments made

elsewhere, that there was no agreement, even on a draft report. Members of the review group chaired by Ashdown made it clear that they were not even signing up to the draft report. Therefore, there is no point in us getting excited when Lord Ashdown was not prepared to discuss the proposals with us, and his review group would not stand over the draft report that it had produced. Therefore, it is unfair for Alex Attwood to say that we all sat back and did nothing for a year.

Mr A Maskey:

It is very unfair to sit and make statements that are factually incorrect. The Committee does not have a remit to solve the issue of parades, and it never agreed to resolve the issue of parades. That must be put on record. If people want to start putting things on record, the facts need to be put on the record.

This morning, we are looking at what, if any, consideration the Committee can give to the issue of parading. People's views on an Ashdown report are neither here nor there. I want to make it clear that, at no time, did the Committee agree that its job was to solve the issue of parading. People should not be telling lies, if that is what they are trying to do. Everybody will have an input into the debate. As far as I am concerned, that matter has been taken forward, and I am happy to leave it sitting as it is. As time goes on, Members will have all the opportunities that they need to have input on the debate.

Mr Attwood:

On one level, lies are unparliamentary, but I will not even bother asking for that sort of comment to be withdrawn. I never said that the Committee had to resolve the issue of parades, which is the comment that Alex just made. What I said was that over the past year we, the Committee, put down — in the terms that it is put down there — any consideration that there has been of the Ashdown report on parading without anybody objecting. I also said that this Committee is made up of four parties from the Assembly to look at the Ashdown report on parading, and that those parties were taking that forward in an agreed way.

Now, what arose from last Friday — this is where Ian is wrong — was that in taking that forward, two of those parties have said that a group of six will look at the issue of parading and building on the interim recommendations of the strategic review. Therefore, whatever Ashdown has or has not got in his head about his final report — Ian is right that nobody has seen that,

although he seemed to indicate that perhaps somebody has seen it — my point was that the conversation that is beginning today is based around the interim report. We are perfectly entitled to comment on the interim report, and it is necessary to comment on that given its seriously flawed nature. It is not the case that Ashdown is in never-never land. In today's papers, members can again read what Paul Goggins wrote to the Committee about the interim report:

“The Government is committed to the Strategic Review of Parading and to funding the proposals which it is hoped will ensure a long-term sustainable solution to parading on Northern Ireland.”

They clearly had some sense of what was happening when they wrote that letter in, I think, August 2009. They clearly had some sense of what was emerging and what the authority of the issue was. I am simply pointing out that we had a method of dealing with that matter, which was not to resolve the issue of parading, but to consider the issue of the Ashdown report. That has now been replaced by a process involving two parties that are considering the issue of parading and are building on the interim recommendations. I think that there was a better way to handle all of that, but other people have decided otherwise. I again point to the comments that I made about how the parading architecture can be upgraded but not dumbed down. As for Ian's opening comments about the victors and the vanquished —

The Deputy Chairperson:

Issue F states:

“What, if any, consideration should there be of the Ashdown Report on Parading”.

Mr Paisley Jnr:

I do not care about other members' opinions, positions and analysis of Northern Ireland and where it is going; they are entitled to those positions. However, what I do care about is a member sitting there in splendid isolation and impugning the reputation of the entire Committee, of which he is a blinking part. You said that the Committee has done nothing, but what did you do for the past year and four months? I recall that you have spoken twice on the subject during the entire history of the Committee, and that on those occasions you spoke passively and passed over the issue. You sit there and impugn the reputations of everyone here by saying that we are doing nothing, but questions are being asked of, and fingers are being pointed at, you, Mr Attwood.

Through you, Mr Deputy Chairman, why did he not raise the issue every week? If it is so

central to him and so important to the Committee, why did he not jump and down about that? Why was he not the dynamo in here driving the issue and bringing that forward. Let us be clear about what is happening here. As an observer, I, honestly, do not really mind if Alex wants to have a pop at Sinn Féin and slag it off for the Hillsborough agreement. Go ahead, if that is what you want to do, but do not drag that into the Committee and waste our time when there are valuable issues that we must deal with. That is all that we are seeing today; this is just a spectacle. The issue of parades is on the agenda only because other people put it there. It was not put on the agenda by the SDLP. To be blunt: it was not put on the agenda by Sinn Féin. We brought it to the table. It is an issue that is important to our community, and although the fallout of the issue is important to the entirety of Northern Ireland, we are quite happy to say that we have been driving the issue and doing so deliberately.

For a member to sit here and impugn everyone as if they have done nothing, and he sits there in splendid isolation, really takes the biscuit. I think that members are right to have their backs up about the arrogance and the attitude of a member to impugn the entire drive of this Committee because he has failed and now wants to make some cheap political dig at another political party. Well, make those digs outside in the Great Hall.

Mr Attwood:

I think that the Hansard report will confirm that I never once impugned the work of the Committee. I said that the Committee had identified a stream of work, and that having agreed what we would be doing, and had the authority from the Assembly to do so, that there was now another process meaning that the role of the Committee now seemed to have been replaced by another process. I never impugned any member or the Committee itself. The Hansard report will confirm that.

The Hansard reports of this Committee's meetings detail the number of times that I proposed that we contact Lord Ashdown in respect of this matter, asking him to come here to take forward item F in the category 2 list of issues. That is on public record. I am prepared to stand over what the public record is and what the Hansard report will be of what I said earlier. I think that that will deal with the issues that Ian has raised.

Mr McFarland:

A number of issues were taken away from the Committee, including the financial issue. I suggest

that colleagues agree to move on. Everyone has said their piece on that.

Mr A Maskey:

This Committee does not have the responsibility to resolve all those problems. I want that to be made clear. We cannot solve all those problems. We are trying to map out a way forward and trying to understand what the issues are, even the financial issue. How can this Committee resolve that issue? We made sure that it was on the agenda and we got as much accurate information as we possibly could. The report will be tabled. We cannot solve those issues. We do not have a budget and we are not going to be responsible for delivering a budget or for holding anyone to account for how they spend the budget.

It is unfortunate that people are introducing party politics, because there is important work for this Committee to consider. Yes, we could be doing a lot more, but that is the nature of the politics that we are involved in. Now that we are in a position to move forward, our job is to expedite the work of this Committee as soon as we can. We should be doing that on the basis of honesty.

I do not want to use unparliamentary language, but I am sick of listening to people trying to make points when they are saying things that are clearly not true. The Committee never agreed that we were going to solve the issue of parading, and we never agreed that we were going to go through the entrails of the Ashdown report. It is quite simple what we agree to do: to consider whether there was anything we want to do, which is a hell of a lot different from what Alex Attwood was suggesting. People need to be a bit more honest and get on with the work that we are supposed to be doing.

(The Chairperson [Mr Spratt] in the Chair)

The Chairperson:

That was a good time to leave the room.

We will move to issue G, which is about to which Department the Public Prosecution Service should be attached to for funding purposes. Do members have any views?

Mr Hamilton:

As I said before, we have nothing to add at this stage. More work needs to be done on that issue.

The Chairperson:

Are we agreed that more work needs to be done reasonably quickly on that issue?

Mr McCartney:

Yes.

Mr Attwood:

I suggest that a very short paper, which has probably already been prepared by the Committee Clerk, should be tabled at the next meeting outlining three options on which Department the PPS should be attached to. I think that the DUP mentioned OFMDFM as an alternative to the Department of Finance and Personnel (DFP), so it would be a very short paper. I do not know if there will be consensus on that issue. There may be some level of agreement on that issue somewhere in the room.

The Chairperson:

All parties should have some discussion over the coming days, and before our meeting next week, to try to resolve some of the issues. Again, I go back to the signposting and where we are with getting a report to the Assembly. Has such a paper been prepared?

The Committee Clerk:

Mr Attwood summarised it in that there was an option of which of three Departments it should be attached to, and views were expressed by some of the witnesses who came before the Committee. I am happy to draw that together in a short paper.

The Chairperson:

If members could get that paper as soon as possible, it may be helpful in whatever discussions are ongoing.

Issue H is about the independence and accountability of the PPS. That was pretty well covered in the Hillsborough agreement.

Mr McFarland:

Is there an MOU for that issue? Was that not one of the matters that we covered in detail?

The Chairperson:

Yes. Are members satisfied?

Mr Hamilton:

Yes.

Mr A Maskey:

Yes.

The Chairperson:

Issue I is about the advisory role in relation to the appointment of the Police Ombudsman.

Mr Paisley Jnr:

Our position has been reasonably uncontroversial. An ombudsman, by definition, is an officer of Parliament who is appointed by Parliament. That independence and oversight should remain in the independence of the office and from this place in respect of how the person is appointed. Our general position has been that that should remain with Westminster, probably through the Northern Ireland Office. It is a general rule that ombudsmen should be appointed from that place as opposed to being appointed here.

Mr McFarland:

Eventually, it may be that it is repatriated. However, given its history, it would be quite useful if we left it with the Secretary of State until things settle a bit more.

Mr A Maskey:

That is not our view. We have taken the view that that appointment could be made by OFMDFM. I do not think that we will get a consensus on that here today.

Mr Attwood:

We definitely think that the power should be devolved. If her appointment falls to Westminster, it will look very awkward and there will be all sorts of tensions around the fact that the Police Ombudsman investigates complaints against the police and has a relationship with the Policing Board, and no doubt would come before an Assembly Committee one way or the other. It would

only be a bit of devolution on the policing side, which would look messy.

Mr McFarland:

Alex, are you stuck in the past?

The Chairperson:

Please speak through the Chair.

Mr Paisley Jnr:

Al Hutchinson is not a “her”.

Mr McFarland:

He said “her appointment”.

Mr Attwood:

Sorry.

Mr Paisley Jnr:

Halcyon days.

Mr Attwood:

It seems inconsistent to devolve all policing powers, apart from terrorist and SOCA matters, and to have a person appointed to a public office in the North, who is responsible for complaints against the Police Service, but with his or her appointment still falling to Westminster. I do not think that that is the better outcome. That looks like a messy outcome. We are prepared to be convinced about whether the appointment should be made by OFMDFM or another Department. Our preference is that it is OFMDFM, but I cannot recall fully what Patten said about that.

Mr Paisley Jnr:

That is not a die-in-a-ditch issue. There is talk of tensions; we need to chill a little. I do not think that the tension that Mr Attwood sees exists; it certainly does not exist at present. There is a huge degree of independence in police accountability in Northern Ireland through the Policing Board. On a frequent basis, the Police Ombudsman, and his predecessor, willingly came to the Policing Board. Therefore, I do not see any reluctance or a guard being put up.

There is merit in having a completely independent authority as the appointment body. As I said, it is not a die-in-a-ditch issue, but in the interests of independence, which the concept of an ombudsman embodies, it would be best for Westminster, or, in this instance, by the Northern Ireland Office, to retain the power of appointment.

The Chairperson:

Given that it is not a die-in-a-ditch issue, I urge parties to have some discussion about it in the coming week and come to the next meeting with some views. It may well be that there will be no consensus in the Committee on the issue, which is what we will ultimately have to report to the Assembly.

Issue J is about the procedures and protocols between the justice Minister, an Assembly Committee and any newly established Department and its associated agencies. Some of those issues have been dealt with in the Hillsborough agreement.

Mr Paisley Jnr:

A justice Committee would be established with the same statutory powers —

The Chairperson:

Sorry, I should have said that issue K has been dealt with, but issue J has not been fully dealt with.

Mr McFarland:

Surely, issue J is subject to the detailed memorandum that we had some sight of. That went back to the NIO, which changed bits of it. It has gone to the Policing Board. Have we seen it?

The Chairperson:

It is a different issue.

Mr Paisley Jnr:

It is about where parties stand.

The Chairperson:

Yes, it is.

Mr McFarland:

Is it not to do with the procedures between the Department, the Minister, the Committee and the Policing Board, and so on?

The Chairperson:

No. Some of the procedures that we are talking about are matters for the Committee on Procedures, of which Raymond McCartney is a member. Issue J is about protocols and procedures in place in the Assembly for a justice Committee and its relationships.

Mr Paisley Jnr:

We previously declared interests as members of the Policing Board. There is a danger of creating problems that do not exist. I do not see any of the work that we have done altering the status, standing or activities of the Northern Ireland Policing Board. The Policing Board plays an obvious and distinct role and will complement what will occur in the Assembly, providing that all goes well, if there is a justice Committee holding a Minister to account.

We should work towards the view that the issue is about services complementing each other as opposed to competing with each other and trying to take things from one another. Although people are always precious about their territory, I do not see anything in the papers in this place or in the Policing Board that contradict the role of the Policing Board.

The Chairperson:

I am a bit reluctant to get into a debate on the Policing Board, which is a totally different issue.

I remind members that, on 3 February 2009, the Committee provisionally agreed that the procedures and protocols between the Minister, an Assembly Committee and any newly established Department and its associated agencies would be the same as those that exist for other Ministers. That is our position. The protocols and procedures are for the Committee on Procedures to put into practice. I imagine that that would not be different for any other Department.

Mr McFarland:

I agree with you, and, on reflection, I think that we have already said that. The key is that if there is a timescale for the devolution of policing, we must ensure that the Committee on Procedures is aware that it will have to do some work on that. I suspect that that will be quite simple because that timescale is similar to other ones, but that Committee needs to be made aware of it. No doubt Raymond will inform the Committee of that.

Mr McCartney:

Work is already being done on Standing Orders.

The Chairperson:

Are members agreed that that issue is basically dealt with and that the Committee on Procedures will deal with those issues, which goes back to our agreement of 3 February 2009?

Mr Paisley Jnr:

Agreed.

Mr Attwood:

The issue is slightly broader here than it is in the UK. Is the NIO going to come back to the issue of the tripartite relationship?

The Chairperson:

That is one of the issues.

Mr Attwood:

Has that already been agreed?

The Chairperson:

The Secretary of State is coming to talk about all the protocols.

Mr Attwood:

Has the NIO formally shared the amended protocol?

The Chairperson:

No.

Mr Attwood:

I find it curious that the Policing Board gets sight of an amended protocol and is asked to sign off on that within a matter of days, and yet, the Assembly Committee is not given sight of that. It has now been seven weeks since the NIO was here with that first protocol.

The Chairperson:

That is a valid point, and you have made it on a number of occasions. You need to raise that issue with the Department and the Secretary of State. We are happy to flag that up in the letter that we are sending. It is an issue, because those of us who sit on the board know that that other protocol exists.

Mr Paisley Jnr:

It is only fair to put on record that the difference between the current protocols and proposed new protocols is as thin as a cigarette paper. The new protocols will tidy up rather than change or alter the calibration of the current relationships. It is a tidying-up exercise.

The Chairperson:

There were some issues with some of the protocols that we discussed in closed session, and I think that it is fair to say that we were less than happy. Dust had been blown off those protocols, and they were brought here without any basic amendment. We have made our views known on that, and I will take it no further at this point.

Mr Attwood:

I wish to confirm that we do not agree with Ian's assessment that difference between the current and proposed amendments on the police architectural protocols is as thin as a cigarette paper. Substantial changes — way beyond what was set out in the original protocol, which, in our view, should have been consistent with Patten — have been made to role of the Assembly Committee and the responsibilities of the Minister.

The Chairperson:

Issue K deals with the Minister's position in, and relationship with, the Executive. I think that that has been fully covered in the Hillsborough agreement. Are we all agreed on that?

Mr McFarland:

We do not necessarily agree with that, but it is in the Hillsborough agreement.

The Chairperson:

You do not necessarily disagree with it, though. Is that correct?

Mr McFarland:

I am just saying that we are still examining the famous Hillsborough agreement.

The Chairperson:

It is pretty straightforward; basically, a Minister of justice will have the same powers, except for those on quasi-judicial issues, as other Ministers.

Mr Attwood:

I recognise that my next point is new territory and that it is, therefore, beyond our current mandate, but I just wish to flag it up. Subject to what the national security protocol might say, I have a sense that it will deal with some issues but that it might not necessarily deal with the relationship between the PPS and the British Attorney General and whether what happens in that relationship should be brought to the attention of the Minister of justice here. We will have this odd situation in which the director in Belfast will look to here for advice on some matters but look to London for advice on others. I suspect that the national security protocol will not deal with that fully. If that is the case, we will need to consider at some future date — although it is not part of our mandate, and, in any case, time is running out — whether something could be put in place to manage the relationship among the PPS, the Advocate General in London and the institutions here. I flag that up because it will become an issue sooner or later.

The Chairperson:

It is an issue that we can raise with the appropriate Committees, or whatever, in future. It could also be raised with the Secretary of State.

Are members happy that issue K has been dealt with?

Members indicated assent.

The Chairperson:

Let us move to the forward work programme. We need to discuss a preferred date for publishing the Committee's report, bearing in mind the need to schedule meetings with the Secretary of State and the First Minister and deputy First Minister. We need to schedule meetings to reach agreement on outstanding issues, but there may not be agreement; it may be that there is no consensus and we may have to report to the Assembly on that basis. We also need meetings to consider drafts and a final version of the report.

My view, which I have discussed already with the Committee Clerk and Raymond, is that we may have to meet over the next two or three weeks on a number of occasions. My understanding is that we need to have published a finalised report by about 23 February 2010. Is that the correct date?

The Committee Clerk:

There is no imperative for the Committee to report by a particular date. However, if we look at some of the dates that are listed in the Agreement at Hillsborough Castle, two are obvious and key. The first is the 9 March 2010, when there will be the "resolution" on the request for powers to be transferred, which will require a cross-community vote. The other key date is 12 April 2010, which is the indicative date for the devolution of the powers.

It strikes me that if the Committee is keen to publish a report, it could usefully do that before 12 April 2010. Whether it would be capable of achieving the publication of the report before 9 March 2010 is a matter for the Committee to decide, given that there are issues that have still not been resolved.

Mr McFarland:

It strikes me that, on 9 March 2010, the Assembly is being asked to agree a fairly major step forward. Colleagues would find it difficult to understand why all the information that may influence their decision was not available to them at the time at which they took that decision. They will be aware of most of the matters, such as the finance, because it is already in the public

domain. However, if the Committee has done work, it seems sensible to put that in front of colleagues before they are all required to make a decision. It is unlikely to make any difference to their decision, but it would be slightly strange if we produced facts afterwards that technically could have changed somebody's mind or attitude.

Mr A Maskey:

I agree with the Chairman's assessment: we should plan and be prepared to meet as and when we can to expedite the Committee's work, because that is what we are about. We hope that we can do it fairly soon and work to that end.

The Chairperson:

A number of meetings will probably be needed. Through no fault of our own, our progress has been slowed up by various issues along the way. Thankfully, however, we are now at the end or are moving towards a conclusion. It will mean a bit of extra work, and I would appreciate it if members of the Committee could prepare for an extra few meetings. The Committee Clerk and the Committee staff have been preparing the report. As members know, it is pretty well prepared at this point. We have cleared a number of issues this morning. There are other issues that we can hopefully have some clarity on by the next meeting, and which then can be added to the paper.

We are coming to the crunch time. If we are not going to obtain consensus on an issue within the next week, let us say so and report that to the Assembly. Members have expressed a view that some of what was discussed are not "die-in-a-ditch issues". Remember that all of the issues in front of us came from party positions. Four parties made their positions clear in letters at the beginning of this process. We have moved on now. I think that the report will be printed around 23 February 2010.

The Committee Clerk:

I will talk the Committee through the implications. The Committee has agreed to meet the Secretary of State and the First Minister and deputy First Minister. That needs to be fitted in before the Committee could consider final drafts of any report. There is an issue of timing around those two meetings.

The Chairperson has encouraged parties to talk to each other in the coming week on at least

two issues, with a view to coming to some conclusion, whether consensual or otherwise, for the meeting next week. I can have a draft of the report ready for the week beginning the 22 February, but that will take absolutely no account of what the Secretary of State or the First Minister and deputy First Minister will have said to the Committee, had those meetings not taken place at that stage.

The Chairperson:

You outlined what I have urged members to do. I also urge the First Minister and deputy First Minister to meet us at their earliest possible convenience. I am sure that what has been said here this morning will not go unheard. Those meetings may well have to take place on a date outside one of our Tuesday meetings. We are quite happy to have a meeting on a date that suits their diaries, and the diary of the Secretary of State, because we appreciate that they are busy people. However, we urge that they meet us within days so that we can get some conclusion on the report and bring it to the Assembly.

Is it a possibility that we could table the report for discussion on the morning of 9 March 2010 if the announcement or the other process was scheduled in, because Members would have a copy of the report three or four days beforehand, which picks up on Alan's point.

The Committee Clerk:

If the purpose of the report was to inform the debate on the "resolution", convention would suggest that the report would need to be published either on Wednesday 3 March 2010 or Thursday 4 March 2010 to give Members time to look at it in advance of the debate on Tuesday 9 March 2010. In counting back from that, Committee members would have to agree the terms of a final report and order it to be printed in the week beginning 22 February 2010, which is less than two weeks away. The next question is whether the Committee is seeking to schedule the meetings with the Secretary of State and the First Minister and deputy First Minister next Tuesday or on another date next week.

Mr McFarland:

The Chairperson's idea is the best. There is a roll on this now; everyone understands the urgency and it strikes me that as soon as the Secretary of State can see us, and as soon as the First Minister and deputy First Minister can see us, we should see them. That then gets the MOUs out of the way, and that will presumably clear a bit of extra time for the Committee Clerk to do what is

required.

My sense is that people will be quite keen. Either we can sort the other issues out in the next day or two or we cannot. It does not seem to me to be insoluble. We need to get a move on.

The Chairperson:

We have probably progressed more in this meeting than any other meeting — for whatever reason — and I will not suggest why. I thank members for their constructive attitudes in taking matters forward this morning. Our next meeting is scheduled for next Tuesday, but members may be called for meetings before then. I would appreciate it if members could try to facilitate the Committee Clerk and Committee staff as much as possible if we can indeed get the First Minister and the deputy First Minister and the Secretary of State to attend.