

Research Briefing

28 March 2023

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The Belfast/Good Friday Agreement: 25 years on



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Summary

The [Belfast Agreement](#) – widely known as the Good Friday Agreement – was signed 25 years ago on 10 April 1998 following three decades of conflict known as “The Troubles”. The Agreement created a new power-sharing arrangement, which included a Northern Ireland Assembly and Executive. It was based on a series of fundamental principles, including:

- “parity of esteem” between the Nationalist and Unionist communities.
- a “principle of consent” underpinning Northern Ireland’s constitutional status.
- the “birthright” of the people of Northern Ireland to identify and be accepted as either British or Irish, or both, and to hold both British and Irish citizenship.

What is in the Agreement?

The Agreement comprises a Multi-Party Agreement between the UK and Irish Governments and political parties in Northern Ireland, and the British-Irish Agreement between the UK and Irish Governments, an international treaty. Both were approved by voters in concurrent referendums held in Northern Ireland and Ireland on 22 May 1998 and came into force on 2 December 1999.

The Agreement resulted in the creation of the three ‘strands’ of political structures, respectively covering Northern Ireland’s governance, relations between Northern Ireland and Ireland, and between the United Kingdom and the island of Ireland. The UK Government committed to upholding each of these strands, which all carry equal importance:

- **Strand one** established the Northern Ireland Assembly and Executive to make laws and decisions on most of the issues affecting everyday life in Northern Ireland.
- **Strand two** established North-South institutions – the North/South Ministerial Council and the North/South Implementation Bodies – which support cooperation between Northern Ireland and Ireland.
- **Strand three** established the East-West institutions – the British-Irish Intergovernmental Conference and the British-Irish Council – which support cooperation between the United Kingdom and Ireland.

The Agreement also set out a series of important rights for the people of Northern Ireland, including on identity and citizenship, and made commitments on decommissioning, security, policing and prisoners.

1 A short history of Ireland

Sovereignty over the island of Ireland was claimed by England in the 12th century. During the 17th century, the Province of Ulster was [settled by Protestants from Scotland and England](#). From the late 13th century there existed a [Parliament of Ireland](#), although this was generally subordinate to that of England and, later, Great Britain.¹

The [Union with Ireland Act 1800](#) declared that “for ever after” the Kingdoms of Great Britain and Ireland would “be united into one Kingdom, by the name of the United Kingdom of Great Britain and Ireland”. It also stated that the “subjects” of both “shall be on the same footing in respect of trade”.

1.1 Home Rule

A campaign for some degree of [Home Rule for Ireland](#), essentially devolution within the United Kingdom, grew during the 19th century and won support from the Liberal UK Government 1886. [Attempts to legislate](#) for a devolved parliament that year and again in 1893, however, failed. The idea of treating parts of Ireland differently arose when Parliament considered a Third Home Rule Bill between 1912 and 1914. This reflected the strength of feeling in the [Ulster Unionist Party](#), which had emerged in opposition to the First Home Rule Bill of 1886.

The fourth Government of Ireland Bill was introduced to Parliament during the [War of Independence](#) (1919-21), a guerrilla conflict fought between the [Irish Republican Army](#) (IRA) and British Crown forces. The resulting [Government of Ireland Act 1920](#) made provision for devolving power to two legislatures, the Parliament of Southern Ireland (covering 26 counties) and the Parliament of Northern Ireland (covering the other six).

1.2 Devolution and Dominion

Both parliaments were elected in May 1921, but only the Parliament of Northern Ireland functioned as intended.² On 6 December 1921 the [Anglo-Irish Treaty](#) was agreed between the UK and representatives of Sinn Féin, which was by then the largest political force in “Southern Ireland”. This created a new “Dominion” within the British Empire called the Irish Free State. Under the

¹ The new kingdom of “Great Britain” was formed in 1707 following the union of Scotland and England.

² See Commons Library Briefing Paper CBP884, [Parliament and Northern Ireland, 1921-2021](#).

Treaty, the Ulster Unionist-dominated Parliament of Northern Ireland was given the option of joining the Free State or remaining a devolved part of the UK. It chose the latter.³ This was a manifestation of what would later become known as the **principle of consent**. The Free State was constituted on 6 December 1922.

On 1 April 1923 a customs “frontier” was erected along the border separating Northern Ireland from the Irish Free State. This significantly disrupted cross-border roads and railways and meant certain goods were subject to duties (taxes on imports). In February 1923 an informal agreement had been reached under which the UK and Free State would enforce each other’s immigration policies. This later became known as the [Common Travel Area](#).

The 1931 [Statute of Westminster](#) enabled each Dominion, including Canada, Newfoundland, Australia, New Zealand and South Africa, as well as the Irish Free State, to enact new legislation or to change existing legislation without the consent of the UK Parliament. In 1937 the Irish Free State declared itself to be a republic called Éire. [Articles 2 and 3 of its new constitution](#) made a de jure claim to the whole “national territory” of Ireland.

Éire’s [Republic of Ireland Act 1948](#) subsequently removed the last remaining functions of the British Crown in relation to Ireland (mainly confined to diplomatic credentials and international agreements). It also declared that “the description of the State shall be the Republic of Ireland”. This came into force on 18 April 1949 and Ireland left the British Commonwealth of Nations.

In response, the UK Parliament debated and passed the [Ireland Act 1949](#). This declared that “in no event” would Northern Ireland cease to form part of the UK “without the consent of the Parliament of Northern Ireland”. This gave the 1921 **principle of consent** statutory form for the first time.

1.3

The Troubles and the peace process

During the period known as [The Troubles](#) (c1968-98), the border between Northern Ireland and the Republic of Ireland was securitised. This meant that those crossing by road or rail were subject to police and British Army checks in addition to customs arrangements in place since 1923. Another result of the deteriorating security situation was that the devolved Parliament of Northern Ireland was at first prorogued (1972) and then abolished (1973).⁴

A Northern Ireland “border poll” referendum took place on 8 March 1973, which asked whether Northern Ireland should remain part of the United Kingdom or join with the Republic of Ireland. This transferred the 1949 **principle of consent** from the prorogued Parliament of Northern Ireland (which always had an Ulster Unionist majority) to its people. 98.9% of those

³ See Commons Library Briefing Paper CBP9260, [The Anglo-Irish Treaty, 1921](#).

⁴ The [Northern Ireland \(Temporary Provisions\) Act 1972](#) received Royal Assent on 30 March 1972.

voting supported Northern Ireland remaining part of the UK, while 1.1% wanted it “to be joined with” the Republic of Ireland. Turnout was 58.6%, but most Nationalist voters boycotted the referendum.⁵

Attempts to restore devolved institutions as part of the [Sunningdale Agreement talks](#) – this time with an element of power-sharing between the Unionist and Nationalist parties – failed in 1973-74 and again in 1982-86.⁶ Instead, Northern Ireland was administered under [Direct Rule](#) from London.⁷ In 1985, the [Anglo-Irish Agreement](#) reaffirmed the 1973 **principle of consent** and declared that “if in future” a majority of those in Northern Ireland desired a united Ireland then the UK and Irish Governments would “introduce and support in the respective Parliaments legislation to give effect to that wish”.⁸

Security checks and installations such as military watchtowers remained along the Ireland/Northern Ireland border following the removal of customs checks on 31 December 1992.⁹

1.4 Reaching an agreement

On 20 March 1991 Peter Brooke, the then Secretary of State for Northern Ireland, launched talks on Northern Ireland. **Strand one** concerned the restoration of devolved institutions; **strand two** relationships in the whole of Ireland; and **strand three** possible inter-governmental arrangements. These continued when Sir Patrick Mayhew succeeded Brooke at the Northern Ireland Office.

The talks were over-shadowed by the [Downing Street Declaration](#), a joint declaration issued by the UK Prime Minister Sir John Major and the Irish Taoiseach (Prime Minister) Albert Reynolds, which was published on 15 December 1993. The Prime Minister said:

What is in the declaration is a renewed commitment by the British Government to Northern Ireland’s constitutional guarantee; an acknowledgement by the Taoiseach that a united Ireland could only be brought about with the consent of a majority of the people in Northern Ireland; a willingness on the Taoiseach’s part to make changes in the Irish constitution if an overall settlement can be reached; and a confirmation that if Sinn Fein renounces violence, it will be able to participate in future democratic discussions.

⁵ [‘Taking the border out of politics’ – the Northern Ireland referendum of March 1973](#), The Constitution Unit Blog, 21 November 2019.

⁶ The 1973 UK Government White Paper [‘Northern Ireland Constitutional Proposals’](#), suggested that the formation of an Executive (Government) in Northern Ireland “can no longer be solely based upon any single party, if that party draws its support and its elected representation virtually entirely from only one section of a divided community”. It was to be left to the newly elected Assembly to decide how to implement such a system.

⁷ See Commons Library Briefing Paper CBP8638, [Northern Ireland: Direct Rule](#).

⁸ [Anglo-Irish Agreement 1985](#).

⁹ Their removal was a consequence of the [Single European Act](#).

What is not in the declaration is any suggestion that the British Government should join the ranks of persuaders of the “value” or “legitimacy” of a united Ireland; that is not there. Nor is there any suggestion that the future status of Northern Ireland should be decided by a single act of self-determination by the people of Ireland as a whole; that is not there either. Nor is there any timetable for constitutional change, or any arrangement for joint authority over Northern Ireland. In sum, the declaration provides that it is, as it must be, for the people of Northern Ireland to determine their own future.¹⁰

The Prime Minister also restated (in paragraph 4) that the UK Government had “no selfish strategic or economic interest in Northern Ireland”.

The commitment by Ireland to amend its constitution in order to remove a territorial claim to the whole “national Territory” was significant. It was understood that the UK Government in return would revise or repeal the Government of Ireland Act 1920, although this had been significantly amended by the [Northern Ireland Constitution Act 1973](#).

On 31 August 1994, and following intense negotiations between and pressure from the UK and Irish Governments (with additional encouragement from the United States Government), the Provisional [IRA announced a ceasefire](#), as did Loyalist paramilitary organisations a few weeks later. On 16 September, John Major announced that the outcome of the three-stranded talks would be put to a referendum in Northern Ireland.¹¹

Framework Documents

On 22 February 1995 the [Framework Documents](#) were published. Part I, A Framework for Accountable Government in Northern Ireland, was produced by the UK Government; Part II, A New Framework for Agreement, was a joint paper by the UK and Irish Governments which offered proposals for relationships within the island of Ireland and between the two governments.

Part I proposed:

- a unicameral (single-chamber) Northern Ireland Assembly of about 90 members elected for a fixed four-year or five-year term;
- elections by a form of proportional representation;
- a system of Assembly committees to oversee the work of the Northern Ireland departments; and legislative and executive responsibility over as wide a range of subjects as envisaged in the 1973 Sunningdale Agreement;

¹⁰ [HC Debs 15 December 1993 c1073](#)

¹¹ Also in 1994 the Northern Ireland Committee (established in 1975) became the [Northern Ireland Grand Committee](#) (NIGC), comprising all Northern Ireland MPs and not more than 25 other Members. A [Northern Ireland Affairs Committee](#) was finally created the same year (see David Torrance and Adam Evans, [The Territorial Select Committees, 40 Years On](#), Parliamentary Affairs 72:4, October 2019, pp860–78).

- Contentious legislation, meanwhile, was to require a form of weighted majority or threshold approval.

Part II committed the UK and Irish Governments and political parties in Northern Ireland to agreeing “interlocking and mutually supportive institutions” including “North/South institutions” and “East-West structures”. The UK Government also affirmed that the Government of Ireland Act 1920 would be amended or replaced (paragraph 20) while the Irish Government repeated its intention to amend its constitution.¹²

All-party talks began later that year. On 8 September 1995, David Trimble was elected leader of the Ulster Unionist Party (UUP) following the retirement of James Molyneaux. On 21 March 1996, John Major made a statement on arrangements for all-party negotiations.¹³

Northern Ireland Forum

Schedule 1 of the [Northern Ireland \(Entry to Negotiations, etc\) Act 1996](#) (“the 1996 Act”) provided for five “delegates” to be elected from each of the 18 new Northern Ireland Westminster constituencies,¹⁴ plus an additional 20 delegates for Northern Ireland as a whole (two from each of the 10 parties with the largest aggregate vote) to participate in the all-party talks.

Under section 2 of the 1996 Act, the Secretary of State for Northern Ireland was to invite a nominating representative of each party with delegates to select a team. The participation of Sinn Féin was dependent upon the “unequivocal restoration of the ceasefire of August 1994”. Section 3 and schedule 2 provided for a deliberative forum made up of the elected delegates, although section 3(3) made clear this would not have any “power to determine the conduct, course or outcome of the negotiations”.

Section 4 gave the Secretary of State the power to hold referendums by statutory instrument. An Order in Council, drafted by the UK Government and approved by the Queen, would state the question to be asked and the franchise to be used. These referendums were to be “for the purpose of obtaining the views of the people of Northern Ireland on any matter relating to Northern Ireland”. This power, however, would not extend to the holding of a poll on the status of Northern Ireland under the Northern Ireland Constitution Act 1973.

The multi-party talks began on 10 June 1996 following [elections held on 30 May](#). Ten political parties were successful but not all took part. On 19 July 1997 the IRA announced the restoration of its ceasefire and on 29 August the new Secretary of State, Mo Mowlam, invited Sinn Féin to enter the talks process since it now met the requirements of the 1996 Act. The Democratic

¹² During the negotiations that followed, Sinn Féin stressed the significance of the 1920 Act and pressed for its repeal.

¹³ Northern Ireland Office, [The Framework for a broadly acceptable elective process leading to all-party negotiations](#), March 1996.

¹⁴ This increase was due to take effect at the 1997 general election.

Unionist Party (DUP), meanwhile, withdrew over what it saw as a lack of clarity from the UK government over decommissioning.

Agreement is reached

The peace process culminated with the [Belfast/Good Friday Agreement](#) on 10 April 1998. US senator George J Mitchell had chaired the multi-party talks, in which the UK Prime Minister Tony Blair and Taoiseach Bertie Ahern had intervened at a late stage. Arriving in Belfast on 8 April, Blair had declared: “This is not a time for soundbites. We’ve left them at home. I feel the hand of history upon our shoulders”.¹⁵

From the Unionist community, the UUP supported the Agreement, as did two smaller parties associated with Loyalist paramilitaries, the Progressive Unionist Party and Ulster Democratic Party. From the Nationalist community, the Social Democratic and Labour Party (SDLP) and Sinn Féin supported the Agreement. The cross-community Alliance Party, Northern Ireland Women’s Coalition and Labour Coalition also supported it.

The DUP opposed the Agreement.

The SDLP politician Seamus Mallon referred to the Agreement as [“Sunningdale for slow learners”](#). The Sunningdale Agreement of 1973 had been an earlier attempt to introduce power-sharing institutions in Northern Ireland (see **section 1.3** of this briefing). This assertion was criticised by the political scientists Rick Wilford and Stefan Wolff. The former stated that:

there are [...] significant differences between them [Sunningdale and Belfast Agreements], both in terms of content and the circumstances surrounding their negotiation, implementation, and operation.¹⁶

The barrister Austen Morgan also observed that, unlike Sunningdale, the 1998 Agreement expressly foresaw the possibility of a united Ireland.¹⁷

¹⁵ [Not a Time for Soundbites: Tony Blair in Quotations](#), OUP blog, 29 June 2007.

¹⁶ Rick Wilford, *Context and Content: Sunningdale and Belfast Compared*, Oxford: Oxford University Press, 2011, p1.

¹⁷ Austen Morgan, *From Belfast to St. Andrews*, in Brian Barton and Patrick J. Roche (eds), *The Northern Ireland Question: the peace process and the Belfast Agreement*, Basingstoke: Palgrave Macmillan, 2009, p385.

2

The Agreement: A textual analysis

The Belfast/Good Friday Agreement comprises the Multi-Party Agreement between the UK and Irish Governments and the political parties in Northern Ireland, and the British-Irish Agreement between the UK and Irish Governments. The latter was an international treaty, meaning the commitments made in it are binding in international law.

2.1

Declaration of Support

The Agreement opened with a Declaration of Support by participants in the multi-party negotiations, believing “that the agreement we have negotiated offers a truly historic opportunity for a new beginning”. The Declaration also reaffirmed “total and absolute commitment to exclusively democratic and peaceful means of resolving differences on political issues”. The Agreement was “strongly” commended to “the people, North and South, for their approval”.¹⁸

2.2

Constitutional Issues

Under the heading “Constitutional Issues”, the participants endorsed a commitment made by the UK and Irish Governments to (with added emphasis):

- recognise the legitimacy of whatever choice is freely exercised by a majority of the people of Northern Ireland with regard to its status, whether they prefer to continue to support the Union with Great Britain or a sovereign united Ireland.
- recognise that it is for the **people of the island of Ireland alone**, by agreement between the two parts respectively and **without external impediment**, to exercise their right of self-determination [...]
- acknowledge that while a substantial section of the people in Northern Ireland share the legitimate wish of a majority of the people of the island of Ireland for a united Ireland, the present wish of a majority of the people of Northern Ireland, freely exercised and legitimate, is to maintain the Union [...]

¹⁸ All references to the [Agreement reached in the multi-party negotiations](#) in this section are from the CAIN online archive of documents relating to Northern Ireland.

- affirm that if, in the future, the people of the island of Ireland exercise their right of self-determination [...] to bring about a united Ireland, it will be a binding obligation on both Governments to introduce and support in their respective Parliaments legislation to give effect to that wish.
- affirm that whatever choice is freely exercised by a majority of the people of Northern Ireland, the power of the sovereign government with jurisdiction there shall be exercised with **rigorous impartiality on behalf of all the people** in the diversity of their identities and traditions [...]
- recognise the **birthright** of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may so choose, and accordingly confirm that their right to hold both British and Irish citizenship is accepted by both Governments and would not be affected by any future change in the status of Northern Ireland.

The participants also noted that the UK and Irish Governments had undertaken “to propose and support changes in, respectively, the Constitution of Ireland and in British legislation relating to the constitutional status of Northern Ireland”.

Analysis

Since the Agreement was signed in 1998, the Secretary of State for Northern Ireland has been viewed as an “honest broker” between Northern Ireland’s two main communities, as well as a conduit between the UK and Irish Governments regarding changes to the Agreement.

As Shadow Northern Ireland Secretary, the Labour MP Louise Haigh interpreted the Agreement’s provision for self-determination without “external impediment” to mean that the Labour Party ought to “remain neutral” in any future border poll. She said:

The principle of consent is still very much intact and it is only for the people of Northern Ireland to determine their own constitutional future and polls still suggest that there is a very firm majority in favour of remaining in the United Kingdom. It’s not my job to be a persuader for the union, that was an important principle that led up to the Good Friday Agreement.¹⁹

Professor Colin Harvey, a human rights lawyer, has argued that the [confidence-and-supply agreement](#) of 2017 between the Conservative party and the Democratic Unionist Party (DUP) risked undermining the UK Government’s commitment (in the Agreement) to exercise its power in Northern Ireland “with rigorous impartiality on behalf of all the people”.²⁰

Although the UK enshrined the Belfast/Good Friday Agreement in domestic legislation via the [Northern Ireland Act 1998](#), this Act made no provision for

¹⁹ [Louise Haigh’s Irish unity poll remarks criticised by unionists](#), BBC News online, 24 November 2021.

²⁰ [Northern Ireland and rigorous impartiality: untangling a constitutional mess](#), Queen’s Policy Engagement website, 13 June 2017.

the “birthright” protection. Indeed, this is not explicitly referenced or incorporated anywhere else in UK domestic legislation.²¹

People born in Northern Ireland are generally considered under the [British Nationality Act 1981](#) to be British citizens by birth if one of their parents was either a British citizen or settled in the UK at the time of birth. British nationality law also allows British citizens to possess dual British-Irish citizenship. People born in Northern Ireland who wish to have only Irish nationality must renounce their British citizenship, a step some commentators have argued breaks the “spirit” of the Agreement.²²

The Northern Ireland Human Rights Commission (NIHRC) has recommended that the 1981 Act be amended to reflect the birthright protection:

The Commission recommends that a new clause be added to amend section 1 of the British Nationality Act 1981 to reflect the Belfast (Good Friday) Agreement 1998 recognition of “the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may so choose” on a no detriment basis.²³

The birthright protection’s lack of incorporation in UK law came under greater scrutiny after Brexit. Legal challenges from Gemma Capparelli and Emma DeSouza tested to what extent family reunion rules for EU citizens, including those living in Northern Ireland with Irish citizenship, could be relied upon for those also considered to hold British citizenship under UK nationality laws.²⁴

For further analysis see the Commons Library briefing, [Northern Ireland, Citizenship and the Belfast/Good Friday Agreement](#).

2.3

Annex A: Draft clauses/schedules for incorporation in British legislation

Annex A of the Agreement set out draft clauses for incorporation in UK primary legislation:

1. (1) It is hereby declared that Northern Ireland in its entirety remains part of the United Kingdom and shall not cease to be so without the consent of a

²¹ See [written evidence](#) submitted by the Northern Ireland Human Rights Commission to the Public Bill Committee for the Immigration and Social Security Co-ordination (EU Withdrawal) Bill, February 2019, para 12.

²² See, for example, comments by migration lawyer Simon Cox and Fianna Fáil TD Declan Breathnach, in [Good Friday Agreement being ‘undermined’ by Home Office](#), Irish World, 4 March 2019.

²³ Northern Ireland Human Rights Commission, [written evidence](#) to the Public Bill Committee for the Immigration and Social Security Co-ordination (EU Withdrawal) Bill, February 2019, para 18.

²⁴ For Capparelli see: The Guardian, [Home Office tells Northern Irish woman to prove right to live in Belfast](#), 31 October 2018; and DeSouza: BBC News, [Emma DeSouza withdraws Home Office court appeal](#), 21 May 2020.

majority of the people of Northern Ireland voting in a poll held for the purposes of this section in accordance with Schedule 1.

(2) But if the wish expressed by a majority in such a poll is that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland, the Secretary of State shall lay before Parliament such proposals to give effect to that wish as may be agreed between Her Majesty's Government in the United Kingdom and the Government of Ireland.

Annex A also stated that the Government of Ireland Act 1920 was to be repealed.

Schedule 1: Polls for the Purpose of Section 1

Schedule 1 set out when and how polls may be held on whether Northern Ireland should remain part of the UK or join a united Ireland (with added emphasis):

1. The Secretary of State may by order direct the holding of a poll for the purposes of section 1 on a date specified in the order.
2. Subject to paragraph 3, the Secretary of State shall exercise the power under paragraph 1 if at any time it **appears likely** to him that a majority of those voting would express a wish that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland.
3. The Secretary of State shall not make an order under paragraph 1 earlier than **seven years** after the holding of a previous poll under this Schedule.
4. (Remaining paragraphs along the lines of paragraphs 2 and 3 of existing Schedule 1 to the Northern Ireland Constitution Act 1973.)

Analysis

These draft clauses and schedule restated the “principle of consent” which had existed in some form since the creation of Northern Ireland in 1921. As with the Northern Ireland Constitution Act 1973, this consent was to come from the “people” rather than the legislature of Northern Ireland.

The former deputy First Minister Mark Durkan observed: “The Good Friday Agreement doesn’t say Northern Ireland is an integral part of the UK. That isn’t in the Good Friday Agreement precisely because the whole thing is conditional”.²⁵

The Northern Ireland Act 1998 followed the draft clauses above in compelling the Secretary of State for Northern Ireland to hold a ballot on Irish unification should it “appear” likely that a majority of its electors would support it.²⁶

²⁵ [Amanda Ferguson on Twitter: “It’s often said Northern Ireland is an integral part of the United Kingdom. What are your thoughts on that? Mark Durkan said: <https://t.co/np107xiXJw>” / Twitter](#)

²⁶ The Northern Ireland Act 1998 also grants the Secretary of State a more general power to hold a referendum on whether Northern Ireland should form part of a united Ireland at any time.

Were that to be confirmed in such a referendum, then the Secretary of State must “lay before Parliament such proposals to give effect to that wish as may be agreed between Her Majesty’s Government in the United Kingdom and the Government of Ireland”.

As several academics have observed, the 1998 Act is [vague as to how this likelihood ought to be assessed](#).²⁷ In the *McCord* case, the Northern Ireland High Court held that:

Evidence of election results and opinion polls may form part of the evidential context in which to exercise the judgment whether it appears to the Secretary of State that there is likely to be a majority for a united Ireland. The overall evidential context on how it should be analysed and viewed is a matter for the Secretary of State.²⁸

During the 1998 Act’s passage in the House of Commons Unionist politicians attempted to amend the provisions on holding the poll.

Ian Paisley MP, the then DUP leader, proposed adding a requirement of a cross-community vote in support of a reunification referendum before it could be triggered. David Trimble, also an MP, tabled an amendment proposing that a vote in favour of a united Ireland would have to be favoured by more than 60 per cent of those voting, for it to be honoured by the Secretary of State.²⁹ These amendments were not passed.

The Belfast/Good Friday Agreement and the 1998 Act only require a simple majority of those voting in the border poll to decide whether Northern Ireland should remain part of the UK or join a united Ireland, with no minimum turnout threshold.

A poll in Ireland is also required to be held “concurrently” with the one in Northern Ireland.³⁰

The provision for a seven-year gap between border polls echoed that in the 1973 Act (which made provision for a 10-year gap).³¹ The Constitution Unit’s [Working Group on Unification Referendums on the Island of Ireland](#) concluded that Irish unity referendums in Northern Ireland and Ireland need not take place concurrently.³²

In its submission to the Supreme Court regarding the legality of a second independence referendum in 2022, the Scottish National Party suggested that

²⁷ For a full analysis see The Constitution Unit, [Working Group on Unification Referendums on the Island of Ireland: Interim Report](#), November 2020, pp109-33.

²⁸ [In re McCord \[2016\] NIQB 85](#)

²⁹ [The Constitutional Significance of the People of Northern Ireland](#) (PDF), Colin Murray, in Doyle, McHarg and Murkens, ‘The Brexit Challenge for Ireland and the United Kingdom: Constitutions under pressure’, 2001.

³⁰ This is set out in Article 1(ii) of the British-Irish Agreement. A majority in the South and North are required.

³¹ Northern Ireland Constitution Act 1973, [Schedule 1](#).

³² Constitution Unit, [Working Group on Unification Referendums on the Island of Ireland: Interim Report](#), pp60-61.

section 1 of the Northern Ireland Act 1998 could provide a model for resolving Scotland's constitutional status.³³

2.4

Annex B: Irish Government draft legislation to amend the constitution

Annex B of the Agreement set out that the Irish constitution would be amended, subject to a required confirmatory referendum,³⁴ to substitute the following Articles 2 and 3:

Article 2

It is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, to be part of the Irish nation. That is also the entitlement of all persons otherwise qualified in accordance with law to be citizens of Ireland [...]

Article 3

It is the firm will of the Irish nation, in harmony and friendship, to unite all the people who share the territory of the island of Ireland, in all the diversity of their identities and traditions, recognising that a united Ireland shall be brought about only by peaceful means with the consent of a majority of the people, democratically expressed, in both jurisdictions in the island [...]

2.5

Strand one: Democratic institutions in Northern Ireland

Strand one of the Agreement provided for:

a democratically elected Assembly in Northern Ireland which is inclusive in its membership, capable of exercising executive and legislative authority, and subject to safeguards to protect the rights and interests of all sides of the community.

The Assembly

The Northern Ireland Assembly was to have 108 members elected by proportional representation (the single transferable vote) “from existing Westminster constituencies”. The Assembly, “operating where appropriate on

³³ [The SNP's Supreme Court submission on the independence referendum](#), SNP website, para 7.15.

³⁴ Article 46 of the Irish constitution requires that Constitutional amendments “shall be initiated in Dáil Éireann as a Bill, and shall upon having been passed or deemed to have been passed by both Houses of the Oireachtas, be submitted by Referendum to the decision of the people in accordance with the law for the time being in force relating to the Referendum”. Government of Ireland, [Constitution of Ireland](#), accessed 3 April 2023.

a cross-community basis”, was to “be the prime source of authority in respect of all devolved responsibilities”. Safeguards to ensure “all sections of the community” could “participate and work together successfully in the operation of these institutions” were to include:

- (a) allocations of Committee Chairs, Ministers and Committee membership in proportion to party strengths;
- (b) the European Convention on Human Rights (ECHR) and any Bill of Rights for Northern Ireland supplementing it, which neither the Assembly nor public bodies can infringe, together with a Human Rights Commission;
- (c) arrangements to provide that key decisions and legislation are proofed to ensure that they do not infringe the ECHR and any Bill of Rights for Northern Ireland;
- (d) arrangements to ensure key decisions are taken on a cross-community basis;
 - (i) **either** parallel consent, i.e. a majority of those members present and voting, including a majority of the unionist and nationalist designations present and voting;
 - (ii) **or** a weighted majority (60%) of members present and voting, including at least 40% of each of the nationalist and unionist designations present and voting.

Cross-community votes were also to be “triggered by a **petition of concern** brought by a significant minority of Assembly members” (at least 30 of the 108 members). This section also provided for an Equality Commission “to monitor a statutory obligation to promote equality of opportunity in specified areas and parity of esteem between the two main communities, and to investigate individual complaints against public bodies”.

Operation of the Assembly

Strand one provided that members of the Assembly were to “register a designation of identity – nationalist, unionist or other – for the purposes of measuring cross-community support in Assembly votes”. The Speaker and any deputies were to be elected on a cross-community basis. Assembly Committee chairs were to be allocated proportionally using the d’Hondt system and with Committee membership “in broad proportion to party strengths in the Assembly”. The powers of the Committees were also set out.

Executive authority

Executive authority was to be discharged on behalf of the Assembly by a First Minister and deputy First Minister “and up to ten Ministers with Departmental responsibilities”. The First and deputy First Minister were to “be jointly elected into office by the Assembly voting on a cross-community basis”. Following that, other Executive ministers were to be allocated using the d’Hondt formula. Together, these ministers would constitute an Executive Committee

(or Northern Ireland Executive). This would seek each year to agree a programme for government and a budget.

A condition of appointment was to affirm the terms of a Pledge of Office set out in annex A. Ministers could be removed from office following a decision of the Assembly taken on a cross-community basis.

Legislation

The Assembly was to have authority to pass primary legislation for Northern Ireland in devolved areas, subject to conformity with the European Convention on Human Rights, and in reserved areas with the approval of the Secretary of State for Northern Ireland. Disputes over legislative competence were to be “decided by the Courts”. Legislative decisions were to require a simple majority, unless cross-community consent was necessary. This section also referred to “mechanisms” based on those proposed for the Scottish Parliament (first elected in May 1999), “to ensure suitable co-ordination, and avoid disputes, between the Assembly and the Westminster Parliament”.

The Secretary of State was to remain responsible for Northern Ireland Office matters not devolved to the Assembly, for approving and laying before the UK Parliament any Assembly legislation on reserved matters and representing Northern Ireland “interests” in the UK Cabinet. He or she was also to have “the right to attend the Assembly at their invitation”. This section of the Agreement also made clear that Westminster’s power “to make legislation for Northern Ireland would remain unaffected”.

Finally, a “consultative Civic Forum” was to be established, comprising:

representatives of the business, trade union and voluntary sectors, and such other sectors as agreed by the First Minister and the Deputy First Minister. It will act as a consultative mechanism on social, economic and cultural issues. The First Minister and the Deputy First Minister will by agreement provide administrative support for the Civic Forum and establish guidelines for the selection of representatives to the Civic Forum.

Transitional arrangements

The Assembly was to meet “first for the purpose of organisation, without legislative or executive powers, to resolve its standing orders and working practices and make preparations for the effective functioning of the Assembly, the British-Irish Council and the North/South Ministerial Council and associated implementation bodies”.

Review

The Agreement made clear that after “a specified period” there was to be a review of strand one arrangements, “including the details of electoral arrangements and of the Assembly’s procedures, with a view to agreeing any adjustments necessary in the interests of efficiency and fairness”.

Annex A: Pledge of Office

Annex A to strand one set out the Pledge of Office to be taken by Executive ministers, as well as a Ministerial Code of Conduct.

Ministers were to pledge to “discharge in good faith all the duties of office”, make a “commitment to non-violence and exclusively peaceful and democratic means”, “to serve all the people of Northern Ireland equally”, participate with colleagues in the preparation of a programme for government, and to comply with the Ministerial Code of Conduct.

Code of Conduct

Ministers were, among other things, to at all times:

observe the highest standards of propriety and regularity involving impartiality, integrity and objectivity in relationship to the stewardship of public funds [...]

Analysis

Strand one of the Agreement has been subject to the most alterations since 1998, details of which are explored in **section 3** of this briefing. The Assembly’s triple division of legislative powers (devolved/reserved/excepted) is unique to the devolution settlement in Northern Ireland and bore some relation to that provided for in the Government of Ireland Act 1920 (which had established the former [Parliament of Northern Ireland](#) in 1921). The nomenclature associated with that parliament, including “Prime Minister”, “House of Commons” and “MPs”, was replaced with “First Minister”, “Assembly” and “MLAs” (Members of the Legislative Assembly). The Assembly was to have no upper house or Senate.

While the Agreement had envisaged that the Assembly would be “the prime source of authority” and would exercise “full legislative and executive authority”, [section 23\(1\)](#) of the Northern Ireland Act 1998 actually provided that executive power in Northern Ireland would continue to be vested in the monarch, just as it had been (via the Governor) under the Government of Ireland Act 1920.³⁵

A Civic Forum met for the first time in October 2000 but was suspended along with the Northern Ireland Assembly in 2002. In 2015, Sinn Féin and the DUP decided that instead of reconvening the Forum, they would establish a small civic advisory panel.³⁶

³⁵ The authors are indebted to Dr Conor McCormick for this observation.

³⁶ See Paul Nolan and Robin Wilson, [Dialogue and engagement: lessons from the Northern Ireland Civic Forum](#), Joseph Rowntree Charitable Trust, December 2015.

2.6

Strand two: North/South Ministerial Council

Strand two of the Agreement provided for a North/South Ministerial Council (NSMC). The Council was to bring together:

those with executive responsibilities in Northern Ireland and the Irish Government, to develop consultation, co-operation and action within the island of Ireland – including through implementation on an all-island and cross-border basis – on matters of mutual interest within the competence of the Administrations, North and South.

All NSMC decisions were to be by agreement between the Northern Ireland Executive and the Government of Ireland. Northern Ireland was to be represented by the First Minister, deputy First Minister and “any relevant Ministers”, and the Irish Government by the Taoiseach and “relevant Ministers”. The NSMC was to meet in plenary twice a year, in specific sectoral formats “on a regular and frequent basis”, and “in an appropriate format to consider institutional or cross-sectoral matters (including in relation to the EU) and to resolve disagreement”.

The NSMC was to “use best endeavours to reach agreement on the adoption of common policies, in areas where there is a mutual cross-border and all-island benefit”. Each side was to remain “accountable to the Assembly and Oireachtas [the bicameral parliament of Ireland] respectively”. And during a transitional period, NSMC representatives were to undertake:

a work programme, in consultation with the British Government, covering at least 12 subject areas, with a view to identifying and agreeing by 31 October 1998 areas where co-operation and implementation for mutual benefit will take place.

The UK and Irish Governments were also to make “an absolute commitment” that bodies agreed as a result of the work programme were to be functioning “at the time of the inception of the British-Irish Agreement and the transfer of powers”. It was also:

understood that the North/South Ministerial Council and the Northern Ireland Assembly are mutually inter-dependent, and that one cannot successfully function without the other.

Funding was to be provided by the two governments and supported by a standing joint Secretariat, staffed by members of the Northern Ireland Civil Service and the Irish Civil Service. The Northern Ireland Assembly and the Oireachtas were also to consider developing a joint parliamentary forum, as well as “an independent consultative forum appointed by the two Administrations, representative of civil society, comprising the social partners and other members with expertise in social, cultural, economic and other issues”.

Annex for strand two

An annex to this section of the Agreement set out potential areas for North-South cooperation and implementation, which were:

1. Agriculture – animal and plant health.
2. Education – teacher qualifications and exchanges.
3. Transport – strategic transport planning.
4. Environment – environmental protection, pollution, water quality, and waste management.
5. Waterways – inland waterways.
6. Social Security/Social Welfare – entitlements of cross-border workers and fraud control.
7. Tourism – promotion, marketing, research, and product development.
8. Relevant EU Programmes such as SPPR, INTERREG, Leader II and their successors.
9. Inland Fisheries.
10. Aquaculture and marine matters.
11. Health: accident and emergency services and other related cross-border issues.
12. Urban and rural development.

Analysis

The [North South Ministerial Council](#) last [met in plenary on 30 July 2021](#). This is because DUP ministers began boycotting the NSMC in 2021, while the collapse of the devolved institutions in February 2022 meant it could no longer meet.

As Professor John Coakley of University College Dublin has observed, “the vigour of the North-South bodies has been compromised by their vulnerability to developments in strand one”.³⁷

A joint parliamentary forum was created in October 2012 as the [North/South Inter-Parliamentary Association](#). However, it last met in December 2016 and has met only on eight occasions in total.³⁸ The “independent consultative forum” envisaged by the Agreement has not been formed.

2.7

Strand three: British-Irish Council

Strand three of the Agreement provided for a British-Irish Council (BIC) to promote the “harmonious and mutually beneficial development of the totality of relationships among the peoples of these islands”.

³⁷ John Coakley, *The British-Irish Relationship in the Twenty-first Century* in Etain Tannam (ed), *Beyond the Good Friday Agreement: In the midst of Brexit*, London: Routledge, 2019, p99.

³⁸ As above, p94.

Membership of the BIC was to comprise representatives of the UK and Irish Governments, devolved institutions in Northern Ireland, Scotland and Wales (once established) and “if appropriate, elsewhere in the United Kingdom”, together with representatives from the Isle of Man and the Channel Islands. The BIC was to meet in summit twice a year, in specific sectoral formats on a regular basis, and “in an appropriate format” to consider cross-sectoral matters. The BIC was to:

exchange information, discuss, consult and use best endeavours to reach agreement on co-operation on matters of mutual interest within the competence of the relevant Administrations. Suitable issues for early discussion in the BIC could include transport links, agricultural issues, environmental issues, cultural issues, health issues, education issues and approaches to EU issues. Suitable arrangements to be made for practical co-operation on agreed policies.

The BIC was “normally” to “operate by consensus”, derive funding from all its members and be supported by a secretariat provided by the UK and Irish Governments. The elected institutions of BIC members were to be encouraged to “develop interparliamentary links, perhaps building on the British-Irish Interparliamentary Body”.

British-Irish Intergovernmental Conference

Strand three also provided for a new standing British-Irish Intergovernmental Conference (BIIGC), which was to subsume both the Anglo-Irish Intergovernmental Council and the Intergovernmental Conference established under the 1985 Anglo-Irish Agreement.

The BIIGC was to bring together the UK and Irish Governments to promote “bilateral co-operation at all levels on all matters of mutual interest within the competence of both Governments”. It was to meet “as required at Summit level” with the UK Prime Minister and Irish Taoiseach in attendance:

In recognition of the Irish Government’s special interest in Northern Ireland and of the extent to which issues of mutual concern arise in relation to Northern Ireland, there will be regular and frequent meetings of the Conference concerned with non-devolved Northern Ireland matters, on which the Irish Government may put forward views and proposals. These meetings, to be co-chaired by the Minister for Foreign Affairs and the Secretary of State for Northern Ireland, would also deal with all-island and cross-border co-operation on non-devolved issues.

Cooperation within the framework of the BIIGC was also to include “facilitation of co-operation in security matters” and “justice, prisons and policing in Northern Ireland”, unless and until responsibility for that area was devolved to the Northern Ireland Assembly. The BIIGC was to be supported by officials of the UK and Irish Governments, including by a standing joint secretariat of officials dealing with non-devolved matters in Northern Ireland.

Analysis

The [British-Irish Council](#) was formed and has met regularly since the late 1990s. Its 38th Summit took place in Blackpool on 11 November 2022.³⁹ Since 2012, the BIC’s secretariat has been based in Edinburgh. BIC membership now consists of the UK Government, Irish Government, Northern Ireland Executive (when functioning), [Scottish Government](#), [Welsh Government](#), [Isle of Man Government](#), [States of Jersey](#) and the [States of Guernsey](#).

The [British-Irish Intergovernmental Conference](#) met regularly between 1999 and 2007 but lapsed until being reconvened on 25 July 2018. It last met at Farmleigh House in Dublin on 19 January 2023.⁴⁰

In 2001, the existing [British–Irish Interparliamentary Assembly](#) was expanded, as envisaged in the Agreement, to incorporate parliamentarians from all those participating in the British–Irish Council.

Although not explicitly mentioned, the long-standing (and cross-border) Foyle Fisheries Commission became the [Loughs Agency](#) following the 1998 Agreement.

2.8

Rights, safeguards and equality of opportunity

Human rights

In this part of the Agreement, participants affirmed their commitment to the “mutual respect, the civil rights and the religious liberties of everyone in the community”.

United Kingdom legislation

The UK Government was to complete incorporation of the European Convention on Human Rights (ECHR) into Northern Ireland law, “with direct access to the courts, and remedies for breach of the Convention, including power for the courts to overrule Assembly legislation on grounds of inconsistency”. This meant there would be a statutory obligation for public authorities in Northern Ireland to carry out all their functions with “due regard to the need to promote equality of opportunity in relation to religion and political opinion; gender; race; disability; age; marital status; dependants; and sexual orientation”.

³⁹ UK Government Communiqué, [38th British-Irish Council Summit](#), 11 November 2022.

⁴⁰ Northern Ireland Office, [Joint Communiqué of the British-Irish Intergovernmental Conference January 2023](#).

New institutions in Northern Ireland

A new Northern Ireland Human Rights Commission was to be established via legislation and invited to “consult and to advise” on constituting “a Bill of Rights for Northern Ireland”.

A new statutory Equality Commission was also to replace the Fair Employment Commission, the Equal Opportunities Commission (NI), the Commission for Racial Equality (NI) and the Disability Council.

Comparable steps by the Irish Government

The Irish Government was to take steps to “further strengthen the protection of human rights in its jurisdiction”, including the establishment of a Human Rights Commission with a mandate and remit “equivalent to that within Northern Ireland”, and while continuing to take “further active steps to demonstrate its respect for the different traditions in the island of Ireland”.

Joint committee

It was envisaged that there would be a joint committee of representatives of the two Human Rights Commissions, North and South, “as a forum for consideration of human rights issues in the island of Ireland”.

Reconciliation and victims of violence

In this section the parties to the Agreement stated their belief that it was “essential to acknowledge and address the suffering of the victims of violence as a necessary element of reconciliation”. They looked forward to the results of the work of the Northern Ireland Victims Commission:

It is recognised that victims have a right to remember as well as to contribute to a changed society. The achievement of a peaceful and just society would be the true memorial to the victims of violence. The participants particularly recognise that young people from areas affected by the troubles face particular difficulties and will support the development of special community-based initiatives based on international best practice.

Analysis

Despite some sporadic initiatives, the Agreement’s envisaged Bill of Rights for Northern Ireland has not transpired.⁴¹ The [Northern Ireland Human Rights Commission](#) delivered advice to the Secretary of State for Northern Ireland on constituting such a Bill of Rights on 10 December 2008, but it was not taken forward. This was “a matter of regret for the Commission, which continues to

⁴¹ See C. Harvey, [Northern Ireland and a Bill of Rights for the United Kingdom](#), British Academy Bill of Rights Briefings, 2016.

consider that the advice it delivered constitutes a strong basis on which to proceed”.⁴²

The ECHR was, however, incorporated into UK domestic law via the [Human Rights Act 1998](#) (HRA),⁴³ while the Northern Ireland Act 1998 provided that no Assembly legislation could be passed that was inconsistent with Convention rights.⁴⁴

An [Equality Commission for Northern Ireland](#) was also established, as was an [Irish Human Rights and Equality Commission](#). The first official meeting of the envisaged joint committee of the Northern Irish and Irish Human Rights Commissions took place in November 2001.⁴⁵

A [Commission for Victims & Survivors](#) in Northern Ireland was established.

2.9 Rights, safeguards and equality of opportunity

Economic, social and cultural issues

Pending the transfer of legislative powers to the Northern Ireland Assembly, this section of the Agreement committed the UK Government to pursuing “broad policies for sustained economic growth and stability in Northern Ireland and for promoting social inclusion, including in particular community development and the advancement of women in public life”. In particular, it was to “make rapid progress” with new regional and economic development strategies for Northern Ireland, and on measures to promote employment equality.

All participations also recognised the importance of “respect, understanding and tolerance in relation to linguistic diversity, including in Northern Ireland, the Irish language, Ulster-Scots and the languages of the various ethnic communities, all of which are part of the cultural wealth of the island of Ireland”. The UK Government was to “take resolute action” to promote the Irish language. Arrangements were also to be made by all participants to ensure that “symbols and emblems” in Northern Ireland “were used in a manner which promotes mutual respect rather than division”.

⁴² [Bill of Rights | Northern Ireland Human Rights Commission](#)

⁴³ It is worth noting that the Conservative Party has for some time been committed to replacing the HRA with alternative legislation. The 2010 Conservative election manifesto promised to repeal the 1998 Act and introduce a UK Bill of Rights, in order to “protect our freedoms from state encroachment and encourage greater social responsibility”. This commitment was repeated in subsequent manifestos.

⁴⁴ Northern Ireland Assembly Research and Information Service, [Human Rights in Northern Ireland: What if the Human Rights Act were repealed?](#), 2 May 2016.

⁴⁵ See Joint Committee of the Irish Human Rights and Equality Commission and the Northern Ireland Human Rights Commission, [Policy statement on the United Kingdom withdrawal from the European Union](#), March 2018.

Analysis

It took until December 2022 for the [Identity and Language \(Northern Ireland\) Act 2022](#) to become law (see **section 3.7 of this briefing**). This included measures to promote the Irish language in Northern Ireland.

The Commission on Flags, Identity, Culture and Tradition published its final report in December 2021. It hoped its recommendations could:

aid in a process where issues of Flags, Identity, Culture and Tradition are no longer contested and contentious, but become a means by which we foster, develop and embed respect, a key outcome in the Programme for Government.⁴⁶

The commission's recommendations have yet to be given effect.

2.10

Decommissioning of arms

The section of the Agreement headed “Decommissioning” recalled a Procedural Motion adopted on 24 September 1997 “that the resolution of the decommissioning issue is an indispensable part of the process of negotiation”. It also noted the “progress” made by the Independent International Commission on Decommissioning. The participants confirmed their intention to:

continue to work constructively and in good faith with the Independent Commission, and to use any influence they may have, to achieve the decommissioning of all paramilitary arms within two years following endorsement in referendums North and South of the agreement and in the context of the implementation of the overall settlement.

The Independent Commission was to monitor, review and verify progress on decommissioning of illegal arms, and report to the UK and Irish Governments at regular intervals. All “relevant schemes” were to be in force by the end of June 1998.

Analysis

Decommissioning proved a particularly difficult aspect of the Agreement, and one which led to several suspensions of the Assembly created under strand one (see **Table 1** in **section 3.2** of this briefing). A date of May 2000 was set for the total disarming of all paramilitary groups. This was not met. The Irish Republican Army (IRA) decommissioned first in September 2005, followed by the Ulster Volunteer Force in June 2009 and the Ulster Defence Association on 6 January 2010.

⁴⁶ [Commission on Flags, Identity, Culture and Tradition – Final report](#), The Executive Office, 1 December 2021.

In March 2021, loyalist groups said they were temporarily withdrawing their support for the Agreement, although the Loyalist Communities Council made it clear that opposition to the Northern Ireland Protocol would remain “peaceful and democratic”.⁴⁷

2.11

Security

The Security section of the Agreement contains the only significant provisions concerning the Ireland/Northern Ireland border. The UK Government was to:

make progress towards the objective of as early a return as possible to normal security arrangements in Northern Ireland, consistent with the level of threat and with a published overall strategy, dealing with:

- (i) the reduction of the numbers and role of the Armed Forces deployed in Northern Ireland to levels compatible with a normal peaceful society;
- (ii) the removal of security installations;
- (iii) the removal of emergency powers in Northern Ireland; and
- (iv) other measures appropriate to and compatible with a normal peaceful society.

The Irish Government was also to initiate “a wide-ranging review of the Offences Against the State Acts 1939-85 with a view to both reform and dispensing with those elements no longer required as circumstances permit”.

Analysis

By September 1998 the Oireachtas had approved the [Offences Against the State \(Amendment\) Act, 1998](#). According to press reports, the [last security installations in Northern Ireland were removed](#) in 2006.

The Agreement only addressed the security border, which in 1998 still existed between Ireland and Northern Ireland. Nothing in the Agreement expressly prohibited infrastructure relating to trade and regulatory borders (as had existed prior to 1992), but while both Ireland and the UK were members of the EU, such infrastructure would not have been envisaged during the peace talks. However, it could be said that the common **political** objective of avoiding a 'hard' border flowed from the spirit of the Agreement and is taken seriously by the UK and Irish Governments.

⁴⁷ [Loyalist groups withdraw support for Good Friday Agreement](#), Raidió Teilifís Éireann, 4 March 2021.

2.12

Policing and justice

This section of the Agreement concerned policing in Northern Ireland, something its “history of deep divisions” had made “highly emotive, with great hurt suffered and sacrifices made by many individuals and their families, including those in the [Royal Ulster Constabulary] and other public servants”. The participants stated their belief that the Agreement provided “the opportunity for a new beginning to policing in Northern Ireland with a police service capable of attracting and sustaining support from the community as a whole”.

An independent commission was to be established to make recommendations for future policing arrangements in Northern Ireland to report no later than the summer of 1999. There was also to be a parallel “wide-ranging review of criminal justice” to be carried out by the UK Government, “through a mechanism with an independent element, in consultation with the political parties and others”. A report was to be made to the Secretary of State for Northern Ireland no later than autumn 1999. Implementation of the recommendations arising from both reviews was to be discussed with the political parties and with the Irish Government. Finally, the UK Government was to remain:

ready in principle, with the broad support of the political parties, and after consultation, as appropriate, with the Irish Government, in the context of ongoing implementation of the relevant recommendations, to devolve responsibility for policing and justice issues.

Annexes A and B to this section set out Terms of Reference for both commissions.

Analysis

One year after the Agreement, the Independent Commission on Policing for Northern Ireland, also known as the Patten Commission,⁴⁸ published a report with 175 recommendations on the symbolic and practical changes required for comprehensive police reform. Recommendations included removing British symbols, renaming the Royal Ulster Constabulary, implementing a 50:50 recruitment policy for Catholics and Protestants (for at least ten years) and establishing a new policing board and a police ombudsman.⁴⁹

The [Police Service of Northern Ireland](#) was formed in 2001, although it took until January 2007 for it to win support from Sinn Féin. Responsibility for policing and justice was devolved to the Northern Ireland Assembly in 2010.

⁴⁸ It was chaired by Lord (Chris) Patten, a former Cabinet minister and the last Governor of Hong Kong.

⁴⁹ [Police Reform in Northern Ireland: Achievements and Future Challenges](#), sipri website, 28 October 2019.

The sixth and final report outlining changes to the criminal justice system in Northern Ireland was published in June 2006. Lord Clyde, a Scottish judge, had been appointed Justice Oversight Commissioner in 2003. The report confirmed that almost 80% of recommended changes had been implemented, including the introduction of a new Public Prosecution Service and more training in human rights.⁵⁰

2.13

Prisoners

Along with decommissioning, the section on prisoners was among the Agreement's most contentious. It committed the UK and Irish Governments to:

put in place mechanisms to provide for an accelerated programme for the release of prisoners, including transferred prisoners, convicted of scheduled offences in Northern Ireland or, in the case of those sentenced outside Northern Ireland, similar offences (referred to hereafter as qualifying prisoners). Any such arrangements will protect the rights of individual prisoners under national and international law.

Prisoners affiliated to organisations which had not “established or are not maintaining a complete and unequivocal ceasefire” were not to benefit from these arrangements, although the situation was to be kept under review.

Both Governments were to seek to enact the appropriate legislation to give effect to these arrangements by the end of June 1998. Finally, the Governments continued to recognise:

the importance of measures to facilitate the reintegration of prisoners into the community by providing support both prior to and after release, including assistance directed towards availing of employment opportunities, re-training and/or re-skilling, and further education.

Analysis

Both the UK and Irish Governments committed to the early release of the approximately 400 prisoners who were serving sentences in connection with the activities of paramilitary groups during the Troubles, provided that those groups continued to maintain “a complete and unequivocal ceasefire”.

A Sentence Review Commission was established under the [Northern Ireland \(Sentences\) Act 1998](#) and was chaired by Brian Currin, a South African human rights lawyer, and Sir John Blelloch, a retired Northern Ireland civil servant.

By October 1998, 167 prisoners had been released, a further 308 prisoners by December 1999, while the final group of prisoners had been released by 28 July 2000, making a total of 428 prisoners.

⁵⁰ [Final criminal justice report published](#), Northern Ireland News website, 15 June 2006.

2.14

Validation, implementation and review

Validation and implementation

The final substantive section of the Agreement committed the UK and Irish Governments to organise referendums to be held on 22 May 1998. There already existed legislation for that to be held in Northern Ireland, the Northern Ireland (Entry to Negotiations, etc.) Act 1996.⁵¹ The question was to be: “Do you support the agreement reached in the multi-party talks on Northern Ireland and set out in Command Paper 3883?”

The Irish Government was also to “introduce and support” in the Oireachtas a bill to amend the Irish constitution as described in the “Constitutional Issues” section of the Agreement (and related annex B). On passage by the Oireachtas, the bill was to be put to a referendum. The Agreement further provided that:

If majorities of those voting in each of the referendums support this agreement, the Governments will then introduce and support, in their respective Parliaments, such legislation as may be necessary to give effect to all aspects of this agreement, and will take whatever ancillary steps as may be required including the holding of elections on 25 June [1998], subject to parliamentary approval, to the Assembly, which would meet initially in a “shadow” mode. The establishment of the North-South Ministerial Council, implementation bodies, the British-Irish Council and the British-Irish Intergovernmental Conference and the assumption by the Assembly of its legislative and executive powers will take place at the same time on the entry into force of the British-Irish Agreement.

In the interim, aspects of the implementation of the Multi-Party Agreement were to be reviewed at meetings of “those parties relevant in the particular case”, under the chairmanship of the UK Government or the UK and Irish Governments, as appropriate.

Review procedures following implementation

Following implementation, each institution established under the Agreement could at any time:

review any problems that may arise in its operation and, where no other institution is affected, take remedial action in consultation as necessary with the relevant Government or Governments. It will be for each institution to determine its own procedures for review.

Notwithstanding any such review or remedial action, each institution was to publish an annual report on its operations. In addition, the UK and Irish Governments and the political parties in the Assembly were to “convene a

⁵¹ This Act was subsequently repealed.

conference 4 years after the agreement comes into effect, to review and report on its operation”.

Analysis

Institutions established under the Agreement were frequently reviewed (again, see **section 3** of this paper). A [Joint Declaration](#) by the UK and Irish Governments in April 2003 made reference to a review in September of that year but this does not appear to have taken place.⁵²

2.15

Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland

This section is an international treaty between the UK and Ireland, called the British-Irish Agreement, that commits the two parties to implement the Multi-Party Agreement. This section stated that the UK and Irish Governments welcomed:

the strong commitment to the Agreement reached on 10th April 1998 by themselves and other participants in the multi-party talks and set out in Annex 1 to this Agreement (hereinafter “the Multi-Party Agreement”);

Considering that the Multi-Party Agreement offers an opportunity for a new beginning in relationships within Northern Ireland, within the island of Ireland and between the peoples of these islands;

Wishing to develop still further the unique relationship between their peoples and the close co-operation between their countries as friendly neighbours and as partners in the European Union;

Reaffirming their total commitment to the principles of democracy and non-violence which have been fundamental to the multi-party talks;

Reaffirming their commitment to the principles of partnership, equality and mutual respect and to the protection of civil, political, social, economic and cultural rights in their respective jurisdictions;

Articles 1-4 reiterated the declaration at the beginning of the Agreement; affirmed the two governments’ “solemn commitment to support, and where appropriate implement, the provisions of the Multi-Party Agreement”; the replacement of the 1985 Anglo-Irish Agreement; and the necessary legislative or constitutional changes under annex A of the Agreement’s “Constitutional Issues” section.

⁵² [Joint Declaration by the British and Irish Governments April 2003](#), CAIN archive.

The UK and Irish Governments were to “notify the other in writing of the completion, so far as it is concerned, of the requirements for entry into force of this Agreement”. The Agreement was then to enter into force “on the date of the receipt of the later of the two notifications”. The Irish Government was to ensure that amendments to Ireland’s constitution took effect on the same date.

Annex 1 contained the Agreement Reached in the Multi-Party Talks, while annex 2 made the following Declaration In Relationship to Citizenship:

The British and Irish Governments declare that it is their joint understanding that the term “the people of Northern Ireland” in paragraph (vi) of Article 1 of this Agreement means, for the purposes of giving effect to this provision, all persons born in Northern Ireland and having, at the time of their birth, at least one parent who is a British citizen, an Irish citizen or is otherwise entitled to reside in Northern Ireland without any restriction on their period of residence.

2.16

Referendums

The Agreement was endorsed in [referendums held on 22 May 1998](#).⁵³ Most members of the Ulster Unionist Party, the SDLP and Sinn Féin campaigned for a Yes vote, while the DUP and Republican splinter groups campaigned No. A copy of Command Paper 3883 had been sent to every household in Northern Ireland. As in 1973, votes were counted on a Northern Ireland-wide basis. 71.1% voted Yes and 28.9% No. The turnout was 81%.⁵⁴

In Ireland, voters were asked whether they would allow the Government to sign the Agreement and make necessary constitutional changes (the [Nineteenth Amendment of the Constitution of Ireland](#)) in order to facilitate it. Turnout was 56% and 94% of those voting endorsed the amendment to the Irish constitution.

Following the successful referendums, the Northern Ireland Bill was introduced to UK Parliament to give (partial) legal effect to the Belfast/Good Friday Agreement. The Northern Ireland Act 1998 received Royal Assent on 19 November 1998. Later, Lord Bingham, then a Lord of Appeal in Ordinary, referred to the Act as “in effect a constitution” for Northern Ireland.⁵⁵

⁵³ An Order was laid for the referendum under the 1996 Act, the [Northern Ireland Negotiations \(Order\) 1998](#).

⁵⁴ Commons Library Research Paper 99/30, [Referendums: Recent Developments](#), 16 March 1999, p49. [A referendum in the Republic of Ireland also endorsed the Belfast/Good Friday Agreement](#) with 94% voting Yes (on a 56% turnout), as well as related changes to Articles 2 and 3 of the Irish constitution.

⁵⁵ [Robinson v Secretary of State for Northern Ireland \[2002\] UKHL 32](#)

2.17

Assembly elections

At a special conference on 10 May 1998, Sinn Féin delegates had voted overwhelmingly for the party to take up its seats in the new Northern Ireland Assembly, overturning its long-standing policy of abstentionism (although this was to continue at Westminster).

On 25 June 1998, [elections were held to the Northern Ireland Assembly](#) under the terms of the [Northern Ireland \(Elections\) Act 1998](#). It was to be called the “New Northern Ireland Assembly” or “Shadow Assembly” in order to distinguish it from the Northern Ireland Assembly for which legislative provision remained under the Northern Ireland Constitution Act 1973.

The Shadow Assembly met for the first time on 1 July at Castle Buildings in Belfast.⁵⁶ UUP leader David Trimble was elected First Minister (designate) and the SDLP’s deputy leader Seamus Mallon deputy First Minister (designate). The then Secretary of State for Northern Ireland, Mo Mowlam, appointed Lord Alderdice as the “Initial” Presiding Officer.⁵⁷ The Shadow Assembly met for a second time on 14 September 1998, this time at the refurbished Parliament Buildings.⁵⁸

2.18

Further negotiations

In the year and a half after the Agreement was signed a series of reviews and negotiations sought to address outstanding issues:

- **Agreements signed between the UK and Irish Governments in Dublin (March 1999)** provided for the establishment of the North-South Ministerial Council and Implementation Bodies, the British-Irish Council and the British-Irish Intergovernmental Conference.⁵⁹
- **The Hillsborough Declaration and Way Forward (April 1999)** was an attempt by the UK and Irish Governments to resolve outstanding issues and choreograph nominations to ministerial posts in the Executive and the decommissioning of paramilitary weapons.⁶⁰

⁵⁶ The Parliament Buildings were being refurbished at the time.

⁵⁷ It had been intended that the Assembly would elect its own presiding officer, but, in the event, Lord Alderdice was confirmed in office in late 1999. The Assembly’s [Standing Orders](#) provided for him to be addressed as “Speaker”.

⁵⁸ These had also housed the old Parliament of Northern Ireland between 1932 and 1972.

⁵⁹ University of Edinburgh, [Peace Agreements Database](#).

⁶⁰ [The Hillsborough Agreement 1999](#), University of Edinburgh Peace Agreements Database.

- **Senator George Mitchell’s Review of the Northern Ireland Peace Process (November 1999)** was a further attempt to resolve the issue of decommissioning and allow for the nomination of Executive ministers.⁶¹

2.19 The Agreement takes effect

On 30 November 1999, the Secretary of State for Northern Ireland made the [Northern Ireland Act 1998 \(Commencement Order No 5\)](#). On 2 December 1999, the [Departments \(Transfer and Assignment of Functions\) Order \(Northern Ireland\) 1999](#) and [Departments \(Northern Ireland\) Order 1999](#) were laid in the UK Parliament and thus “finalised the replacement of direct rule” with devolved government in Northern Ireland for the first time since 1974.⁶² The Government of Ireland Act 1920 was [repealed](#) the same day.

On 2 December 1999, the UK Government participated in a televised ceremony at Iveagh House in Dublin, the Irish Department of Foreign Affairs. Peter Mandelson, the then Secretary of State, exchanged notifications with David Andrews, the Irish Foreign Minister.⁶³ Shortly after the ceremony at 10:30, the Taoiseach, Bertie Ahern, signed a declaration formally amending Articles 2 and 3 of the Irish Constitution. He then announced to the Dáil that the British-Irish Agreement had entered into force.

2.20 Legal status of the Agreement

The legal commentator David Allen Green has described the Belfast/Good Friday Agreement as “a core constitutional text of the UK, and of Ireland [...] of more everyday importance than hallowed instruments such as [...] the Magna Carta of 1215 or the 1689 Bill of Rights”.⁶⁴ The political scientist Brendan O’Leary has argued that the Agreement “made Northern Ireland bi-national” and reinforced “imaginative elements of co-sovereignty”.⁶⁵

⁶¹ [Statement by Senator George Mitchell](#) at the conclusion of the Peace Talks, 18 November 1999, CAIN archive, University of Ulster.

⁶² Derek Birrell, *Direct Rule and the Governance of Northern Ireland*, Manchester: Manchester University Press, 2009, p17.

⁶³ [Address by Mr David Andrews, Minister for Foreign Affairs at the Exchange of Notifications ceremony at Iveagh House Dublin](#), CAIN archive, 2 December 1999.

⁶⁴ [How Ireland is shaping Britain’s post-Brexit trade](#), Financial Times, 15 December 2017.

⁶⁵ Hanna Lerner, *Making Constitutions in Deeply Divided Societies*, Cambridge: Cambridge University Press, 2011, p188.

3

Evolution of the Agreement

The Belfast/Good Friday Agreement and the Northern Ireland Act 1998 provided the basis for power-sharing in Northern Ireland. However, the political institutions in the Agreement have been subject to instability and political disagreement which have, from time to time, necessitated intervention from the UK and Irish Governments.

The Agreement itself had anticipated this, stating that:

If difficulties arise which require remedial action across the range of institutions, or otherwise require amendment of the British-Irish Agreement or relevant legislation, the process of review will fall to the two Governments in consultation with the parties in the Assembly. Each Government will be responsible for action in its own jurisdiction.⁶⁶

Technically, this only committed the UK and Irish Governments to “consulting” political parties in Northern Ireland before making any changes to strand one institutions, although in practice they have only ever done so having secured agreement from all the parties represented in the Northern Ireland Assembly.⁶⁷

The political scientist Arthur Aughey has called the vague wording of some of the Agreement’s provisions “constructive ambiguity”.⁶⁸ This served to postpone debate on some of its more contentious provisions, including decommissioning and the reform of policing.

3.1

Talks on decommissioning

Following a report from the Independent International Commission on Decommissioning (IICD) that it had received no indication that the Irish Republican Army (IRA) had begun to decommission its weapons, the Secretary of State for Northern Ireland suspended the devolved institutions on 11 February 2000 using powers under the [Northern Ireland Act 2000](#). An agreement was subsequently reached which allowed the restoration of devolution with effect from 30 May 2000.

⁶⁶ [Belfast/Good Friday Agreement](#), para 7 of section headed “Validation and implementation”.

⁶⁷ The authors are also indebted to Dr Conor McCormick for this observation.

⁶⁸ Arthur Aughey, *The politics of Northern Ireland: beyond the Belfast Agreement*, London: Routledge, 2005, p148.

Continuing uncertainty over the decommissioning of IRA weapons led to the resignation of David Trimble as First Minister on 1 July 2001, an event followed by one-day suspensions of the Assembly. This impasse led to talks at:

- **Weston Park (July 2001)**, in which the British and Irish Governments and representatives from the Ulster Unionist Party, the SDLP and Sinn Féin sought to address outstanding issues of policing, decommissioning, normalisation and the stability of the institutions.

Eventually, the IRA announced in October 2001 that it had begun to decommission its weapons, and on 5 November 2001 David Trimble was re-elected as First Minister, with the SDLP's Mark Durkan as deputy First Minister.

The future of the Northern Ireland Assembly was again thrown into uncertainty when three members of Sinn Féin were arrested following a police search of its offices in the Parliament Buildings on 4 October 2002. They were subsequently charged with spying offences. On 14 October the then Secretary of State, John Reid, wrote to the Speaker of the Assembly informing him of his intention to suspend the institutions. This took effect from midnight on 14 October 2002. This led to the:

- **Joint Declaration (May 2003)**, which addressed similar issues to those in the Weston Park talks.⁶⁹

Following an Assembly election in November 2003, the Democratic Unionist Party (DUP) and Sinn Féin emerged as the two largest parties within their respective designations. However, there was no likelihood of a restoration of the political institutions at that stage. Almost a year later came two further negotiations at:

- **Leeds Castle (September 2004)**, which addressed decommissioning and the stability of political institutions in Northern Ireland;⁷⁰
- **Comprehensive Agreement (December 2004)**, which was a detailed document which proposed a series of choreographed events aimed at restoring power-sharing and allowing for the decommissioning of IRA weapons. Although no agreement was reached at the time, some of the proposals to amend strand one, such as a Ministerial Code, Pledge of Office and Assembly referrals for review by the Executive of important ministerial decisions, would return in future negotiations.⁷¹

⁶⁹ [Joint Declaration by the British and Irish Governments April 2003](#), CAIN archive.

⁷⁰ [Joint Statement by the British and Irish Governments 18 September 2004](#), CAIN archive.

⁷¹ Northern Ireland Office, [Proposals by the British and Irish Governments for a Comprehensive Agreement 2004](#).

On 28 July 2005 the IRA announced that it had “ordered an end to its armed campaign” and that “All IRA units have been ordered to dump arms”. The statement also said it would engage with the IICD to verify the process.⁷²

The IICD announced on 26 September 2005 that the process of decommissioning IRA weapons had been completed.⁷³ This offered fresh impetus for attempts to restore the devolved institutions producing, in turn, further changes to strand one of the Belfast/Good Friday Agreement.

The [Northern Ireland \(Miscellaneous Provisions\) Act 2006](#) provided for the devolution of policing and justice powers while the [Northern Ireland Act 2006](#) provided for a fixed-term, non-legislative Assembly consisting of the 108 members elected in 2003. This Assembly was recalled on 15 May 2006 to sit for an initial period of six weeks and subsequently sat for a further period between 11 September and 3 October 2006. Furthermore, the Secretary of State for Northern Ireland wrote to the Assembly Speaker on 26 May 2006 directing that a “Committee should be established to consider issues relating to the preparation for Government”.⁷⁴

This Committee comprised senior members of the political parties and met between 20 June 2006 and 30 October 2006. It produced a number of papers during that period, including one on institutional issues. At the first meeting of the Committee dedicated to institutional issues it concluded:

that it should examine each element of the Institutions arising from the Belfast Agreement. A wide range of issues was identified for consideration and, to provide structure for the Committee, these were grouped under the main headings relating to Strand 1, Strand 2 and Strand 3 of the Belfast Agreement.⁷⁵

3.2

St Andrews Agreement, 2006

Multi-party negotiations including the UK and Irish Governments took place between 11 and 13 October 2006 at St Andrews in Fife, Scotland. What emerged was the St Andrews Agreement, which provided the basis for a return to fully functioning devolved government in Northern Ireland. The actual extent to which the Northern Ireland political parties were involved in drafting the text was in reality quite limited. As Professor Adrian Guelke of Queen’s University Belfast has highlighted:

At the time of its publication [...] there was no attempt to disguise the fact that not merely had it written by the two governments, but that at this juncture it was merely an agreement between them and what was being sought the

⁷² [Text of Irish Republican Army \(IRA\) Statement on the Ending of the Armed Campaign 28 July 2005](#), CAIN archive.

⁷³ [Report of the Independent International Commission on Decommissioning 26 September 2005](#), CAIN archive.

⁷⁴ [Committee on Preparation for Government meets in Stormont](#), Northern Ireland Assembly Press Notice, 12 June 2006.

⁷⁵ [Report on Institutional Issues](#), Committee on the Preparation for Government, September 2006.

acquiescence of the Democratic Unionist Party [...] and Sinn Fein in the arrangements and timetable the two governments had outlined.⁷⁶

The content of what emerged at St Andrews was not necessarily new. Previous research has stated that much of the October 2006 text:

recapitulated negotiations and dialogue since the beginning of 2004, and showed how the two governments arbitrated the differences between the DUP and Sinn Fein. The power-sharing and political institutions would remain governed by the “fundamental principles” of the 1998 Agreement.⁷⁷

The St Andrews Agreement included:

- full acceptance of the Police Service of Northern Ireland by Sinn Féin and a commitment from the DUP to form a power-sharing Executive;
- devolution of policing and justice powers within two years;
- requiring the Executive to develop strategies relating to the Irish and Ulster-Scots languages;
- the adoption of a statutory Ministerial Code which would, inter alia, set out the obligations of individual ministers regarding the referral of matters to the Executive;⁷⁸
- enabling the Assembly to refer ministerial decisions for Executive review if 30 MLAs petitioned it to do so;
- nominations for the First and deputy First Minister to take place without a cross-community vote and restricting the ability of MLAs to change their community designation during an Assembly mandate (or term).⁷⁹

Table 1 Assembly suspensions	
11 February – 30 May 2000	Direct Rule
10 August 2001	24-hour suspension
22 September 2001	24-hour suspension
14 October 2002 – 7 May 2007	Direct Rule
9 January 2017 – 11 January 2020	Not fully functioning

⁷⁶ Rupert Taylor (ed), *Consociational Theory: McGarry and O’Leary and the Northern Ireland conflict*, London, London: Routledge, 2009, p107.

⁷⁷ Brendan O’Leary, *A Treatise on Northern Ireland: Volume 3 Consociation and Confederation*, Oxford: Oxford University Press, 2019, p252.

⁷⁸ Northern Ireland Office website, [Agreement at St Andrews](#), 13 October 2006.

⁷⁹ The change from electing to nominating the First and deputy First Ministers was intended to address DUP concerns about being “elected” jointly with a Nationalist party.

3 February 2022 –

Not fully functioning

Source: Northern Ireland Assembly

The 2007 Assembly elections and a return to power-sharing

The [Northern Ireland \(St Andrews Agreement\) Act 2006](#) gave legal effect to the provisions of the Agreement and set a date for the next Assembly election as 7 March 2007.

At that election, the DUP and Sinn Féin again won the largest number of seats in the Assembly. The DUP leader Ian Paisley and Sinn Féin president Gerry Adams met at Stormont on 26 March and agreed to set up an Executive by 8 May 2007.⁸⁰ As this was after the statutory deadline of 26 March, the [Northern Ireland \(St Andrews Agreement\) Act 2007](#) extended it to 8 May to avoid an immediate dissolution of the Assembly.⁸¹ In protest at DUP support for the St Andrews Agreement, as well the party's willingness to share power with Sinn Féin, the DUP MEP Jim Allister set up a new political party called [Traditional Unionist Voice \(TUV\)](#) in December 2007.

The 2007-2011 Assembly mandate remains the only one completed without suspensions or resignations affecting the functioning of the political institutions. First Minister Ian Paisley and deputy First Minister Martin McGuinness worked together until Paisley resigned in June 2008 and was succeeded by Peter Robinson. McGuinness continued in his role as deputy First Minister until his own resignation in January 2017.

Despite the relatively positive working relationships between the two main parties, outstanding issues remained, primarily that of policing and justice.

3.3 Hillsborough Castle Agreement, 2010

On 5 February 2010, Sinn Féin and the DUP reached an agreement at [Hillsborough Castle](#) to complete the devolution of policing and justice powers to the Northern Ireland Assembly. This also included agreement on parades and on implementing outstanding matters from the St Andrews Agreement.⁸²

Three days later, [General John de Chastelain](#), the head of the Independent International Commission on Decommissioning, announced that the [Irish](#)

⁸⁰ Gerry Adams would step down from the Northern Ireland Assembly in December 2010 and instead become a Teachta Dála (TD) of Dáil Éireann, the lower house of the Irish parliament, in February 2011.

⁸¹ Commons Library Briefing Paper RP07-32, [The Northern Ireland \(St Andrews Agreement\) \(No 2\) Bill](#).

⁸² Northern Ireland Office website, [Hillsborough Castle Agreement](#), 5 February 2010.

[National Liberation Army](#), the [Official IRA](#) and the [South-East Antrim Ulster Defence Association](#) had all decommissioned their weapons.⁸³

Policing and justice powers were devolved on 12 April via the [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010](#). Crucially, the new position of Justice Minister was to be made outside the usual d'Hondt procedure which, if used, would have entitled the SDLP to take the brief. There was no realistic prospect of either a DUP or Sinn Féin nominee being able to command the support of the Assembly. Instead, David Ford of the Alliance Party was appointed to the post with “policing and justice [...] (becoming) a relatively uncontroversial aspect of administration in Northern Ireland, a considerable achievement after the prolonged stand-off that preceded the Hillsborough Agreement”.⁸⁴

The 2011-2016 mandate and further negotiations

Assembly elections on 5 May 2011 resulted in little change in the overall party balance within the Northern Ireland Assembly, with the two largest parties remaining the DUP (with 38 MLAs) and Sinn Féin (with 29).⁸⁵

In May 2013 the First Minister and deputy First Minister published the strategy paper [Together: Building a United Community](#). MLAs from each of the parties formed an All-Party Group to consider and make recommendations on parades and protests, flags, symbols, emblems and other outstanding issues. Former Special Envoy Richard N Haass and Professor Meghan O’Sullivan were invited to chair the talks, but by December 2013 they conceded that there had been no agreement. Nevertheless, the Haass-O’Sullivan talks would provide the basis for the eventual Stormont House Agreement (SHA) reached in December 2014.

3.4 Stormont House Agreement, 2014

The [Stormont House Agreement](#) of December 2014 included further changes to strand one of the Belfast/Good Friday Agreement, including:

- devolution of corporation tax;
- flexibility in the implementation of welfare reform;
- creation of an “official opposition” in the Assembly, consisting of any party eligible to take up ministerial positions but choosing not to do so;

⁸³ Commons Library Briefing paper SN05350, [The Hillsborough Agreement](#).

⁸⁴ David Mitchell, *Politics and peace in Northern Ireland: political parties and the implementation of the 1998 Agreement*, Manchester: Manchester University Press, 2015, p187.

⁸⁵ Commons Library Briefing Paper RP11-42, [Northern Ireland Assembly Elections: 2011](#).

- reduction of Northern Ireland Departments from 12 to 9 before the 2016 Assembly elections,⁸⁶ and reduction of the number of MLAs from 108 to 90 by 2021;⁸⁷
- extension of the period for agreeing a programme for government following the first post-election meeting of the Assembly from 7 to 14 days, and for it to be agreed before the First and deputy First Ministers and other Executive ministers were selected;
- establishing bodies to consider the legacy of “The Troubles”: an [Historical Investigations Unit](#), an [Independent Commission on Information Retrieval](#), an independent [Oral History Archive](#) and an [Implementation and Reconciliation Group](#).

The Agreement was accompanied by a package of almost £2 billion in financial support from the UK Government.⁸⁸

The subsequent [Northern Ireland \(Miscellaneous Provisions\) Act 2014](#) designated the number of MLAs a reserved matter, meaning the Assembly could legislate on the issue with the consent of the Secretary of State. It also extended the Assembly mandate to 2016 and thereafter moved the Assembly to five-year mandates.⁸⁹

In August 2015 the Police Service of Northern Ireland stated that IRA members may have been involved in the murder of a former IRA member, Kevin McGuigan Snr. This implied official recognition that the IRA still existed. In response, the Ulster Unionist Party left the Executive and DUP ministers adopted a strategy of rolling resignations. First Minister Peter Robinson stood aside in September after his attempt to adjourn the Assembly was rejected. Arlene Foster became Acting First Minister while Martin McGuinness remained as deputy First Minister.

The UK Government also commissioned an [independent assessment of paramilitary organisations](#) in September 2015, which reported in October 2015. It concluded that all the main paramilitary groups operating during the Troubles still existed, and that their members were still engaged in violence, but that their respective leaderships were committed to political objectives achieved via peaceful means.

The DUP returned to its normal role in the Executive following this report, including Peter Robinson as First Minister.

⁸⁶ The resulting [departmental reorganisation](#) was announced to the Assembly by Peter Robinson in March 2015.

⁸⁷ In the event, the reduction took effect at an “extraordinary” election in March 2017.

⁸⁸ Commons Library Briefing Paper CBP7284, [Northern Ireland: Stormont House Agreement and implementation](#).

⁸⁹ This was in line with similar provisions previously made for the Scottish Parliament and then National Assembly for Wales (now the Senedd/Welsh Parliament).

3.5

A Fresh Start, 2015

The five largest parties in the Assembly then entered talks with the Irish and UK Governments regarding implementation of the Stormont House Agreement.

After 10 weeks an agreement was reached, and [A Fresh Start: the Stormont Agreement and Implementation Plan](#) was published on 17 November 2015. This included measures on welfare and paramilitarism, a commitment to a start date and rate for the devolution of corporation tax (April 2018 and 12.5%, respectively), a draft Northern Ireland Assembly Bill to reduce the number of MLAs for each constituency from six to five, and a restriction on spending plans which exceeded the Executive's "block grant" or borrowing limits.⁹⁰

The [Northern Ireland \(Stormont Agreement and Implementation Plan\) Act 2016](#) gave legislative effect to commitments in the Fresh Start agreement, including a new [Independent Reporting Commission](#) to monitor progress towards ending paramilitary activity and changes to the ministerial Pledge of Office.

Finally, the act provided for a longer period between the Assembly meeting after an election and the creation of an Executive. This was to facilitate greater discussion of a [Programme of Government](#) (an Executive document setting out priorities that it will pursue during an Assembly mandate, and actions to implement them).⁹¹

On 19 November 2015, Peter Robinson announced his intention to resign as First Minister and leader of the DUP. He stood down on 11 January 2016 and was succeeded by Arlene Foster in both positions. Assembly elections on 5 May 2016 resulted in little change.⁹² The [Northern Ireland \(Stormont Agreement and Implementation Plan\) Act 2016](#) now required MLAs to give an undertaking to work towards the ending of paramilitarism in Northern Ireland. Additionally, the pledge of office taken by Ministers was updated requiring them to give a similar undertaking.⁹³

Following the 2016 elections, both the SDLP and UUP chose not to join the power-sharing Executive and instead formed the [official opposition](#), something enabled by the Stormont House Agreement of 2014.⁹⁴ The

⁹⁰ Commons Library Briefing Paper CBP7389, [A Fresh Start: the Stormont Agreement and Implementation Plan and the Northern Ireland \(Welfare Reform\) Bill 2015-16 \[Bill 99\]](#).

⁹¹ Commons Library Briefing Paper CBP7503, [Northern Ireland \(Stormont Agreement and Implementation Plan\) Bill 2015-16 \[Bill 133\]](#).

⁹² Commons Library Briefing Paper CBP7575, [Northern Ireland Assembly Elections: 2016](#)

⁹³ [Northern Ireland \(Stormont Agreement and Implementation Plan\) Act 2016](#), see Section 8 for undertaking for MLAs, and Section 7 for Ministerial pledge of office.

⁹⁴ BBC News online, [NI Assembly: SDLP to go into opposition](#), 19 May 2016.

[Departments Act \(Northern Ireland\) 2016](#) subsequently reduced the number of Executive departments from 12 to 9.

3.6

Collapse of institutions, 2017–20

In June 2016 a majority of UK electors supported the UK's departure from the European Union. Although this was a UK-wide ballot, Scotland and Northern Ireland voted to “Remain” while England and Wales voted to “Leave”. Sinn Féin supported Remain and the DUP Leave. Although the Northern Ireland Executive [initially agreed a common stance on “Brexit”](#), tensions later emerged. See **section 4** of this briefing for a full account of the impact of Brexit on the Belfast/Good Friday Agreement.

On 9 January 2017, Martin McGuinness of Sinn Féin announced he was resigning as deputy First Minister of Northern Ireland. Sinn Féin declined to nominate a successor, which meant First Minister Arlene Foster automatically ceased to hold office.⁹⁵ This followed a dispute between Sinn Féin and the DUP concerning the [Renewable Heat Incentive \(RHI\)](#) subsidy scheme, which later became the subject of a high-profile [public inquiry](#).⁹⁶

The then Secretary of State, the late James Brokenshire MP, was obliged to call an extraordinary Assembly election, which took place on 2 March 2017. The [Assembly Members \(Reduction of Numbers\) Act \(Northern Ireland\) 2016](#) reduced the number of MLAs following the Assembly election. Therefore the March 2017 election was the first at which 90 members were returned, although the outcome was similar to that of 2016.⁹⁷ The DUP and Sinn Féin were again returned as the largest parties, but there was no real expectation of a return to power sharing.

An initial round of talks on forming an Executive took place, but on 27 March 2017 the statutory time limit for the appointment of ministers passed. The deadline for a second round of talks also passed on 18 April. On 27 April, the statutory time limit for creating an Executive was extended to 108 days.⁹⁸

This process was interrupted by a UK general election on 8 June 2017, after which a third round of talks began. On 26 June, the Conservatives and DUP negotiated a [confidence-and-supply agreement](#), which included an additional £1 billion funding for Northern Ireland. A fourth round of talks began on 4 September 2017.⁹⁹

⁹⁵ Martin McGuinness died on 21 March 2017 aged 66.

⁹⁶ See Commons Library Briefing Paper CBP7860, [Northern Ireland: resignation of Deputy First Minister](#).

⁹⁷ Commons Library Briefing Paper CBP7920, [Northern Ireland Assembly Elections: 2017](#).

⁹⁸ See section 1(1) of the [Northern Ireland \(Ministerial Appointments and Regional Rates\) Act 2017](#).

⁹⁹ The Northern Ireland Affairs Committee report, [Devolution and democracy in Northern Ireland – dealing with the deficit](#), includes a useful “Timeline” of events in Northern Ireland between 2016 and 2018 on pp3-4.

Agreement seemed close following a fifth round of talks in February 2018, but the DUP leader Arlene Foster said a deal proved impossible due to the “standalone” Irish Language Bill sought by Sinn Féin.¹⁰⁰

The Northern Ireland (Executive Formation and Exercise of Functions) Bill 2017-19 was introduced to the House of Commons on 18 October 2018 and all its Commons stages were taken on 24 October. This made provision to:

- suspend the Secretary of State for Northern Ireland’s “duty” to call another Assembly election for a time-limited period;
- enable civil servants in the absence of Northern Ireland ministers to take certain decisions in accordance with [guidance published by the Secretary of State](#);
- permit UK ministers to make some public appointments in the absence of a fully functioning Assembly and Executive.¹⁰¹

The [Northern Ireland \(Executive Formation and Exercise of Functions\) Act 2018](#) received Royal Assent on 1 November. Aspects of the act were strongly criticised by political parties in Northern Ireland as well as academic observers.¹⁰²

In July 2019, the Government introduced the [Northern Ireland \(Executive Formation\) Bill 2017-19](#), which further extended the period for Northern Ireland ministers to be appointed and imposed a duty upon the Secretary of State to report on progress to that end.

During its Commons committee stage, the bill was amended so that the Secretary of State would be obliged to lay regulations changing the law on abortion and same-sex marriage (both transferred or devolved matters) in Northern Ireland by 21 October 2019, unless a devolved Executive had been formed.¹⁰³ The [Northern Ireland \(Executive Formation etc\) Act 2019](#) received Royal Assent on 24 July 2019. Same-sex marriage became legal on 13 January 2020, while abortion was decriminalised from 22 October 2019 onwards. Full commissioning of abortion services in Northern Ireland, however, is still ongoing.¹⁰⁴

¹⁰⁰ See BBC News online, [Power-sharing talks collapse at Stormont](#), 14 February 2018. In the absence of fully functioning devolved institutions, the Northern Ireland Assembly could not consider legislative consent for the [European Union \(Withdrawal\) Act 2018](#).

¹⁰¹ Commons Library Briefing Paper CBP8418, [Northern Ireland \(Executive Formation and Exercise of Functions\) Bill 2017-19](#).

¹⁰² See Anurag Deb and Conor McCormick, [The Bradley Bill and the Cessation of Constitutionalism in Northern Ireland](#), Admin Law blog, 26 October 2018.

¹⁰³ See Commons Library Insight blog, [Abortion and same-sex marriage in Northern Ireland: Do Westminster votes undermine devolution?](#)

¹⁰⁴ Northern Ireland Office, [Secretary of State for Northern Ireland instructs the Department of Health to commission abortion services](#), 2 December 2022.

3.7

New Decade, New Approach, 2020

On 9 January 2020, Julian Smith, the then Secretary of State for Northern Ireland, and Simon Coveney, the then Tánaiste (Deputy Prime Minister of Ireland), published the text of a deal, [New Decade, New Approach](#).

This sought to place the devolved institutions on a more sustainable footing, reduce the use of Petitions of Concern and enhance the Ministerial Code in the wake of issues emerging from the RHI inquiry.¹⁰⁵ The agreement also addressed issues around investment in public services alongside rights, language and identity.¹⁰⁶

The deal – which proposed further changes to strand one of the Belfast/Good Friday Agreement – secured cross-party support and the Northern Ireland Assembly [reconvened on Saturday 11 January](#). An [Executive was therefore formed](#) two days before the statutory deadline of 13 January 2020.

Some of the proposals in the agreement were given legislative effect by the UK [Northern Ireland \(Ministers, Elections and Petitions of Concern\) Act 2022](#). By law, the Secretary of State for Northern Ireland had been required to propose a date for an Assembly election if Executive ministers had not been appointed within 14 days of an Assembly election, or if the posts of First and/or deputy First Minister remained unfilled after seven days.

The 2022 Act replaced those time limits with up to four six-week periods for appointing Executive ministers. It also allowed ministers to remain in office (in a “caretaker” capacity) following an election for up to 24 weeks, and for up to 48 weeks if the First Minister and/or deputy First Minister stop holding office.

[Paul Givan announced his resignation](#) as First Minister of Northern Ireland on 3 February 2022, effective from midnight (4 February). This meant deputy First Minister Michelle O’Neill also relinquished office. An Assembly election took place, as scheduled, on Thursday 5 May 2022.

Legacy issues

Addressing legacy issues related to the Troubles had been a key part of the Stormont House Agreement reached in December 2014.¹⁰⁷ However, achieving a consensus on the way forward proved difficult. In July 2021 the UK Government presented [a new set of proposals](#) to Parliament, saying it was:

increasingly of the view, after long and careful reflection, that any process that focuses on the lengthy pursuit of retributive justice will severely hold back the successful delivery of a way forward focused on information recovery,

¹⁰⁵ The Assembly had conducted a [Review of the Petitions of Concern](#) in 2014 amid concerns they were “[now being played like a joker](#)” card.

¹⁰⁶ [New Decade, New Approach](#), January 2020.

¹⁰⁷ See Commons Library Briefing Paper CBP8352, [Investigation of Former Armed Forces Personnel Who Served in Northern Ireland](#).

mediation and reconciliation that could provide a sense of restorative justice for many more families than is currently achieved through the criminal justice system.¹⁰⁸

The proposals were met with criticism and anger from Northern Ireland's political parties, the Irish Government, the families of victims of the Troubles on all sides, as well as campaign and human rights groups.¹⁰⁹

In May 2022 the Northern Ireland Troubles (Legacy and Reconciliation) Bill 2022-2023 was introduced in the House of Commons. This differed from the July 2021 proposals in seeking to end legal proceedings concerning Troubles-related conduct and provide conditional immunity from prosecution for those who cooperated with investigations conducted by a newly established Independent Commission for Reconciliation and Information Recovery.¹¹⁰ The bill had yet to receive its final reading in the House of Lords in March 2023.

Language

A section on “Rights, language and identity” formed part of the January 2020 New Decade, New Approach agreement. This committed the Northern Ireland Executive to sponsoring and overseeing “a new framework both recognising and celebrating Northern Ireland’s diversity of identities and culture, and accommodating cultural difference”.¹¹¹ This was to comprise:

- The establishment of a statutory Office of Identity and Cultural Expression, with its director appointed by the First Minister and deputy First Minister acting jointly;
- Legislation to create a commissioner for the Irish language;
- Repeal of the [Administration of Justice \(Language\) Act \(Ireland\) 1737](#);¹¹²
- Legislation to create another commissioner “to enhance and develop the language, arts and literature associated with the Ulster Scots / Ulster British tradition in Northern Ireland”;¹¹³
- The establishment of a central Translation Hub to provide services for the Executive, local government and other public bodies;

¹⁰⁸ HM Government, [Addressing the legacy of Northern Ireland’s past](#), foreword.

¹⁰⁹ See [HC Deb 14 July 2021 Vol 699 cc392-98](#) and [The Troubles: Micheál Martin calls Britain’s planned ‘amnesty’ for soldiers and paramilitaries ‘wrong for many, many reasons’](#), Irish Post, 15 July 2021.

¹¹⁰ See Commons Library Briefing Paper CBP9553, [Northern Ireland Troubles \(Legacy and Reconciliation\) Bill 2022-2023](#).

¹¹¹ New Decade, New Approach, para 26.

¹¹² This Act had banned the use of the Irish language in courts of law.

¹¹³ Both language commissioners were to be appointed by the First and deputy First Ministers acting jointly.

- A change to [Assembly Standing Orders](#) to allow business to be conducted through Irish or Ulster Scots.¹¹⁴

Speaking in the House of Commons on 21 June 2021, Brandon Lewis, the then Secretary of State for Northern Ireland, said that “if the Executive has not progressed the legislation for the identity, language and culture package in the New Decade, New Approach agreement by the end of September [2021], the UK Government will take the legislation through the UK Parliament”.¹¹⁵

The Identity and Language (Northern Ireland) Bill was introduced in the House of Lords on 25 May 2022 and received Royal Assent on 6 December 2022,¹¹⁶ more than 24 years after the Belfast/Good Friday Agreement had first committed the UK Government to take action on the Irish language.

¹¹⁴ Full details were set out in annex E of the agreement.

¹¹⁵ [HC Deb 21 June 2021 \[Northern Ireland: New Decade, New Approach Agreement\]](#)

¹¹⁶ [Identity and Language \(Northern Ireland\) Act 2022](#)

4

Brexit and the Belfast/Good Friday Agreement

The Belfast/Good Friday Agreement was agreed in the context of both the United Kingdom and Ireland being “partners in the European Union”, ie both Member States.¹¹⁷ Although membership of the EU included the freedom of movement of people between Member States, Irish and UK citizens enjoyed pre-existing rights to live and work in each other’s countries under the Ireland Act 1949.¹¹⁸

Nevertheless, the prospect of the UK’s departure from the EU raised the prospect of a hard customs border between both parts of Ireland for the first time since the early 1990s, something many feared would spark a return to sectarian conflict. These concerns were prominent during the referendum campaign in Northern Ireland, with pro-Remain parties citing the need to safeguard the peace process. But in Great Britain they were little discussed, and a joint visit to Northern Ireland by former Prime Ministers Sir Tony Blair and Sir John Major had little impact on the established campaign narratives. Nigel Dodds, deputy leader of the pro-Brexit Democratic Unionist Party (DUP), dismissed their warnings as “irresponsible nonsense” and “scaremongering”.¹¹⁹

In early 2017, it was argued in the Supreme Court that the 1998 Agreement meant that the “consent” of voters in Northern Ireland was required for the UK to leave the EU. The Court unanimously held that this was not the case:

In our view, this important provision [Section 1 of the Northern Ireland Act 1998], which arose out of the Belfast Agreement, gave the people of Northern Ireland the right to determine whether to remain part of the United Kingdom or to become part of a united Ireland. It neither regulated any other change in the constitutional status of Northern Ireland nor required the consent of a majority of the people of Northern Ireland to the withdrawal of the United Kingdom from the European Union.¹²⁰

¹¹⁷ The UK and Ireland had joined the then European Economic Community on 1 January 1973.

¹¹⁸ See, in particular, [section 2](#).

¹¹⁹ Meg Russell and Lisa James, *The Parliamentary Battle Over Brexit*, Oxford: Oxford University Press, 2023, pp53-54.

¹²⁰ *R (on the application of Miller) v Secretary of State for Exiting the European Union* [2017] UKSC 5 at para 135. Judicial review proceedings had initially been brought in Northern Ireland by Raymond McCord against the Secretary of State for Exiting the EU and the Secretary of State for Northern Ireland.

Despite this ruling, this broader reading of the Agreement’s “principle of consent” was to resurface in further litigation a few years later (see **section 4.4** below).

4.1 The “Irish trilemma”

As the site of the UK’s only land border with the rest of the EU, Northern Ireland was a key location for goods to move back and forth between the two. This generated highly technical questions of customs and regulatory policy. Subsequent proposed solutions were also to engage the deeply sensitive topic of identity, making the border issue extremely contentious both in Northern Ireland and at Westminster.

Early in the Brexit negotiations the UK Government made clear that avoiding a hard border in Ireland was one of its main objectives. Then Prime Minister Theresa May’s Lancaster House speech in January 2017 made clear this was one of her Government’s three negotiating priorities, even though such an objective appeared to be in conflict with its others of allowing the UK to have an independent trade policy and avoid regulatory and customs divergence between Great Britain and Northern Ireland.¹²¹ This was dubbed the “Irish trilemma”.¹²²

In August 2017, the UK Government published a position paper on Northern Ireland and Ireland in relation to the UK’s withdrawal from the EU. This paper referenced the “birthright” protection in the Agreement (with added emphasis):

Issues of identity go to the heart of the divisions in Northern Ireland, so finding a way to address them was a crucial part of the Belfast (‘Good Friday’) Agreement. The Agreement confirmed the permanent birthright of the people of Northern Ireland, irrespective of Northern Ireland’s constitutional status: to identify themselves and be accepted as British or Irish or both, as they may so choose; **to equal treatment irrespective of their choice**; and to hold both British and Irish citizenship.¹²³

The paper also went on to say:

The British-Irish Agreement is binding on the UK Government and Irish Government, and gives the commitments on equality, parity of esteem and citizenship legal force in international law.¹²⁴

¹²¹ Prime Minister’s Office, [The government’s negotiating objectives for exiting the EU](#), 17 January 2017.

¹²² [Theresa May’s Irish trilemma](#), Centre for European Reform website, 7 March 2018.

¹²³ Department for Exiting the EU and the Northern Ireland Office, [Northern Ireland and Ireland – position paper](#), August 2017, para 12.

¹²⁴ As above, para 13.

In September 2017, the European Commission published [Guiding Principles for the dialogue on Ireland/Northern Ireland](#). This identified that issues “unique” to Ireland included the:

protection of the gains of the peace process and of the Good Friday Agreement (‘Belfast Agreement’) in all its parts, the maintenance of existing bilateral agreements and arrangements between the United Kingdom and Ireland including the Common Travel Area, and specific issues arising from Ireland’s unique geographic situation, including the aim of avoiding a hard border between Ireland and Northern Ireland. The invisible border on the island of Ireland is one of the major achievements and societal benefits of the Peace Process. Border issues are broader than economic questions. The physical border itself was a symbol of division and conflict.¹²⁵

In December 2017 a [UK-EU Joint Report](#) outlined a number of scenarios in which the Irish border question was to be resolved. The first, and the UK Government’s favoured option, was for the Irish border issue to be settled as part of the overall UK-EU “future relationship”. The second was that the UK would propose specific solutions to solve the Irish border issue. The third was that where there was no agreed solution, the UK would:

Maintain full alignment with those rules of the Internal Market and the Customs Union which, now or in the future, support North-South cooperation, the all-island economy and the protection of the 1998 [Belfast/Good Friday] Agreement.¹²⁶

This became known as the “backstop”. The [European Union \(Withdrawal\) Act 2018](#) (which received Royal Assent in June 2018), meanwhile, made it a statutory requirement that when utilising any powers provided for under the act, UK Government Ministers had to “act in a way that is compatible with the terms of the Northern Ireland Act 1998”. Furthermore, the legislation made clear that regulations passed under that Act could not:

(a) diminish any form of North-South cooperation provided for by the Belfast Agreement (as defined by section 98 of the Northern Ireland Act 1998), or

(b) create or facilitate border arrangements between Northern Ireland and the Republic of Ireland after exit day which feature physical infrastructure, including border posts, or checks and controls, that did not exist before exit day and are not in accordance with an agreement between the United Kingdom and the EU.¹²⁷

The November 2018 [Withdrawal Agreement](#) included a Protocol on Ireland/Northern Ireland. Under this, Northern Ireland would continue to form part of the EU’s single market, requiring continued alignment with relevant EU laws. [Arrangements for the controversial “backstop”](#) meant the UK, in the absence of an agreement, would form with the EU a single EU-UK customs territory from the end of the transition period until an agreed future

¹²⁵ European Commission, [Guiding Principles for the dialogue on Ireland/Northern Ireland](#), 20 September 2017.

¹²⁶ [Joint Report from the Negotiators of the European Union and the United Kingdom Government](#), 8 December 2017.

¹²⁷ Section 10.

relationship came into force. The fourth recital to the Protocol stated that the Belfast/Good Friday Agreement “shall be protected in all its parts”. Article 1(3) also stated that:

This Protocol sets out arrangements necessary to address the unique circumstances on the island of Ireland, to maintain the necessary conditions for continued North-South cooperation, to avoid a hard border and to protect the 1998 Agreement in all its dimensions.¹²⁸

This Withdrawal Agreement, however, failed to secure the support of the House of Commons despite repeated attempts by Theresa May as Prime Minister. DUP MPs voted against the agreement and its “backstop” provisions in every division.

In February 2019, the former Brexit Secretary Dominic Raab stated that during negotiations with the EU on the “backstop” the Belfast/Good Friday Agreement was a “point of reference” but admitted that he had not sat “down and started at the beginning [of the Belfast/Good Friday Agreement] and gone through it [...] It’s not like a novel where you sit down and you say ‘do you know what, over the holidays, this is a cracking read’.” He added:

But it is an absolutely vital constitutional document and I consulted it at every moment where – either as of my own initiative or as result of advice from officials – an issue was raised, to satisfy myself that we would never do anything, not only to undermine the letter but also the spirit of the Good Friday agreement or indeed the political certainty that I am sure in good faith we all want to preserve.¹²⁹

4.2 The “New” Protocol

In October 2019, Theresa May’s successor as Prime Minister, Boris Johnson, announced a new Withdrawal Agreement. This included a revised Northern Ireland Protocol.

Rather than the [backstop provisions](#) of a temporary UK-wide customs union with the EU, and UK obligations to not downgrade domestic policies in areas such as labour, social and environmental standards, the new Protocol saw Northern Ireland alone align with EU customs and goods rules, creating a regulatory and customs border in the Irish Sea.

Article 18 of the [New Protocol on Ireland/Northern Ireland](#) set out the process by which the Northern Ireland Assembly could provide “consent” for Northern Ireland to continue to abide by Articles 5 to 10 of the Protocol, that is arrangements for Customs and movement of goods (Article 5); Protection of the UK internal market (Article 6); Technical regulations, assessments, registrations, certificates, approvals and authorisations (Article 7); VAT and

¹²⁸ [Protocol on Ireland/Northern Ireland, Article 1\(3\)](#).

¹²⁹ [Former Brexit secretary Dominic Raab admits he hasn't read the full Northern Ireland peace pact](#), inews, 1 February 2019.

excise (Article 8); Single electricity market (Article 9); and State aid (Article 10). Beginning in late 2024, the Assembly was to vote every four or eight years on a motion that Articles 5 to 10 would continue to apply. If a simple majority of MLAs did not agree, then the Protocol would cease to apply after a specified period. Cross-community consent was not required.¹³⁰

In a statement the DUP said the revised Protocol drove “a coach and horses through the professed sanctity of the Belfast Agreement”. It said:

The Government has departed from the principle that these arrangements must be subject to the consent of both unionists and nationalists in Northern Ireland. These arrangements would be subject to a rolling review but again the principles of the Belfast Agreement on consent have been abandoned in favour of majority rule on this single issue alone.¹³¹

These consent provisions were brought into effect by [The Protocol on Ireland/Northern Ireland \(Democratic Consent Process\) \(EU Exit\) Regulations 2020](#).¹³² In a Commons debate on the draft regulations, the Northern Ireland Office minister Robin Walker said:

I have heard arguments that this approach is somewhat contrary or not compatible with the Belfast Agreement, and I do not accept that that is so. Our approach is entirely compatible with the Agreement. The principle of cross-community support set out in the Belfast Agreement applies to internal matters for which the Northern Ireland Assembly is responsible. The consent mechanism, contained as it is in the Northern Ireland Protocol, relates to the UK’s continued relationship with EU, an excepted matter in Northern Ireland’s devolution settlement. That means that the matter at hand falls outside the remit of the Assembly and outside the principle of requiring cross-community support to pass. We have taken the steps we have, with four versus eight years, to incentivise that support.¹³³

North-South cooperation

The 2019 Withdrawal Agreement retained the North-South cooperation provisions (ie those relating to strand two of the Belfast/Good Friday Agreement) of the initial version agreed between the UK and EU in 2018. The [European Union \(Withdrawal Agreement\) Act 2020](#) subsequently included provisions prohibiting UK Government Ministers from making any recommendations to the Joint Committee (which was to oversee the UK’s post-Brexit arrangements) which altered “the arrangements for North-South cooperation as provided for by the Belfast Agreement”, provided for new North-South implementation bodies or changed the functions of an existing Implementation Body.¹³⁴

¹³⁰ See Commons Library Briefing Paper CBP8713, [The October 2019 EU-UK Withdrawal Agreement](#), pp38-42.

¹³¹ DUP, [Statement from the Democratic Unionist Party](#), 17 October 2019.

¹³² The regulations added a new [Schedule 6A](#) to the Northern Ireland Act 1998.

¹³³ [HC Deb 26 November 2020 Vol 684 c4](#)

¹³⁴ European Union (Withdrawal Agreement) Act 2020, [section 24](#).

The North-South Ministerial Council (NSMC) had met only three times since November 2016. In September 2021, the DUP announced that it would boycott future meetings of the NSMC as part of its protest against the Protocol. In October 2021, the Northern Ireland High Court ruled that this boycott was unlawful and contrary to the Pledge of Office provided for in the Northern Ireland Act 1998.¹³⁵

Individual rights

Article 2 of the Protocol safeguarded individual rights in Northern Ireland, committing the UK Government to ensuring there was no “diminution of rights, safeguards or equality of opportunity” for individuals in Northern Ireland as a consequence of Brexit.

The UK Government’s [Explainer for the 2018 version of the Withdrawal Agreement](#) had stated that:

Guarantees of equality and rights, which recognise the unique circumstances of Northern Ireland, are a fundamental part of the Belfast (Good Friday) Agreement. The UK Government has acknowledged that EU law, particularly on protection from discrimination, has formed part of the framework for delivering those guarantees.¹³⁶

Article 2 of the Protocol stated that the UK should implement the upholding of individual rights through “dedicated mechanisms”. This was achieved by amending the Northern Ireland Act 1998 to give new functions to the Northern Ireland Human Rights Commission and the Equality Commission.¹³⁷

The “birthright” provisions of the Belfast/Good Friday Agreement were also reaffirmed in the preamble to the revised Protocol, but are not supported by any specific obligations in that treaty.

4.3

Internal Market Act 2020

In September 2020, the UK Government introduced the Internal Market Bill to Parliament. The then Secretary of State for Northern Ireland, Brandon Lewis, told the House of Commons that it intended to break international law in a “specified and limited way” by circumventing certain treaty obligations set out in the 2019 Withdrawal Agreement. The Prime Minister Boris Johnson described the measures as a “legal safety net”:

¹³⁵ [Application for Judicial Review \[2021\] NIQB 86](#)

¹³⁶ HM Government, [Explainer for the agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union](#), 14 November 2018.

¹³⁷ [Schedule 3 of the European Union \(Withdrawal Agreement\) Act 2020](#) amended the Northern Ireland Act 1998. For details of the mechanism see Northern Ireland Assembly Research and Information Service Briefing Note, [Rights, Safeguards and Equality of Opportunity in the Ireland/Northern Ireland Protocol: The Dedicated Mechanism](#), 30 October 2020.

My job is to uphold the integrity of the UK, but also to protect the Northern Irish peace process and the Good Friday agreement. To do that, we need a legal safety net to protect our country against extreme or irrational interpretations of the protocol that could lead to a border down the Irish sea in a way that I believe, and I think Members around the House believe, would be prejudicial to the interests of the Good Friday agreement and prejudicial to the interests of peace in our country. That has to be our priority.¹³⁸

In a statement following an extraordinary meeting of the EU-UK Joint Committee in London, European Commission Vice-President Maroš Šefčovič said the:

EU does not accept the argument that the aim of the draft Bill is to protect the Good Friday (Belfast) Agreement. In fact, it is of the view that it does the opposite.¹³⁹

Most political parties in Northern Ireland expressed concern at the bill, although some within the DUP welcomed it. In September 2020 former US Vice President Joe Biden tweeted that:

We can't allow the Good Friday Agreement that brought peace to Northern Ireland to become a casualty of Brexit. Any trade deal between the U.S. and U.K. must be contingent upon respect for the Agreement and preventing the return of a hard border. Period.¹⁴⁰

In December 2020 the [Internal Market Act 2020](#) received Royal Assent, the controversial Northern Ireland provisions having been removed.

4.4 Legal challenges to the Protocol

Unionist concerns regarding the impact of the revised Protocol persisted during 2021 and 2022. Some argued that it undermined the Union between Great Britain and Northern Ireland and, specifically, that it was contrary to the free trade provisions of the 1800 Acts of Union.¹⁴¹ This concerned a newly created “Irish Sea border”. In order to protect the EU’s internal market, the UK was now required to police checks for goods travelling from Great Britain to Northern Ireland.

In September 2021, the leaders of the DUP, Ulster Unionist Party, Traditional Unionist Voice and Progressive Unionist Party signed a [Unionist Declaration on the Northern Ireland Protocol](#). This stated that:

¹³⁸ [HC Deb 10 September 2020 Vol 679 c618](#)

¹³⁹ European Commission, [Statement by the European Commission following the extraordinary meeting of the EU-UK Joint Committee](#), 10 September 2020.

¹⁴⁰ [Joe Biden on Twitter: “We can’t allow the Good Friday Agreement that brought peace to Northern Ireland to become a casualty of Brexit. Any trade deal between the U.S. and U.K. must be contingent upon respect for the Agreement and preventing the return of a hard border. Period.” / Twitter](#)

¹⁴¹ See Union with Ireland Act 1800, [Article Sixth](#).

The Belfast Agreement set the conditions on this island for the operation of two separate jurisdictions in order to promote peace, reconciliation and place the people at the heart of any decisions that are made about the sovereign status of Northern Ireland. The Belfast Agreement gave assurance against change without consent and guaranteed equilibrium as between East/West and North/South arrangements. Yet, under the Protocol the East/West relationship has been severely undermined, again without consent. Furthermore, the Protocol is in conflict with the Acts of Union – as declared recently in the High Court.¹⁴²

In June 2021 a group of Unionist politicians challenged the Protocol in Northern Ireland’s High Court. This group included Arlene Foster, the then First Minister of Northern Ireland, and Lord (David) Trimble, a former Ulster Unionist leader and party to the Belfast/Good Friday Agreement. The respondent was the Secretary of State for Northern Ireland. Among the group’s contentions was that the Protocol breached the “principle of consent” at the heart of the Belfast/Good Friday Agreement, in that it had altered constitutional arrangements in Northern Ireland.

The High Court, however, held that it was the “function of political and not judicial bodies to resolve intensely political questions”.

The upholding of the principles of the Good Friday/Belfast Agreement was a fundamental ingredient in the decision reached by Parliament in relation to the Protocol. On the issue of withdrawal from the EU and its implications those on opposite sides of the argument seek to invoke the agreement in support of their case. The true position is that the Good Friday/Belfast Agreement neither depends upon nor requires a particular customs or regulatory regime. Ultimately, the balance to be struck is essentially a matter of political judgment and one which has been exercised by the legislature in this case.

The Court also concluded that there was:

nothing in the Withdrawal Agreements which breaches section 1 of the 1998 [Northern Ireland] Act or alters the constitutional position of Northern Ireland within the United Kingdom as understood by that Act, including the Good Friday/Belfast Agreement which led to its enactment.¹⁴³

In March 2022 the Northern Ireland Court of Appeal upheld the judgment of the High Court,¹⁴⁴ as did the Supreme Court in February 2023.¹⁴⁵

Of the argument that section 1 of the Northern Ireland Act 1998 had a “wider meaning” with “the consequence that any substantial diminution in that status can only occur if it has been approved in advance by a poll held in accordance with Schedule 1 of the NIA 1998”, the Supreme Court found the appellants’ submission to be “incorrect”.¹⁴⁶

¹⁴² [Joint Unionist Declaration in opposition to the Northern Ireland Protocol](#), 28 September 2021.

¹⁴³ [Application by Allister et al \[2021\] NIQB 64](#)

¹⁴⁴ [Allister et al \[2022\] NICA 15](#)

¹⁴⁵ [Allister et al \[2023\] UKSC 5](#). See also [Anurag Deb: The UK Supreme Court looks at Brexit again](#), Scottish Legal News website, 17 February 2023.

¹⁴⁶ [Allister et al \[2023\] UKSC 5](#), paras 80 and 84.

On 3 March 2023 Chris Heaton-Harris, the Secretary of State for Northern Ireland, said the UK Government was looking:

to bring forward amendments to the Northern Ireland Act of 1998 to provide further [...] Reassurances in law that Northern Ireland remains an integral part of the United Kingdom and it's the government saying that in primary legislation which is what people are asking for.¹⁴⁷

Speaking in Washington, DC, on 16 March 2023, the Secretary of State also referred to restoring Northern Ireland's "rights under Article Six of the Act of Union".¹⁴⁸

4.5

The Windsor Framework and the "Stormont Brake"

The [Windsor Framework](#) was agreed between the EU and UK on 27 February 2023.¹⁴⁹ The Framework did not amend the text of the recitals or Articles that reference the Belfast/Good Friday Agreement.¹⁵⁰

The "Stormont Brake"

Under Article 18 of the Framework (or new Article 13(3a) of the Protocol), the existing democratic consent process (see [section 4.2](#) of this briefing) was to be supplemented with an additional mechanism.

An accompanying EU-UK [Political Declaration](#) (PDF) referred to "a new emergency brake mechanism – the Stormont Brake". The declaration claimed it would allow MLAs to:

stop the application in Northern Ireland of amended or replacing EU legal provisions that may have a significant and lasting impact specific to the everyday lives of communities there. This mechanism would be triggered under specific circumstances in a very well-defined process. The Government of the United Kingdom would operate the mechanism in a way that is consistent with the safeguards set out in the 1998 [Belfast/Good Friday] agreement and its subsequent implementation agreements.¹⁵¹

¹⁴⁷ [Windsor Framework: Unionists to get 'legal reassurances'](#), BBC News online, 3 March 2023. [Section 1](#) of the Northern Ireland Act 1998 hereby declares "that Northern Ireland in its entirety remains part of the United Kingdom and shall not cease to be so without the consent of a majority of the people of Northern Ireland".

¹⁴⁸ [UK government to assure DUP on Northern Ireland's status amid Supreme Court judgment concerns](#), Belfast News Letter, 16 March 2023.

¹⁴⁹ See Commons Library Briefing Paper CBP9736, [Northern Ireland Protocol: The Windsor Framework](#).

¹⁵⁰ Specifically, Article 1 on the Protocol's objectives, including maintaining "the necessary conditions for continued North-South cooperation, to avoid a hard border and to protect the 1998 Agreement in all its dimensions"; Article 2 on Individual Rights; and Article 11 on North-South cooperation.

¹⁵¹ HM Government, [Political Declaration by the European Commission and the Government of the United Kingdom](#), 27 February 2023.

According to the UK Government's Command Paper, [The Windsor Framework: A new way forward](#), as the existing consent vote was to take place only every four or eight years it "cannot by its nature provide for democratic oversight of individual laws". The Government also "recognises that there is an unanswered question about how to provide a say to MLAs in a scenario in which a cross-community consensus has not been achieved".

The Stormont Brake will only apply to changes to EU goods, agriculture and some customs laws (also known as rules or acts) within the scope of the original Protocol.¹⁵² There is no process for the Assembly or UK Government to object to the amendment or replacement of EU laws outside the scope of the Brake, that is those which relate to state aid, the Single Electricity Market or most of the EU's customs code.

The [Windsor Framework \(Democratic Scrutiny\) Regulations 2023](#) were published on 20 March and approved by the House of Commons on 22 March. They inserted a new [Schedule 6B](#) into the Northern Ireland Act 1998 and thus further amended the strand one provisions of the Belfast/Good Friday Agreement.¹⁵³

¹⁵² That is, only to measures covered in parts of [annex 2](#) of the Protocol (which relate to the EU Single Market in goods).

¹⁵³ For a full analysis see Commons Library Briefing Paper CBP9757, [Northern Ireland: The Stormont Brake](#).

5

Reforming the Belfast/Good Friday Agreement?

The Constitution Unit at University College London has observed that “the passage of time has revealed weaknesses in implementing areas of the [Belfast/Good Friday] Agreement, and Brexit has exposed these further”. In July 2021 it launched a project to examine “the terrain of political and community-level perspectives on the Agreement”.¹⁵⁴ In a series of focus groups later run by the Constitution Unit, it found “there was low public awareness of what the [strands one to three] institutions created to manage them actually do”.¹⁵⁵

Some political parties in Northern Ireland have argued for more radical changes to strand one of the Agreement. The Alliance Party, for example, proposed in its 2022 Northern Ireland Assembly manifesto that:

- The current cross-community voting system in the Assembly be replaced by a weighted majority system, free from designations. This change should also extend to the Executive.
- The Executive should be formed by voluntary coalition, which is decided through negotiation between parties and which is subject to a vote in the Assembly. Collective responsibility should apply.
- The First and deputy First Ministers be renamed “Joint First Ministers”.¹⁵⁶ The Executive Office should remain a joint office in name and practice.
- Assembly arrangements should be strengthened in order to facilitate an effective opposition made up of parties who do not wish to enter the Executive.¹⁵⁷

In October 2022, the Northern Ireland Affairs Committee launched an inquiry into the “effectiveness” of the institutions established under the Agreement ahead of its 25th anniversary. The Committee called for written evidence on:

¹⁵⁴ [Perspectives on the Belfast/Good Friday Agreement](#), The Constitution Unit.

¹⁵⁵ Conor J. Kelly, [The Belfast/Good Friday Agreement at 25: Northern Ireland and the totality of relations](#), UK in a Changing Europe website, 23 March 2023. See also Conor J. Kelly and Etain Tannam, [The Future of Northern Ireland: the Role of the Belfast/Good Friday Agreement Institutions](#), *Political Quarterly* 94:1, January/March 2023, pp85-94.

¹⁵⁶ The SDLP had already begun referring to the First and deputy First Ministers in this way.

¹⁵⁷ The Alliance Party of Northern Ireland, [Together We Can: Alliance Party Assembly Manifesto 2022](#), p91.

- the extent to which the design of the strand one institutions has succeeded in enabling: cross-community; effective; and stable government in Northern Ireland
- whether the strand one institutions have enabled those who identify as neither unionist nor nationalist to be effectively represented
- the extent to which the design of the strand two North/South Ministerial Council has succeeded in developing cooperation between the Northern Ireland Executive and Irish Government
- the extent to which the design of the strand three institutions has succeeded in developing cooperation between the UK and Irish Governments
- how the institutions established under the Agreement might be reformed to address the challenges facing Northern Ireland today
- what mechanisms could be used to initiate any changes to the institutions of the Agreement.¹⁵⁸

The Committee later took oral evidence from former UK Prime Ministers Sir John Major and Sir Tony Blair,¹⁵⁹ as well as former Taoiseach Bertie Ahern.¹⁶⁰

Speaking at a session of the British-Irish Parliamentary Assembly at Stormont, Bertie Ahern later urged politicians “not to fall into the trap” of beginning a debate about reforming the Agreement. At the same event, Kate Nicholl, the Alliance Party MLA for Belfast South, told Ahern the existing Petition of Concern mechanism did not deliver the “cross-community consent” envisaged by the Agreement, as her party’s support base, which was neither “green nor orange”, did “not count”.¹⁶¹

Writing in the Daily Telegraph, the former Secretary of State for Northern Ireland Brandon Lewis said the “three key strands” of the Agreement were “fraying, if not outright broken”. He observed that “if Alliance and its vote share continues to grow, it will never have the right to nominate the First or Deputy First Minister. Democracy cannot succeed when it is set in tram lines that can never cross”.¹⁶²

¹⁵⁸ [Belfast/Good Friday Agreement inquiry launched](#), Northern Ireland Affairs Committee, 31 October 2022.

¹⁵⁹ See Northern Ireland Affairs Committee, [Oral evidence: The effectiveness of the institutions of the Belfast/Good Friday Agreement](#), HC 781, 7 February 2023 and [16 March 2023](#).

¹⁶⁰ Northern Ireland Affairs Committee, [Oral evidence: The effectiveness of the institutions of the Belfast/Good Friday Agreement](#), HC 781, 23 January 2023.

¹⁶¹ [Bertie Ahern warns against revisiting Good Friday agreement now](#), Guardian, 6 March 2023.

¹⁶² [The Good Friday Agreement must evolve to bring effective government](#), Daily Telegraph (£), 20 February 2023.

The commentator Sam McBride has proposed a revising chamber for the Assembly, perhaps one “blended with the Agreement idea of the civic forum”.¹⁶³

In March 2023 Micheál Martin, the current Irish Tánaiste (Deputy Prime Minister) and previously the Taoiseach, was asked about reforming the Belfast/Good Friday Agreement in light of the lack of an Executive in Northern Ireland. Martin stated that his “consistent position” was that:

the election to the Assembly has to be vindicated in the form of the election of a First Minister and deputy First Minister, in accordance with what the majority decided, before any reform is contemplated.

He added that he was “open to looking at the next election in five years’ time and how those institutions could be reformed to make sure there is a viable Government into the future that is effective and would operate on behalf of people”.¹⁶⁴

Leo Varadkar, the Taoiseach from 2017 to 2020 and again from December 2022, was asked in October 2022 (when he was Tánaiste) about reforming the Agreement, and specifically about “governance arrangements in the North”. He stated that:

The Good Friday Agreement was passed by a referendum here and north of the Border and making any changes to it would be profound and would have to be dealt with sensitively.¹⁶⁵

¹⁶³ [Groundhog Day on the horizon unless broken Stormont is radically reformed](#), Belfast Telegraph (£), 25 March 2023.

¹⁶⁴ Dáil, [Debate: Other Questions](#), 21 March 2023, Vol 1035 No 4.

¹⁶⁵ Dáil, [Debate: Leader’s Questions](#), 27 October 2022, Vol 1028 No 5.

6 Events to mark the 25th anniversary of the Agreement

The 20th anniversary of the Belfast/Good Friday Agreement was marked with a series of events in April 2018 including “Building Peace” held at Queen’s University Belfast (QUB). Senator George J Mitchell, the former chair of the 1998 talks, was joined by former US President Bill Clinton, Sir Tony Blair, Bertie Ahern, Gerry Adams and Lord Trimble.¹⁶⁶

QUB will host another conference called [Agreement 25: The Dynamics of Peace: Reflections on the Achievements, Legacies, and Implications of the 1998 Belfast/Good Friday Agreement](#) from 17-19 April 2023.¹⁶⁷ In attendance will be many of those who were at the 2018 event, while press reports suggest the current US President Joe Biden will also visit Belfast to mark the Agreement’s 25th anniversary.¹⁶⁸

Other anniversary events include:

- **Origins and Legacies – The Belfast/Good Friday Agreement**, an exhibition at the Linen Hall in Belfast: “Using cartoons, badges, posters, and other artefacts reflecting the lead up to and aftermath of the Belfast/Good Friday Agreement, this exhibition highlights key events and the talks which paved the way for an agreement, as well as the political and societal outcomes of the accord.”¹⁶⁹
- **Agreement – A Lyric Theatre Production**, a new play by Owen McCafferty which “examines the negotiations leading up to the Good Friday Agreement and weaves real drama out of this complex, momentous and landmark moment for Northern Ireland”.¹⁷⁰
- **Year ‘98: The Making of the Good Friday Agreement**, a BBC Sounds podcast which “takes a deep dive into the three strands of the agreement and also considers what was left in, what was taken out and what was kicked down the road and left for a future commission to decide”.¹⁷¹

¹⁶⁶ [Building Peace: The Belfast Good Friday Agreement 20 Years On](#), Queen’s University Belfast website.

¹⁶⁷ [Agreement 25](#), Queen’s University Belfast website.

¹⁶⁸ [Joe Biden plans to visit Belfast to mark Good Friday agreement anniversary](#), Guardian, 10 March 2023. It has also been reported that King Charles III will mark the anniversary in some way.

¹⁶⁹ [Origins & Legacies: The Belfast/Good Friday Agreement](#), The Linen Hall, 10 March 2023.

¹⁷⁰ [Agreement](#), Lyric Theatre website.

¹⁷¹ [Year ‘98: The Making of the Good Friday Agreement](#), BBC Radio Ulster.

- **History of the Present**, a semi-autobiographical film which “connects eras and art forms, amplifying untold stories of marginalised communities and collective trauma”.¹⁷²
- **The Good Friday Agreement: Work in Progress**, an exhibition showing “a collection of arpilleras [patchworks] and other textiles, memorabilia and books, that reflect on the Belfast Good Friday Agreement”.¹⁷³

6.1 UK Government events

On 8 February 2023 the Secretary of State for Northern Ireland, Chris Heaton-Harris, said the UK Government had:

already announced the first part of our anniversary programme: an education initiative with the National Archives to inform young people across the UK of the journey to the Agreement and Northern Ireland’s transformation since.¹⁷⁴

Speaking in the House of Commons on 22 March, the former Secretary of State for Northern Ireland Karen Bradley said:

Two weeks ago, the British-Irish Parliamentary Assembly, which I co-chair, met in Belfast to commemorate the 25th anniversary of the Belfast/Good Friday agreement. We met in the currently empty Assembly Chamber in Stormont. We met representatives of legislatures across the islands that make up the British Isles, and we reflected on the leadership that had been required to deliver that deal 25 years ago—leadership not just for a few weeks, but for years.¹⁷⁵

6.2 Northern Ireland Assembly events

A programme of events hosted by the Northern Ireland Assembly will run from March to July 2023. These include:

- **Colin Davidson’s “Silent Testimony” exhibition**, which will be hosted at Parliament Buildings from 3-30 April in partnership between the Assembly Commission and National Museums Northern Ireland.¹⁷⁶
- **A ceremony to mark the 25th anniversary of the Belfast/Good Friday Agreement on 7 April 2023**, an event hosted by the Assembly Speaker in

¹⁷² [History of the Present](#), Royal Opera House website.

¹⁷³ [The Good Friday Agreement: Work in Progress](#), Conflict Textiles, in partnership with Causeway Coast & Glens Borough Council and Ulster University.

¹⁷⁴ [JIN 903477, Belfast Agreement, 8 February 2023](#). See [Belfast \(Good Friday\) Agreement – The National Archives](#).

¹⁷⁵ [HC Deb 22 March 2023 Vol 730 c358 \[Northern Ireland\]](#)

¹⁷⁶ [Silent Testimony](#), Colin Davidson website.

the Great Hall at Stormont for current MLAs and those involved in the negotiation and implementation of the Agreement.

- **A ceremony to mark 25th anniversary of the first sitting of the Assembly on 3 July 2023**, an event hosted by the Speaker for current MLAs, all former MLAs and others.¹⁷⁷
- **The Assembly’s Research and Information Service (RaISe) delivering a seminar series** “with contributions by academics to examine the detail of the Agreement and Key theme”. RaISe will also publish web content on the history of the Agreement.¹⁷⁸

Assembly Speaker Alex Maskey said:

While there have undoubtedly been many difficulties and frustrations over the years, this 25th anniversary is an opportunity for us to reflect on what has been achieved, particularly the building of a predominantly peaceful society. It is also the time for us to focus on the work that remains to be done, which will undoubtedly be challenging but is necessary to build a prosperous and shared future for all of us.¹⁷⁹

6.3 Ireland Government events

In January 2023 it was reported that the Irish government’s plans to mark the 25th anniversary of the Agreement would “not focus on a specific date but will take place across the year”. Events will also reflect the “vital role played by the United States and the European Union in supporting the peace process”.¹⁸⁰

On 8 March 2023, Sinn Féin senators proposed a motion on the Belfast/Good Friday Agreement and the Windsor Framework in the Seanad Éireann (Ireland’s upper house of Parliament). The motion called upon “both the Irish and British Governments, as co-guarantors, to provide joint-stewardship and continue to work to ensure its full implementation”. It also called for the restoration of the Northern Ireland Executive and of the other democratic institutions established under the Agreement. The motion was passed unopposed.¹⁸¹

¹⁷⁷ An Assembly press release said a “decision on whether to proceed [with this event] will be taken in May 2023 in the context of politics at the time”.

¹⁷⁸ See [Origins of the Northern Ireland Assembly](#), Northern Ireland Assembly website.

¹⁷⁹ [Marking 25 Years of the Belfast/Good Friday Agreement](#), Northern Ireland Assembly website.

¹⁸⁰ [Tánaiste to brief Cabinet on plans to mark 25th anniversary of Belfast Agreement](#), The Irish Times, 31 January 2023.

¹⁸¹ [Good Friday Agreement and Windsor Framework: Motion – Seanad Éireann \(26th Seanad\) – Wednesday, 8 Mar 2023 – Tithe an Oireachtais \(oireachtas.ie\)](#)

In July 2020 the Oireachtas (Irish Parliament) established a Joint Committee on the Implementation of the Agreement.¹⁸²

In May 2022, and in preparation for a report on the 25th Anniversary of the Agreement, that Joint Committee launched a series of hearings featuring its “architects”.¹⁸³ So far the Committee has heard from former Taoiseachs Bertie Ahern and John Bruton, Sir John Major, Senator George Mitchell, Mark Durkan, Lord Alderdice, former UK diplomat Jonathan Powell, Gerry Adams, former minister and Irish Government representative at the talks Liz O’Donnell, former Teachta Dála (TD) and peace process adviser Martin Mansergh,¹⁸⁴ and former Irish diplomat Tim O’Connor.¹⁸⁵

6.4 Joint UK-Ireland events

The UK Foreign, Commonwealth & Development Office and Irish Department of Foreign Affairs held a joint one-day conference on 27 March 2023 entitled “25 Years On: Global and Local Reflections on the Belfast (Good Friday) Agreement”.

In his closing remarks, the Secretary of State for Northern Ireland, Chris Heaton-Harris, said there remained “more to be done to fully deliver on the promise of the Agreement, by providing for a better future for everyone and further spreading and deepening economic prosperity in Northern Ireland”. He added:

Northern Ireland’s journey towards greater prosperity and reconciliation continues to this day. The 25th anniversary of this remarkable achievement affords us an opportunity to restate our commitment to upholding the Belfast (Good Friday) Agreement and to building upon its peaceful foundation to create a brighter future for Northern Ireland.¹⁸⁶

¹⁸² Houses of the Oireachtas, Dáil Éireann debate: [Establishment of Joint Committee on the Implementation of the Good Friday Agreement: Motion](#), 23 July 2020, Vol 995 No 5.

¹⁸³ Houses of the Oireachtas, Press release: [The Joint Committee on the Implementation of the Good Friday Agreement Committee to begin series of hearings from leading figures behind Good Friday Agreement](#), 25 May 2022.

¹⁸⁴ See also [Good Friday Agreement: Claim Sinn Féin considered ‘no’ campaign in south](#), BBC News online, 21 December 2022.

¹⁸⁵ Houses of the Oireachtas, [Press release: Good Friday Committee to hear from co-founder of the Northern Ireland Women’s Coalition Bronagh Hinds](#), 1 March 2023.

¹⁸⁶ Northern Ireland Office, [Secretary of State’s closing remarks at 25 Years On: Global and Local Reflections on the Belfast \(Good Friday\) Agreement Conference](#), 28 March 2023.

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Further reading

[Full text of the Belfast/Good Friday Agreement](#), Northern Ireland Office, also available at the CAIN archive: [Agreement reached in the multi-party negotiations](#).

[Fordham International Law Journal 22:4](#), 1999 (a special edition on aspects of the Agreement).

Mitchell, George J, *Making Peace: The inside story of the making of the Good Friday Agreement*, London: Heinemann, 1999.

Morgan, Austen, [The Belfast Agreement: A Practical Legal Analysis](#), Belfast: Belfast Press, 2000.

De Bréadún, Deaglán, *The Far Side of Revenge: Making Peace in Northern Ireland*, Cork: Collins Press, 2001.

Bew, Paul, *The Making and Remaking of the Good Friday Agreement*, Dublin: Liffey Press, 2007.

Morgan, Austen, [The Hand of History? Legal Essays on the Belfast Agreement](#), Belfast: Belfast Press, 2011.

McAuley J and Spencer G, *Ulster Loyalism after the Good Friday Agreement: History, Identity and Change*, Basingstoke: Palgrave Macmillan, 2011.

Fenton, Siobhán, *The Good Friday Agreement*, London: Biteback, 2018.

Humphreys, Richard, *Beyond the Border: The Good Friday Agreement and Irish Unity after Brexit*, Newbridge: Merrion Press, 2018.

Tannam, Etain (ed), *Beyond the Good Friday Agreement: In the Midst of Brexit*, London: Routledge, 2018.

Humphreys, Richard, *Reconciling Ireland: Fifty Years of British–Irish Agreements*, Dublin: Irish Academic Press, 2021.

Taylor, Peter, *Operation Chiffon: The Secret Story of MI5 and MI6 and the Road to Peace in Ireland*, Bloomsbury, 2023.

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