

Research Briefing

30 January 2024

By David Torrance

Developments in Northern Ireland, 2022-24



Summary

1 Developments in Northern Ireland, 2022-24

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Summary

This research briefing charts constitutional developments in Northern Ireland since the collapse of its devolved institutions in February 2022. It includes:

- 3 February 2022: Collapse of the devolved institutions
- 5 May 2022: Northern Ireland Assembly election
- 13 May 2022: First of seven unsuccessful attempts by the Assembly to elect a Speaker
- 28 October 2022: Statutory deadline for Executive formation expires
- 6 December 2022: The [Northern Ireland \(Executive Formation etc\) Act 2022](#) receives Royal Assent. Together with [The Northern Ireland \(Extension of Period for Making Ministerial Appointments\) Regulations 2022](#), the period for appointing Northern Ireland ministers is extended until 19 January 2023
- 19 January 2023: Statutory deadline for Executive formation expires
- 27 February 2023: The [Windsor Framework](#) is agreed between the European Union and UK, including the “Stormont Brake” mechanism
- 28 February 2023: The [Northern Ireland \(Executive Formation and Organ and Tissue Donation\) Act 2023](#) receives Royal Assent, extending the deadline to 18 January 2024
- 10 April 2023: Politicians in the UK and Ireland mark the 25th anniversary of the Belfast/Good Friday Agreement
- 18 September 2023: The [Northern Ireland Budget \(No. 2\) Act 2023](#) receives Royal Assent and thus sets a Budget for Northern Ireland
- 4 December 2023: The Northern Ireland Affairs Committee [publishes recommendations](#) on the effectiveness of the institutions established under the Belfast/Good Friday Agreement
- 20 December 2023: The Secretary of State for Northern Ireland publishes details of a [financial package worth more than £3 billion](#)
- 18 January 2024: Statutory deadline for Executive formation
- 25 January 2024: The [Northern Ireland \(Executive Formation\) Act 2024](#) extends the deadline to 8 February 2024
- 30 January 2024: The DUP endorses a deal to restore power-sharing

1 Developments in Northern Ireland, 2022-24

1.1 Collapse of institutions

On 3 February 2022 [Paul Givan resigned](#) as First Minister of Northern Ireland, effective from midnight. This meant deputy First Minister Michelle O'Neill also relinquished her post. The Northern Ireland Executive was no longer able to meet as it was chaired jointly by the First and deputy First Ministers. Mr Givan cited ongoing disagreements with the UK Government regarding the [Ireland/Northern Ireland Protocol](#) for his decision to stand down.

Under the law as it then stood, Brandon Lewis, the then Secretary of State for Northern Ireland, was required to name a date for an election if Northern Ireland ministers had not been appointed within 14 days of an Assembly election, or if the posts of First and/or deputy First Minister had become vacant (as in this case) and remained unfilled after seven days. This meant a deadline of 12.01am on Friday 11 February.

1.2 Legislative provision

However, the subsequent [Northern Ireland \(Ministers, Elections and Petitions of Concern\) Act 2022](#), which received Royal Assent on 9 February, meant the Secretary of State was no longer under an immediate obligation to call an election.

The Act replaced the existing time limits with up to four six-week periods for appointing Northern Ireland ministers. It also allowed ministers to remain in office following an election for up to 24 weeks, and for up to 48 weeks if the First or deputy First Minister ceased to hold office (through, for example, resignation). These “caretaker” ministers could not take any new decisions.¹

The amended time limit for the appointment of ministers meant there was a new deadline of 28 October 2022 for the formation of a Northern Ireland Executive.

¹ Commons Library research briefing CBP9213, [Northern Ireland \(Ministers, Elections and Petitions of Concern\) Bill 2021-22](#).

In an interview with the BBC, Brandon Lewis ruled out an early Assembly election and said it was “right” that the date remained 5 May 2022.²

1.3 May 2022 Assembly election

The Northern Ireland Assembly election took place on 5 May 2022. Sinn Féin emerged as the largest party and the DUP as the second largest.³ This meant Sinn Féin was entitled to nominate a First Minister and the DUP a deputy First Minister.⁴

The then Secretary of State for Northern Ireland, Brandon Lewis, encouraged Northern Ireland’s parties “to form an Executive as soon as possible”, adding that the “people of Northern Ireland deserve a stable and accountable local government that delivers on the issues that matter most to them”.⁵

On 9 May 2022, the Secretary of State met with the leaders of Northern Ireland’s five main political parties: Michelle O’Neill (Sinn Féin); Sir Jeffrey Donaldson (Democratic Unionist Party); Naomi Long (Alliance); Doug Beattie (Ulster Unionist Party); and Colum Eastwood (Social Democratic and Labour Party). Mr Lewis said the:

UK Government’s overriding priority remains the preservation of peace and stability in Northern Ireland and the protection of the Belfast (Good Friday) Agreement in all its strands. The current situation with the Protocol is fundamentally undermining the Belfast (Good Friday) Agreement and creating an unacceptable situation in Northern Ireland. We will continue to press the EU to agree the crucial changes that are urgently needed but will take nothing off the table in our pursuit of those solutions.⁶

² [NI political crisis: Early Stormont election ruled out by NI secretary](#), BBC News online, 8 February 2022. Assembly elections take place every five years.

³ Commons Library research briefing CBP9549, [Northern Ireland Assembly Elections: 2022](#).

⁴ Commons Library Insight, [Northern Ireland elections: How will an Executive be formed?](#)

⁵ [NI Assembly Election 2022 – Statement by the Secretary of State](#), Northern Ireland Office, 7 May 2022.

⁶ [Northern Ireland Secretary Brandon Lewis – Statement following meetings with party leaders](#), Northern Ireland Office, 9 May 2022.

What happens at the first Assembly meeting?

[Section 31\(4\)](#) of the Northern Ireland Act 1998 provides that, following an election, the Assembly “shall meet within the period of eight days beginning with the day of the poll at which it is elected”.

[Section 39](#) provides that at this meeting, the Assembly “shall as its first business elect from among its members a Presiding Officer and deputies”. These are known as the Speaker and (three) Deputy Speakers.⁷ The procedure at the first meeting of a new Assembly is:

- Members of the Legislative Assembly (MLAs) take their seats by signing the Assembly’s Roll of Membership;
- After signing the Roll an MLA may enter in the Roll a designation of identity, being “Nationalist”, “Unionist” or “Other”;⁸
- Once all MLAs have taken their seats, registered their party affiliation and designation of identity, the Assembly proceeds to elect a Speaker.⁹

Under [section 39\(7\)](#) of the Northern Ireland Act 1998, a person shall not be elected Speaker “without cross-community support”,¹⁰ either parallel consent or a weighted majority.¹¹ This means that a successful Speaker needs support from both Unionist and Nationalist-designating MLAs. If the Assembly is unable to elect a Speaker on this basis, then it cannot proceed to other business, including the nomination of a First and deputy First Minister and the appointment of other Executive ministers.

In appropriate circumstances, however, the Speaker can choose to mark certain events in the Assembly Chamber. These are considered “events” rather than sittings of the Assembly and do not constitute formal proceedings.¹²

⁷ The “outgoing” Speaker, or an Acting Speaker, chairs proceedings. An Acting Speaker will be “the oldest member present at the meeting”.

⁸ An MLA who does not register a designation of identity shall be deemed “Other” for the purposes of the Standing Orders and the Northern Ireland Act 1998.

⁹ [Northern Ireland Assembly Standing Orders as amended March 2010](#), Northern Ireland Assembly website, paras 1-6.

¹⁰ Northern Ireland Act 1998, [section 39\(7\)](#).

¹¹ Northern Ireland Act 1998, section 42. Parallel consent means a majority of those members present and voting, including a majority of the Unionist and Nationalist designations, while a weighted majority means 60% of members present and voting, including at least 40% from the Nationalist and Unionist designations.

¹² They are not, therefore, recorded in the Assembly’s Official Report.

1.4

Attempts to elect a Speaker

Since the May 2022 Assembly election, there have been several attempts to elect a new Speaker:

Friday, 13 May 2022

Following the Roll of Membership and designation of MLAs, Alex Maskey, the outgoing Speaker, made some “personal remarks”. He observed that if a Speaker was not elected he would remain in office until a successor was appointed, but “regardless” of the outcome it would be his “last time in the Chamber”.

During the nomination of a new Speaker, Michelle O’Neill, the Sinn Féin deputy leader, stated that:

The democratic outcome of the election must now be respected. Today, we stand ready to elect a Speaker and form an Executive, and I stand ready to take on the leadership of the Northern Ireland Executive as a First Minister for all in a Government who work for all the people.

Paul Givan, the former DUP First Minister, said:

We are committed to devolution. We want these institutions to work, but the Northern Ireland protocol and the Belfast Agreement are incompatible; you cannot have both. Now is the time for action, not for further delay or procrastination. The Democratic Unionist Party’s position is resolute. We are determined to succeed in the approach that we are taking, because we want the Executive to be built on solid foundations that will endure and deliver for the people of Northern Ireland.

The UUP MLA Mike Nesbitt received 28 votes to 26 to become the next Assembly Speaker, and SDLP MLA Patsy McGlone 62 votes to 25. Neither received the necessary level of cross-community support.

The Speaker told MLAs that as the Assembly had been “unable to elect a Speaker” then they could “proceed no further”. He added that:

Under section 39(2) of the Northern Ireland Act 1998, I will remain in office until my successor is elected. I am particularly conscious that functions remain for a Speaker to carry out in these circumstances and, particularly, that it is my responsibility to engage with the parties and bring Members back for a further sitting to elect a Speaker and Deputy Speakers. I would, of course, prefer that to be as soon as possible, and I will continue to engage with parties to ensure that a further sitting can happen as soon as possible.

Mr Maskey added that the Assembly was “very limited” in what it could do, but that MLAs could submit five questions a day for written answer by caretaker ministers.¹³

¹³ [Official Report: Friday 13 May 2022.](#)

Monday, 30 May 2022

At the Assembly's second "recall" meeting, Mike Nesbitt received 27 votes to 26 as Speaker and Patsy McGlone 53 to 26. As on 13 May, neither received sufficient cross-community support.

The Acting Speaker, Alan Chambers, said: "The Assembly has been unable to elect a Speaker today and has been unable to conduct its first business. Therefore, we can proceed no further."¹⁴

In July 2022, Shailesh Vara, the new Secretary of State for Northern Ireland, met Northern Ireland's party leaders and reiterated that his "immediate priority, and that of the [UK] Government, remains restoring the Northern Ireland Assembly and the Executive as soon as possible".¹⁵

Tuesday, 2 August 2022 (not a formal sitting)

MLAs met to pay tribute to Lord Trimble, the former UUP leader and First Minister. This took place in the Assembly Chamber at Stormont.¹⁶

Wednesday, 3 August 2022

At the Assembly's third "recall" meeting,¹⁷ Mike Nesbitt received 18 votes to 21 as the next Speaker and Patsy McGlone 39 to 21. As on 20 May, neither received sufficient cross-community support.

The Acting Speaker, Alan Chambers, again stated that the Assembly could "proceed no further".¹⁸

Monday, 11 September 2022 (not a formal sitting)

Following the death of Queen Elizabeth II on 8 September 2022, MLAs gathered in the Assembly Chamber at Stormont to express their condolences. Representatives of both communities spoke in praise of her long reign.¹⁹ Two days later, the Speaker (Alex Maskey) presented a Message of Condolence from the Assembly to King Charles III in the Throne Room at Hillsborough Castle.²⁰

¹⁴ [Official Report: Monday 30 May 2022](#).

¹⁵ [Secretary of State for Northern Ireland speaks with Northern Ireland political parties](#), Northern Ireland Office, 8 July 2022.

¹⁶ [David Trimble: NI Assembly recalled to pay tribute](#), BBC News online, 2 August 2022.

¹⁷ This took place in the former Senate Chamber at Parliament Buildings.

¹⁸ [Official Report: Wednesday 03 August 2022](#).

¹⁹ [Queen Elizabeth II: Assembly hails 'courageous leader'](#), BBC News online, 11 September 2022.

²⁰ [Message of condolence delivered at Hillsborough](#), Northern Ireland Assembly website, 13 September 2022.

Thursday, 27 October 2022

At the Assembly's fourth "recall" meeting, Patsy McGlone received 45 votes to 24 as the next Speaker and Mike Nesbitt 24 votes to 24. As on 3 August, neither received sufficient cross-community support.

The Acting Speaker, Stewart Dickson, said the Assembly had been unable to conduct its first item of business and could therefore proceed no further.²¹

1.5

The statutory deadline expires

The statutory period for filling ministerial offices in Northern Ireland, including those of the First and deputy First Minister, expired at midnight on 28 October 2022. This meant the Secretary of State for Northern Ireland once again fell under a legal obligation to propose a date for a further Assembly election "as soon as practicably possible and within 12 weeks".²² Caretaker ministers also ceased to hold office.

In a statement, the new Secretary of State for Northern Ireland, Chris Heaton-Harris, said:

It was particularly disappointing to see yesterday that the Assembly was still unable to elect a Speaker, despite all the time that has passed.

At a time when so many are struggling with the cost of living and fearful of what is to come, I understand people's frustration that MLAs continue to draw a full salary when they are not performing all the duties they were elected to do. So, I will be considering my options to act on MLA pay.

In the absence of an Executive, the Secretary of State also said he would take "limited but necessary steps to protect public finances and the delivery of public services". Mr Heaton-Harris added:

And to those who have called for "joint authority" of Northern Ireland in recent days, let me say this: this won't be considered. The UK Government is absolutely clear that the consent principle governs the constitutional position of Northern Ireland. We will not support any arrangements that are inconsistent with that principle.²³

The Secretary of State held further talks with Northern Ireland party leaders on 1 November 2022. Following the meeting, Mr Heaton-Harris said he was:

particularly worried that the Executive has an enormous black hole in its budget, which potentially has serious implications for the delivery of many of

²¹ [Official Report: Thursday 27 October 2022](#).

²² [Secretary of State for NI, Rt Hon Chris Heaton-Harris MP](#), Northern Ireland Office, 28 October 2022.

²³ [Secretary of State for NI, Rt Hon Chris Heaton-Harris MP](#), Northern Ireland Office, 28 October 2022.

The "principle of consent" provides that any alteration to the constitutional status of Northern Ireland shall only take place with the consent of the people of Northern Ireland.

Northern Ireland's public services. Measures to set a budget will be required in the short term.²⁴

On 4 November 2022, the Secretary of State confirmed that an election would not take place in December.²⁵

In the House of Commons on 9 November, Mr Heaton-Harris announced that he would bring forward legislation to provide “a short, straightforward extension to the period for Executive formation”. He added that:

This aims to create the time and space needed for talks between the UK Government and the EU Commission to develop and for the Northern Ireland Parties to work together to restore the devolved institutions as soon as possible.²⁶

1.6 Further legislative provision

The [Northern Ireland \(Executive Formation etc\) Bill 2022-23](#) was introduced to the House of Commons on Monday 21 November 2022. This sought to:

- Extend retrospectively the period for Executive formation by 6 weeks – from 28 October to 8 December 2022 – with the potential for a further 6-week extension to 19 January 2023, via Statutory Instrument;
- Clarify the decision-making powers of “senior officers” (civil servants) of Northern Ireland Departments to manage the delivery of public services either until an Executive is reformed, or for 6 months from enactment of the bill, whichever is sooner;
- Provide for key public appointments to be made in the absence of Northern Ireland ministers;
- Provide for action to be taken to reduce the salary of MLAs in the absence of a fully functioning Assembly; and
- Enable the Secretary of State to set Northern Ireland's domestic and non-domestic regional rates (equivalent to council tax and business rates in Great Britain) for the 2023/24 financial year via Statutory Instrument.²⁷

²⁴ [Secretary of State holds talks with party leaders after restoration of Executive deadline passes](#), Northern Ireland Office, 1 November 2022.

²⁵ [Secretary of State for NI provides update on election](#), Northern Ireland Office, 4 November 2022.

²⁶ [HC Deb 9 November 2022 Vol 722 c279 \[Northern Ireland Elections\]](#)

²⁷ Commons Library research briefing CBP9682, [Northern Ireland \(Executive Formation etc\) Bill 2022-23](#).

The [Northern Ireland \(Executive Formation etc\) Act 2022](#) received Royal Assent on 6 December 2022.²⁸

On 7 December, [The Northern Ireland \(Extension of Period for Making Ministerial Appointments\) Regulations 2022](#) were made by the Secretary of State for Northern Ireland. These extended the period for the appointment of Northern Ireland ministers until 19 January 2023.

On 8 December, the Secretary of State wrote to MLAs informing them that their pay would be reduced by 27.5% as of 1 January 2023.²⁹

1.7

Further attempts to elect a Speaker

Wednesday, 7 December 2022

At the Assembly's fifth "recall" meeting, Mike Nesbitt received 24 votes to 24 as the new Assembly Speaker and Patsy McGlone 50 votes to 24. As on 27 October, neither received sufficient cross-community support.

The Acting Speaker, Alan Chambers, once again announced that the Assembly could proceed no further.³⁰

Tuesday, 14 February 2023

At the Assembly's sixth "recall" meeting, Mike Nesbitt received 25 votes to 26 as Speaker and Patsy McGlone 49 votes to 28. As on 7 December 2022, neither received sufficient cross-community support.

At the end of the meeting, the Acting Speaker, Alan Chambers, stated that:

The Assembly has been unable to elect a Speaker today and has been unable to conduct its first business. Therefore, we can proceed no further. Any further sittings of the Assembly can be held only to first elect a Speaker and Deputy Speakers. Under section 39(2) of the Northern Ireland Act 1998, the current Speaker remains in office until a successor is elected. I therefore propose, by leave of the Assembly, to adjourn the sitting until a future date, the details of which will be communicated to Members in due course.³¹

²⁸ The [Identity and Language \(Northern Ireland\) Act 2022](#), which made provision about national and cultural identity and language in Northern Ireland, received Royal Assent the same day. See Commons Library research briefing CBP9357, [Identity and Language \(Northern Ireland\) Bill 2022-23](#).

²⁹ [Northern Ireland Secretary writes to MLAs to confirm pay cut from 1 January 2023](#), Northern Ireland Office, 8 December 2022.

³⁰ [Official Report: Wednesday 07 December 2022](#).

³¹ [Official Report: Tuesday 14 February 2023](#).

1.8

Executive Formation Bill

The extended deadline for the formation of a Northern Ireland Executive expired on 19 January 2023.

The Secretary of State for Northern Ireland, Chris Heaton-Harris, and the then Foreign Secretary, James Cleverly, met Northern Ireland’s party leaders on 11 January 2023, but there was no progress.³² There was a further meeting on 9 February, after which Mr Heaton-Harris said he had:

been encouraged by my discussions with the parties today but there is no doubt that the absence of a devolved government is having an impact on Northern Ireland with important legislation and public services impacted by the lack of an Executive.³³

The [Northern Ireland \(Executive Formation\) Bill 2022-23](#) was introduced in the House of Commons on Thursday 9 February 2023. This sought to retrospectively extend the period for the formation of an Executive by 52 weeks from 19 January 2023 to 18 January 2024.³⁴

What became the [Northern Ireland \(Executive Formation and Organ and Tissue Donation\) Act 2023](#) received Royal Assent on 28 February 2023.³⁵

In the absence of an Executive, on 23 February the Secretary of State increased the Northern Ireland domestic regional rate (the equivalent of council tax) by 6% and froze the non-domestic regional rate (the equivalent of business rates) for the 2023/24 financial year.³⁶

1.9

The Windsor Framework and the “Stormont Brake”

The [Windsor Framework](#) was agreed between the European Union and UK on 27 February 2023.³⁷

³² [Northern Ireland Secretary and Foreign Secretary meet political leaders in Belfast](#), Northern Ireland Office, 11 January 2023.

³³ [NI party-to-party dialogue in roundtable discussion with the Secretary of State for Northern Ireland](#), Northern Ireland Office, 9 February 2023.

³⁴ Commons Library research briefing CBP9725, [Northern Ireland \(Executive Formation\) Bill 2022-23](#).

³⁵ The bill was amended (and thus renamed) to include provision for making regulations defining permitted material for transplantation in Northern Ireland under [section 3](#) of the Human Tissue Act 2004. See Lords Library Note 2023-0014, [Northern Ireland \(Executive Formation and Organ and Tissue Donation\) Bill: HL Bill 105 of 2022-23](#).

³⁶ [Secretary of State for Northern Ireland sets the NI Regional Rate](#), Northern Ireland Office, 23 February 2023.

³⁷ Commons Library research briefing CBP9736, [Northern Ireland Protocol: The Windsor Framework](#).

An accompanying EU-UK [Political Declaration](#) 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.³⁸

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 was to apply only to changes to EU goods, agriculture and some customs laws (also known as rules or acts) within the scope of the original Protocol.³⁹ 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 (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. These inserted a new [Schedule 6B](#) into the Northern Ireland Act 1998.⁴⁰

1.10

Belfast/Good Friday Agreement anniversary

In March and April 2023, events took place to commemorate the 25th anniversary of the Belfast/Good Friday Agreement.⁴¹

In his speech at an Agreement 25 Conference at Queen’s University Belfast, Chris Heaton-Harris, the Secretary of State for Northern Ireland, said that:

Devolved power-sharing institutions created a status quo that those of us who value Northern Ireland’s place in the Union can robustly – and successfully – promote and celebrate [...] I make no apologies for being proud of Northern Ireland’s place in the Union and for wanting it to continue. Others who share

³⁸ [Political Declaration by the European Commission and the Government of the United Kingdom](#), HM Government, 27 February 2023.

³⁹ That is, only to measures covered in parts of [Annex 2](#) of the Protocol (which relate to the EU Single Market in goods).

⁴⁰ For a full analysis see Commons Library research briefing CBP9757, [Northern Ireland: The Stormont Brake](#).

⁴¹ Commons Library research briefing CBP9547, [The Belfast/Good Friday Agreement – 25 years on](#), pp60-63.

that view should put the Union first, restore the devolved institutions and get on with the job of delivering for the people of Northern Ireland.⁴²

1.11

Interim Arrangements Bill

The Northern Ireland (Interim Arrangements) Bill 2022-23 was introduced to the House of Commons on Thursday 27 April 2023. This made “interim” arrangements in the continuing absence of a fully functioning Northern Ireland Assembly and Executive:

- Providing for senior civil servants in nine Northern Ireland Departments to continue to exercise certain functions when in the public interest, notwithstanding the ongoing lack of Northern Ireland ministers;
- Conferring on the Secretary of State for Northern Ireland the power to commission advice or request information from Northern Ireland Departments for the purpose of developing options for raising more public revenue in Northern Ireland, or otherwise improving the sustainability of public finances in Northern Ireland;
- Conferring on the Secretary of State the power to direct Northern Ireland Departments to carry out consultations for the same two purposes; and
- Requiring certain accounts, reports and other financial documents that must be laid in the Northern Ireland Assembly also to be laid in the UK Parliament when the Northern Ireland Assembly is not fully functioning.⁴³

The [Northern Ireland \(Interim Arrangements\) Act 2023](#) received Royal Assent on 24 May 2023.

Using his new powers, on 14 June the Secretary of State wrote to the Permanent Secretaries of all Northern Ireland Civil Service Departments to request information and advice “on a range of measures that could generate further public revenue locally, or otherwise improve the sustainability of public finances in Northern Ireland”.⁴⁴ On 20 September Mr Heaton-Harris also directed the same Permanent Secretaries to launch public consultations on measures to support budget sustainability and raise additional revenue.⁴⁵

⁴² [Secretary of State’s speech at Agreement 25 Conference](#), Northern Ireland Office, 18 April 2023.

⁴³ Commons Library research briefing CBP9782, [Northern Ireland \(Interim Arrangements\) Bill 2022-23](#).

⁴⁴ [Secretary of State writes to NI Civil Service on sustainable public finances](#), Northern Ireland Office, 14 June 2023.

⁴⁵ [Secretary of State writes to Northern Ireland Civil Service on sustainable public finances](#), Northern Ireland Office, 20 September 2023.

1.12

Northern Ireland Budget

A Budget would normally be the responsibility of the devolved Northern Ireland Assembly and Executive. In their absence, it has been necessary for the UK Parliament to make legislative provisions.

On 27 April 2023, the Secretary of State for Northern Ireland set a Budget for the 2023/24 financial year.⁴⁶ This required primary legislation at Westminster.

The Northern Ireland Budget (No. 2) Bill 2022-23 was introduced to the House of Commons on 29 June 2023. This authorised the use of certain resources for public services in Northern Ireland for the year ending 31 March 2024.⁴⁷

In July, Jayne Brady, Head of the Northern Ireland Civil Service, told Mr Heaton-Harris that Northern Ireland Departments had “reached the limit” of what they could do to manage budget pressures. She also stated that civil servants had made £1 billion of “challenging” budget decisions in the absence of Executive ministers. The Northern Ireland Office said the Northern Ireland Secretary was “acutely aware of the challenges faced by departments and civil servants”. Northern Ireland’s political parties also held discussions with Ms Brady regarding priorities for an incoming Executive.⁴⁸

The [Northern Ireland Budget \(No. 2\) Act 2023](#) received Royal Assent on 18 September 2023.

According to the BBC, some politicians in Northern Ireland would like a Wales-style alteration to the Barnett Formula acknowledging a “needs factor”.⁴⁹ Although the Formula is not calculated on a needs basis, a special arrangement for Wales takes into account certain factors.⁵⁰

In November 2023 it emerged that Northern Ireland had not been allocated any money from a £1 billion Department for Levelling Up funding scheme because of the absence of an Executive. The DUP MP Sammy Wilson called this “economic blackmail” while the Sinn Féin MLA Conor Murphy said it was “yet another cynical attack on ordinary people”. Claire Hanna of the SDLP accused the DUP of “economically blackmailing” Northern Ireland by continuing to block the return of power-sharing at Stormont.⁵¹

⁴⁶ [Northern Ireland Secretary announces 2023-24 Budget and contingency plans for governance](#), Northern Ireland Office, 27 April 2023.

⁴⁷ Commons Library research briefing CBP9826, [Northern Ireland Budget \(No. 2\) Bill 2022-23](#).

⁴⁸ [Stormont stalemate: UK government ‘knows steps’ needed to restore power sharing](#), BBC News online, 19 July 2023.

⁴⁹ [How do we deal with Northern Ireland’s public spending problems?](#), BBC News online, 2 December 2023.

⁵⁰ Commons Library research briefing CBP7386, [The Barnett formula and fiscal devolution](#).

⁵¹ [No levelling up money for Northern Ireland due to Stormont collapse](#), BBC News online, 22 November 2023.

1.13

Ongoing talks to restore devolved institutions

As part of ongoing talks to restore the Northern Ireland Executive, the Secretary of State met representatives of the DUP, SDLP and Alliance in London during July 2023. Mr Heaton-Harris also met with Sinn Féin and the Ulster Unionist Party in Belfast.⁵²

The [Northern Ireland Troubles \(Legacy and Reconciliation\) Act 2023](#) received Royal Assent on 18 September 2023. This established an Independent Commission for Reconciliation and Information Recovery, limited criminal investigations, legal proceedings, inquests and police complaints into matters related to the Troubles. It also extended the prisoner release scheme in the [Northern Ireland \(Sentences\) Act 1998](#), and provided for experiences of the Troubles to be recorded and preserved, and for events to be studied and memorialised.⁵³

In an interview in November 2023, the former DUP leader and First Minister Peter Robinson predicted Stormont could be restored “within the next number of weeks”. He also said Northern Ireland could benefit from having the “best of both worlds” with access to both UK and EU markets. Mr Robinson added that if a solution could not be found then the UK Government would have “to look at some other way of governing Northern Ireland”.⁵⁴ This may have been a reference to Direct Rule.⁵⁵

The DUP MP Sammy Wilson disputed Mr Robinson’s contention, while the Sinn Féin MLA Conor Murphy said there was “a degree of choreography going on”, with Mr Robinson’s comments reflecting those of Sir Jeffrey Donaldson at the recent DUP party conference.⁵⁶ In a statement, the DUP said:

Our discussions with the Government [regarding the Northern Ireland Protocol] continue and agreement has not yet been reached. This is a time for cool heads. We will judge any outcome against our clearly declared objectives of restoring our place in the Union and our ability to trade within the UK and its internal market.⁵⁷

In a separate interview with the Financial Times, Peter Robinson urged the UK Government to “do the bit extra” to restore the Northern Ireland Executive. Mr

⁵² [Stormont stalemate: UK government ‘knows steps’ needed to restore power sharing](#), BBC News online, 19 July 2023.

⁵³ Commons Library research briefing CBP9553, [Northern Ireland Troubles \(Legacy and Reconciliation\) Bill 2022-2023](#).

⁵⁴ [Peter Robinson believes Northern Ireland power sharing restoration weeks away](#), ITV News website, 21 November 2023

⁵⁵ Commons Library research briefing CBP8638, [Northern Ireland: Direct Rule](#).

⁵⁶ In his conference speech, Sir Jeffrey said his party believed in devolution and “having locally elected representatives take decisions in the best interest of our people”. He also said his party was making “progress” in talks about the Windsor Framework with the UK Government, but that [“more work needs to be done”](#).

⁵⁷ [Peter Robinson believes Northern Ireland power sharing restoration weeks away](#), ITV News website, 21 November 2023.

Robinson said two key areas were the future of the Union and free trade Northern Ireland and Great Britain. He told the Financial Times that Westminster needed to legislate for a “reassertion of the sovereignty of the UK over Northern Ireland”.⁵⁸

In an interview with BBC Radio Ulster, Sir Jeffrey Donaldson denied having discussed the situation with Peter Robinson. He said:

Peter outlined his view. As far as the party is concerned our position is unchanged. We are continuing in our negotiations with the government. We have a clear objective which is to restore Northern Ireland’s place within the United Kingdom and its internal market. To restore our economic rights as part of the UK. And we remain focused on achieving those objectives”.

Sir Jeffrey added that Peter Robinson “was very clear that the DUP should be and is pushing for a deal that protects Northern Ireland’s ability to trade within the United Kingdom, respects our Article Six rights under the Acts of Union – that is very clearly still our objective – one shared by Peter”.⁵⁹

According to a report in the Belfast Telegraph, in early December 2023 Sinn Féin’s Michelle O’Neill wrote to Northern Ireland Secretary Chris Heaton-Harris calling for “immediate action to address the political stalemate”. She also emphasised the “urgency on the Government to conclude these negotiations”, adding that the “patience of the public and all those concerned has been tested beyond reasonable limits”. A Northern Ireland Office spokesperson said: “We will not give a running commentary on our political meetings. The Secretary of State is doing everything he can to facilitate the restoration of the Executive as soon as possible.”⁶⁰

1.14

Unionist concerns regarding the Protocol

Unionist concerns regarding the impact of the revised Northern Ireland Protocol persisted during 2023. Some argued that the newly created “Irish Sea border” 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.⁶¹

In June 2021 a group of Unionist politicians challenged the Protocol in Northern Ireland’s High Court. This group included Dame 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. Among the group’s contentions was that the Protocol breached the “principle

⁵⁸ [UK should do a ‘bit extra’ to restore Stormont, says former N Ireland leader](#), Financial Times, 24 November 2023.

⁵⁹ [Sir Jeffrey Donaldson: Stormont can only work based on cross-community consensus as he repeats DUP’s tests](#), News Letter, 24 November 2023.

⁶⁰ [Immediate action needed to address Stormont stalemate – O’Neill](#), Belfast Telegraph, 3 December 2023.

⁶¹ See Union with Ireland Act 1800, [Article Sixth](#).

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 Court 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.⁶²

In March 2022 the Northern Ireland Court of Appeal upheld the judgment of the High Court,⁶³ as did the United Kingdom Supreme Court in February 2023.⁶⁴

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”.⁶⁵

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.⁶⁶

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”.⁶⁷

Later, the historian Henry Patterson argued that talk of “restoring” Article Six rights misunderstood the Act of Union 1800 and the constitutional status of Northern Ireland:

[T]he restoration of Article 6 of the Acts of Union to its pre-Protocol status would be a very bad business indeed. The original Article 6 (the so-called ‘same footing’ clause) actually included a list of significant duties on goods moving between Great Britain and Ireland. In addition to duties on goods like

⁶² [Application by Allister et al \[2021\] NIQB 64](#)

⁶³ [Allister et al \[2022\] NICA 15](#)

⁶⁴ [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.

⁶⁵ [Allister et al \[2023\] UKSC 5](#), paras 80 and 84.

⁶⁶ [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”.

⁶⁷ [UK government to assure DUP on Northern Ireland’s status amid Supreme Court judgment concerns](#), News Letter, 16 March 2023.

whisky, cider and chocolate, it also entailed that countervailing duties could be imposed by the UK Parliament [...]

The lived experience of “equal treatment” under Article 6 of the Union was nothing of the sort. This was particularly the case after the Government of Ireland Act of 1920 which, in truth, was the real constitutional foundation of Northern Ireland. From that point, there has always been differentiation between Northern Ireland and the rest of the UK. Section 21 of the 1920 Act required extensive checks by customs officers on goods travelling between Great Britain and Northern Ireland.⁶⁸

1.15

British-Irish talks

In November 2023, Leo Varadkar, the new Irish Taoiseach, said he was “a little bit more optimistic” about the prospect of a deal before Christmas 2023 or in the New Year. His remarks followed talks with the Secretary of State for Northern Ireland and Michael Gove, the Secretary of State for Levelling Up, Housing and Communities, at a meeting of the British-Irish Council at Dublin Castle in November 2023. In its published Communiqué, the Council “looked forward to the restoration of enduring devolved power-sharing institutions in Northern Ireland as soon as possible”.⁶⁹

A few days later, Mr Heaton-Harris held further talks with Irish foreign minister Micheál Martin at the British-Irish Intergovernmental Conference, also in Dublin. Its Communiqué stated that:

The Government of Ireland and the UK Government agreed on the critical importance of restoring the Northern Ireland Assembly, Executive and North South Ministerial Council to full operation and reviewed the progress made in discussions to that end. They agreed that the restoration of these institutions on a sustainable basis is essential for the people of Northern Ireland who deserve stable, locally-elected and accountable government. The Government of Ireland and the UK Government discussed the impact for the people of Northern Ireland of the absence of the Northern Ireland Executive.⁷⁰

Following that Conference, the Secretary of State for Northern Ireland said both sides “are in the final stages of these talks and there is progress being made”. Mr Heaton-Harris added that:

these talks can only come to an end when both sides feel they are in a successful place to conclude. I want to get the Executive up and running as soon as possible, if I could have been able to achieve that six months ago I promise you I would have.⁷¹

⁶⁸ [Henry Patterson: Legalistic attempts to ‘restore’ Article 6 of the Act of Union would be a disaster](#), News Letter, 29 January 2024.

⁶⁹ [40th BIC Summit – Communiqué](#), British-Irish Council website, 24 November 2023.

⁷⁰ [BIIGC November 2023 Joint Communiqué](#), Northern Ireland Office, 28 November 2023.

⁷¹ [Northern Ireland Secretary says talks in “final stages” as Government and DUP seek Irish Sea border deal](#), News Letter, 24 November 2023.

1.16

Northern Ireland Affairs Committee

On 31 October 2022 the Northern Ireland Affairs Committee (NIAC) launched an inquiry to examine the effectiveness of the institutions established under the Belfast/Good Friday Agreement.⁷² NIAC's report was published on 4 December 2023. Its recommendations included:

- A formal, independently led review into the operation of the institutions of the Belfast/Good Friday Agreement, including the devolved institutions' "ability to provide effective and stable government in Northern Ireland, with broad cross-community inclusion";
- Legislation to amend the Northern Ireland Act 1998 so that the Speaker of the Northern Ireland Assembly is elected by MLAs on a supermajority basis of two-thirds;
- Legislation to amend the Northern Ireland Act 1998 so that the two holders of the (renamed) office of Joint First Minister are elected by the Assembly on a supermajority basis of two-thirds, with nominations open "to any two MLAs of any two parties who run on a joint slate";
- Establish a Northern Ireland Citizens' Assembly which would, as its first undertaking, examine the "issues of institutional reform discussed in this inquiry".⁷³

More generally, the NIAC report observed that:

There is broad consensus that the [the Assembly and Executive] are unstable and prone to collapse. The current system of nomination to the positions of First Minister and Deputy First Minister gives, in effect, a single party a veto over Executive formation and thus the continued functioning of democratic government in Northern Ireland [...] There is also consensus that even when functioning, the threat of collapse looms large over the institutions, with a pervasive culture of dispute rather than business-like cooperation.⁷⁴

Carla Lockhart and Jim Shannon, two DUP members of the Northern Ireland Affairs Committee, presented a minority report because, they said:

sadly there is no recognition within that draft report of the reality that the fundamental problem threatening the stability of devolved government in Northern Ireland is not the actions or stance of any one party or tradition but rather the undermining of the consent and cross-community consent provisions at the heart of the Belfast Agreement.⁷⁵

⁷² [Belfast/Good Friday Agreement inquiry launched](#), Northern Ireland Affairs Committee, 31 October 2022.

⁷³ [The effectiveness of the institutions of the Belfast/Good Friday Agreement](#), Northern Ireland Affairs Committee, pp73-80.

⁷⁴ [The effectiveness of the institutions of the Belfast/Good Friday Agreement](#), para 51.

⁷⁵ [The effectiveness of the institutions of the Belfast/Good Friday Agreement](#), pp81-90.

Responding to the report's recommendations, a Sinn Féin spokesperson said that 25 years on from the Belfast/Good Friday Agreement it was "imperative to learn lessons around what has worked, but also what hasn't":

Respecting the results of last May's election, reinstating power-sharing, and having parties assess, review and scrutinise the operation of both the assembly and executive through an all-party committee are pragmatic steps forward.

Alliance deputy leader Stephen Farry said opinion polls consistently showed a "groundswell of support for reform across the political spectrum". He added:

Reform of the institutions whilst respecting the principles and structures of the Good Friday Agreement was always envisaged. It is in the interests of everyone to see fair, stable and effective governance.

Sinn Féin are not recognising this imperative, while the DUP have consistently supported changes over the past 25 years, including during last year's assembly election, so their opposition today is self-serving and cynical.⁷⁶

The DUP's manifesto for the May 2022 Assembly election said the party believed "that a voluntary coalition represents the best long-term option".⁷⁷

Ulster Unionist leader Doug Beattie said his party had always argued for a "factory reset" of the Assembly and Executive. "Any changes to the process of governing must be put before the people of Northern Ireland," he said. "The principle of consent needs to be at the heart of any change."⁷⁸

In an article published in January 2024, the legal academic Colin Murray suggested that:

Efforts could be made to ensure more detailed ministerial guidance from the Northern Ireland Office over decision making, to restart North-South bodies, to undertake the same consideration of the operation of devolution's funding arrangements as has taken place in Wales and to ensure that effective equality impact assessments are embedded within budgetary processes.⁷⁹

In a paper published by The Constitution Society, Dr Andrew McCormick, a former civil servant in Northern Ireland, argued that the "most pressing need" was for Unionists to:

see that operating the institutions established under the 1998 and subsequent multi-party agreements is in their best interests [...] Unionists expect nationalists and republicans to continue to acquiesce to the realities of partition, despite that being against their wishes and their view of their best interests. For unionists now, the choice is, and will continue to be, between

⁷⁶ [Sinn Féin and DUP fail to support MPs' Stormont reform recommendations](#), Irish News, 6 December 2023.

⁷⁷ [DUP Assembly Election Manifesto 2022](#), DUP website.

⁷⁸ [Sinn Féin and DUP fail to support MPs' Stormont reform recommendations](#), Irish News, 6 December 2023.

⁷⁹ C. R. G. Murray, [Northern Ireland's Post-Brexit Governance Crisis: What to do when the Post-1998 Centre Cannot Hold](#), Newcastle Law School Working Papers 1/2024, 12 January 2024.

reluctant acquiescence in something they have rejected, or the loss of the agreed basis for the governance of Northern Ireland, based on the 1998 Agreement.⁸⁰

1.17

Roundtable talks

On Monday 11 December 2023 the five largest Northern Ireland parties met the Secretary of State at Hillsborough Castle to discuss public finances.

In a statement the previous day, Sinn Féin claimed the UK Government had confirmed to its leadership “that the Windsor Framework negotiation with the DUP is now over, and concluded”. A spokesperson for the Northern Ireland Office said this was “totally incorrect” and that discussions were ongoing.

Sir Jeffrey Donaldson told DUP members that the roundtable talks were “distinct from our discussions with the [UK] government” regarding the Windsor Framework. He added:

Those talks continue to make progress, but more work is required to conclude that process if we are to have arrangements acceptable to unionists as well as nationalists.

Of the roundtable talks, Sir Jeffrey said the 11 December meeting represented a “step forward” in changing how Northern Ireland is funded. The SDLP leader Colum Eastwood said his party was not going to Hillsborough for a “cosy catch up”:

The SDLP is entering these discussions with three key priorities. They must generate the final momentum to restore the executive, there must be a serious plan to rescue public services and we need to hear how a fair pay reward for public sector workers out on strike will be resourced. Anything else is a waste of time.⁸¹

According to a report from the BBC, the UK Government’s proposed financial package was worth £2.5 billion, dependent upon the restoration of power-sharing. The BBC report quoted several party representatives as saying that the financial package as it stood was inadequate.⁸²

The Secretary of State for Northern Ireland chaired another plenary session with four political parties at Hillsborough Castle on Wednesday 13 December. He described the UK Government’s proposal as “a fair and generous package

⁸⁰ Andrew MacCormick, [The Constitutional Status of Northern Ireland](#), The Constitution Society, January 2024, p39.

⁸¹ [More work required for Stormont deal, says Sir Jeffrey Donaldson](#), BBC News online, 10 December 2023.

⁸² [Stormont stalemate: Parties press for more generous funding deal](#), BBC News online, 12 December 2023.

which could assist a returning Executive to stabilise its finances and protect public services”.⁸³

In a further statement on 20 December, Mr Heaton-Harris provided details of “a new plan that reasonably and generously responds to the parties concerns and provides Northern Ireland Ministers with an offer for a restored executive worth in excess of £3bn”. He also announced:

- A new funding model “reflecting the different levels of need in Northern Ireland” and which would see funding “uplifted through the Barnett Formula by 24% from 2024-2025”;
- £584 million for “assistance with public sector pay”;
- £1 billion to “stabilise Northern Ireland’s public services”;
- “[S]teps to address” concerns regarding “existing debt” if the Executive published and implemented a plan to deliver sustainable public finances and services;
- More than £30 million to “immediately start tackling health waiting lists”;
- An initial reserve claim of £15 million (which would not need to be repaid) following the Police Service of Northern Ireland data breach;⁸⁴
- An enhanced investment zone in Northern Ireland worth more than £150 million.

The Secretary of State said it was:

disappointing that there will not be a new executive up and running to take up this offer and deliver it for the people of Northern Ireland before Christmas [2023]. However, this package is on the table and will remain there, available on day one of an incoming Northern Ireland Executive to take up.

Mr Heaton-Harris added that an incoming Executive would also have to increase revenue raised from its own powers (for example via the Regional Rate) and thanked the DUP for the way it had “engaged constructively” on talks regarding the Windsor Framework. He said: “From our perspective, those talks on all the issues of substance have reached a conclusion [...] It is now time for decisions to be made.”⁸⁵

According to the BBC (which calculated the financial package to be worth £3.3 billion), the Alliance, SDLP and Ulster Unionist parties appeared to

⁸³ [Statement from the Secretary of State on engagement with parties](#), Northern Ireland Office, 14 December 2023.

⁸⁴ [PSNI: Major data breach identifies thousands of officers and civilian staff](#), BBC News online, 8 August 2023.

⁸⁵ [Secretary of State statement at Hillsborough Castle, 19 December](#), Northern Ireland Office, 20 December 2023.

accept the Secretary of State’s proposals, but DUP leader Sir Jeffrey Donaldson said there still did not exist a “basis to deliver the financial stability Northern Ireland needs”.⁸⁶

In an article for the Belfast Telegraph, Mr Heaton-Harris said:

Some are now looking to the 18th of January [2024] as a deadline. It is a matter of fact that this is the date when I will once again fall under a legal duty to call a new election at Stormont and it will no longer be legally possible for an Executive to form. I am considering all options carefully, however, I want Stormont to return as soon as possible so I am not treating this date as a target and will be relentlessly working with all parties to find a way forward.

The Secretary of State concluded by saying that 2024 was the year “when Northern Ireland’s potential could be completely unleashed – for that to happen Stormont needs to return”.⁸⁷

1.18

Assembly recall and strikes

On 12 January 2024, Sinn Féin announced it would seek a seventh recall of the Northern Ireland Assembly in an attempt to elect a Speaker and re-establish the Northern Ireland Executive. In a post on X/Twitter, the party’s vice-president, Michelle O’Neill, said it was “decision time for the DUP”:

Our public sector workers play a pivotal role right across our society working in our hospitals, schools, on trains and buses, and within the civil service.⁸⁸

Members of 15 trade unions across the public sector in Northern Ireland are due to take part in a 24-hour “day of action” on Thursday 18 January. This is part of an ongoing dispute concerning pay and conditions. Those taking part will include nurses, teachers, bus and train drivers, as well as police staff and civil servants.⁸⁹ Leaked correspondence revealed that Jayne Brady, the Head of the Northern Ireland Civil Service, had urged the Secretary of State to release funds to prevent the strike, saying it showed the “frankly untenable position we are now in”.⁹⁰

Prime Minister Rishi Sunak has said that the public sector pay disputes in Northern Ireland could be resolved “rapidly” if the Northern Ireland Executive

⁸⁶ [NI talks: Discussions on restoring Stormont are over, government says](#), BBC News online, 19 December 2023.

⁸⁷ [Secretary of State: Returning Executive can unleash Northern Ireland’s potential](#), Northern Ireland Office, 29 December 2023.

⁸⁸ [Stormont: Sinn Féin in fresh bid to recall assembly before strikes](#), BBC News online, 12 January 2024.

⁸⁹ [Everything you need to know ahead of NI day of strike action by thousands of public sector workers](#), Belfast Live website, 14 January 2024.

⁹⁰ [Stormont crisis: Decisions to make if Stormont not restored – SoS](#), BBC News online, 16 January 2024.

was restored. He said “significant progress” had been made and that there was “now a very good basis” to revive power-sharing.

The Secretary of State for Northern Ireland held further one-on-one meetings with political parties in Northern Ireland at Hillsborough Castle on Monday 15 January 2024. Naomi Long of the Alliance Party said Mr Heaton-Harris had “a duty” to make decisions about public sector pay if “local politicians are not able to do that”.⁹¹

Following the 15 January meetings, the Secretary of State said that as public sector pay was devolved, it was “properly a matter for locally-elected politicians”. He added that it was “time for talking and debate to finish. It is time for Stormont to get back to work.” If, however, the deadline for Executive formation was to pass once again, Mr Heaton-Harris said he would “have various decisions to make” – including on “important matters that require primary legislation in Westminster” – and intended to “set out” his “next steps in due course”.⁹²

Questioned in the House of Commons on Wednesday 17 January about the prospect of Direct Rule, the Secretary of State said there was:

no way this Government want to go down the route of direct rule, which would need primary legislation. We do not want to go down the route of joint authority either and we will not do so. We need to find an appropriate form to allow the Executive to reform, which is what we are working unbelievably hard on with our colleagues in Northern Ireland.⁹³

Wednesday, 17 January 2024

At the Assembly’s seventh “recall” meeting on 17 January, Mike Nesbitt received 26 votes as Speaker and the same number against. Patsy McGlone received 50 votes for and 26 against. As at previous recall meetings, neither candidate received sufficient cross-community support so was not elected.

The Acting Speaker, Alan Chambers, said: “The Assembly has been unable to elect a Speaker today and has been unable to conduct its first item of business.”⁹⁴

⁹¹ [Stormont crisis: Chris Heaton-Harris holding further talks with NI parties](#), BBC News online, 15 January 2024.

⁹² [Secretary of State statement at Hillsborough Castle, 15 January](#), Northern Ireland Office, 15 January 2024.

⁹³ [HC Deb 17 January 2024 Vol 743 \[Restoration of Power Sharing\]](#)

⁹⁴ [Official Report: Wednesday 17 January 2024](#).

1.19

Further legislative provision

The statutory deadline for Executive formation passed at midnight on 18 January 2024.

In a statement on 19 January, the Secretary of State said:

Events in Northern Ireland this week have shown the urgent action which is required to address a whole range of issues facing Northern Ireland. I remain of the belief that a sitting Northern Ireland Executive is best placed to act quickly and effectively to resolve those issues.

In the absence of a sitting Northern Ireland Executive [...] I intend to introduce new legislation which will take a pragmatic, appropriate and limited approach to addressing the Executive Formation period and support Northern Ireland Departments to manage the immediate and evident challenges they face in stabilising public services and finances.⁹⁵

Katy Hayward, Professor of Political Sociology at Queen's University Belfast, has referred to this as "sticking plaster emergency legislation".⁹⁶

According to a report in the Belfast Telegraph, DUP party officers were due to decide on 19 January whether or not to support a restoration of the Executive, but the vote was called off after details of the meeting were leaked to the media.⁹⁷

On the afternoon of 23 January, Mr Heaton-Harris [tweeted](#) that:

Tomorrow I will be introducing the Northern Ireland (Executive Formation) Bill to allow for the reformation of Stormont.

The Bill only has a single clause: to extend the period of time Stormont can legitimately come back until the 8th February.

I am committed to restoring devolution and significant progress has been made towards that objective. I believe that this Bill, with the constrained timescales, will be sufficient.

The [Northern Ireland \(Executive Formation\) Bill 2023-24](#) was introduced to the House of Commons on Wednesday 24 January 2024. All its Commons and Lords stages were taken the same day.

This sought retrospectively to extend the period for the formation of an Executive from 18 January 2024 to 8 February 2024. This means that the

⁹⁵ [Secretary of State's statement on the NI Executive Formation Deadline](#), Northern Ireland Office, 19 January 2024.

⁹⁶ [Northern Ireland is in acute crisis and treatment is being withheld](#), UK in a changing Europe, 18 January 2024.

⁹⁷ ['Sell-out' threat forced DUP to call off the vote on a return to power-sharing](#), Belfast Telegraph, 21 January 2024.

Secretary of State will no longer be obliged to call an election until after 8 February.⁹⁸

According to the Bill's Explanatory Notes, the Government believed "providing a short extension to the Executive Formation period will provide the opportunity to try and imminently restore devolved Governance in Northern Ireland".⁹⁹

The [Northern Ireland \(Executive Formation\) Act 2024](#) received Royal Assent on 25 January 2024.

1.20

The DUP endorses the deal

The DUP met on the evening of Monday 29 January 2024 to consider the Secretary of State's deal. The meeting lasted more than five hours. At around 1am the following morning, Sir Jeffrey Donaldson, the DUP leader, announced that his party had endorsed the deal. He said:

Are these proposals perfect? Have we achieved everything that we wanted to achieve? No, we haven't. I will be honest with people about what we have been able to deliver.

I believe that what we've been able to achieve delivers a good outcome for Northern Ireland because there have been wins to strengthen the union. I believe there is now a route to have the devolved government restored.

Sir Jeffrey said the legislation agreed with Westminster would "remove checks on goods moving within the UK and remaining in Northern Ireland, and end Northern Ireland blindly following EU laws". He added that there would be legislation "protecting the Acts of Union, which guarantees unfettered access for Northern Ireland business to the rest of the UK".¹⁰⁰

Protestors gathered outside the DUP meeting to voice their opposition to a deal. Some of the meeting was live-tweeted by the loyalist blogger Jamie Bryson, apparently aided by someone present. Mr Bryson told the BBC that:

Senior people in the DUP felt so exercised about this and felt that this was such a defining moment, that they took the step that they did. Obviously I wasn't in the room, the venue clearly wasn't bugged by some hidden device so there was clearly senior people – plural – within the DUP who felt so strongly about this that they took this extraordinary, unprecedented step.¹⁰¹

Sinn Féin party leader Mary Lou McDonald said she was "optimistic" following the DUP's announcement:

⁹⁸ Commons Library research briefing CBP9725, [Northern Ireland \(Executive Formation\) Bill 2022-23](#).

⁹⁹ [Explanatory Notes](#), para 11.

¹⁰⁰ [DUP executive endorses deal to restore devolution at Stormont](#), BBC News online, 30 January 2024.

¹⁰¹ [DUP executive endorses deal to restore devolution at Stormont](#), BBC News online, 30 January 2024.

It is vital there is political stability to address the scale of the crisis across our public services. Let's now focus minds on the job at hand and to the solutions required to support workers and families who want and deserve functioning government.¹⁰²

In a statement, the Secretary of State for Northern Ireland said it was “a welcome and significant step”. He added:

I am pleased that the DUP have agreed to accept the package of measures that the UK Government has put forward and as a result they are ready to return to the Northern Ireland Assembly and nominate representatives to the Northern Ireland Executive.

Sir Jeffrey Donaldson has said this is subject to the binding commitments between the Democratic Unionist Party and the UK Government – I can confirm that we will stick to this agreement.

I now believe that all the conditions are in place for the Assembly to return, the parties entitled to form an Executive are meeting today to discuss these matters and I hope to be able to finalise this deal with the political parties as soon as possible.¹⁰³

According to media reports, the UK Government could publish details of the deal on Wednesday 31 January, with legislation following on Thursday 1 February and a recall of the Northern Ireland Assembly on Friday 2 or Saturday 3 February.¹⁰⁴

¹⁰² [DUP executive endorses deal to restore devolution at Stormont](#), BBC News online, 30 January 2024.

¹⁰³ [Statement from the Secretary of State following DUP Executive meeting](#), Northern Ireland Office, 30 January 2024.

¹⁰⁴ [DUP executive endorses deal to restore devolution at Stormont](#), BBC News online, 30 January 2024.

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