



**NORTHERN IRELAND:
CHALLENGES FOR THE NEXT WESTMINSTER GOVERNMENT**

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Executive Summary

This paper asks how a government in London after the coming general election – whether of the same political complexion or a new one – should approach Northern Ireland issues.

Chapter 1 outlines the recent record of London in handling Northern Ireland matters. It has departed from the practice of previous governments and lost trust in all parts of the community. That has reduced its ability to influence events, and potentially feeds through into greater public support for Irish unity. The relationship with Dublin – the foundation of the Belfast/Good Friday Agreement and much progress since – has been weakened.

Chapter 2 discusses the overall approach of a new government. It suggests possibilities for a more proactive set of policies, aimed at reviving the Agreement in all its aspects – not merely securing the institutions’ survival, but also, through partnership and encouragement, changing the political climate. It also suggests a new government should work in a different way from recent predecessors. It points up the importance of reviving wider relationships, especially with Dublin, and with civic society.

Chapter 3 reviews immediate specific challenges the government may face. These may include renewed threats to the institutions. On European issues, ministers might seek to develop and bring the Northern Ireland parties along with a more constructive approach. They might also take a more active role as regards failures of public policy and public services in Northern Ireland – though without, so far as possible, treading on devolved toes. The Executive’s financial position is a challenge and an opportunity. Pressure may grow for reform of the institutions, and the government may at least wish to encourage debate. On the intractable ‘legacy’ issues around the legal aftermath of the Troubles, some change in policy is inevitable, but great sensitivity is required. And on a range of other issues that underpin political stability, including policing and eliminating paramilitarism, a new government needs to be alert to difficulties that may arise.

Chapter 4 considers constitutional issues, where a new government will have to deal with the substantial renewal of interest and support for Irish unity. The Secretary of State must call a border poll if it appears that a majority would favour unity: there is no sign of such a majority at present, but there will be much pressure on the Secretary of State around it. There are matters that the Secretary of State could usefully clarify here; but the essential step is to build trust that the government will act faithfully and fulfil its duties under the Agreement.

Readers less familiar with Northern Ireland politics might want to look first at the annexes. The first recounts the record to date of the Belfast/Good Friday Agreement. The second is a primer on Northern Ireland politics, setting out the basics of the institutions and mechanisms established by the Agreement, and other key features of the current Northern Ireland political scene.

This paper is intended to be a self-standing analysis, but there are references throughout to earlier Constitution Unit papers that further analyse many of the issues covered.

Introduction

Three features of the present political context in Northern Ireland create challenges that the next Westminster government will have to face.

First, while the institutions of the Belfast/Good Friday Agreement of 1998 are once again functioning, the operation of the Agreement has been repeatedly shaken in recent years – especially, though not solely, in consequence of Brexit. The main institutions have not been operational for most of the period since the Brexit referendum. While many of the benefits that flowed from the Agreement persist, they are not guaranteed, and the 1998 settlement as a whole has often appeared to be at risk. **It is possible that, after the election, unionist concerns about the Northern Ireland Protocol will again destabilise the institutions.**

Second, there is now a highly polarised ‘Union versus Irish unity’ debate: the possibility of Irish unification is now much more frequently and prominently discussed than it was a few years ago. A significant number of people apparently believe it is an early possibility.

Third, the role and the approach of the British government have been quite different in the wake of Brexit from those of their predecessors in the years in which the Agreement was concluded and brought into effect. Secretaries of State have had a mixed record of success. Relationships have often been strained: with all the Northern Ireland parties; with Dublin, London’s traditional partner in bringing about political advance; with the Westminster opposition; with the United States, which has often been a significant player in the peace process; and of course with the European Union. Polling suggests extremely low levels of approval and trust for London in Northern Ireland, which reduces its influence.

This paper suggests that the government that is in power in London following the forthcoming general election, whatever its political make-up, may wish to reappraise comprehensively the way it addresses Northern Ireland issues.

Why should it do this, amid all the other problems it will have to deal with? Because the gains of the Agreement settlement – the only plausible framework for governing Northern Ireland in the foreseeable future – are not guaranteed. Its decay might bring great human misery; it could also create many difficulties for London. Bringing life back to the settlement, on the other hand, may in the medium term make the government’s job easier; and bring recognition for statesmanship, internationally and perhaps even domestically, as the original Agreement did.

This paper does not offer a comprehensive programme. It is intended principally as an agenda for discussion. In recent years, political discussion has moved dramatically away from ways of working together, short and long term – the essential philosophy of the Agreement – towards fierce opposition over aspects of Brexit, and all-or-nothing

arguments about constitutional destiny. There has been limited discussion about aspects of public policy outside the traditional battlegrounds.

So we are seriously short of ideas, and it is important to encourage more contributions, from beyond as well as within the political field.

Relationship with previous Constitution Unit work

This paper builds on two earlier ones by the same author: *Northern Ireland's Political Future* of May 2022, dealing with the immediate problems around the institutions and the political settlement; and *The Agreement at 25* of April 2023, focusing on Northern Ireland's constitutional destiny, remaining in the United Kingdom or becoming part of a united Ireland.¹

The paper also draws on other work relating to Northern Ireland conducted at the Constitution Unit. Attitudes to the Agreement were explored in *Perspectives on the Belfast/Good Friday Agreement: Examining Diverse Views, 1998–2023*, by Alan Renwick and Conor J. Kelly, published in July 2023.² The Unit had earlier convened a Working Group on Unification Referendums on the Island of Ireland to consider questions around a possible future border poll on Northern Ireland's constitutional status: its report was published in May 2021.³

Acknowledgements

I am grateful to Professor Alan Renwick, and to Conor Kelly, for comments on a draft of this paper.

¹ Alan Whysall, *Northern Ireland's Political Future* (London: Constitution Unit, 2022); Alan Whysall, *The Agreement at 25* (London: Constitution Unit, 2023). Developments in Northern Ireland politics have also been the subject of frequent [blogposts](#) by the author.

² Alan Renwick and Conor J. Kelly, *Perspectives on the Belfast/Good Friday Agreement: Examining Diverse Views, 1998–2023* (London: Constitution Unit, 2023).

³ Working Group on Unification Referendums on the Island of Ireland, *Final Report* (London: Constitution Unit, 2021).

1. The recent record of London

London's approach in recent years has been very different from that followed by governments of both parties earlier. It is important to understand this background.⁴

The changing London approach

Having paid little attention to Northern Ireland for some decades, Westminster started to learn again about it as the Troubles began in the late 1960s. An approach was developed that had a large measure of bipartisan support, centred on pursuing power-sharing government and combating terrorism.

It started with an acceptance that there was a strong UK self-interest in building the peace and, later, sustaining the Agreement – acknowledging reputational risks to the UK if things went badly. So, at times, Northern Ireland considerations might influence national policy. British governments generally sought to be even-handed as between communities and parties. And, from the early 1970s, they partnered increasingly closely in pursuit of political progress with Irish governments. The two working together were the main drivers of political advance, and provided the lifeboat when the structures were shaky.⁵

London's attention to Northern Ireland fell off quite rapidly once devolution appeared securely established, around 2010 (as to some degree did that in Dublin, which was in a financial crisis).

And then the London approach changed dramatically after 2016, as preparations began for Brexit. Northern Ireland's politics, and the fact that it had the UK's only land border with the EU, meant that there were particularly acute issues there. Yet London appeared at times, in developing its Brexit policy, to pay little regard to Northern Ireland implications; worse, political figures in London were sometimes seen there to be playing Brexit games with Northern Ireland interests.⁶

London has certainly had achievements in Northern Ireland. Some Secretaries of State have worked hard to get the institutions on course. Julian Smith, during a brief tenure in the role in 2019–20, was able to establish the *New Decade, New Approach* deal among the parties. It permitted the return of devolution, after three years' hiatus, in 2020, and was a notable feat of negotiation. He worked closely with the Irish Foreign Minister, Simon

⁴ For further detail on how London's approach to Northern Ireland has changed in recent years, and the effects, see Alan Whysall, *Northern Ireland's Political Future* (London: Constitution Unit, 2022). Several blogposts continue the story: Whysall, '[Why the UK government must take a different approach to restoring devolution in Northern Ireland](#)' (Constitution Unit blog, 13 September 2023); Whysall, '[Devolution returns to Northern Ireland](#)', (Constitution Unit blog, 6 February 2024).

⁵ Whysall, *Northern Ireland's Political Future*, p. 31.

⁶ At times, the unconcern was overt: comments by Dominic Cummings in 2021 suggested that his own attitudes and those of Boris Johnson as Prime Minister were very different from their public pronouncements: Whysall, *Northern Ireland's Political Future*, p. 33.

Coveney, and was widely respected in Northern Ireland. But he was almost immediately dismissed by Boris Johnson as Prime Minister, despite the need for sensitive handling of the revived institutions.

It deserves mention too that the House of Commons Northern Ireland Affairs Committee under a succession of chairs has worked hard to inform debate on a range of issues, which was of particular value during the suspension of the devolved institutions.

But Prime Ministers since 2016 have not been overtly much involved in trying to get Northern Ireland politics back on track, as their predecessors, up to and including David Cameron, had been when the institutions were shaky.

The fall in confidence within Northern Ireland

Trust in London has weakened. The Conservative–DUP pact of 2017 damaged confidence among other parties.⁷ But Boris Johnson’s later conclusion of the Protocol, despite assurances he had given the DUP earlier, appeared to many Unionists as a betrayal. The subsequent proposals for legislation effectively repudiating the Protocol – which to some appeared as much a product of politics within the governing party as an attempt to resolve Northern Ireland difficulties – though later abandoned, diminished trust all around.⁸

The January 2024 *Safeguarding the Union* white paper, following which the DUP returned to Stormont, was seen by a number of observers as marking a questionable departure in several ways from anything a British government had put out before.⁹ In the first place it was the product of a private negotiation with one party, the DUP, from which other parties, and the Irish government, were excluded. There have of course always been private bilateral exchanges, but this was particularly naked: as the Northern Ireland Office minister Steve Baker put it, ‘a unionist Conservative Government has agreed unionist things with the Democratic Unionist Party’.

And the paper itself was very different from earlier London productions. It has not been unusual for London to sponsor measures that are helpful to individual political parties with their bases, and to play them up. But the degree to which some of the proposals in the paper were oversold may well be a novelty – to the point of calling into question the government’s credibility in future dealings with the parties (especially since the DUP leadership has now acknowledged overselling¹⁰). The overall quite overtly unionist tone of the paper was new. Some saw it as casting further doubt on London’s ability to discharge its responsibilities with ‘rigorous impartiality’ as the Agreement requires, or to be an honest

⁷ Whysall, *Northern Ireland’s Political Future*, p. 33.

⁸ See UK in a Changing Europe, *The Northern Ireland Protocol Bill: Context and Consequences* (London: UK in a Changing Europe, 2022).

⁹ Northern Ireland Office, *Safeguarding the Union* (London: HM Government, 2024). For discussion, see Whysall, ‘[Devolution returns to Northern Ireland](#)’.

¹⁰ Enda McClafferty, ‘[DUP leader accepts party oversold Stormont deal](#)’, BBC News, 30 May 2024.

broker.¹¹ There was no great outcry, since the way had been opened to the institutions returning; but how it was done risks prejudicing London's position in future political contexts.

What has happened in recent years has, according to polling, had a serious impact on the British government's standing in Northern Ireland. Northern Ireland Secretaries have at times had worse approval ratings than any Northern Ireland (or Dublin) politician.¹² Polling on trust in London in the context of the Protocol has similarly been strikingly low.¹³

Does such disapproval feed through into attitudes, north and south, to ultimate constitutional destiny? This is hard to measure: but it is not implausible, considering the rhetoric of recent years, that there has been a significant impact.

Wider relations

The recent approach of London has had serious effects on wider relations.

The London–Dublin relationship essentially broke down, with Dublin publicly questioning the British government's good faith.¹⁴ Relations appeared to improve with the Windsor Framework, but in the last couple of years the British government has taken a more restrictive view of the Irish government's right to become involved in Northern Ireland politics. Dublin (like the other Northern Ireland parties) was kept at arm's length from the *Safeguarding the Union* negotiations, in marked contrast to the lead up to earlier deals.¹⁵

The passage of the Legacy Act, which Dublin (like all Northern Ireland parties) argued against, and Dublin's subsequent reference of the issue to the European Court of Human Rights, have also led to tensions: ministers warned darkly about possible consequences.¹⁶

Meanwhile, trust was also lost with the US administration – which regards the Agreement as in part an American achievement. After a number of public warnings over the Protocol issue, President Biden said publicly that the purpose of his 25th anniversary visit to Belfast was 'to make sure the Brits didn't screw around with [the Agreement]...

¹¹ E.g. Katy Hayward, '[Rigorous impartiality: what has been breached in the quest for a DUP deal and why the British will regret it](#)', Constitution Society blog, 7 February 2024.

¹² E.g. [Lucid Talk Tracker Poll, Winter 2024](#).

¹³ Polling published in November 2023 by the Queen's University Post-Brexit Governance NI project showed that 'The UK Government is by far the most distrusted (77%) and least trusted (7% trust) of all actors [in the context of the Protocol], although there has been a slight improvement in the figures since June 2023 (80% distrust, 4% trust)' (David Phinnemore, Katy Hayward and Lisa Claire Whitten, '[What do voters in Northern Ireland think about the Protocol on Ireland/Northern Ireland / Windsor Framework?](#)' (Belfast: Queen's University Belfast, November 2023).

¹⁴ See Lisa O'Carroll, '[Dominic Cummings says UK always intended to ditch NI protocol](#)', *Guardian*, 13 October 2021.

¹⁵ It would not have been unusual in the past that the British government took the lead in negotiations with a unionist party, but it would generally have kept the Irish government much more fully on board.

¹⁶ '[Troubles legacy act: UK-Irish relations consequences "not ruled out"](#)', BBC News, 21 December 2023.

and walk away from their commitments'.¹⁷ London has once more put a great deal of effort into relations with the US, for a time appointing an envoy.¹⁸ But its approach has not been one that is easily put across in Washington – certainly under the present administration, but to some extent under any: there is still a significant bipartisan Irish-American consciousness in US politics.

Brussels, meanwhile, appeared surprised that the Agreement, which had long been presented by British governments as a triumph of statecraft, was at times apparently brushed aside or worse in the course of Brexit negotiations. The EU had had no direct role in negotiating the Agreement, but has always sought to support it strongly, notably with funding under successive PEACE programmes.

¹⁷ Shawn Pogatchnik, [‘Biden says he visited Northern Ireland “to make sure the Brits didn’t screw around”](#)’, *Politico*, 11 May 2023.

¹⁸ [‘Trevor Ringland appointed NI special envoy to US’](#), BBC News, 6 June 2021.

2: Agenda for a new government: the overall approach

Prospects

As a newly elected government takes its place, it is hard to be confident that Northern Ireland is firmly set on a path to stability, reconciliation and prosperity, as Annex 1 brings out. There remain deep concerns within unionism about the Protocol, which could again shake the institutions. There are serious weaknesses in the economy. Effective government has been more or less absent for years. Public services struggle a great deal more even than their counterparts in Great Britain, and the public finances may be headed for collapse. In recent years, tensions have emerged that appeared to threaten cross-community support for policing; while paramilitary activity continues.

A year ago, Northern Ireland appeared to be drifting towards a ‘malign scenario’, where the Agreement settlement decayed beyond hope of revival.¹⁹ That prospect could return, if the institutions once again fail.

There are much happier outcomes to be hoped for: the present author’s paper of last year also suggested a ‘benign scenario’ in which progress of the sort seen in the most productive of the post-Agreement years returned, Northern Ireland profited from its economic advantages, capitalised on international goodwill and started to look to consensual developments rather than the constitutional stand-off of recent years.²⁰ But moving towards such a scenario requires profound change.

The risk of matters going seriously wrong, and the potential for advance, mean that a new government would be wrong to decide that, amid other pressing problems, Northern Ireland does not need top-level attention. But with a more effective approach, the 30th anniversary of the Agreement in 2028 could be a great deal more joyful than the 25th anniversary last year.

So a new government should seriously consider what it can do to help ensure that Northern Ireland moves forward. The recent record of London governments, and the potential problems and opportunities ahead, may suggest that **it should be ready to address Northern Ireland issues in a different way: to make a distinctly fresh start, and be seen to do so.**

Bipartisanship on Northern Ireland policy between the main Westminster parties has meant there has been a large element of continuity in the past, even between governments

¹⁹ Whysall, *The Agreement at 25*, p. 32.

²⁰ *Ibid.*, p. 33.

of different parties. But such bipartisanship has been much less deep-seated in the last few years, though it has always continued to some degree.

A strategic approach

So a new government might reflect on key aspects of policy. It would certainly remain entirely committed to the Agreement, and the major evolutions of the settlement since: for all the imperfections, there is no other option. But some of the judgments that have been reached in recent years around the Agreement, and ways to underpin the settlement, may be open to question.

And there is much potential, arguably much need, for a more proactive approach than London has recently shown, with the objective of making progress on all aspects of the Agreement agenda – as was argued in the earlier papers. This would be a departure from the approach of focusing all efforts on getting the institutions in place and hoping that progress elsewhere follows, which has been rather the pattern in the post-Agreement years.

Indeed, going, cautiously, beyond that, there is a case for the government setting out the elements of a vision for the future: its own benign scenario, something that is capable of reviving some of the popular hope, and the momentum for positive politics, that the original Agreement generated.

All of this indeed requires care, because much of the policy involved is devolved, and the Secretary of State should not appear to be dictating, nor (as has at times also been the case) to suggest that London knows best. Nor must there be assumptions about ultimate constitutional destiny.

Rather, the approach would involve outlining the potential for what might be achieved, and offering partnership and encouragement. But in doing so, the Secretary of State might hope to nudge the political climate, and public expectations, gently in the direction of a more constructive agenda. And thereby to cut through, or at least reduce the political salience of, the key, sterile themes of politics in recent years. Secretaries of State now lack many of the formal powers they had in the past, but they do – particularly if they are trusted by the parties, the public and the media – have significant capacity to shape political debate.

The way the government works

Apart from the policy substance, a new government might also want to change the way it goes about its work. Appearances, rhetoric, relationships are all critically important, given the background of the last few years. Presentation and process have often in Northern Ireland politics been as important as substance in bringing about political advance or avoiding setbacks.

Conspicuous even-handedness between parties and political traditions is essential to discharging any honest-broker role – bearing in mind that that must now include a large centre ground, uncommitted on the constitutional question.

Reclaiming trust among parties, among the wider Northern Ireland public, in Dublin and internationally would give a new government greater influence – directly, and eventually by changing the political climate.

Presence in Northern Ireland is important. A Secretary of State should not be seen as an occasional visitor, concerned essentially with Westminster politics – as, rightly or wrongly, some recent Secretaries of State have been seen. Devolution means that there is often less formal business for a Secretary of State to conduct; barging into the devolved field is not welcome, and the Secretary of State should not seek to outshine devolved ministers. But engaging across Northern Ireland society, and being seen to do so, is important, and has probably been neglected.

Communications are also important: and some recent Secretaries of State have done badly, contributing to the impression of absence and unconcern on all sides.

It is important also that the Secretary of State is seen to be in charge of the UK government’s Northern Ireland policy. During the Brexit years, much seems to have been decided in departments other than the Northern Ireland Office – which may reduce the Secretary of State’s authority, and lead to the impression that decisions are being made for reasons other than Northern Ireland interests.

Indications that the Prime Minister is personally committed to success in Northern Ireland, and understands it, however, are important – which might suggest the PM should make an early visit (and go to Dublin not long after). That is certainly not to say that Number 10 should be involved in Northern Ireland affairs day-to-day. But it should be clear that at times Northern Ireland concerns are capable of influencing national policy.

Relations with Dublin

Close relations between London and Dublin, indeed partnership between them, drove the process that led to the Agreement and much political progress afterwards, up to and including the *New Decade, New Approach* agreement of 2020. The closeness in relations was lost during the Brexit years, especially at the height of acrimony over the Protocol. The British government’s current highly restrictive doctrine as to what Dublin should be involved in is recent: it would not have been recognised in the era of the Agreement and its implementation.²¹

²¹ The *Safeguarding the Union* paper makes an argument that the Irish government should not be involved in questions relating to the Northern Ireland institutions – Strand One of the Agreement – which are an ‘internal matter’ (p. 69, point e).

The Irish government’s involvement in questions about the domestic institutions in the 1998 Agreement negotiations was indeed different from that in respect of other elements of the Agreement. Strand One was negotiated in a formation chaired by the British government, without the Irish presence. This reflects

A new government would sensibly be looking for a much closer relationship with Dublin for a range of reasons, not just relating to Northern Ireland – and might want to make that its declared policy from the start. The perception of London within nationalism generally would benefit from such a relationship. A warming of the relationship might help alleviate the polarisation of debate, over both immediate issues and the constitutional questions. Reviving the partnership in the approach to Northern Ireland is also pragmatically sound: generally it has been the two governments working together that has moved the politics forward.

Change in the composition of the government in Dublin may raise difficult issues. Opinion polls in 2022 and 2023 suggested that a government headed by Sinn Féin was quite possible. If that happened (notwithstanding more recent polling decline for the party), the old partnership honest-broker role jointly undertaken by London and Dublin might well no longer be accepted by the other parties in Belfast: Sinn Féin would be on both sides of the table. In such a case, if there were a need for political brokerage, it is possible there could again be a greater role for outside mediators, as during the Agreement negotiations and at times since.²²

Such a change in Dublin, however, should not stand in the way of London seeking closer relations. Nor would it be sensible, or in conformity with the Agreement, to try to deny a government there its entitlements under the Agreement to make representations about policy.

Civic society

A new Secretary of State should also consider encouraging the contribution that people outside politics – loosely, civic society – might make.²³ At various times, particularly when politics was sterile, people outside politics – established organisations, academics, ad hoc movements, people from outside Northern Ireland – have provided the impetus to move on. But some in local politics do not welcome such intrusions – as witness the way in which the Civic Forum provided for in the Agreement has never effectively operated – and there is at least anecdotal evidence that potential contributors to debate feel inhibited by political reaction.

understandings going back to at least the early 1990s. But the Irish government did sign off on the overall architecture of the Agreement. Anything that disturbs the Agreement's overall balance is properly a matter that Dublin should be involved in. And there is nothing in the text of the Agreement that precludes the Irish government being consulted about or otherwise involved in such questions.

Moreover, Dublin's right to make representations through the British–Irish Intergovernmental Conference is not constrained by any wording that would exclude it from making representations about institutional questions. Indeed, the whole rationale for that right, going back to 1985, is that the Irish government can properly express views as regards internal matters in Northern Ireland. And there is a long history of the British and Irish governments working closely together with the Northern Ireland parties to bring about political advance, whatever the questions involved. The Agreement would not have been reached without it.

²² Whysall, *Northern Ireland's Political Future*, p. 25.

²³ *Ibid.*, p. 38.

At a time when new ideas may be particularly valuable, a Secretary of State may wish to consider ways in which outside contributions can be encouraged: whether informally, simply by inspiring debate; or by establishing or encouraging dedicated forums.

3. Agenda for a new government: the immediate specific challenges

What are the most pressing issues likely to face an incoming government, and how might it respond?

Safeguarding the institutions²⁴

The Executive and Assembly took up their responsibilities again in February this year, following two years' hiatus.²⁵ For the present, they are fully functioning, with both leaders making shows of outreach to other communities, which have impressed.

But, as the UK general election campaign so far has made clear, there remains much unhappiness about the Protocol within unionism. Sir Jeffrey Donaldson is no longer on the scene to defend his deal. During the election campaign the new DUP leader, Gavin Robinson, has said the party oversold the *Safeguarding the Union* deal; he has committed, effectively, to seeking to end the Protocol.²⁶

What upshot this will have after the general election is unclear. Poor results for the party, or losses of key figures (Gavin Robinson's own parliamentary seat in East Belfast is far from safe) might lead it to taking a different direction, or to splits; perhaps to a realignment within unionism.

It must be a priority to maintain the institutions if they are under threat, thus to build stability; and to help the institutions make a success of devolution, so that their disappearance is ultimately unthinkable. Doing that effectively may depend on the proposals above for a new overall approach involving strengthening wider relationships and trust, projecting a vision of what constructive politics could bring, and encouraging civil society voices. As Chapter 2 suggested, it might specifically involve even-handedness between the parties; according a proper role to the Irish government; and a willingness on the part of the Prime Minister to become involved, with the Taoiseach as appropriate, where negotiations require it.

If the institutions were again to be suspended through boycott, there would also need to be serious action to ensure that proper government was carried out. Another period of hiatus with civil servants merely keeping matters ticking over would seriously prejudice Northern Ireland's future prosperity and well-being, and public belief in the settlement. The choices are difficult.²⁷

²⁴ Whysall, *Northern Ireland's Political Future*, ch. 2 and 3, develops these themes, though it is in places dated.

²⁵ Whysall, 'Devolution returns to Northern Ireland'.

²⁶ Enda McClafferty, 'DUP leader accepts party oversold Stormont deal', BBC News, 30 May 2024.

²⁷ Whysall, *Northern Ireland's Political Future*, pp. 37–8.

One option would be temporary reform to the institutions (below, page 20) – which may or may not be viable in the politics of the time. The other is legislating for direct rule. The latter is generally seen as unionist friendly. But the Irish government would, under the Agreement, have rights to make representations about decision-making, which would be extremely unpopular with unionists (even though these rights, contrary to some characterisations, clearly fall short of joint authority).

Yet a government in London ought not to lend credibility to the idea that it is a responsible option to preside over further long periods of non-government in Northern Ireland. Action in some of the detailed policy areas discussed below could be central to keeping institutions in being, as well as safeguarding the promise of the Agreement in the longer term.

The Protocol and the Windsor Framework²⁸

The issues

Under the Northern Ireland Protocol to the Withdrawal Agreement, Northern Ireland is in a markedly different position in certain respects, as regards the EU, from the rest of the UK. To some unionists, these arrangements are a constitutional affront.

There are checks on goods coming into Northern Ireland from Great Britain. This may give rise to many practical difficulties – for example a looming issue over availability of veterinary medicines in Northern Ireland.²⁹

Northern Ireland in principle remains in alignment with the EU on certain Single Market matters. Thus it is obliged to implement changes in EU law (whose enactment it is not involved in), and is to some degree subject to the jurisdiction of the European Court of Justice. Under this arrangement, it runs the risk of increasingly operating under different regimes from the rest of the UK.

The Stormont Brake, by which 30 members of the Assembly may object to certain new EU law, was introduced in the Windsor Framework as a response to concerns about this

²⁸ There is further consideration of the Protocol in Whysall, *Northern Ireland's Political Future*, ch. 6. And there is much more detailed learning in other academic work, notably that of the [Post-Brexit Governance NI Project](#) at Queen's University Belfast; and the [UK in a Changing Europe](#) think tank at King's College London. The British government has taken to referring to all the arrangements in force as the 'Windsor Framework', but in fact the Protocol remains in force.

²⁹ In this field, many of the problems are well flagged up, not least through the work of parliamentary committees. Notably, the [Windsor Framework Sub-committee](#) of the House of Lords has been pursuing the veterinary medicines issue and [highlighted](#) the problems immediately before dissolution. Operating the Protocol and the Windsor Framework is an extremely complex process, where much may go wrong, potentially with political consequences: see Colin Murray, 'Implementing the Windsor Framework' in [Fortnight, issue 493](#) (April 2024).

arrangement.³⁰ It has already been triggered once.³¹ But repeated invocation of the mechanism may lead to difficult choices for London, which ultimately decides whether the conditions are met for the Brake to take effect. The DUP will be keen that it should; other parties will fear for Northern Ireland's place within the Single Market; Brussels will be concerned especially if the mechanism is used regularly.

The Protocol also includes commitments of potentially very broad scope in respect of rights, in Article 2. Court judgements disapplying provisions of Acts of Parliament for incompatibility with these commitments (see the discussion in the sections on 'Legacy' and on 'Identity, language and rights' below, pages 22 and 27) may also become seriously contentious, and with potential ramifications across the water.

The continuance in force of key sections of the Protocol itself is subject to a simple majority vote in the Assembly late this year.³² Given the present party lineup, continued adherence to the Protocol is likely to be endorsed. According to *Safeguarding the Union*, it would be followed by an Independent Review of the Framework.³³

All these matters are liable to play into post-election debates within unionism, with implications for the stability of the institutions.

What a new government might do

It is important that the wider EU policies of an incoming government are worked up with Northern Ireland circumstances well in mind, especially since there is so little left to give to unionism within the existing agreements.

If a sanitary and phytosanitary agreement, as envisaged by Labour,³⁴ could be reached, it might be sufficient to quieten some doubters within the DUP. It would not placate those unionists who view the whole approach in the Protocol as a constitutional aberration, to be opposed at any cost, but it may be sufficient to permit Northern Ireland politics finally to move on.

But this is an area where there may be scope for changing the emphasis of the wider EU debate, encouraging the Northern Ireland institutions into a more constructive course (and this may be especially so for a government intent on a new relationship with Europe).

Developing a positive agenda of working to maximise Northern Ireland's benefits from its EU status might be good for short-term politics, and longer-term well-being. Ideally there would be incentives from Brussels for a united approach by the Executive parties. This may well not be straightforward: there may be a limit to what Brussels would

³⁰ David Phinnemore and Lisa Claire Whitten, *Using the Stormont Brake* (Queen's University Belfast, 2024).

³¹ David Phinnemore, 'The Windsor Framework: Stormont being heard... and what next?', UK in a Changing Europe blog, 25 March 2024.

³² David Phinnemore and Lisa Claire Whitten, *Democratic Consent and the Protocol on Ireland/Northern Ireland* (Queen's University Belfast, 2022).

³³ *Safeguarding the Union*, para. 162.

³⁴ Hilary Benn, [speech to the Labour Party conference](#), 9 October. 2023.

want to, or could easily, offer in concrete terms. But softer approaches like the Northern Ireland Task Force – established in 2007 within the European Commission by the Commission’s then President, José Manuel Barroso – might have some impact here.³⁵

Possibilities of this sort may be the carrot the new government could offer; it may have to be rather sterner if there are a succession of further demands from unionism for changes to the Protocol (in line with the DUP leader’s recent statements of position), which would be likely to provoke irreconcilable differences with Brussels.

Good government and finance³⁶

The issues: good government

Northern Ireland continues to suffer from serious weaknesses in public policy and public service provision:³⁷

- **Economic weaknesses** like the skills gap and low productivity have not had effective attention; nor have infrastructure limitations, educational underachievement and climate change strategy.
- **Many public services struggle.** The NHS is only the most conspicuous of these; on various measures it underperforms substantially even its counterparts in Great Britain.³⁸
- **There have also at times been serious propriety issues**, shaking stability and lowering public esteem. Such issues around the Renewable Heat Incentive (RHI) scheme contributed to the collapse of the Executive in 2017.³⁹

Recent public inquiries – into RHI and Covid – have offered a disheartening insight into the inner workings of government, by ministers, special advisers and civil servants (though it is worth saying that both of these were atypical issues).

The accumulated problems worsened as a result of the widespread – extraordinary – acceptance after the Sinn Féin and DUP withdrawals that Northern Ireland could do without properly directed government, as it has in total for about five years in the last seven.

Since 2016, the Executive, even when sitting, has had no long-term plans: no Programme for Government, which is by law supposed to be approved, has been in force

³⁵ See Tim Moore, ‘[Barroso Northern Ireland Task Force](#)’, Northern Ireland Assembly Research and Information Service, Briefing Note 16/13, 16 January 2013.

³⁶ The issues here are discussed in Whysall, *Northern Ireland’s Political Future*, ch. 8.

³⁷ See Pivotal, *Post-Election Policy Priorities for Northern Ireland* (Belfast: Pivotal, 2022).

³⁸ This has been reported on by the *Economist* as an awful warning to England: ‘[Half of Northern Irish patients wait over a year for treatment](#)’, *Economist*, 30 May 2024.

³⁹ Whysall, *Northern Ireland’s Political Future*, p. 58. The immediate ground of the Sinn Féin decision to withdraw was RHI, though in reality other issues were in play.

since then. It has often been hard to see what the institutions were trying to achieve beyond managing from day to day.

And there has not been great urgency in developing plans since the Executive returned. This is especially disappointing because the opportunity was there.⁴⁰ Consultation has been undertaken about a Programme,⁴¹ but it now appears that it may not be delivered before the summer.⁴² And there is no sign of public debate on key priorities. But Programmes for Government have never commanded serious political (or media) traction.

A budget has meanwhile been approved by the Assembly in the absence of such a Programme, or indeed any overall agreement on objectives.⁴³ But the Ulster Unionist Health Minister voted against, with what has been reported as a threat to overspend.⁴⁴

At the heart of these failings is a cultural issue. There has been a long-standing neglect of good government questions since the Troubles years. Even in calmer times, the traditional themes of Northern Ireland politics have always tended to predominate – often in the media, as well as in the political institutions. After a long period without a think tank addressing these questions, there is now a small one, Pivotal.⁴⁵

There is in reality little pressure on the devolved institutions to take responsible decisions about the future. There is no person or body with a powerful voice giving them a lead or suggesting to them what to do. Constructively minded politicians might appreciate such pressures, to offset those drawing them in the traditional directions.

London has tried in the past to encourage improvements in the Executive's performance. The *New Decade, New Approach* deal of 2020 required the Executive to produce a substantial number of strategies in areas where action was needed. But it did so ineffectively: in part because of Covid, and then disputes about the Protocol. But also, perhaps, because formulating strategies does not of itself bring about delivery: it may indeed simply kick the can of difficult decisions down the road. Northern Ireland absolutely does not suffer from any lack of process. The failure lies in the political environment.

The present Secretary of State has declared high ambitions for promoting economic revival. He told the Institute for Government last June that his principal objective, after sorting out the Protocol and reviving the Executive, was making Northern

⁴⁰ There were reportedly more than a hundred meetings with the civil service about key priorities: John Manley, 'Parties met civil servants 100 times before returning to Stormont', *Irish News*, 31 May 2024.

⁴¹ Pivotal, '[The Return of Stormont: Time for Real Change](#)', briefing, 5 February 2024.

⁴² John Manley, 'First minister blames purdah for programme for government delay', *Irish News*, 28 May 2024.

⁴³ See the [budget statement](#) by Caoimhe Archibald (24 April 2024). For analysis, see Northern Ireland Fiscal Council, *The NI Executive's 2024–25 Budget: An Assessment* (Belfast, May 2024), and Pivotal, [written evidence](#) to the Northern Ireland Assembly Finance Committee, 15 May 2024.

⁴⁴ Grainne Ni Aodha, '[Drastic health spending cuts would still leave £189m deficit, warns Health Minister Robin Swann](#)', *News Letter*, 27 May 2024.

⁴⁵ See [Pivotal's website](#).

Ireland one of the most prosperous parts of the UK.⁴⁶ His deputy spoke in a Commons debate of ‘private capital flooding into Northern Ireland’.⁴⁷ The Prime Minister referred to Northern Ireland as ‘the world’s most exciting economic zone’.⁴⁸

Designs quite so grand may invite scepticism. Governments for 50 years, devolved and central, have intensively sought to develop the economy, and in particular to attract inward investment, with some success, but nothing transformative has ever resulted.

Complicating matters, the UK government has mounted initiatives of its own in the devolved field in recent years, with little apparent attempt to coordinate them with the Executive.⁴⁹

How much does all this matter? Very much: the underperformance we have seen has a profound impact on individuals, now and into the future. Furthermore, in the Northern Ireland context it also contributes to political instability: the institutions would be much harder to bring down if they were widely recognised to be doing a good job. And economic underperformance may also assist paramilitaries in maintaining their grip on some neighbourhoods.

The issues: finance

The Executive’s uninspiring record on good government has also in part contributed to financial difficulties. It incurred serious overspends for several years during the most recent hiatus – which in principle must be repaid to the Treasury. To some degree, this is attributable to the operation of the Barnett formula by which funding is allocated to devolved administrations, which has become substantially less generous to Northern Ireland in the recent economic context.

But the difficulties now being encountered also owe much to bad decisions, or non-decisions, by Executives in the past. The issues here are well set out in papers by the Northern Ireland Fiscal Council.⁵⁰ The Council has played a very valuable role in informing public debate, and decision-making, in recent years.

A financial package accompanying the return to Stormont in February eases the pain to some degree in the short term.⁵¹ Reflecting a calculation of Northern Ireland’s relative need, additional funds received in consequence of the Barnett formula henceforth will amount to 124% of comparable increases in English spending budgets. There is also some backdating, and some funding to meet certain short-term needs.

⁴⁶ [‘In conversation with Rt Hon Chris Heaton-Harris MP, Secretary of State for Northern Ireland’](#), Institute for Government seminar, 20 June 2023.

⁴⁷ Steve Baker, [House of Commons Hansard](#), 10 July 2023.

⁴⁸ Faye Brown, [‘Brexit: Rishi Sunak says Northern Ireland in “unbelievably special position” because of access to EU single market’](#), Sky News, 28 February 2023.

⁴⁹ Whysall, [Northern Ireland’s Political Future](#), pp. 59–60.

⁵⁰ See especially Northern Ireland Fiscal Council, [NI’s public finances and the UK Government’s financial support package for the restored Executive](#) (15 February 2024).

⁵¹ *Ibid.*

But the immediate position remains tight, and the 2024 package is open to criticism that it does not go as far as it logically and equitably should: the House of Commons Northern Ireland Affairs Committee has taken this view.⁵² An incoming London government is likely to be confronted with further demands, particularly because of the position of the health service; and impending strike action will raise the profile of the issue further.

An important part of the recent financial package is a London demand for additional revenue raising by Stormont. The accumulated deficits are deferred, rather than written off, and will become payable unless Stormont delivers ‘sustainable public finances’. Northern Ireland, unlike other parts of the UK, does not levy water charges. The rates are the principal locally controlled tax in Northern Ireland, proceeds from which go to both Stormont and local government (and in principle thereby help fund water supply). But the average rates bill in Northern Ireland is well below total household charges in other parts of the UK.⁵³

Under the *Safeguarding the Union* deal, the crunch point on revenue raising will come in either the 2025–26 fiscal year, or the one after. Northern Ireland ministers have not so far shown any enthusiasm for taxing harder (rates went up this year approximately in line with inflation; the First Minister ruled out water charges, denying that the return to Stormont involved any commitment to raise further revenue).⁵⁴

The London proposals also held out the prospect of developing a new Fiscal Framework, which might include devolution of various taxes. There is still some support for devolution (and reduction) of corporation tax, as a means of attracting new investment. A decade ago, many came to favour this because it seemed the only plausible route to increase economic activity in Northern Ireland significantly (as basically it had done in the South). Its potential to do so in the current climate may be more limited, but *Safeguarding the Union* has raised the issue again.⁵⁵ The chances of the Executive finding the money to pay for it are small in the near future, however, and London financing it may raise grave problems of EU law and general policy.

What a new government might do

How might a new Westminster government encourage the devolved institutions to perform better in the delivery of public services, and in their response to the challenges of the economy and social policy? And how might they stabilise finances?

An initial caveat might be that, in whatever they say, they should show due humility. Many might suggest in Northern Ireland (and elsewhere) that Westminster has hardly been an

⁵² Northern Ireland Affairs Committee, *The Funding and Delivery of Public Services in Northern Ireland: Third Report of Session 2023–24*, 26 March 2024.

⁵³ The [Fiscal Council’s assessment of the 2022–23 budget](#) suggests (at p. 26) that an additional charge of roughly £800 per household would be necessary to bring the average level of that charge plus regional rates into line with the average level of water charges and council tax in England.

⁵⁴ Enda McClafferty & Eimear Flanagan, [‘Water charges: Michelle O’Neill rules out introducing new fees’](#), BBC News, 12 February 2024.

⁵⁵ *Safeguarding the Union*, p. 74.

exemplar of good government in recent years. Nor have its actions affecting Northern Ireland always been driven chiefly by concern for Northern Ireland's welfare. It is also important not to have unrealistic objectives.

But there is an undeniable failure of performance at Stormont. Ideally, the Executive itself would acknowledge that matters need to improve.

Bringing about change is in part a matter of influencing the public dialogue, ultimately moving the political culture on. There is a need constantly to re-emphasise the public policy challenges that the Executive, and sometimes also Westminster, must grasp in the interests of future stability, prosperity and well-being.

But there may also be scope for institutional measures to help improve policy-making in the short term, as well as raising the profile of good government.

The author's 2022 paper raised the possibility of establishing a body, insulated from short-term political pressure, to bring more fully into the public debate the key policy options and choices (the Institute for Government had also argued for 'buttressing institutions' in pursuit of good government).⁵⁶ Such a body indeed might also produce draft Programmes for Government, for consideration by the Executive, and monitor their implementation. It would provide a clearer focus to public debate, and better information to found it on. The example of the Fiscal Council, which has done that very well in its own field, is one that might be learned from.

It is not unlikely that the Northern Ireland parties will hold out over finance for a long time, seeking extra money from London, possibly hinting that the future of the institutions is on the line. They have done this successfully before. But the result has at times been to put off painful decisions and perpetuate inefficiencies. A new government should be prepared for such tactics.

The pattern in the past has been that London protests there is no more money, the Northern Ireland politicians dig in; and eventually, because in overall UK budget terms Northern Ireland does not loom large, London, eager for a deal, concedes – with a shared effort then to big up the presentation of whatever is agreed.

The message from London this time, no doubt, will be that finances are uniquely difficult, and that there is room for no such latitude. It would certainly not be surprising if London held out strongly for more local revenue raising, since there is a clear imbalance with the rest of the UK. Given the history, it may take some time for this lesson to be absorbed among the Northern Ireland political class.

It is in London's interest, though, to show some short-term generosity, if – though only if – a deal can be done that guarantees better and more efficient government and financial behaviour in the future.

⁵⁶ Jess Sargeant and Jill Rutter, *Governing without Ministers: Northern Ireland since the Fall of the Power-Sharing Executive* (Institute for Government, 2019). Whysall, *Northern Ireland's Political Future*, ch. 8, esp. pp. 61–2.

A new government might wish to take some time to reflect how this is to be achieved. A more thoroughgoing approach is clearly needed than those that have been tried so far, which have been largely ineffective. There needs to be a start in changing the culture of government in Northern Ireland. But institutional measures may also help embed new thinking and new cultures, and keep good government issues at the centre of public debate.

Reform of the institutions⁵⁷

The issues

Pressure for reform of the Strand One institutions may mount:

- **Some in Northern Ireland**, including the Alliance party, **have always disliked the aspects of the structures that in their view institutionalised sectarianism**. They have especially objected to the vetoes allowed to nationalists and unionists, but not others, through the Assembly's voting mechanisms (replicated in the Executive). Alliance's greater representation in recent elections makes the unfairness, in their view, all the worse.
- **The recurrent paralysis of the institutions** following Sinn Féin's withdrawal in 2017, and then the DUP's in 2022, caused many to suggest they should be made more veto-proof. Ultimately, though, such proposals may be in tension with the principle of power-sharing underlying the Agreement.
- **The unimpressive performance of the institutions** in addressing economic weakness and failures in the public services also exposes them to criticism.
- **Revelations about the institutions' inner workings from the RHI and Covid inquiries** may provoke demands for greater joining up within government: but they too may come into conflict with understandings about power-sharing.

The House of Commons Northern Ireland Affairs Committee (NIAC) concluded a long review of the operation of the institutions at the end of 2023.⁵⁸ It recommended a further, independently led review, commissioned by the British government, in partnership with the Irish government; but it also proposed some changes in advance of that. The recommendations were turned down by the government,⁵⁹ and the return of the institutions drove the focus elsewhere.

⁵⁷ For general discussion on possibilities of institutional reform, see Whysall, *Northern Ireland's Political Future*, ch. 9; Whysall, 'Northern Ireland's political institutions: time for change?', Constitution Unit blog, 20 December 2023 (recounting developments till the end of 2023); and Conor J. Kelly and Alan Whysall, 'The restoration of Stormont and the need for reform', *Fortnight*, issue 493 (April 2024).

⁵⁸ Northern Ireland Affairs Committee, *The Effectiveness of the Institutions of the Belfast/Good Friday Agreement: First Report of Session 2023–24*, 4 December 2023. For a summary and analysis, see Whysall, 'Northern Ireland's political institutions: time for change?'

⁵⁹ Northern Ireland Affairs Committee, *The Effectiveness of the Institutions of the Belfast/Good Friday Agreement: Government Response to the Committee's First Report: First Special Report of Session 2023–24*, 22 February 2024.

But interest in reform is widening: besides Alliance, the SDLP has taken up the issue of reform, as has the Irish government.⁶⁰ The DUP voted against the NIAC report and has been wholly unenthusiastic, however; with Sinn Féin slightly warmer.⁶¹

There is no amendment provision in the Agreement.⁶² The governments in pursuing changes have generally sought a degree of consensus, including majority unionist and nationalist agreement, similar to the threshold applied in 1998. The difficult issue here is that, if that principle is applied to the letter, it gives a veto on changing the structures to those who already hold a veto on the operation of the conduct of devolved government.

But circumstances may bring the issue back to the fore under a new government. Certainly, another collapse in the institutions would do so. The possibility of voting patterns changing to the degree that Alliance might displace either a unionist or a nationalist as FM/dFM, though it is remote at the moment, might start to grow if unionist disarray intensifies. Concern over the Executive's performance in addressing problems of government and of public service may be heightened as the next financial cliff edge approaches.

What a new government might do

How should a new government respond to the recent pressures for reform of the institutions? This may arise in different contexts.

If the institutions again collapse, there is a strong argument for temporary changes to the institutions to enable them to function.⁶³ Whether that would be possible would depend on the political context of the time, though, and some would inevitably fear temporary changes becoming permanent.

It would be an altogether different matter for London alone to make permanent changes to the institutions (as proposed in the Commons Northern Ireland Affairs Committee report), for which its legitimacy would be seriously questionable. The government should continue to seek a significant element of consensus for any lasting reform: though there is no precise formula that it is obliged to observe.

Should it actively urge immediate reforms, if the institutions continue to function? It seems unlikely that it would want to, unless issues arise that require early action.

Should it commission an independent review, as recommended by the Northern Ireland Affairs Committee? In the context of the institutions functioning, this will also be difficult. Sinn Féin has pointed to the Assembly and Executive Review Committee (AERC) of the

⁶⁰ On Alliance's continued pressure for reform, see David Young, '[Labour must "shift the dial" on Stormont reform if elected, says Alliance leader](#)', *Belfast Telegraph*, 2 June 2024. On the SDLP, see David Thompson, '[Stormont Opposition Day: SDLP focuses on reforming institutions and public sector pay](#)', *News Letter*, 4 March 2024.

⁶¹ '[Sinn Féin open to removing ability of one party to block powersharing at Stormont](#)', *Irish News*, 22 February 2024.

⁶² Whysall, *Northern Ireland's Political Future*, p. 66.

⁶³ Whysall, '[Northern Ireland's political institutions: time for change?](#)'.

Assembly as the appropriate venue for such reflection,⁶⁴ and would regard London commissioning a review as a seizure of responsibility that properly belonged at Stormont.

But it should recognise that the Northern Ireland political context is changing, and changes to the institutions may well be necessary before long. For the present, a Secretary of State should perhaps again begin by encouraging new thinking. That might involve pointing up the need for giving confidence that the institutions will deliver good government; and emphasising the risks to public well-being and stability of further collapses. It might also encourage the parties to set the AERC to work; and encourage also reflection on the possibilities by people outside the political sphere.

Legacy⁶⁵

The issues

Questions of justice overhanging from the Troubles continue to bedevil Northern Ireland politics. They have been repeatedly addressed in interparty negotiations, and by outside mediators and advisers. Many killings and other offences remain unresolved. Inquests remain un-concluded after decades. The waters become murkier because there will always be difficulties about making public various matters, including those relating to intelligence operations, even when entirely properly conducted.

There are no obviously satisfactory answers, and so great sensitivity is required. Pursuing offences of decades ago through the criminal justice system carries increasingly little prospect of any result that brings satisfaction to victims or those close to them. But there is understandable reluctance among some victims to shut down the process. And the parties inevitably give such views much attention.

Some of the legacy processes have established grave misconduct during the Troubles on the part of the security forces, notably the Bloody Sunday Inquiry that reported a decade ago, and the Ballymurphy Inquest in 2021. There are demands for further inquiries, resistance to which may be widely perceived as a cover-up, and certainly presented in that light by many.

But there has also been a perception, especially among unionists, of attempts through legacy processes to rewrite the history of the Troubles in favour of paramilitaries. Because, while the security forces were responsible for only a small proportion of Troubles deaths, their actions are much better documented and more readily reopened than those of paramilitaries.

⁶⁴ [‘Sinn Féin open to removing ability of one party to block powersharing at Stormont’](#), *Irish News*, 22 February 2024.

⁶⁵ There is further consideration of these issues in Whysall, *Northern Ireland’s Political Future*, p. 50.

A significant measure of agreement was eventually reached among the parties in the Stormont House Agreement of 2014. Carrying forward the agreement was difficult, but it was recommitted to by London in the *New Decade, New Approach* deal of 2020.

But in 2021, the British government brought forward its own new, and quite different proposals. They were remarkably far-reaching: notably, they involved ending criminal investigations and prosecutions for Troubles offences, and suppressing inquests and civil actions. Instead there would be an Independent Commission on Reconciliation and Information Recovery. There had been such truth recovery mechanisms in previous agreements, but the other aspects of the proposals were novel.

These proposals were rejected by all the parties in the Assembly, and the Irish government, and many doubted that they were compliant with international obligations. They were particularly disliked in Northern Ireland because they were generally seen as a response not to Northern Ireland concerns, but to political and newspaper campaigns in London about prosecutions of soldiers from Great Britain for long-past offences.

The proposals were modified in various respects over the following two years, but the key features were carried forward into what eventually became the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023.⁶⁶ The Independent Commission for Reconciliation and Information Recovery (ICRIR) established under it began operation on 1 May.

The Act was immediately the subject of legal challenge. In the *Dillon* judgment in February,⁶⁷ the High Court in Belfast deemed parts of the Act incompatible with the European Convention on Human Rights (ECHR). It also held parts to be irreconcilable with guarantees in the Northern Ireland Protocol/Windsor Framework, and it therefore ordered that 10 sections of the Act should be disapplied (see the section on rights below). The UK government has lodged an appeal.⁶⁸ The Irish government, meanwhile, has brought a case against the UK over the Act in the European Court of Human Rights at Strasbourg.⁶⁹

The High Court did not hold that the establishment of the ICRIR or most of its processes were unlawful (though it disapplied its power to grant conditional immunity from prosecution to those engaging with it). Its chair, the former Lord Chief Justice Sir Declan Morgan, has argued that it should proceed, and indeed represents the first opportunity since 1998 to deliver ECHR-compliant investigations for all who suffered loss and serious harm during the Troubles.⁷⁰

⁶⁶ [Northern Ireland Troubles \(Legacy and Reconciliation\) Act 2023](#).

⁶⁷ For the full judgment, see [2024 NIKB 11](#) (200 pp.). This is officially summarised in Judicial Communications Office, '[Court rules immunity provisions in NI Troubles \(Legacy and Reconciliation\) Act 2023 incompatible with ECHR and should be disapplied](#)', 28 February 2024. See also Julian O'Neill, '[NI Troubles: Legacy Act immunity clause 'breaches' human rights](#)', BBC News, 28 February 2024.

⁶⁸ '[Britain launches appeal in Northern Ireland amnesty law case](#)', Reuters, 7 March 2024.

⁶⁹ European Court of Human Rights, '[New inter-State application brought by Ireland against the United Kingdom](#)', press release, 19 January 2024.

⁷⁰ Sir Declan Morgan, '[Why I agreed to head the Troubles legacy body](#)', *Fortnight*, issue 493 (April 2024).

What a new government might do

The Labour Party is committed to replacing the Act with arrangements based on the Stormont House Agreement between the parties of 2014, though the Shadow Secretary of State has not ruled out keeping the Independent Commission as part of the new arrangements.⁷¹

If elected, it might wish to legislate promptly to repeal the features of the Act which were impugned in court. But creating a full replacement (even if proceeding on the basis of the Stormont House Agreement) may take time.

Indeed, given the history of the Legacy Act, if its replacement is to have public acceptance it will be important to develop it with great sensitivity; in particular to make clear that Northern Ireland concerns will be central to the development of new arrangements. Wide engagement would be needed (including with Dublin, especially since there is a cross-border element here).

Reform of the legacy arrangements may, therefore, be a two-stage process.

But it is also important not to lose momentum: this is an issue that, because of its difficulty, has a history of running into the sand. A new government might therefore want to set a target for introducing the replacement legislation, perhaps first in draft.

At the same time, though, there is room for acknowledgement of the legitimacy of concerns around the fact that conventional justice processes can more readily focus on state actions, while the much larger number of deaths perpetrated by terrorists go largely unscrutinised. Acceding to the widespread demands for public inquiries may anyway hardly be feasible.

A widely accepted information recovery body may to some extent be able to redress the balance. It ought to have advantages of speed over other approaches. Early legislation might be necessary to enable the ICRIR to act in conformity with international obligations. That could proceed in parallel with reflection on whether it is the right truth recovery mechanism.

The ICRIR, if it survives, will have to work hard to win trust, because many are sceptical, given its origins. It is important though not to let the best be the enemy of the good. It is by no means clear that another body would command significantly wider acceptance.

⁷¹ [Interview with Hilary Benn on BBC The View](#), 11 April 2024.

Policing⁷²

The issues

The development of widely acceptable arrangements for policing may have been the most remarkable achievement of the Agreement process, given what went before (the blueprint was essentially drawn up by the Patten Commission, under a remit set out in the Agreement).

But in the last few years, there have been serious challenges to the political understandings that underlie policing arrangements. Most recently, these led to the Chief Constable resigning last year, essentially over allegations that he disciplined police officers for fear of an adverse Sinn Féin reaction.

There have also been concerns about the composition of the PSNI. Under the Patten plan, there were time-limited religious quotas for recruitment, which succeeded in bringing the proportion of Catholics in the force, traditionally around 10%, above 30%. These quotas ceased to operate in 2011. Subsequent recruitment has at times fallen short of 30% (which is itself well below the current proportion of Catholics in Northern Ireland's population), causing concern about the way the force is perceived, though the proportion of Catholics overall remains above 30%.⁷³

Meanwhile political pressures, a massive leak of officers' personal data last year and financial pressures that have brought officer numbers very low have anecdotally had a severe impact on morale,⁷⁴ and allegations of improper surveillance of journalists risk further shaking public support.

Whether the recently modified financial settlement properly reflects Northern Ireland's particular policing needs will be a live issue. The Commons Northern Ireland Affairs Committee has recently recommended London should guarantee funding to increase police numbers.⁷⁵

Under a new Chief Constable, and with a Justice Minister once again in place, the ship appears to have been steadied for the moment. But the importance of policing to the overall settlement is such that all should not be assumed well.

What a new government might do

Responsibilities here are now quite largely devolved.

⁷² Further consideration of policing is in Whysall, *Northern Ireland's Political Future*, p. 56.

⁷³ Northern Ireland Policing Board, *Northern Ireland Policing Plan 2020–2025 & Annual Performance Plan 2022–23* [pdf], p. 44.

⁷⁴ Laura Hackett, 'Who would be a police officer in Northern Ireland?', *The Times*, 8 October 2023.

⁷⁵ Northern Ireland Affairs Committee, *The Funding and Delivery of Public Services in Northern Ireland: Third Report of Session 2023–24*, 26 March 2024.

But the potential impact of the policing element of the settlement for its stability and success is such that a new London government should monitor policing carefully, and stand ready to play its part if matters go wrong again in the future.

Developing relations with key players that would permit early effective intervention if further crises arose might be a priority, therefore; along with sensitivity in financial negotiations to the position of the police.

Continuing paramilitarism⁷⁶

The issues

Activity by both loyalist and dissident republican paramilitaries in Northern Ireland continues, 26 years after the Agreement's affirmation of a 'total and absolute commitment to exclusively democratic and peaceful means'. Still, it is at a massively lower level than during the Troubles years, and there have been significant successes against dissident republicans. **But its prevalence is potentially corrosive of political stability.**

Combating terrorism remains the responsibility of London, but much activity by paramilitary groups is now in the field of non-terrorist crime – gangsterism, drug dealing and the like – and so a devolved responsibility.

The Northern Ireland Affairs Committee in a report published this February was concerned about low rates of prosecution for paramilitary activity, and under-resourcing of the police.⁷⁷ It also acknowledged difficulties in tackling the environment in which paramilitarism thrives, and called for a 'public health approach'.

Political engagement with loyalism creates difficulties. There is a loyalist political movement; it has a low level of support overall but is strong in some communities. But contacts, especially high-level ones, that come close to paramilitary movements can give the impression of conferring legitimacy. Both Westminster and devolved politicians have strayed into danger here.

What a new government might do

To make the Agreement settlement once more effective requires a more thorough approach to eliminating paramilitarism. London has formal responsibilities for antiterrorism matters. But it also has an important role in encouraging more effective action by devolved institutions, which has effective responsibility in key areas.

⁷⁶ Further consideration about the continuing activities of paramilitaries is in Whysall, *Northern Ireland's Political Future*, p. 55. The Commons Northern Ireland Affairs Committee has recently reported on continuing paramilitary activity: *The Effect of Paramilitary Activity and Organised Crime on Society in Northern Ireland: Second Report of Session 2023–24*, 1 February 2024.

⁷⁷ Northern Ireland Affairs Committee, op. cit.

As regards contacts with loyalism, they will be difficult: sensitivity will be important, and perhaps a degree of preference for contact on the ground over higher-level engagement.

Identity, language and rights⁷⁸

The issues

Identity and language issues have caused division since the first days of the Agreement, and have at times shaken the institutions – for example, in the flags disputes after 2012. Issues around recognition of the Irish language complicated the return of the institutions after the 2017 hiatus.⁷⁹ That was resolved with the passage at Westminster of legislation that among other things declared ‘official recognition of the status of the Irish language’.⁸⁰ At present, identity issues are less to the fore, but they are capable of returning.

Rights issues have also been contentious. There have been long-running disputes in cases where developments in Great Britain had not been followed in Northern Ireland, because they were vetoed by unionists. This is notably so with abortion and equal marriage; in both cases, Westminster changed the law during the 2017–20 hiatus (and Northern Ireland politics largely acquiesced, although implementation of abortion has continued to be argued over). The debate over the Agreement’s slightly vague reference to a Bill of Rights for Northern Ireland has continued to run on, with no resolution.⁸¹

A consequence of the Northern Ireland Protocol is that Northern Ireland in some fields has additional mechanisms of rights protection compared to the rest of the UK. Article 2 of the Protocol guarantees certain individual rights by reference to the section of the Agreement on Rights, Safeguards and Equality of Opportunity; and the European Union (Withdrawal) Act 2018 enables them to prevail over subsequent Westminster legislation.⁸² In both the *Dillon* case concerning the legacy legislation (see ‘Legacy’ section above, page 22) and *In re NIHRC and JR 295* of 13 May this year, concerning the Illegal Migration Act 2023,⁸³ the Northern Ireland courts have under these provisions disapplied parts of subsequent Acts of Parliament for incompatibility with rights guarantees. Both cases are subject to appeal, and the Supreme Court is likely to rule on the issues. If the two Acts of Parliament concerned continue to be backed by the next government, then serious tensions may emerge in London as well as Belfast over the Protocol.

⁷⁸ See Whysall, [Northern Ireland’s Political Future](#), pp. 52–4.

⁷⁹ *Ibid.*, pp. 52–3.

⁸⁰ [Identity and Language \(Northern Ireland\) Act 2022](#).

⁸¹ Whysall, [Northern Ireland’s Political Future](#), p. 54.

⁸² For explanation of these complex changes, see Anurag Deb and Colin Murray, ‘[The Dillon Judgment, Disapplication of Statutes and Article 2 of the Northern Ireland Protocol/Windsor Framework](#)’, EU Law Analysis blog, 8 March 2024.

⁸³ For the full judgment, see [2024 NIKB 35](#). For the official summary, see Judiciary NI, ‘[Summary of judgment – In re NIHRC and JR 295 \(Illegal Migration Act 2023\)](#)’. For the Act, see [Illegal Migration Act 2023](#).

The Agreement refers to the European Convention on Human Rights at a number of points, and in particular requires its incorporation into Northern Ireland law. There are suggestions that a future Conservative government might leave the Convention.⁸⁴ Whatever compensating measures might be proposed, this would be regarded by most strands of political opinion in Northern Ireland as a grave breach of the Agreement.⁸⁵

What a new government might do

The new Secretary of State would need to keep well on top of developments in the Article 2 litigation: they have potentially far-reaching implications in Northern Ireland, but also beyond.

A proposal to withdraw from or reverse the incorporation into domestic law of the ECHR in Northern Ireland would in the current climate be liable to have grave consequences for the future of the Agreement, and would need very careful attention in London as well as Belfast.

On the other identity and rights issues, given the way that they have in the past assumed sudden importance, a close watching brief is necessary.

⁸⁴ Chris McKeon, '[Sunak hints that UK could leave ECHR if Rwanda plan blocked](#)', *Independent*, 4 April 2024.

⁸⁵ The Northern Ireland Affairs Committee took [expert evidence](#) on this issue on 14 May 2024. Because of parliament's dissolution, it was not able to report, but the [chair wrote to the Secretary of State](#) summarising the points made in the evidence.

4. Constitutional issues

Background⁸⁶

The Agreement brought for the first time a measure of consensus on the constitutional question that was supported by majorities of both the unionist and nationalist traditions (and the two governments).

It embodies the principle that unity is a matter for decision by the two parts of the island of Ireland, north and south, without external impediment. Most of the Agreement's provisions emphasise joint decision-making between different parts of the community; but constitutional status is a matter for 50% plus one decision (even if, like Seamus Mallon, some nationalists – and others – think it would be unwise to press for it without a large measure of consensus).⁸⁷

There was little real discussion of change to the constitutional status of Northern Ireland for almost two decades after the Agreement, and no sign of support for it growing. But the issues have come much more to the fore, and opinion has shifted, since the Brexit referendum, and especially in the last three years of dispute over the Northern Ireland Protocol, and the DUP boycott of the institutions.

Some unionists allege that the Protocol undermines Northern Ireland's place within the United Kingdom (and there has been legislation and parliamentary action aimed at giving reassurance as part of the DUP's return to Stormont).⁸⁸

Among those seeking a united Ireland, there has been an enormous upsurge of campaigning activity, and some of the questions that would arise from unification have started to be discussed. For some, the fact that Northern Ireland within a united Irish state would be part of the European Union once more⁸⁹ is a key attraction.

The momentum generated is such that, even if the Protocol issues were to decline in political salience, and the institutions remain in place and flourish, it is unlikely that the constitutional debate will revert to the quiescent state of a few years ago.

At present we have two entirely distinct camps, pro-Union and pro-unity, with very little overlap or attempt to find common ground. This is far from the spirit that led to

⁸⁶ Whysall, [The Agreement at 25](#) is largely devoted to the constitutional debate, chapters 2 to 4 discussing in turn the state of opinion, prospects for the Union and prospects for Irish unity.

⁸⁷ Working Group on Unification Referendums on the Island of Ireland, [Final Report](#) (London: Constitution Unit, 2021), para. 4.33 and 3.14.

⁸⁸ As part of the *Safeguarding the Union* package, the [Windsor Framework \(Constitutional Status of Northern Ireland\) Regulations 2024](#) were made. And a parliamentary motion, explained [here](#), affirmed the importance of the Agreement and the Acts of Union 1800, and touched on various other points that concerned unionists. It was described by the SDLP as 'a love letter to the DUP', though DUP opponents of returning to Stormont [were unimpressed](#). As a matter of law, [the impact of the package was small](#).

⁸⁹ This was confirmed by a European Council decision of 23 June 2017: see Working Group on Unification Referendums on the Island of Ireland, [Final Report](#), para. 7.17.

the Agreement; arguably, indeed, it is a long way from John Hume's goal of an 'Agreed Ireland'. In recent years, there has been relatively little high-profile activity aimed at increasing cross-border understanding and beneficial cooperation, falling short of constitutional change, although the Irish government's Shared Island programme continues quietly to work in these areas.⁹⁰

There is no sign at present that a majority for unity will arise in the term of the next London government (see next section). **But decisions that may be made by London in the coming years, and more generally the way in which it addresses the issues, may have great significance**, in the way the debate develops, and ultimately, if there are majorities for unity, in the way in which that change comes about.

It is worth reflecting on the proper role of the UK government in planning for a united Ireland, because the questions may start to be asked before long. London would by definition have no authority in a united Ireland. Some would say, therefore, that it should have no place in the planning of it. But the point is not beyond argument: it would not be obviously unreasonable to argue that the British government should have a role after unity, analogous to that of the Irish government currently through the British–Irish Intergovernmental Conference, to make representations on matters relating to Northern Ireland. Essentially in that role it would be an advocate for the British-identifying minority.⁹¹ And the argument could be made, therefore, that at least as regards the rights of the minority it might legitimately contribute to the debate on the shape of a united Ireland.

That, though, would at most be a limited role.

But it is clear that a British government has a legitimate interest in the process that would follow the triggering of a border poll. It would have, jointly with the Irish government, to hold the ring throughout referendums and their eventual outworking. A transition to unity might take place over a period of some years, and might well be a major political preoccupation for a British government during that time.

And it is certainly in the long-term interests of people in both Northern Ireland and Great Britain that an eventual move to Irish unity, if it happens, is well analysed, debated and planned in detail in advance.

Questions around border polls are regularly raised. Under the terms of the Agreement, the rest of the United Kingdom does not have a say on Northern Ireland's constitutional status. But London has a key procedural responsibility: the Secretary of State is under a duty to call a border poll, if it appears likely that a majority would favour unity.⁹² There are recurrent demands on the Secretary of State around this responsibility, notably to set out the criteria according to which the decision would be made.

⁹⁰ Whysall, *The Agreement at 25*, pp. 26–7.

⁹¹ Working Group on Unification Referendums on the Island of Ireland, *Final Report*, para. 7.51.

⁹² [Northern Ireland Act 1998, Schedule 1](#).

Union versus unity: the state of opinion⁹³

The Agreement does not say how the Secretary of State should go about reaching a decision whether a majority in a poll would be likely to favour unity. The two obvious sources of evidence are opinion polls and surveys; and election results.⁹⁴

Opinion polls and surveys suggest that unity has been gaining support, but that maintaining the Union continues to command significantly more. Support for unity is higher among the young, so may continue to rise overall. But there are no grounds to assert a probability that a majority for unity will arise in the coming years. **And the differences in results from different kinds of polls and surveys may call into question how much reliance can be placed on them.**

As regards **election results**, the unionist parties' vote share has fallen from around 50% in 1998 to 40% in 2022. But the nationalist proportion has barely changed over that period, in the region of 40%. The vote for parties not identifying as unionist or nationalist, of which Alliance is much the largest, has risen from roughly 6% to 15% over the same period. **Age patterns may again point to future change: support for Sinn Féin is particularly high among younger voters;** for unionist parties (and the SDLP) the average age is much older.⁹⁵

But inferences from election results are an imperfect indicator too. A study in 2022 suggested that 27% of SDLP voters would favour the Union in a poll held tomorrow, and even 9% of Sinn Féin voters. Voters for unionist parties were rather more predictably in favour of the Union.⁹⁶ But views vary very much in the Alliance Party, according to a study published this year, with 38% favouring unification (albeit in a poll held 'in the next decade'), 27% favouring remaining in the UK and 30% undecided.⁹⁷

Unification would require support in the South too, though that is not material to the Secretary of State's decision about a poll in the North. Polling generally suggests a substantial majority in favour of unity there, though it appears in some polls that views might change markedly depending on the arrangements and costs involved.⁹⁸

The state of opinion in Great Britain is completely immaterial to decisions about Irish unity in the strict sense: the Agreement gives it no role. But it is important

⁹³ Whysall, *The Agreement at 25*, ch. 2 sets out the evidence, and the considerations that might inform the Secretary of State's decision on calling a border poll. For more detail, see generally ch. 8 of Working Group on Unification Referendums on the Island of Ireland, *Final Report*, especially para. 8.32ff.

⁹⁴ Working Group, para. 8.37ff.

⁹⁵ Lucid Talk, *Northern Ireland Tracker Poll Results*, 16 February 2024, p. 8.

⁹⁶ *Northern Ireland Assembly Election Study 2022*, p. 32 (Table 23).

⁹⁷ Suzanne Breen, 'More Alliance Party members would vote for Irish unity than to remain in UK: survey', *Belfast Telegraph*, 3 March 2024.

⁹⁸ Whysall, *The Agreement at 25*, p. 13. For more recent polling, see ARINS/*Irish Times* *North and South surveys*, 13 February 2024.

mood music. Polling suggests that the sense of affinity there with Northern Ireland is decidedly limited.⁹⁹

The current government gave its own categorical views in its paper *Safeguarding the Union* earlier this year, where it said that, ‘On the basis of all recent polling, the government sees no realistic prospect of a border poll leading to a united Ireland. We believe that... Northern Ireland’s future in the UK will be secure for the decades to come’.¹⁰⁰

This may be thought a rather sweeping statement, going beyond the evidence, especially given the greater support often observed for unity among younger people. It may also perhaps not be likely to convey reassurance that the government will approach the decision on a border poll with an open mind.

Labour has said it does not believe the issue of Irish unity is on the horizon at present, and that there is no evidence at all that there would currently be a majority for unity.¹⁰¹

The state of the pro-Union argument

The discourse in unionism has been in recent years largely internally focused, on what to do to preserve the Union in the face of challenges perceived by a significant number of unionists, especially from the Protocol.

But this dialogue, and the concessions won, are likely to appeal only to already convinced unionists. It is unlikely to have won many converts among those who had concluded in favour of unity, or been persuasive in the swing constituency – essentially the centre ground, and soft nationalists.

Unionist leaders occasionally talk about the need for outreach. Doug Beattie of the UUP has at times called for a broadening appeal, a ‘Union of People’. Sir Jeffrey Donaldson, accepting the *Safeguarding the Union* deal this February, urged the need to persuade people in Northern Ireland that the Union was best for all.¹⁰² But such calls have not loomed large in the debate during the Brexit years.

It must be concluded that the unionist parties have not been effective advocates for the Union, among those who would decide the question. And there are not many

⁹⁹ Whysall, *The Agreement at 25*, p. 17. Recent polling has been reported as suggesting that people in England, Wales and Scotland now favour Irish unification: Mark Hennessy, ‘[England, Wales and Scotland all now in favour of Irish unification, research shows](#)’, *Irish Times*, 21 March 2024. For the original research, see Ailsa Henderson and Richard Wyn Jones, *Public Attitudes towards the Constitutional Future of the UK: Analysis from the 2023 State of the Union Survey*, report prepared for the Independent Commission on the Constitutional Future of Wales, September 2023.

¹⁰⁰ Northern Ireland Office, *Safeguarding the Union* (London: HM Government, 2024), p. 68. See also Whysall, ‘[Devolution returns to Northern Ireland](#)’, (Constitution Unit blog, 6 February 2024).

¹⁰¹ [Interview with Hilary Benn on BBC The View](#), 11 April 2024.

¹⁰² ‘[Unionists “must convince people across Northern Ireland of UK’s benefits”](#)’, ITV News, 26 February 2024.

people outside the party structures seeking to develop unionist thinking and adapt it to contemporary circumstances, so as to appeal to those who are not unionist by innate conviction. There are a few, such as the Uniting UK campaign.¹⁰³ But they have not had the immediate impact, nor the large-scale meetings, of the unity campaigners.

The intensity, indeed at times unpleasantness, of the Protocol debate may have deterred or drowned out constructive thinking – and the kinds of accommodation that may be necessary to win support for the Union might make many unionists uneasy.¹⁰⁴ And it is harder to develop arguments for the Union when substantial numbers of unionists are denouncing London for betrayal.

Ultimately, though, such new thinking may be key to the survival of the Union, through the support of the centre ground and soft nationalist voters who may ultimately decide the question.

The state of the pro-unity argument

Increasingly many people appear to believe that unity may only be a few years away. The Sinn Féin leadership is forecasting a border poll ‘in this decade’.¹⁰⁵ The last Taoiseach, Leo Varadkar, said that he believed Ireland was ‘on the path to unification’, and that it would be achieved within his lifetime.¹⁰⁶

Campaign groups have been extremely active. Ireland’s Future, which seeks a border poll in 2030, organises meetings with attendance sometimes in the thousands. It has often invited figures from across the community to participate.¹⁰⁷

Meanwhile, there has been much serious activity by academics and journalists, among others, looking at some of the issues that the prospect of unity throws up.¹⁰⁸ The SDLP has set up a New Ireland Commission: it speaks of constitutional change, though also of generating a consensus for it.¹⁰⁹

There are thus high, and genuine, expectations. That is a political factor in its own right.

Yet it is hard to say that there is any process of systematic reflection, still less structured public debate, on many of the difficult issues of principle and practice that would arise in the context of unity. We attempted a first draft of this agenda in the report

¹⁰³ [Uniting UK](#) (website).

¹⁰⁴ Whysall, *The Agreement at 25*, p. 19.

¹⁰⁵ Freya McClements and Kitty Holland, ‘[Mary Lou McDonald expects vote on Irish unity “this decade”](#)’, *Irish Times*, 4 February 2024.

¹⁰⁶ ‘[Leo Varadkar says Ireland “on path to unification”](#)’, BBC News, 7 September 2023.

¹⁰⁷ [Ireland’s Future](#) (website).

¹⁰⁸ For academic work, see the [Analysing and Researching Ireland North and South \(ARINS\)](#) project, sponsored by the Royal Irish Academy and the University of Notre Dame. Relevant *Irish Times* reporting is collected at its [Common Ground](#) page.

¹⁰⁹ SDLP, [New Ireland Commission](#).

of the Working Group on Unification Referendums on the Island of Ireland.¹¹⁰ Key points include the following:

- **There is little discussion about perhaps the fundamental question: would a united Irish state be the existing southern state, with minimum necessary modifications; would it be a new state designed on a blank sheet of paper; or would it be somewhere in between?**
- **And there is little enough reflection about some of the weighty issues below that level:** for example, whether to incorporate Northern Ireland into a unitary Irish state, or retain a devolved apparatus at Stormont is a question with many facets.¹¹¹ Retaining devolved structures might appear to avoid difficult questions about how to integrate them. It would, though, create an issue analogous to the ‘West Lothian question’ in UK devolution, but of much greater magnitude – could a member of the united Irish legislature from County Down help to select an Irish government, to decide policy in the ex-Republic on matters devolved in Northern Ireland, even though such a government’s supporters were in a minority there?
- **Finance is a question that has had some discussion.** In UK accounting terms, Northern Ireland receives a subvention (public expenditure less tax raised) from the UK Exchequer typically running at about £10 billion yearly. Would this be the cost to a united Irish state of incorporating Northern Ireland, and is it bearable? Here, there is significant dispute. Some economists argue that unification would be a substantial burden for decades, markedly reducing living standards;¹¹² other academics doubt this.¹¹³ Polling suggests that opinion in the South, normally strongly in favour of unity, might swing sharply in the face of such costs.¹¹⁴

There is a wide range of other questions that would need to be resolved in the context of unification, many of which might be highly contentious. All this suggests that should a serious analysis of and debate on unity options begin, opinion might move significantly.

Sinn Féin in government in Dublin would be likely to establish arrangements to consider the shape of a united Ireland including a citizens’ assembly.¹¹⁵ It may be that Irish governments of other complexions will feel the need to respond to the growing pressure in this way.

¹¹⁰ Working Group on Unification Referendums on the Island of Ireland, *Final Report*, ch. 7.

¹¹¹ *Ibid.*, para. 7.56ff.

¹¹² John FitzGerald and Edgar Morgenroth, *Northern Ireland Subvention: Possible Unification Effects* (Dublin: Institute of International & European Affairs, 2024).

¹¹³ John Doyle and Brendan O’Leary, ‘Cost of Irish unification overblown and benefit underplayed’, *Irish Times*, 2 May 2024.

¹¹⁴ Cónal Thomas, ‘Red C poll: Majority of voters would reject unity at annual cost of €20bn to state’, *Business Post*, 28 April 2024.

¹¹⁵ ‘Sinn Féin ard fheis: Mary Lou McDonald calls for Citizens’ Assembly on Irish unity’, BBC News, 11 November 2023. On the suitability of citizens’ assemblies for this work, see Working Group on Unification Referendums on the Island of Ireland, *Final Report*, para. 6.27ff.

London's role

A new Secretary of State may encounter increasing pressure over a border poll. In the early days, no doubt, some will try their luck in extracting commitments.

Such questioning will potentially increase, given the demographics, and the possibility that at some point a government in Dublin will institute official planning for Irish unity.

It is also possible, though, that, if politics continues to de-polarise in Northern Ireland, if there are better North–South and East–West relations with Dublin, and if there were a more favourably perceived London government, some of the impetus for early unity may reduce.

Certainly a demand for criteria for a border poll will be heard when the next government takes up its place. What exactly is sought by those asking is not always clear. Some, clearly, would like a date for a poll to be fixed. Some may seek a formula: how many pro-unity poll results, what proportion of votes for nationalist parties, would swing the decision.

Labour Party figures have made a number of comments about border polls,¹¹⁶ and an incoming Labour government would face intense questioning. The current Shadow Secretary of State has played down suggestions about setting out new criteria. He also said that he would not be a persuader for Irish unity.¹¹⁷

The Secretary of State would be able to say that the essential criterion – probable majority support for unity – is set out in the Agreement, and that as a matter of law all the relevant evidence must be examined. They could point to the one case in which the courts have considered the question, *McCord*, as evidence that judges will be vigilant to ensure that the decision is approached in a legally proper manner.¹¹⁸

The Secretary of State could also identify some of the sources of evidence that would need to be looked at, without being exhaustive, noting opinion polls and surveys, and election results among them, but also registering limitations on the probative value of the different sorts of evidence available. It is clearly not consistent with assessing all the evidence in the round, though, to set out formulae about opinion poll results and the like. It is certainly true that a Secretary of State must bring a level of political judgement to the

¹¹⁶ Keir Starmer in 2021 [said he would 'make the case' for the union](#); Louise Haigh, as shadow Secretary of State, later [said that, while Labour was a unionist party, in a border poll it would remain neutral](#); her successor Peter Kyle [spoke of setting out criteria for calling a poll, at some future point](#).

¹¹⁷ David Thompson, 'Hilary Benn rules out new border poll criteria - saying it's a matter of political judgement for the UK government', *News Letter*, 12 April 2024. [Interview with Hilary Benn on BBC The View](#), 11 April 2024.

¹¹⁸ Working Group on Unification Referendums on the Island of Ireland, *Final Report*, para 8.9ff.

assessment of (imperfect) evidence.¹¹⁹ But it is also important not to make any suggestion that London's own political preferences might come into the equation.

What may be more important than specific commitments here is to build trust that a British government would faithfully and impartially execute its obligations under the Agreement as regards border polls, and in relation to unity if that was the outcome. This is especially so, since any answers a Secretary of State may be practically able to give may not please the more ardent partisans of unity, and may particularly disappoint the expectations of those who see it happening within a few years. Such trust-building is an important part of creating confidence in the government as a political honest broker. Anything that might suggest that it will not do its duty may strengthen support for unity among soft nationalist and centre-ground voters.

This does not mean that a British government should not have a position on Union versus unity at all. As was noted in Chapter 1, there is an argument that the duty under the Agreement of 'rigorous impartiality' in the discharge of the power of sovereign government in Northern Ireland requires that it should not. This is a relatively new view, however, and it may be thought unrealistic to say that the government of the United Kingdom cannot indicate a preference as to what the extent of the United Kingdom should be. So it is hard to object to London government saying that it welcomes Northern Ireland remaining within the United Kingdom.

But active advocacy from London for the Union, given the character of the swing constituency, is liable to be counter-productive. A London government arguing aggressively for the Union is liable to lose trust that it will be even-handed with significant numbers of voters; and be suspected of acting out of 'selfish strategic or economic interest', or out of fear of the implications for Scotland of constitutional change in Northern Ireland. *Safeguarding the Union* embodies promises to 'strengthen Northern Ireland's place within the Union'.¹²⁰ A new government might want to place more emphasis on strengthening relations between all parts of these islands, consistently with the constitutional status that flows from the Agreement.

If a vote for unity started to appear a greater possibility, it might be right for a Secretary of State to say something more about the way evidence would be assessed; it might also be appropriate to welcome advice from an independently-constituted panel on polling.¹²¹ If the Assembly were to vote for a poll, or unity, that would change the political dynamics fundamentally, and there would be a stronger case for holding a poll: but there is no sign that such a vote will occur in the foreseeable future.¹²²

This is not to suggest that a London government at any point in the near future should be involving itself in planning for any possible process of achieving unity.

¹¹⁹ The current Shadow Secretary of State, in response to suggestions that he might elaborate criteria, has said that the judgement to be reached is a political one ([Interview with Hilary Benn on BBC The View](#), 11 April 2024).

¹²⁰ *Safeguarding the Union*, especially Annex B.

¹²¹ Working Group on Unification Referendums on the Island of Ireland, *Final Report*, para. 8.103.

¹²² *Ibid.*, para 8.26ff.

That would amount to a fundamental shift in the orientation of politics, carrying for many the implication that unity was in the mind of London inevitable.

The UK government should welcome good faith attempts by others to explore the constitutional questions, around maintaining the Union as well as unity.

Encouraging unionism to accommodate its thinking to the new realities of Northern Ireland might be a valuable service to debate. So might encouraging thinking about possible evolutions in relations within the island, and between the islands, within the framework of the Agreement but falling short of constitutional change.

Annex 1: The Agreement: the record to date

The Good Friday/Belfast Agreement was reached on 10 April 1998, and shortly afterwards approved in referendums in both parts of the island of Ireland. But it was the fruit of efforts to establish political structures that had gone on through 25 years of paramilitary violence. Latterly, the main paramilitary organisations had declared ceasefires; and parties associated with them participated in negotiations, having stood for election.¹²³

How the Agreement came to be implemented

The institutions, and Brexit

The implementation of the Agreement once it had been concluded was anything but straightforward.¹²⁴ The institutions were established in late 1999, but collapsed several times; they fell over beyond hope of propping up in late 2002.

They were not re-established until the IRA had declared its war to be over, and decommissioned its weapons; and there had been a political realignment in Northern Ireland. The St Andrews Agreement of 2006 opened the way to their resumption in 2007, with the Democratic Unionist Party (DUP), formerly opposed to the Agreement, and Sinn Féin now the leading parties.

The institutions functioned continuously thereafter until 2017, but were at times shaky and kept going only after interventions by the British and Irish governments, leading to a number of subsequent agreements.¹²⁵

In 2017, growing tensions led Sinn Féin to collapse the institutions.¹²⁶ They remained in limbo for three years, until the *New Decade, New Approach* agreement of January 2020 brought them back.¹²⁷ That deal was intensively brokered by Julian Smith as Secretary of State, working closely with his Irish counterpart.

Brexit greatly exacerbated political division, however: within Northern Ireland, between London and Belfast, and between London and Dublin. Northern Ireland voted

¹²³ Whysall, *Northern Ireland's Political Future*, ch. 1, provides more background on some of these issues. There is a fuller account of the history in Working Group on Unification Referendums on the Island of Ireland, *Final Report* (London: Constitution Unit, 2021), ch. 2.

¹²⁴ Whysall, *Northern Ireland's Political Future*, pp. 12–13.

¹²⁵ Notably, *Hillsborough Castle* in 2010, *Stormont House* in 2014, and *A Fresh Start for Northern Ireland* in 2015.

¹²⁶ Whysall, *Northern Ireland's Political Future*, p. 12. On the mechanism by which the large parties can bring down the institutions, see the paragraph on 'Ministerial appointments' in Annex 2 of this paper, and Whysall, *Northern Ireland's Political Future*, p. 64.

¹²⁷ *New Decade, New Approach*.

to remain by 56% to 44%, with the DUP favouring Brexit and the other main parties opposing.¹²⁸

The kind of withdrawal decided on in London, leaving both the EU Single Market and the Customs Union, inevitably meant more physical checks on goods either within or around the island of Ireland. The *Northern Ireland Protocol* to the Withdrawal Agreement essentially established checks between Great Britain and Northern Ireland, with none on the border within the island, Northern Ireland continuing to have full access to the EU Single Market for goods.

To many unionists, this was a betrayal, leaving Northern Ireland semi-detached from the Union. It led eventually to the DUP withdrawing from the institutions in early 2022. London at times seemed to be on the point of repudiating parts of the Protocol, with a bill going some way through Westminster to achieve that. Relations with Dublin, as well as Brussels, reached a low point.

Under Rishi Sunak, however, London instead agreed with Brussels changes to the way the Protocol operated, through the Windsor Framework of early 2023.¹²⁹ But this was not judged by the DUP leadership to be enough for them to take the political risk of returning to Stormont. As a result, when many international luminaries (including President Joe Biden) visited Northern Ireland to celebrate the Agreement's 25th anniversary in spring 2023, none of its institutions were operating. Private negotiations between the DUP and London continued.

The DUP eventually returned to the institutions in February this year on the basis of some further changes (and much rhetoric) set out in the government white paper *Safeguarding the Union*, accompanied by a financial package.¹³⁰

But opposition to the Protocol within unionism remains strong, and there is no guarantee that stability has returned definitively. The DUP had been led back by Sir Jeffrey Donaldson, in the face of significant opposition within the party (and from harder line unionists); but he abruptly left the political scene in March, following criminal charges (which he has said he will contest). The DUP leadership has since said that it oversold the *Safeguarding the Union* deal, and reiterated demands going beyond it.

The wider Agreement settlement

The political turbulence of the last decade has had a profound and generally negative impact on Northern Ireland. Much of this paper is concerned with that impact.

There is a good government deficit. For five of the last seven years, Northern Ireland has had no effective government: direct rule, by which London traditionally

¹²⁸ See Whysall, *Northern Ireland's Political Future*, pp. 12–13 and ch. 6; and ch. 3 of the present paper.

¹²⁹ For analysis, see Andrew McCormick, '[The Windsor Framework: A Quick Evaluation](#)', UK in a Changing Europe blog, 28 February 2023. The government has since used the term 'Windsor Framework' to encompass the original Protocol as well, but the Protocol remains in place

¹³⁰ Whysall, '[Devolution returns to Northern Ireland](#)', (Constitution Unit blog, 6 February 2024).

took over in the absence of political agreement, was now thought too controversial. Civil servants, with greatly restricted powers, kept the show on the road. These hiatuses added to the already-serious problems of the economy, public services, and public finances.

Amid the political polarisation, tensions emerged in other areas, seriously challenging progress towards reconciliation under the Agreement. Notably, London imposed legislation on handling the legacy of the past, almost universally opposed in Northern Ireland. Serious disputes emerged in policing too, imperilling one of the greatest achievements of the Agreement process, cross-community consent to policing. A chief constable resigned. Meanwhile, paramilitary activity continued, albeit at nothing like earlier levels, and much of it a cover for gangsterism.

And the last few years have seen serious discussion about early Irish unity, for the first time since the conclusion of the Agreement. Support, according to polling, has increased significantly, though not so far approaching a majority.¹³¹ But unity is now once more a significant element in political debate, aspects of it are intensively discussed, and there appear to be a significant number of people believing it only a few years away.

London has been at the centre of all these events. Its actions in recent years, though, have incurred deep distrust across the community, evidenced in polling (see Chapter 1).

Has the Agreement succeeded?

The first chapter of the author's 2022 paper sought to evaluate the Agreement to date.¹³² This section is a brief summary.

The Agreement has brought clear benefits, many of which continue. Notably, it created the conditions in which political violence has largely ceased. Structures of government became possible that, in various ways highly imperfect, have at least been more successful than anything else in the last 50 years. Policing by consent was achieved, a remarkable transformation from the Troubles years. There has been a certain amount of economic success, and much international goodwill. Relationships within the island of Ireland, and between both parts of the island and Great Britain, for a time developed, with advantages to all. And much of society has moved on. Life in Northern Ireland for most people is almost unrecognisably better than during the Troubles years.

But these gains cannot all be seen as permanently guaranteed, given the polarisation and political dysfunction, the challenges to the process of reconciliation; and the serious economic, social and public service problems which the devolved institutions have failed to tackle effectively.

And so there has been growing public disappointment with the Agreement settlement, which was once a cause of great public hope and enthusiasm. The

¹³¹ Whysall, *The Agreement at 25*, pp. 11–12.

¹³² Whysall, *Northern Ireland's Political Future*, ch. 1.

international admiration it attracted, notably from the US and Europe, has turned into concern, and sometimes recrimination, directed at London.

There is however no plausible alternative to the Agreement for the foreseeable future. No other political arrangement offers the prospect of stable government in Northern Ireland that is widely accepted (though there may be room for changes in the way the Agreement mechanisms operate); and constitutional change appears neither to be an early prospect, nor a universal solvent for Northern Ireland's problems.

Against this background, the earlier papers suggested the approach needed to change, especially in London, in pursuit of a revived Agreement.¹³³ What was canvassed involved renewal not just of the way the political institutions function, but of the whole settlement.

Experience shows that ensuring the stability of the institutions by itself is not sufficient to bring about the revival of the other benefits of the Agreement – though at times London governments have appeared to be operating on the implicit assumption that it was. There is a need for attention to a wide range of issues on which the Agreement impacted.

Hence there is a need for new ideas, thinking almost on the scale that underlay the original Agreement; and the re-creation of the political and popular mood and energy that the Agreement settlement once generated. With which might also come renewed international goodwill.

¹³³ This idea is explored in Whysall, *Northern Ireland's Political Future*, ch. 5, against the timescale of the then impending 25th anniversary of the Agreement in April 2023.

Annex 2: Primer on Northern Ireland politics

For those unfamiliar with Northern Ireland politics, the following summary of key features may be useful.¹³⁴

The Agreement

Government in Northern Ireland is essentially conducted through institutions established in line with the Belfast/Good Friday Agreement of 1998.¹³⁵ The Agreement was approved among political parties representing majorities of both the unionist and nationalist political traditions, and by the British and Irish governments and parliaments; it was then endorsed in referendums north and south. There have been a number of changes following subsequent political negotiations, notably the St Andrews Agreement of 2006, though no departures from the basic architecture.¹³⁶

The Agreement has no direct legal force, but a number of its provisions, including those on constitutional matters, are replicated in a binding international agreement between the UK and Ireland, annexed to the printed version of the Agreement. The Northern Ireland Act 1998 made extensive provision establishing the institutions of government, and more generally giving effect to the Agreement, in UK law.¹³⁷

The Agreement provided not only for domestic institutions (*Strand One*), but also for relations between the two parts of Ireland (*Strand Two*), and between Ireland and Great Britain (*Strand Three*). It also provided for protections for equality and human rights; for the transition out of paramilitary violence, and for dealing with ‘legacy’: supporting victims and dealing with the legal aftermath of ‘the Troubles’.

And the Agreement made provision for the constitutional status of Northern Ireland. It recognised the legitimacy of whatever choice was freely exercised by a majority of the people of Northern Ireland; it required the Secretary of State to hold a ‘border poll’ on the issue, if it appeared likely to him or her that a majority would favour a united Ireland. Simple majorities in both parts of the island would lead to unity, without external impediment. The Irish Constitution (Articles 2 and 3), and UK law, were changed to reflect these provisions.¹³⁸

¹³⁴ Whysall, [Northern Ireland's Political Future](#), ch. 9, discusses some aspects of the current institutional framework, and possibilities for reform, in more detail.

¹³⁵ [Belfast/Good Friday Agreement of 1998](#).

¹³⁶ Whysall, [Northern Ireland's Political Future](#), ch. 1.

¹³⁷ [Northern Ireland Act 1998](#).

¹³⁸ See the [Irish Constitution](#) and the [Northern Ireland Act](#). Working Group on Unification Referendums on the Island of Ireland, [Final Report](#), ch. 4 describes the legal context more fully.

Key processes and actors

Elections to the *Northern Ireland Assembly*, composed of 90 members, are conducted by proportional representation under the Single Transferable Vote system. Members of the *Legislative Assembly* are styled MLAs.

Political parties:

- In the current Assembly, elected in March 2022, *Sinn Féin* is the largest party, with 27 seats. It nominated the *First Minister*, Michelle O’Neill MLA. The party’s overall leader is its President, Mary Lou McDonald, who is Dublin-based and has not stood in northern elections.
- The *Democratic Unionist Party* (DUP) has 25 seats and nominated the *deputy First Minister*, Emma Little-Pengelly MLA. Its leader was Sir Jeffrey Donaldson, a Member of Parliament, hence (by law) not in the Assembly; but he abruptly resigned the leadership in March following criminal charges (which he is contesting) and was replaced as leader by Gavin Robinson, also an MP.
- The other parties represented in the Executive are the *Alliance Party* (17 seats) led by Naomi Long MLA, the Justice Minister, and the *Ulster Unionist Party* (UUP) (9 seats) led by Doug Beattie MLA.
- The *Social Democratic and Labour Party* (SDLP) (8 seats), led by Colum Eastwood MP, in 2022 fell short for the first time of the total required under the d’Hondt formula (below) for membership of the Executive; Matthew O’Toole MLA of that party became Leader of the Opposition in the Assembly.
- The hardline *Traditional Unionist Voice* (which has announced a partnership with Reform UK in the UK general election, though Reform’s leader has endorsed DUP candidates) has one seat; it is led by Jim Allister MLA.
- The left-wing *People before Profit* also has one MLA; and there are two independent MLAs.

Designation: Members of the DUP, UUP and TUV *designate* themselves under standing orders as ‘unionist’; those in Sinn Féin and the SDLP designate themselves ‘nationalist’. Each of those parties derives the bulk of its support from a single section of the community. Alliance and People before Profit are designated as ‘other’, and have a wider support base. Unionists together once constituted an overall majority in the Assembly (and of Northern Ireland seats in the UK parliament). They lost their Assembly majority in 2017; in 2022 for the first time a non-unionist party emerged largest.

Ministerial appointments: Despite their different titles, the First Minister and deputy First Minister have only joint (and therefore equal) powers. The largest party in the Assembly nominates the First Minister; the largest party in the largest designation apart from the First Minister’s nominates the deputy First Minister. Until the 2022 election, the First Minister had always been a unionist, and the deputy First Minister always a nationalist. If those parties do not nominate, the process of forming an *Executive* – which they jointly chair – can go no further; if the Executive is in being, they can collapse it with resignation.

Hence Sinn Féin and the DUP currently have a veto on the existence of the devolved government, which they exercised respectively in 2017 and 2022.

Most other posts in the Executive are filled by the *d'Hondt* formula, which provides an order in which parties may select ministerial posts, allocating these posts in rough proportion to party sizes.¹³⁹

Assembly votes: Particularly significant votes in the Assembly have to be passed with *cross-community support*, which means either 50% of all members voting, and 50% of both unionist and nationalist members, or – for most such votes – an alternative threshold of 60/40/40. This gives a veto in the present Assembly to Sinn Féin and the DUP. Election of a Speaker, by law the first business a new Assembly must conduct, requires cross-community support; the DUP in 2022 prevented the election taking place, meaning that the Assembly just elected was unable to conduct any business for two years. Some decisions within the Executive also require cross-community support. Because of its sensitivity, the post of Justice Minister is filled by a cross-community vote, rather than under the *d'Hondt* mechanism.

The Secretary of State: There has been a *Secretary of State for Northern Ireland*, a member of the UK Cabinet, since 1972, in charge of a small UK government department called the *Northern Ireland Office*. Certain Northern Ireland-specific responsibilities have not been devolved; and Secretaries of State have sought to ensure that the Agreement settlement functions.

In the past when an Executive could not be formed, a system of *direct rule* was instituted, by which the Secretary of State exercised authority in place of devolved Ministers, and Westminster legislated for Northern Ireland under special procedures. But after the 2017 and 2022 collapses, this was not done: government was essentially left to the Executive's civil servants, with reinforced but still very limited powers, Westminster taking a limited number of essential steps such as authorising budgets.¹⁴⁰

Parliament: Northern Ireland returns 18 members to the House of Commons: in 2019, 8 DUP, 7 Sinn Féin, 2 SDLP and one Alliance member were elected. Sinn Féin members by long-standing policy do not take their seats, though they organise activities at Westminster and undertake constituency work. They receive no salaries, though they do receive allowances.

Dublin: The British and Irish governments have often worked closely together since the 1970s to advance political movement, or rescue the settlement when in danger. The Irish government has rights under the Agreement (but originally dating back to 1985) to make representations about non-devolved matters in Northern Ireland. As regards devolved

¹³⁹ The system by which the power-sharing Executive is constituted, and the significance of designations, are discussed in Whysall, *Northern Ireland's Political Future*, ch. 2 and 9; later proposals for reform are considered in Whysall, '[Northern Ireland's political institutions: time for change?](#)', Constitution Unit blog, 20 December 2023.

¹⁴⁰ Whysall, *Northern Ireland's Political Future*, ch. 2 and 3.

matters, the Agreement established a framework for cooperation between the Executive and the Irish government under the auspices of the North–South Ministerial Council.

The current Irish government is a coalition of three parties, Fianna Fáil, Fine Gael, and the Green Party. The head of government, the *Taoiseach*, is Simon Harris (who recently replaced Leo Varadkar as leader of Fine Gael); the deputy head, the *Tánaiste*, is Micheál Martin, leader of Fianna Fáil, and he is also Minister for Foreign Affairs, whose responsibilities include Northern Ireland. There must be another general election by March 2025. At times in recent years, opinion polling has suggested that Sinn Féin, which has never been in government in the South, may be the largest party in the lower house of the Irish Parliament, the *Dáil*; and thus, dependent on coalition formation, may potentially head the next Irish government – though recent polling, and election results, have dampened expectations.

Brexit has profoundly affected Northern Ireland politics. The DUP favoured it in the 2016 referendum; the other four main parties opposed. Northern Ireland voted against Brexit by 56% to 44%. Withdrawal from the Single Market and Customs Union raised difficult problems about borders. Establishing effective borders along the land boundary would be practically unfeasible, and politically incendiary; they are much more readily operated in the Irish Sea. The Northern Ireland Protocol to the Withdrawal Agreement with the EU provided for Northern Ireland to remain within the Single Market as regards goods, and the EU Customs Code continues to apply to goods entering Northern Ireland.¹⁴¹ It also however retains free access to the UK internal market. In addition, the Protocol provides guarantees for individual rights accorded under the 1998 Agreement; the courts have the right to disapply even subsequent Acts of the UK parliament considered to violate this guarantee (see the section on ‘Identity, language, and rights’ at page 27 of the present paper).

The compromises involved in the Protocol led to much unionist unhappiness, and eventually to the DUP veto on the institutions in 2022. At various times the UK government sought to renegotiate or otherwise move away from the Protocol.

But in 2023 London resolved its dispute with Brussels with the Windsor Framework, which made some changes to the way the Protocol operated. Further adjustments in the white paper *Safeguarding the Union* in February 2024 led the DUP to return to the institutions, which have operated since.¹⁴²

¹⁴¹ Whysall, *Northern Ireland's Political Future*, ch. 6.

¹⁴² *Safeguarding the Union*. For discussion, see Whysall, ‘[Devolution returns to Northern Ireland](#)’, Constitution Unit blog, 6 February 2024.

Whatever the result of the general election on 4 July, the new Westminster government will face multiple challenges in Northern Ireland. The stability of the power-sharing institutions, recently restored to operation, is not guaranteed. A polarised ‘Union versus Irish unity’ debate has emerged. Trust in London across Northern Ireland has been low, and relationships with traditional partners – including Dublin and the United States – have worsened considerably since 2016.

The report suggests that a new government needs to take a different approach, rebuilding trust and relationships with conspicuous evenhandedness, and encouraging new thinking. It examines options in a range of specific policy areas that underpinned the Belfast/Good Friday Agreement settlement, including safeguarding and reforming the institutions, promoting good government, and addressing the legacy of the Troubles.

About the Constitution Unit

The Constitution Unit is a research centre based in the UCL Department of Political Science. We conduct timely, rigorous, independent research into constitutional change and the reform of political institutions. Since our foundation in 1995, the Unit’s research has had significant real-world impact, informing policy-makers engaged in such changes – both in the United Kingdom and around the world.

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