

# AGREEMENT AT HILLSBOROUGH CASTLE

FEBRUARY 5th 2010

Section 1 - Policing and Justice

Section 2 – Parades

Section 3 – Improving Executive Functions

Section 4 – Outstanding Executive Business

Section 5 – Outstanding St Andrews Review

1. This text is an affirmation of our shared belief in the importance of working together in a spirit of partnership to deliver success for the entire community.
2. We wish to see this agreement reflect our willingness to ensure the Executive and the Assembly reflect better this spirit of partnership, mutual respect and equality which remain vital for the success of devolution.
3. We recognise the importance of improving the efficiency of the Executive and greater inclusiveness. The outworking of this agreement will allow the uninterrupted functioning of the Assembly and Executive.

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## Section 1 - Policing and Justice

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### **Devolution timetable**

1. Following community consultation the First Minister and deputy First Minister will table jointly a resolution for a cross-community vote in the Assembly on 9 March. Following affirmation of the resolution they will support all necessary steps in the Assembly to ensure devolution of powers by the 12 April. The Government will set out publicly the Parliamentary schedule for the related transfer orders required to effect devolution. Policing and justice powers will be devolved on that day.

### **The Department of Justice - Model**

2. The Assembly's Department of Justice Bill, which completed its passage in December, establishes the new Department of Justice and sets out the arrangements for the appointment of the Justice Minister. It provides that there will be a single Justice Minister in charge of the Department of Justice which will be responsible for devolved policing and justice policy and legislation. The Justice Minister will be elected by a cross community vote in the Assembly following a nomination by any MLA.

### **Identification of Justice Minister**

3. On Monday 8 February 2010 the First Minister and deputy First Minister will convene a meeting of party leaders to consider applications of interest for the post of Justice Minister. The purpose of this meeting will be to allow the First Minister and deputy First Minister to identify which candidate they believe is best able to command cross-community support in the Assembly.

### **Independence of Judiciary and Chief Constable**

4. We believe that the independence of the judiciary is essential in a democratic society which supports the rule of law. It is of paramount importance that the judicial function remains independent of Government and immune from any partisan or political interest. Public confidence requires that judicial decisions are taken in a fair, impartial, objective and consistent manner. This confidence can only be maintained if judges are able to act with independence.

5. As part of the devolved policing arrangements the Chief Constable will be operationally responsible for directing and controlling the police. The PSNI will have operational responsibility for policing, and for implementing the policies and objectives set by the Department of Justice and the Policing Board.

### **Addendum to Programme for Government**

6. There will be an addendum to the Programme for Government (PfG) for the Department of Justice which will be drafted by the Justice Minister and brought to the Assembly for approval. We believe that in bringing forward his/her proposals the Justice Minister should give consideration to the following:

- The addendum should be drafted in such a way as to be a seamless fit into the current PfG, conforming to the format of the existing document;
- Some of the work of existing departments touch upon the proposed functions of a new DOJ for example the good relations unit in OFMDFM has a key role in dealing with community relations. The addendum should reflect that ongoing work and be drafted collaboratively with officials from relevant departments;
- Confidence, avoidable delay, rehabilitation, recidivism and the interests of victims and witnesses are key elements of any addendum. Developing policies which support effective policing should also be part of any forward work programme.

7. The necessary actions to support the agreed policies could usefully include, inter alia:

- Building upon the ongoing Tribunal Reform programme;
- Learning from international best practice in matters of criminal justice;
- Full provision of adequate funding and other resources for legal services to the disadvantaged in society, ensuring equality of access to justice for all;
- Establishment of a sentencing guidelines council;
- Review of alternatives to custody;
- Adequate provision of diversionary alternatives to prosecution;
- The powers of the Prisoner Ombudsman to be reviewed in light of experience elsewhere;
- A review of the conditions of detention, management and oversight of all prisons;
- A comprehensive strategy for the management of offenders;
- Consideration of a women's prison, which is fit for purpose and meets international obligations and best practice;
- Review of how children and young people are processed at all stages of the criminal justice system, including detention, to ensure compliance with international obligations and best practice;
- Development of a Victims Code of Practice setting out a minimum standard of service that criminal justice agencies will be expected to provide to victims of crime; to include the right of victims to be kept informed about all aspects of the progress of their case (including decisions whether or not to prosecute following a complaint, to accept pleas to alternative charges or to discontinue a prosecution); the outcome of court hearings; offenders bail conditions; forthcoming appeals; post-sentence issues; and compensation applications to providing assistance to victims including material, psychological and social assistance through governmental, voluntary and community-based means at all stages of the criminal justice system.
- It is envisaged that there would be a presumption of full and frank disclosure of information by the PPS to a Victim under the Code except where to do so would prejudice the administration of justice or fail a public interest test. Consideration could be given to place all or part of the Code on a statutory footing;
- A miscellaneous provisions bill.

### **Relationship between Justice Minister and Executive**

8. The Justice Minister will have the same status in the Executive as other Ministers – the Justice Minister will have the same standing in terms

of attending and voting at the Executive and as with other Ministers the operation of the Department would be subject to his/her direction and control. In this context as with other Ministers the Justice Minister would have responsibility for operational matters within the Department.

9. Having regard to the particular responsibilities of the Justice Minister we have agreed that quasi-judicial decisions shall be made by the Justice Minister without recourse to the Executive.

10. The Justice Minister will bring any proposals he/she believes necessary to the Executive detailing how the Ministerial Code or Procedural Guidance should be amended to ensure effective decision-making in relation to urgent, confidential or other matters in his/her Department which would normally require consideration by the Executive. Pending the implementation of any agreed amendments to the Ministerial code or procedural guidance, the Executive would normally grant retrospective approval to any decisions in which the Minister had acted reasonably. However, the First Minister and deputy First Minister, acting jointly may require any matter to be brought to the Executive for consideration or agree jointly that retrospective approval would not be granted. Notwithstanding the above all issues which cut across the responsibility of two or more ministers, legislative proposals and financial allocations to the Department of Justice would require Executive consideration. It is expected that any new arrangements would be in place by the summer recess.

### **Additional Financial Settlement – Letter from the Prime Minister dated 21 October**

Dear Peter and Martin,

I promised to write to you setting out the elements of the financial settlement that you agreed to present to your respective parties. Our discussions on the finance have been careful, detailed and considered and I am grateful to you for the time you have given to them. Together we have, I believe, achieved an outcome in which we each have confidence and which will ensure that when policing and justice powers are transferred, the Northern Ireland Justice Department will have a secure financial foundation which we all recognise is important in ensuring confidence in the policing and justice services across the community. I believe the settlement which is outlined below is a good settlement which will meet the needs of a devolved Justice Department.

The key elements of the settlement are:

- The Northern Ireland Executive will have access to the reserve to meet any exceptional security pressures relating to policing and justice. On the same basis, HM Treasury will be prepared to make available up to an additional £37.4 million in 2010/11.
- Capital budgets in the next CSR period will be sufficient to enable the Executive to take forward routine, but necessary work, to maintain the operational capacity of existing assets, to complete the police training college and to come to its own view about the relative priorities for new capital expenditure including Magilligan Prison and other projects in the period ahead.
- The legal aid allocation is a £20 million a year addition to baseline through to the end of 2012/13, after which efficiency savings will be expected to take effect, allowing the baseline increase to be reduced to £14 million a year. To meet additional pressures over the next two years, including other courts pressures, we agree the need on a one-off basis for a further £12 million. If, in the event, pressures turn out to be higher than this, HM Treasury will provide further money from the reserve up to a maximum of £39 million. Until the end of 2012/13 this access to the reserve will not be recouped from future EYF.
- HM Government will gift the four agreed former military bases to the Northern Ireland Executive. It would be anticipated that a portion of the land in Omagh will be used for an educational campus but it would be expected that disposal proceeds from the other sites would be used, on a basis agreed with HM Treasury, to meet exceptional resource pressures (including potentially equal pay claims). HM Treasury will work with the Northern Ireland Executive to help ensure that any timing issues, related to delays in securing these disposal proceeds as a consequence of market conditions, can be addressed on an agreed basis.
- On police pensions, previously identified pressures of £101 million can be fully addressed through technical changes which will include a public expenditure neutral DEL to AME reclassification.
- There are potential pressures (the "long list") of around £15 million in 2010/11 on resources relating to policing, prisons and probation. This should fall to around £10 million a year in the next CSR period. Baselines will need to be sufficient to meet these pressures. In addition £30 million in unallocated EYF and underspends generated in future years will be available to meet pressures.

- Prior to devolution the Secretary of State for Northern Ireland and the head of the PSNI will agree on how front-line policing is protected while ensuring the greatest efficiency.
- Hearing Loss. The Northern Ireland Executive will meet the first £12m of claims in any one year. Any sums incurred above that will be met through access to the reserve, based on annual agreement between the Northern Ireland Executive and HM Treasury on the litigation strategy. To assist the Northern Ireland Executive to meet the expected £12m a year pressure, the Treasury will be prepared to acquire from the Northern Ireland Executive sellable assets worth up to £12 million a year for five years, or £60 million in total. HM Treasury and Northern Ireland Executive will need to agree on the valuation methodology.

I believe that this is a very strong settlement which will ensure that all the people of Northern Ireland continue to have high quality policing and justice services.

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## Section 2 – Parades

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1. The Parades Commission is tasked with regulating and adjudicating on parading. We are committed to a new and improved framework fashioned by all stakeholders and maximising cross community support.
2. The First Minister and deputy First Minister have agreed to set up a co-chaired working group comprising six members, appointed by them, with experience of dealing with parading issues which will bring forward agreed outcomes which they believe are capable of achieving cross community support for the new and improved framework. This work will begin immediately and will be completed within three weeks.
3. We recognise that support from all sides of the community has the potential to create a new improved framework for the management and regulation of public assemblies including parades and related protests. We believe that such a framework should reflect the key principles of:
  - Local people providing local solutions;
  - Respect for the rights of those who parade, and respect for the rights of those who live in areas through which they seek to parade. This includes the right for everyone to be free from sectarian harassment;
  - Recognising that at times there are competing rights;
  - Transparency, openness and fairness;

- Independent decision making.
4. The working group has been tasked to take forward work in the following areas, building on the interim report of the Strategic Review of Parading. This will inform the public consultation, as part of the schedule, as set out in the timetable below:
- Procedures relating to the receipt and notification of parades and assemblies; objections relating to them; necessary actions arising from the lodging of objections; and the facilitation of dialogue and mediation;
  - In the event of the failure of mediation, recourse to independent adjudications and procedures;
  - Adjudication arrangements comprising an appropriate mix of lay and legal expertise with sufficient resources to operate effectively and efficiently;
  - A code of conduct which is legally enforceable;
  - The right of citizens to freedom from all forms of harassment.
5. The working group by agreement may add to the above points.
6. The First Minister and deputy First Minister will promote and support the agreed outcomes of the working group.
7. We recognise that any improved regulatory framework must be capable of maximising cross community support.
8. Following the completion of the consultation process a Bill will be finalised.
9. The First Minister and deputy First Minister will support all necessary steps in the Assembly to ensure that the Bill completes all stages before the end of 2010. In parallel the First Minister and deputy First Minister will take the necessary steps to enable the reclassification of parades as a transferred matter.
10. Where there is a need, support will be provided to help local communities and those who parade to find local solutions to contentious parades and related protests. This will encourage local accommodation and will take account of lessons to be learnt from successful local models. It is envisaged that in the case of the most difficult situations, additional ongoing support will be provided to encourage resolution of contention.
11. We will promote and support direct dialogue with, and the involvement of, representatives of the Loyal Orders, band parade organisers, local residents' groups and other stakeholders, as this work is advanced. We will also encourage the participation of local elected

representatives in the process of resolution. This work will start as soon as possible.

12. The current adjudication mechanism of the Parades Commission will continue until the new improved arrangements are in place.

#### Parading - Timetable

Assumes maximum priority in Assembly at all stages.

FM/dFM appoint working group	8 February
Working group begins work	9 February
Working group completes work and reports on agreed outcomes to FM/dFM	By 23 February
Commencement of the drafting of Bill to implement working group agreed outcomes (working group to assist during drafting process to confirm Bill delivers agreed outcomes)	End w/c 22 Feb
Draft Bill completed	Late March
Assembly assumes responsibility for the parades legislation	Late March/early April
Draft Bill published for consultation	Late March/early April
Completion of consultation	w/c 8 June
Consideration of consultation responses and finalise Bill	w/c 15 June
Executive approves introduction of Bill in September	w/c 29 June

*Assembly summer recess (assuming returns on 6 September)*

Text of Bill submitted to Speaker and Speaker fulfils all formal requirements to legislate in the Assembly	w/c 6 September
Bill introduced (at least 7 working days after submission to Speaker)	w/c 13 September
Second stage	w/c 20 September
Committee Stage (30 working days under SO33 – can be shortened with accelerated passage)	w/c 27 September
<i>Halloween Recess 1 week</i>	
Consideration Stage	w/c 15 November
Further Consideration Stage	w/c 22 November
Final Stage	w/c 29 November
Bill submitted for Royal Assent	w/c 6 December
Royal Assent (if urgency procedure can be invoked under s.15(3) of 1998 Act)	w/c 13 December

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### Section 3 – Improving Executive Function and Delivery

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1. Party papers have been exchanged during the Talks at Hillsborough Castle making suggestions on how the Executive might function better and how delivery might be improved.
2. The First Minister and deputy First Minister will seek approval from the Executive to set up a Working Group to consider all proposed arrangements and make recommendations.
3. The Working Group, which would comprise representatives from all parties on the Executive, should consider any proposals and make recommendations to the Executive for new and improved processes. Sir

Reg Empey and Margaret Ritchie will be asked to co-chair this Working Group and to commence their work by the end of February.

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#### Section 4 – Outstanding Executive Business

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1. Junior Ministers will chair a Working Group involving all of the Parties in the Executive and oversee an exercise of trawling for and identifying all Executive papers and decisions which are still pending. They will be tasked to provide a report to the Executive detailing the level of progress made on each outstanding matter and Junior Ministers will make recommendations on whether and how progress could be made on any and all outstanding matters by the end of February. This will include a programme of work detailing how any remaining outstanding issues will be resolved.

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#### Section 5 – Outstanding Issues from St Andrews

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1. The First Minister and deputy First Minister will oversee an exercise of examining the St Andrews Agreement and identifying all matters contained within it which have not been faithfully implemented or actioned. The First Minister and deputy First Minister will provide a report to the Executive by the end of February detailing the level of progress made on each outstanding matter.

2. The First Minister and deputy First Minister will seek approval from the Executive to set up a Working Group to make recommendations on how progress could be made on those matters which have not been actioned. Junior Ministers will be asked to chair this Working Group and make an initial report by the end of March.

3. Within four weeks of the Working Group's initial report the First Minister and deputy First Minister will agree a programme to effect completion of the agreed conclusions of the Working Group.