

PIVOTAL
B R I E F I N G

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GOVERNING
NORTHERN
IRELAND
WITHOUT AN
EXECUTIVE

PIVOTAL - THE INDEPENDENT
PUBLIC POLICY THINK TANK FOR
NORTHERN IRELAND

INTRODUCTION

Northern Ireland has not had proper government since February 2022, when the First Minister's resignation triggered the collapse of the Executive. Following the May Assembly election, no Speaker has been elected so the Assembly cannot sit and an Executive cannot be formed. Meanwhile, households and businesses in Northern Ireland face huge challenges with the escalating cost of living, predictions of recession, and funding crises in health, education and other public services.

Disagreements about the Northern Ireland Protocol sit behind the failure to form an Executive. These disagreements are not the subject of this paper - but they clearly need to be resolved for both economic and political reasons.

Northern Ireland has no First or deputy First Minister and therefore no Executive. However, [new legislation](#) means that – unlike previous periods of collapse, such as between January 2017 and January 2020 - other Ministers can remain in post as 'caretakers' for a 24-week period. Those 24 weeks began on 13 May, following the Assembly election.

During this period, government is diminished. Without an Executive there is no opportunity to make new decisions that are significant, controversial or cross-cutting. 'Caretaker' ministers [can run their departments and provide some direction, but only along the lines of previous policies](#).

This period ends on 28 October. From then, the caretaker ministers will no longer be in post and current legislation says that the Secretary of State is obliged to call an election within 12 weeks. Any such election would take place between 29 November and 19 January.

In the meantime, the absence of the Assembly means there is no formal scrutiny of ministers or civil servants by MLAs through accountability processes like Oral Assembly Questions and Assembly Committees. MLAs cannot fully represent their constituents' interests due to a lack of opportunities to scrutinise the work of departments, hold ministers to account or contribute to legislation.

This briefing paper provides evidence and analysis about how this form of government is working. As an independent think tank, Pivotal takes no view on the politics of the situation. The paper looks at what can and cannot be done by ministers, civil servants and MLAs in theory - and what has been happening over recent months in practice. The paper ends with ideas about how best to proceed, whatever the political landscape.

WHAT CARETAKER MINISTERS ARE DOING

There is no overarching strategy or budget underpinning the current work of government

No Executive means no opportunity to agree a Programme for Government or Budget, two foundational plans expected at the start of a new Assembly term. Moreover, neither a Programme for Government nor Budget were in place before the Executive collapsed in February 2022, so ministers and civil servants do not even have recent cross-governmental plans on which to base their current actions.

THE BUSINESS OF GOVERNMENT IS CONTINUING BUT WITHOUT ANY NEW DECISIONS THAT ARE SIGNIFICANT, CONTROVERSIAL OR CROSS-CUTTING.

Ministers are continuing to run their departments in line with previously agreed policies

Until 28 October, Ministers can run departments in line with previously agreed policies and within their estimated budget for this year. The business of government is continuing but without any new decisions that are significant, cross-cutting or controversial.

Some examples of ministerial work since the May election are:

- [action on health waiting lists](#)
- [upcoming consultation on re-shaping hospital care](#)
- [new strategy for education and training for young people aged 14-19](#)
- [summer holiday food grants for families entitled to free school meals](#)
- [funding for the Engage programme in schools until the end of 2022](#)
- [mental health strategy delivery plan for 2022-23](#)
- [new training places](#)

There has been [active lobbying of the UK Treasury about cost-of-living support](#) and the [impact of inflation on the real value of Northern Ireland's block grant](#). Ministers have also been involved in meeting stakeholder organisations and doing visits. Other normal business of government has continued, for example publication of guidance, consultations, statistics, research and some public appointments.

Emergency arrangements are in place to continue to provide funding to departments

The Department of Finance (DoF) is working with other departments on estimated funding envelopes for this year, to allow for clearer planning. In the absence of a Budget agreed by the Executive, the DoF Permanent Secretary is using emergency powers to [provide up to 95% of the amount that each department received last year](#). However, DoF have said that [around £435 million remains unallocated from Northern Ireland's block grant for 2022-23](#) because there is no Executive to agree it (made up of additions from the UK Budget in autumn 2021 and extra allocations since then).

Civil servants are supporting ministers and preparing for an incoming Executive

As well as supporting ministers in their ongoing caretaker roles, the Northern Ireland Civil Service (NICS) has continued preparations for an incoming Executive. It is developing a draft Programme for Government (PfG) based on the [nine outcomes in the previous PfG consultation from early 2021](#). The Head of the Civil Service has [held a series of meetings with political parties entitled to a role in a new Executive, and has set up a number of working groups](#).

Work has also begun on [three longer-term 'missions' addressing some of Northern Ireland's biggest challenges](#): employability and productivity; green sustainable future; and improving life outcomes.

The DoF is leading work on a new multi-year Budget that would be agreed by an incoming Executive. Although a [draft Budget was put out for consultation in December 2021](#), its allocations were not agreed by all the parties and have since been challenged.

NOT ALL THE MONEY AVAILABLE CAN BE SPENT BECAUSE THERE IS NO EXECUTIVE TO AGREE A BUDGET.

MLAs are engaging with constituents and stakeholder organisations but without the normal Assembly procedures in place

The Assembly has had three procedural sittings since the May election: the initial meeting on 13 May and then 'recall' sittings on 30 May and 3 August. On each occasion, MLAs have proposed candidates for the role of Speaker but none has secured the cross-community vote necessary to be elected. As a consequence of there being no Speaker or Assembly, Committee Chairs and memberships have not been selected. MLAs have continued taking forward issues on behalf of constituents, but without regular Assembly sittings and Committee meetings at which to follow up with ministers. The only formal method of scrutiny by MLAs is written Assembly Questions. Ministers have received [over 2,700 questions](#) from MLAs since the May election. MLAs still meet with business and third sector groups on relevant issues. Some Assembly All Party Groups have been formed.

HOW EFFECTIVE IS THIS FORM OF GOVERNMENT?

Governing without an Executive is wholly inadequate given the scale of current challenges

This would be a very difficult period even with a fully functioning Executive and Assembly in place. Northern Ireland faces many pressing issues, including those that need urgent action like the cost-of-living crisis, health waiting lists and schools budgets, and those that require longer-term solutions, like climate change, energy policy, low productivity and the predominance of low-paid jobs.

There is an urgent need for an Executive that works together to agree an ambitious and cross-cutting Programme for Government to take on these challenges. Without a fully functioning Executive, the government in Northern Ireland can at best offer short-term, temporary solutions.

Representatives from business, third sector and professional bodies have repeatedly emphasised that an Executive is essential to deal with all these issues, for example the [Royal College of Paediatrics and Child Health](#), [BMA NI and Royal Colleges of Nursing, Surgeons, Emergency Medicine and GPs](#), [teaching unions](#), [Northern Ireland Chamber of Commerce](#), [CBI NI](#) and [CO3](#).

The absence of an agreed Budget creates uncertainty and risks poor financial management

Keeping spending within Northern Ireland's total budget this year will be extremely difficult, given rising public sector pay and energy costs, and pre-existing pressures on public services. A new Executive could have worked together to make the difficult choices needed. Instead departments do not even have clear budgets for this year.

The resulting uncertainty means no opportunity for proper financial planning, makes an overly-cautious approach to spending likely, and may result in last-minute decision making. The roll forward of allocations means there has been no strategic reallocation of funding between departments. In addition, around £435 million sits unallocated because there is no Executive to agree how it should be spent. If an Executive is not formed, the UK Government will need to legislate for a Budget for 2022-23, although this would now be at a very late stage of the financial year.

The lack of clarity about this year's budgets affects external organisations who receive funding from government departments, with many facing uncertainty about their budget this year and beyond. In addition, third sector organisations are very concerned about the lack of leadership from Northern Ireland in discussions about the UK Government's Shared Prosperity Fund, which is due to replace previous EU funding.

The opportunity to make progress on important issues may be lost

There is a window of opportunity at the start of any new government term to make ambitious and challenging decisions. The last Executive and Assembly made progress on neglected issues like mental health, climate change and skills, but this progress could be lost if momentum is not maintained. For example, the lack of an Executive is delaying any action in reforming how and where health services are delivered, despite political agreement that this is urgently needed. The new climate change legislation needs to be followed up with ambitious, specific, cross-governmental plans. Funding is required for the 'Fair Start' action plan to tackle educational under-achievement. There are also outstanding commitments in New Decade, New Approach which have yet to be properly moved forward, like a childcare strategy, an anti-poverty strategy and the creation of a regionally balanced economy - all of which have become even more important given the cost-of-living crisis.

Without an Assembly, there is a lack of transparency, scrutiny and accountability

Under normal arrangements, MLAs have opportunities to scrutinise Ministers in the Assembly chamber or through Committees, but currently the only way MLAs can formally seek information from Ministers is through written Assembly Questions. These processes also open up information about the operation of government to the public. At present there is a serious lack of transparency, scrutiny and accountability in government.

The public's confidence in government in Northern Ireland may be further eroded

Survey data from 2021 show that [most people still support the Good Friday \(Belfast\) Agreement as the basis for governing Northern Ireland](#). However, data from spring 2022 [indicate that the public was hugely dissatisfied with the Executive's performance](#). Since devolution in 1999, the Executive has not been functioning for more than 40% of the time. When the Executive has been in place, relations between the parties have often been fraught. Another prolonged period without government is likely to further erode public confidence.

A period without any ministers in post may be only eight weeks away

Unless an Executive is formed by 28 October, current ministers will cease to be in post and under current legislation the Secretary of State has to call an Assembly election. A prolonged period without any ministers in place is possible. In that case, the NICS would run departments in line with previous policies, but without the additional decision-making powers provided by the [now repealed Executive Formation and Exercise of Functions Act 2018](#). The then Head of the Civil Service said the lack of decision-making in 2017-2020 meant "stagnation and decay" in public services. This is a bleak prospect given that current problems like the cost-of-living crisis, pressures on public sector budgets and health waiting lists will only escalate as the year progresses.

MOVING FORWARD

In conclusion, Pivotal offers some suggestions for how best to proceed, whatever the political landscape:

- ▶ Restoration of the Assembly and Executive should be a priority for all. The lack of proper government is very damaging, given the multitude of immediate and longer-term problems. As time goes on, the need for decision-making increases as issues remain unaddressed and budgets become more squeezed. Getting the institutions operating fully should be the focus for Northern Ireland's politicians, the UK and Irish Governments, business, civic society and the public.
- ▶ All concerned should focus on solving outstanding issues about the Northern Ireland Protocol. Businesses want lasting solutions that recognise the benefits the Protocol brings to firms and consumers here, while also addressing its shortcomings.
- ▶ In preparation for a new Executive, civil servants and political leaders should continue to develop a Programme for Government and a multi-year Budget. The PfG must prioritise pressing issues like the cost of living and health waiting lists, and strategies for longer-term challenges like low skills and productivity, poverty and inequality, climate change and public service reform. The Budget should be realistic about the difficult spending choices needed.
- ▶ If a period without proper government is to continue, particularly one without even caretaker ministers, there must be clear guidance for civil servants on what decisions can be taken, and a willingness by the UK Government to step in to enable progress where needed. A prolonged period where significant decisions are not taken should be avoided. Public services are struggling and further deterioration would be very damaging.
- ▶ Steps should be taken to improve transparency, scrutiny and accountability. Options include: 'shadow committees' to allow MLAs to ask questions and get expert advice; official briefings by ministers and/or civil servants; and publication of regular reports to show what has been achieved.
- ▶ In the absence of an Assembly and Executive, those outside politics – the public, civic society and business – should continue to raise issues, develop policy ideas, press for change and work collaboratively to promote good policy-making.