Back to Stormont: The *New Decade, New Approach* Agreement and What it Means for Northern Ireland

**Abstract**

The decision of the Democratic Unionist Party and Sinn Féin to once again share power in Northern Ireland has ended a three-year hiatus in the region’s devolved government. The deal which resurrects the devolved institutions – *New Decade, New Approach* – is not short of ambition. It introduces significant institutional reforms which place the institutions on a more sustainable footing and limit the potential for abuse of the Assembly’s infamous Petition of Concern. Nettles have been grasped on issues to do with language, culture and identity that have long vexed political parties in Northern Ireland. Tucked away in the deal’s appendices are commitments to implement outstanding pledges made in previous agreements plus ambitious plans for the new Northern Ireland Executive. However, as parties in the region were quick to discover, aspects of this deal are easier said than done. This article considers what *New Decade, New Approach* promises and, if fully implemented, what its implications are for politics and governance in Northern Ireland.

**Keywords:** Stormont, Northern Ireland, devolution, institutional reform, power-sharing

**Introduction**

For the first time since the resignation of the late Martin McGuinness as deputy First Minister in January 2017, Northern Ireland has a devolved government in place. After several false starts, the Democratic Unionist Party (DUP) and Sinn Féin have signed up to an agreement which has led to the formation of a five-party Executive and MLAs back at work in the Assembly.[[1]](#endnote-1) Rather than a new-found sense of optimism or genuine rapprochement, circumstances beyond the DUP and Sinn Féin’s control pressured the two parties into reaching agreement. December’s General Election, which returned disappointing results for both parties and ended the Prime Minister’s dependence on the DUP in Parliament, made a New Year return to Stormont more likely,[[2]](#endnote-2) however the real tipping point arrived when health workers in Northern Ireland took unprecedented industrial action over pay disparity and a spiralling crisis in the NHS. Unlike his predecessor, Secretary of State for Northern Ireland Julian Smith was taken seriously when he warned parties that failure to reach agreement by 13January 2020 would trigger fresh Assembly elections. Rather than face another potentially bruising contest, the parties opted instead to reform the Executive 48 hours before the deadline.

Given the totemic significance of the Irish language during the past three-year stalemate, most of the commentary on *New Decade, New Approach* has focussed on the mechanisms it establishes to manage thorny issues of language, culture and identity in Northern Ireland. Somewhat less attention has focussed on the deal’s reforms to the Northern Ireland Assembly and Executive, though these too are highly significant. Chief amongst these is the reform to the procedure for appointments to the Executive Office after a resignation, the consequence of which will be to make it more difficult for a party to collapse the institutions. The Petition of Concern has been removed from the gift of any one party (an important step despite arguments to the contrary)[[3]](#endnote-3) and the petitioning process formalised to improve transparency and minimise potential for misuse.[[4]](#endnote-4) Appended to the document are ambitious plans for the new Executive which, as parties soon discovered *after* signing up to the deal, may not be financed by the UK Treasury. This has occasioned the first major dispute of the *New Decade, New Approach* era, although it is one which has pitted a united Executive against the perceived penny pinching of the UK Government. At sixty-two pages in length, there is much to digest in *New Decade, New Approach*. This article considers some of the take-home points concerning institutional reform, issues of language and culture, the Executive’s forward work, and the deal’s potential for ushering in better politics in Northern Ireland.

**Significant (and long overdue) institutional reforms**

Although attention has focussed most on reforms to the Assembly’s Petition of Concern (see below), the most significant institutional change brought about by this deal relates to the procedure for appointing the First and deputy First Minister. *New Decade, New Approach* buys the Assembly and Executive more time when First or deputy First Ministers resign before an election needs to be called. In bygone mandates, parties had only seven days to fill a vacancy in the Executive Office before the Secretary of State was obliged to set a date for fresh elections. This period has now been extended to six weeks, with the option of a further 18-week extension if required. Crucially, ministers remain in post as care-takers during this period and, equally important, the Assembly continues to sit with MLAs and committees able go about their parliamentary duties unabated. In short, one party’s decision to withdraw from the Executive Office no longer collapses the institutions – at least not for several months. This reform has not elicited as much attention as it deserves. Had it been in place in January 2017, care-taker ministers, scrutinised by parliamentary committees, would have continued to oversee the governance of Northern Ireland during the Sinn Féin-DUP stalemate – a situation infinitely preferable to the decision-making and accountability vacuum of the past three years.

Much needed reforms to the Assembly’s infamous Petition of Concern (PoC) should make abuse of this procedure much less likely. For all intents and purposes, the PoC was instituted in 1998 to protect one community’s interests from riding roughshod over the other’s. In practice, the unrestricted ability of 30 MLAs to petition (and thus essentially veto) any motion or bill that came before the Assembly enabled parties to torpedo causes they disapproved of with impunity – be they same-sex marriage or motions seeking to sanction MLAs found guilty of misconduct.[[5]](#endnote-5) Although certainly not the only culprit guilty of PoC misuse, the DUP, having held more than 30 seats in previous Assemblies, could (and did) veto issues as and when it desired. This can no longer happen.

*New Decade, New Approach* removes the PoC from the gift of any one party by stipulating that the procedure can only be triggered via the support of two or more parties.[[6]](#endnote-6) Despite arguments to the contrary,[[7]](#endnote-7) this is an important reform. Whilst no party has 30 seats at present, it is not inconceivable that a party could return with such a number after fresh elections. In such a scenario, this reform prevents that party from vetoing proposals that do not suit its interests. Additionally, motions that relate to the misconduct of MLAs are now immune from the PoC, as are motions that carry no express legal or procedural effect. Whilst bills may still be subject to a PoC, the veto can only be applied after the Second Stage of the legislative process, thus allowing MLAs to at least debate and vote on a bill’s general principles. The Speaker and his/her three deputies are now prohibited from signing a PoC, bolstering their impartiality and making the 30-signature threshold that little bit harder to attain. In addition to the First and deputy First Ministers committing not to sign a PoC for the rest of this mandate, all parties have agreed to use PoCs only in the ‘most exceptional circumstances and as a last resort’. MLAs must sign PoC documentation in person at the Assembly’s Bill Office – thus ending the practice of parties having their members sign petitions in advance – and are required to provide written justification as to why a PoC is necessary. Such a requirement should add a degree of transparency to the PoC process, although making these written justifications publicly available is key. Taken together, these reforms significantly reduce the potential for abuse of what remains an important cog in the checks and balances of Northern Ireland’s power-sharing arrangements.

Since all five of Northern Ireland’s main political parties have decided to join the new Executive, the additional funding promised to the Assembly’s official Opposition by *New Decade, New Approach* will not be put to use for the time being. Nonetheless, this commitment addresses an oft-repeated criticism of the first (and hitherto only) Assembly Opposition (2016-17), which is that it was ‘massively underfunded’.[[8]](#endnote-8) The deal also commits relevant Assembly authorities to commission an independent review of the adequacy and effectiveness of the entitlements currently on offer to the Opposition, with assurances given that additional resources will be made available if deemed necessary. Conceivably, such a review could lead to the enhancement of speaking rights for members of the Opposition, more frequent Opposition Debates, and greater financial resources. Whereas before parties needed to declare their intention to join the Opposition when an Executive is first formed,[[9]](#endnote-9) *New Decade, New Approach* provides for a two-year window during which parties can make this decision. Although some might question the wisdom of providing incentives in this regard, this provision leaves open the possibility of forming the Opposition until 2022 should one of the parties decide to quit the Northern Ireland Executive.

**Nettles have been grasped on issues of language and culture**

Although it was a renewable heating scandal which precipitated the collapse of the devolved institutions in 2017,[[10]](#endnote-10) issues to do with culture and identity soon occupied centre stage in the ensuing three-year dispute. The Irish language, in particular, took on totemic significance as the DUP and Sinn Féin quarrelled over what steps (if any) a restored Executive should take to protect and facilitate Irish language speakers in Northern Ireland. This was but the latest episode in a dispute dating back to 2006, when an Irish Language Act was promised by the St Andrews Agreement but never delivered due to unionist resistance in the Assembly. At the height of the renewable heating scandal, in a move widely interpreted as retaliation against Sinn Féin, then DUP Communities Minister Paul Givan breached his own department’s equality obligations to withdraw funding from an Irish language summer school programme.[[11]](#endnote-11) The unprecedented backlash against what, in financial terms, was a relatively minor policy decision indicated a dramatic escalation in Northern Ireland’s longstanding ‘culture war’ over Irishness, Britishness and expressions thereof.

By means of de-escalation, *New Decade, New Approach* commits the Northern Ireland Executive to establish statutory bodies to protect the rights of citizens to develop and celebrate their culture and identity. To this end, an Office of Identity and Cultural Expression will be created to ‘promote cultural pluralism and respect for diversity’.[[12]](#endnote-12) Legislation will also be brought forward to establish an Irish Language Commissioner and a Commissioner to enhance ‘the language arts and literature associated with the Ulster Scots / Ulster British tradition.[[13]](#endnote-13) Some key demands of Irish language activists have been met, including official recognition of the status of the Irish language, an obligation placed on public authorities to cater to Irish language speakers, and repeal of the Administration of Justice (Language) Act (Ireland) – an archaic nineteenth century law prohibiting the use of any language but English in court proceedings. Whilst ultra-unionist critics argue that Northern Ireland will be ‘de-Britishiced’ as a result,[[14]](#endnote-14) these changes bring the region’s native language policy closer into line with those in Scotland and Wales.

It has been pointed out that these reforms on language and culture are nothing new given that they were almost agreed in 2018.[[15]](#endnote-15) This does not detract from their importance. In an ethnically divided society, reaching compromise on issues of culture and identity is no mean feat. That being said, the proof of this pudding will be in the eating. Citizens in Northern Ireland will not have to wait long before these statutory bodies, and their overseers in the Executive Office, are put to the test. In discharging their responsibilities, language commissioners will ‘act independently’ however their recommendations will be subject to the approval of the First and deputy First Minister. Already, this has occasioned debate in unionist circles as to whether this constitutes a DUP veto over Irish language proposals.[[16]](#endnote-16) As far as its goal of promoting tolerance and mutual respect is concerned, the litmus test for *New Decade, New Approach* will be the ability of Sinn Féin and the DUP to sign off on proposals that may not sit easily with their respective support bases. This deal, for example, commits Sinn Féin to ‘mark[ing] the centenary of Northern Ireland in 2021’, but it is not inconceivable that the party will be asked to endorse Ulster/British Commissioner-backed plans which explicitly celebrate the partitioning of Ireland. For unionists this would not be an unreasonable ask, however one can easily imagine how this could be portrayed by republican critics of Sinn Féin. With an Assembly election beckoning in 2022, the temptation is there for parties to resort to electorally rewarding zero-sum culture games.

**Big promises made (on limited financial resources)**

In one fell swoop, *New Decade, New Approach* appears to deal with a whole series of issues over which parties have been dragging their feet for years, ranging from Troubles-related legacy issues to a Sexual Orientation Strategy. Perhaps the most significant of these ‘add ons’ is the paragraph in Annex A committing the UK Government to introduce legislation within 100 days to give effect to the legacy mechanisms outlined in the 2014 *Stormont House Agreement*. If passed, this legislation will establish a Historical Investigations Unit (HIU) tasked with investigating outstanding Troubles-related deaths. Given unionist concerns about the HIU disproportionately focussing on the security services,[[17]](#endnote-17) this could be a hard pill to swallow for some in the unionist community. There are, however, sweeteners in that *New Decade, New Approach* also establishes a Northern Ireland Veterans’ commissioner and fully extends the Armed Forces Covenant to Northern Ireland. Both Sinn Féin and the SDLP have vociferously opposed the introduction of such a covenant in Northern Ireland,[[18]](#endnote-18) thus their acquiesce in this regard represents a considerable climb down. This has been overlooked by those arguing that Irish nationalists have conceded nothing in *New Decade, New Approach*.[[19]](#endnote-19)

Ambitious plans for the new Executive’s Programme for Government are laid out in Annex D. Within 3 months, the Executive will publish a comprehensive timetable for the delivery of no less than fourteen separate strategies, covering policy areas that range from childcare and child poverty to racial equality and active aging. Additional strategies and action plans are promised for mental health, cancer, and alcohol and drugs misuse. In Annex A, the Executive sets out its plans for ‘turbocharging’ Northern Ireland’s infrastructure. These are worthwhile causes, however the question begged is whether the new Executive has set itself up for a fall. It is now clear that parties signed up to these commitments under the impression that *New Decade, New Approach*would be accompanied by a financial package from the UK Treasury which would foot the bill. The £2 billion sum that was later announced by the UK Government, in the words of the Northern Ireland Finance Minister, is ‘woefully inadequate’ and falls far short of what was promised.[[20]](#endnote-20) If, as one Northern Ireland economist has suggested, the commitments in *New Decade, New Approach* amount to over £4 billion,[[21]](#endnote-21) the new Executive could soon face a tough choice of either rolling back on some of its promises or increasing domestic rates.

**Better Politics?**

An optimistic reading of *New Decade, New Approach* suggests that politics in Northern Ireland could be about to change for the better. Those who have criticised previous Executives for their in-fighting can take encouragement from the establishment of a Party Leaders’ Forum. This forum, scheduled to meet on a monthly basis, provides a ‘safe space’ for party leaders in the Executive (or their nominated representatives) to raise early warnings of issues that could cause tension further down the line. This simple but sensible step should make public ministerial spats at least somewhat less likely. Tighter regulations around the conduct of ministers and their special advisors will go some way to avoiding repeats of the type of behaviour that gave rise to the renewable heating scandal which collapsed the institutions in 2017.[[22]](#endnote-22) Although these things should go without saying, *New Decade, New Approach* makes explicit that ministers *are* responsible for their special advisors, records must be kept of ministerial meetings, and that details of gifts and hospitality received by ministers or their advisers should be published. No fewer than three Commissioners for Ministerial Standards are to be appointed by the First and deputy First Minister

*New Decade, New Approach* will also please proponents of deliberative democracy. Greater civic engagement with the Northern Ireland Executive is to be facilitated through regular Citizens’ Assemblies, held once a year to canvass public opinion and assist the government with ‘complex policy issues’. Any move that seeks to narrow the gap between citizens and political institutions is of course to be welcomed, however this is especially true for Northern Ireland given the public’s justifiable anger with what has transpired these past three years. Progress has already been made on narrowing the gender gap in Northern Ireland politics seeing as the new government is not only led by women in the Executive Office but also comprises an equal number of male and female ministers. The ‘first priority’ of these ministers, as set out in *New Decade, New Approach*, is to deal with the challenges of Brexit. In that regard, the deal attempts to make up for lost time by establishing an Executive Brexit sub-committee to be chaired by the First and deputy First Ministers. Although, as has been noted elsewhere,[[23]](#endnote-23) *New Decade, New Approach* falls short on detail with respect to a number of important Brexit-related issues, the government can now at least begin to tackle the mammoth task of preparing the region for its departure from the EU. [[24]](#endnote-24)

**Conclusion**

Citizens in Northern Ireland could be forgiven for not jumping for joy over *New Decade, New Approach*. Previous agreements – and there have been several since 1998 – have kickstarted devolution to great fanfare only to disappoint further down the line. Whilst we cannot rule out the same fate for *New Decade, New Approach*, the deal’s achievements are worth recognising. The institutions cannot collapse as easily as before and this, given what has transpired during the past three years, is certainly a welcome change. Equally welcome are changes to the Petition of Concern which remove it from the gift of any one party, require members to justify its use, and prohibit the vetoing of motions seeking to sanction members found guilty of misconduct. The 30-signature threshold is now that much harder to reach given that the Speaker and his/her deputies cannot sign a petition – a rule that also has the effect of bolstering their impartiality. As far as Executive ministers are concerned, their conduct (and that of their special advisors) is more rigorously regulated and will be scrutinised by no fewer than three Commissioners for Ministerial Standards. Should parties opt to form the official Opposition at a later date, they do so in the knowledge of greater financial resources. These reforms do not come close to a panacea for the Assembly and Executive’s shortcomings,[[25]](#endnote-25) however the periodic reviews stipulated by *New Decade, New Approach* – some occurring as often as every six months – leave open the potential for further improvements.

Compromises reached between two ostensibly hard-line parties on highly divisive issues – the Irish language, Troubles-related investigations, an Armed Forces Covenant etc. – offer a glimpse of what genuine power-sharing, animated by the spirit of accommodation, could look like. To be sure, a return to zero-sum culture games in the near future is not unlikely, thus the real test for the language and culture bodies established by *New Decade, New Approach* has yet to come. The more immediate challenge for the Northern Ireland Executive will be to deliver on the highly ambitious promises made in *New Decade, New Approach* on limited financial resources. Should more money not be forthcoming from the UK Treasury, the Executive faces a tough choice of rolling back on some of its pledges or raising the necessary finances through a rise in rates, tuition fees, or the introduction of water charges. If initial reaction to these revenue raising ideas is anything to go by,[[26]](#endnote-26) the Executive need not look very far to find its first ‘complex policy issue’ for deliberation in a Citizens’ Assembly.

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4. See S. Haughey, ‘Worth Restoring? Taking Stock of the Northern Ireland Assembly’, *The Political Quarterly*, vol. 90, no. 4, 2019, pp. 705-712. [↑](#endnote-ref-4)
5. Ibid. [↑](#endnote-ref-5)
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