

# Ministers Reflect

## David Ford



9 July 2019

# Biographical details

## Northern Ireland Assembly history

1998–2018: MLA for South Antrim

2001–16: Leader of Alliance Party

1998–01: Alliance Party chief whip

## Northern Ireland executive career

2010–16: Minister of justice

## **David Ford was interviewed by Jess Sargeant and Jill Rutter on 9 July 2019 for the Institute for Government's Ministers Reflect project.**

David Ford reflects on his experience as the Northern Ireland executive's first minister of justice in 38 years. He talks about taking over responsibilities from the Northern Ireland Office, working with Whitehall, and the relationships between parties in the executive.

**Jess Sargeant (JS):** Thinking back to when you first became a minister. What was your experience coming into government?

**David Ford (DF):** Well, I was in an unusual position, because I was literally the leader of the opposition when I walked into the Assembly chamber. We'd formally declared ourselves as the opposition, and then after the various bits of negotiations, which really followed on from the St Andrews Agreement, through the early part of 2007 where it was agreed that justice would be devolved and we negotiated with the DUP [Democratic Unionist Party] and Sinn Féin about the contents of a programme for government for the Department of Justice.

I walked into the Assembly chamber as leader of the opposition. I was then elected minister, in the unique position unlike everybody else who was there, by virtue of the late Mr D'Hondt's\* lucky dip, I was there because I was voted as having the confidence of MLAs [Members of the Legislative Assembly]; after seeking election, two other candidates had failed to get a majority. So it was an unusual experience, even by Northern Ireland standards. And because it was justice, it was suddenly the most almighty change. I stepped out of the Assembly chamber, at that point, to be greeted by the permanent secretary of the department, whom I knew, my private secretary who, until the day before, had been the private secretary for Paul Goggins MP [minister of state 2007–10] in the Northern Ireland Office and who told me that she was coming across. And a PSNI [Police Service of Northern Ireland] close protection officer, inside Parliament buildings. That was a change.

**JS:** Justice was a newly created department in the Northern Ireland civil service. Did you have any particular difficulties or teething problems that you faced because of that, in terms of actually establishing the department?

**DF:** The department was effectively established before I came along. It was established on the stroke of midnight, and I wasn't elected for another 13 hours and 45 minutes. So, in that sense, I didn't have a difficulty, everything was there and was in place. And what was clear was that although the people who worked for me had worked for the NIO [Northern Ireland Office] the day before and then they became part of the DOJ [Department of Justice], there was overwhelmingly a commitment to see justice devolved and justice working as devolved.

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\*D'Hondt is the method by which ministerial positions in the Northern Ireland executive are allocated to parties proportionally according to vote share in the Assembly election.

I think there was a certain fear from some people as to who they might get as a minister, because some politicians have been effectively suggesting that the department should be decapitated. I only discovered afterwards that one of my first actions was as significant as it was. I had entirely inappropriately, that morning, spoken to the diary secretary to whoever would become the minister and said if I am elected the minister, I expect to be down in the department about three o'clock and I'd like to have a word with whoever is around. Block B in castle buildings, DOJ headquarters, is where the Good Friday Agreement negotiations took place. So, I literally walked back into the Good Friday conference room, to be greeted by probably 60 or 70, maybe more, staff who were there. One of the things I said then was "I don't care what you did yesterday, today it says DOJ on the front door and I am sitting behind the desk and we have a job to make it work". And people who thought they were going to get a hostile minister found that much more significant than I actually thought it was when I said it. They gave me a standing ovation, there were no chairs in the room, they didn't have any choice! And things went remarkably well from then on.

**JS: How did you think the fact that your nomination needing cross-party approval affected the way that you work compared to maybe other ministers that were appointed by D'Hondt?**

**DF:** Well, I honestly believe that I could have been minister several months earlier, if I had simply wanted to be a messenger boy for the first minister and the deputy first minister. We made it fairly clear that that wasn't going to be the case. We put forward a set of proposals that would form the programme for the Department of Justice. And for me, the most significant issue was when I got a letter which said: "Dear, David, we think your ideas could usefully form that basis on which a programme for government might be constructed. Love and kisses, Peter [Robinson, first minister] and Martin [McGuinness, deputy first minister]". Okay, I made up the love and kisses, but it was a genuine acceptance. And in fairness to them, the DUP and Sinn Féin largely delivered on what we had agreed.

The problems arose when the then home secretary dreamt up something called the National Crime Agency[NCA], which wasn't covered by our agreement and which – well, it caused me problems and it caused huge problems for nationalists. And we had lots of negotiations around that. But by and large, what was in that programme was accepted. Of course, they didn't always deliver on the conclusions. There was an agreement to a youth justice review, but the DUP didn't agree that they would accept the outcome which included the recommendation to raise the minimum age of criminal responsibility. So those kind of things were the stuff of normal politics. But I came in in a much better place to start off with.

**Jill Rutter (JR): It is interesting what you were saying about the National Crime Agency. Did you get a sense that the Home Office officials had thought about the Northern Ireland angle before they made the proposition?**

**DF:** Absolutely not. They had no thought whatsoever about the Northern Ireland position. The impression I got, on virtually all my dealings with the Home Office, and I also had dealings with the Ministry of Justice because effectively I was both of them, is that Northern Ireland was very much an afterthought, if at all. I mean, the key thing for the National Crime Agency, the power of the director general to direct the chief constable was utterly discordant with the arrangements that we had for the primacy of the PSNI.

I do remember one fascinating phone conversation with the then Home Secretary when I said: “The NCA would have to respond to requests from the chief constable, not direct him.” And she said “yes” [reluctantly]. And I said: “the director general will have to meet the Northern Ireland Policing Board at least once a year, formally.”. And she said “yes” [reluctantly]. And I then said: “Officers of the NCA will have to be accountable to the police ombudsman for Northern Ireland whilst on duty in Northern Ireland.” And she said “yes” [reluctantly]. I wish I had a tape of that. To be a devolved minister telling the Home Secretary what she needs to do was quite fun.

**JR: And did that have to go into the legislation?**

**DF:** That went into the legislation, yes. And we had a slightly bizarre thing because Sinn Féin never accepted it. It took 15 to 18 months before we got agreement from the SDLP [Social Democratic and Labour Party], unionists obviously were happy enough with it, by the time we got the deal done I was happy enough; we negotiated a bit longer to get the SDLP happy, but Sinn Féin weren’t happy. Therefore, as a minister, I couldn’t ensure a legislative consent motion [LCM] because I couldn’t get Sinn Féin agreement to put it to the executive. So, there was a slightly unusual twist, which was effectively an LCM was built into the legislation that set up the NCA, except it wasn’t an LCM. But there was a clause which effectively said schedule number whatever it was will apply, subject to an affirmative resolution of the Northern Ireland Assembly. And we then, some months later, got the affirmative resolution, because Sinn Féin did not have enough members to block it with a petition of concern<sup>†</sup>. And we got it through.

**JS: In terms of your own personal policy objectives – you have mentioned the ones that were agreed within the programme of government – how did you make progress with them and what were your biggest barriers to achieving them?**

**DF:** It sounds ridiculous for something as complicated as justice, but actually they went remarkably well because, as I said, we got the agreement in advance. I mentioned earlier the civil service was committed to making devolution work. If you compare what was happening in other departments, where ministers were effectively chosen by an unofficial running of the D’Hondt order a week or so before the sitting of the Assembly, and then ministers were in office, with no agreement from other ministers as to what would be implemented. And in some cases, the minister’s own party weren’t really sure what they wanted to do in that department. We were in a very different position,

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<sup>†</sup> The mechanism by which 30 or more MLAs can require that a vote be taken on a cross-community basis, requiring a majority of both MLAs and of nationalists and unionists.

because I had a very detailed proposal, which had been largely worked out by me and Stephen Farry [Alliance Party MLA], who subsequently became a ministerial colleague a year later, when we got a second seat in the executive. We had that, and civil servants like nothing more than knowing what they're supposed to be doing and having ministerial cover for doing it.

The other thing was that I had probably the best spad [special adviser] in the UK, certainly the best spad in Northern Ireland. I once pointed that out to somebody and he said the last time you described me you called me the best spad in the universe. Richard Good was actually the acting general secretary of the Alliance Party when I was first elected to the Assembly in 1998. He did various other things, he was at the time of my election working as head of the Speaker's office in the Assembly, having been selected by the all-party commission for that post, so he knew the way the Assembly worked, and he knew the Alliance Party. I'd known him since his mother was holding him like [a baby], so we had complete confidence in each other. In fact, just last week I was speaking to a senior civil servant who said: "We knew if we went to Richard, we would get straight answers and that would be what you would say if we came back with a formal proposal a month later."

When you read some of the stuff that had gone on around the RHI [Renewable Heat Incentive] inquiry<sup>†</sup>—I don't know how much you have seen of it—there are allegation of spads appointed by the party, assigned to ministers, and at war with their minister. Somebody who I chose because of his intellectual ability, his personality, his knowledge of the party and the system of government, would have been much better. And that's why it went incredibly smoothly. I do remember one occasion, we couldn't get agreement from the Executive Office, OFMDFM [Office of the First Minister and deputy First Minister] as it was then called, to introduce one of our pieces of legislation. It turned out it wasn't that either the DUP or Sinn Féin had any problems with it, it was just the two relevant spads weren't speaking to each other. So, my spad had to mediate a meeting between the DUP spad and a Sinn Féin spad, so they actually met and agreed that they were both quite happy with the contents of the bill and let us go ahead with it. That's what a good spad does; but in a good system, they wouldn't have to do that kind of thing.

**JS: And do you feel being, with your particular special mandate as justice minister and the agreed programme of government, and also being a cross-community party, that you perhaps had a bit more independence than some of the other departments, where they might need to be more agreement in the executive committee?**

**DF:** Oh, yes. They really, certainly in the early stages, that couldn't do anything to block me because they badly needed me. I mean, the first – actually the only – occasion on which I was ever significantly beaten up at the executive table, was just over five years ago, because George Hamilton had just completed five years as chief constable. The law says that the minister of justice sets the minimum criteria for the appointment of chief

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<sup>†</sup> Inquiry into the design and implementation of the Renewable Heat Incentive scheme following the so called 'cash-for-ash' scandal.

constable and the [Northern Ireland] Policing Board determine the actual criteria. I proposed to change two years' service at senior level outside Northern Ireland from essential to desirable. Basically, because a DUP member of the Policing Board and a Sinn Féin member of the Policing Board didn't actually quite get what was going on, in my opinion, they went in complaining, so my decision was called in to the executive and I was told I couldn't do it.

And it was one of those classic things where you just knew, looking at the table, it was suddenly dawning on them that what I was proposing wasn't actually that outrageous, but they'd called me in, so therefore they couldn't let me away with it. So, the agreement was that I could make the change after the current appointment. You know, that was a classic thing, and it was viewed as the kind of thing, at that stage the DUP and Sinn Féin were still getting on fairly well together, Robinson and McGuinness were getting on reasonably well at a personal level. And it was one of those things that "Oops, we've made a mistake, but we can't let him away with it, so we'll have to do a sort of vague compromise". Which was something of the way this system tends to work. The executive operated, certainly in my time, on the basis that the DUP and Sinn Féin had everything stitched up before it came to the executive and nothing much ever changed in the executive. The longest item on the agenda was generally "items not requiring discussion", which is not how I understand cabinet government works in civilised places.

**JR: How evident was the stitching up—do you think that you were a victim of stitching up, or did you look around and see it with other smaller parties?**

**DF:** No. I saw other people getting stitched up much more. I mean, I am not quite sure how much I should reveal of the confidence of executive meetings, but since everybody has pretty much leaked everything anyway, certainly towards the latter stages, when the DUP and Sinn Féin were falling out with each other, the times they agreed were when they decided to beat up somebody else, which tended to be the SDLP minister. Because the Ulster Unionist minister tended to go along with the DUP by and large and in my first year they couldn't touch me, and after the 2011 election I was re-elected, and I had Steven Farry [Alliance Minister for Employment and Learning 2011–16] sitting with me. So, they knew that they would get a rigorous argument back from two of us, if that was the case. By and large, they didn't treat us too badly.

**JS: So, you think having another Alliance minister changed the dynamic?**

**DF:** Well, I think it was a combination of both the uniqueness of the justice position, and the fact there were two of us which changed the dynamics, and frankly, Stephen's intellectual ability meant that they couldn't really beat him up on his department, because he was ahead of them on everything anyway.

**JS: And what was your experience of cross-departmental working? Did you work with ministers from other parties a lot, or did you kind of tend to work just with your own party?**

**DF:** My general view on that was you could do pretty nearly anything if it was two departments, you could do reasonably well as three departments, regardless of which party held those departments. Once you got beyond about three, then things started to become too complicated and your relationships started to get in the way. But, I mean, I did deals with all the other departments at different stages and no real problem about it.

**JR:** So, is that a particular Northern Ireland problem? As there is a forced coalition, is it that there are people from different parties running different departments, or is it that the UK government is facing the same problems as well? Do you think it's just a government organisation thing or that they're just not very good at it?

**DF:** Well, unlike our Welsh and Scottish colleagues, we suffer from the same thing that our departments are individual entities on the basis of frankly Westminster 1921. And therefore, we have all the problems of the Westminster individual departmental rivalries. I don't know how much they've been overcome by the more collective nature of Scotland and Wales, but they appear to have been better overcome. I'm not sure whether a comparison with the current faction-ridden Whitehall arrangement is necessarily appropriate. I think it's that in some senses, over much of what we did, the fact that we were five parties wasn't a huge problem. But as relationships started to deteriorate over some of the more party-political things, that's where we ran into issues then of wider co-operation beyond the two or three departments working together at the time.

**JR:** What was the extent to which you looked to Scotland and Wales as devolved, similar scale, as places you might learn from and share experiences with. Their approach is obviously in a different context.

**DF:** Yes. Wales would probably have been a better example on size, but of course Wales was an English colony as regards justice matters.

**JR:** They're behind the curve, aren't they?

**DF:** We did have a regular annual meeting between the Irish justice minister, the Northern Ireland justice minister and the Scottish cabinet secretary, which was amazing. Basically, we spent a bit of it whinging about the Home Office collectively. I also had, as part of a so-called IGA, the Intergovernmental Agreement on Criminal Justice Cooperation, which was set up between the NIO and the DJE [Department of Justice and Equality] in Dublin, which I took over. So, we had formal meetings at least twice a year, and meetings once a year which involved the Scots. We did tend to look to Scotland. I can remember at an early stage when somebody gave me a paper saying, effectively, this is what's happening in England and Wales and I asked them what's happening in Scotland, what's happening in Ireland and are there any lessons to learn from Ontario, New Brunswick or Queensland. This was a bit of the NIO mentality that came across – so much of what had been done in the NIO was what had been done for England and Wales six months earlier. We certainly did have people who then looked wider and I can remember being told about something in the Alberta court system,



interestingly enough. It was an issue of civil servants who are effectively not trained to look beyond Whitehall but who, when encouraged to, started to, which was quite interesting. I think that helped broaden the way we did things and look at what the alternative ways were.

To give an example of that, the Department of Justice has direct responsibility for the maintenance of interface structures, the so-called peace walls. I was in my first summer when two civil servants came to me with a proposal to extend the Shankill–Falls fence another 200 metres up the mountain, because there'd been a bit of trouble with teenagers. As the leader of the Alliance Party, I had opposed the building of some of these, including the last one the NIO had built, which is ironically along the boundary of Hazelwood Integrated Primary School in North Belfast, just a few hundred yards from my constituency. Did I say the word integrated? And there were a couple of difficult meetings while we considered what the other alternatives were. Once those two fellows got the message that we don't build walls anymore, then we started investing in youth diversionary activity and so on, which wasn't really our responsibility, but it was to stop us having to do what we didn't want to do. So that was another classic example. In the NIO days, if somebody threw half a brick, three months later the NIO stuck up a fence. We got away from that. Now I admit, we plugged holes in some of them, we put up one temporary fence, but we did not build that 200 metres and that area is now called Black Mountain Shared Space. But would it have been shared space if nine years ago I'd put a fence there?

**JS: It's very interesting, how people that used to work for the NIO changed under the Department of Justice. Were there any other ways that you felt that the civil service changed whilst you were there? Either because of that transition or broader changes in the Northern Ireland civil service?**

**DF:** I suppose the problem is I didn't really know the civil servants that closely when they worked for NIO – I mean, there is a world of difference – even people in the department who I had previously worked with during interparty talks when they were on the NIO political affairs side, it's entirely different. Even if you can have a bit of personal craic with them, you know, it is entirely different when they're your civil servants and when they're the secretary of state's civil servants.

What I can say is that there were certainly those who believed that the DOJ was just the NIO in drag. I think over my first few years, we made it fairly clear that we weren't the NIO in drag. But there were weird things, like you would see emails sent out from another department to all the private offices, and it wouldn't come to us. Because they'd forgotten about us, or else they didn't realise that we had an x.gsi in the middle of our email address. That kind of thing. There was a classic one, a year after I was in post, Stephen [Farry] told me, with great amusement, he got his first day brief in the Department for Employment and Learning and was told we're the third largest spending department, after [the Department of] Health and [the Department of Education] Education, and Stephen said: "I don't think so." "Yes, we are, minister." And Stephen said: "Do you remember justice?" It took a while percolating through to other parts of

the civil service, because we were the late arrivals. Because every other department was established in 1999, we were established in 2010. But as I say, I think my people adapted quicker to it than others did.

**JS: The other people in the Northern Ireland civil service?**

DF: Yes.

**JS: That's very interesting. And in terms of your relationship with the Assembly, how was that? Did you feel like you were being adequately scrutinised and held to account? Was there a learning gap there too, of people not being used to justice being a devolved power?**

DF: There was a bit of a learning gap. I mean, there were endless occasions when people asked questions and you had to say sorry, this is an operational issue for the chief constable, go away. Which you try to say reasonably politely and it became possibly slightly less polite later on.

When you say about scrutiny, one of the interesting things is that our Assembly committees are effectively standing committees plus select committees. They do all the committee stage of a bill as well as whatever enquiries they wish to do. And the GFA [Good Friday Agreement] says – and I think the Act [Northern Ireland Act 1998] says – they are there to advise and assist the minister. Being advised and assisted by a committee on which, initially, I had no party colleagues on the committee at all, and a DUP chair and a Sinn Féin deputy chair all the way through, was slightly interesting. In fairness, I would say that we had a pretty good relationship with the committee, that I certainly encouraged officials to be as open as possible. There's no point them going to a committee and just annoying them by telling them so they just get back at you. So you go and you're as open as you can be. I was elected on the Monday and on Thursday I was in front of the committee, with the permanent secretary. That was a modestly quick learning curve. So, all those can, I think, help contribute to a good relationship. There was certainly scrutiny, but it wasn't aggressive, abrasive scrutiny by and large because the committee more or less agreed with most of what we were doing, pretty well all the time.

I can't remember the numbers now, so I will get them wrong, but on the largest, most complex bill we had, after it went through the committee stage, it came back to what we called consideration stage. There must have been about 100 amendments to it, of which something like 96 were agreed between the minister and the committee. That's a measure of the fact that we'd listened to them, we responded to them and sometimes we went back to them and said actually, the way it started isn't brilliant, how about this? Whilst I would have had a number of differences with those who chaired my committee and the deputy chair, in particular Lord Morrow of the DUP who was the first chair I disagreed with on a number of things, but as committee chair he was remarkably fair to me and that made life a lot smoother in terms of getting things done.

In terms of things like Assembly question time, it's not the most intellectually challenging occasion generally. Probably the person who could have been most intellectually challenging was Jim Allister, the leader and sole MLA for TUV [Traditional Union Voice], the people who think the DUP is too liberal. And Jim's a QC [Queen's counsel], Jim's not stupid. But when Jim got his supplementary in, and at nearly every question time he managed supplementary comments, there was always a sneering political jibe contained alongside the question, which was great because if you didn't want to answer the question, you just answered the sneering political jibe.

I do remember my first question time, when Anna Lo, the then Alliance MLA for South Belfast, the first ethnic Chinese legislator in Europe, asked me a supplementary question. And I had to say "I am sorry, I don't know the detail, I will write to the member". At which point a fair few around the chamber started heckling. And I think it was Stephen [Farry] again who said at least it proves it's not a plant, which too many others were. I mean, when you see a minister asked a question by a member of their own party, and the member stands up to ask a supplementary, they turn the page to read the answer to the supplementary, that's just sickening.

**JS: And more broadly, how do you feel that those, like the scrutiny and accountability mechanism, worked for ministers in other departments? Do you feel like they were effective, did you feel like other ministers worked as well with the parliamentary committees?**

**DF:** I think they worked reasonably well. And I mean, in a sense, it's not even just the ministers, but the senior civil servants, there would be maybe two or three batches of them at every meeting. So, you get to build a certain kind of personal relationship and respect and if a minister is in command of the briefing, then they tend to be listened to. From my experience on the other side of sitting on committees, I can't think of many occasions when the committee would have fallen out with the minister. Occasionally, but by and large things worked fairly well. Perhaps some of our committees weren't sharp enough on this scrutiny, when you see some of the things which happened... – but I am happy to say not in my department.

**JR: Do you think the arrangement where the same committee looks at bills and departmental business – which is very different to Westminster – is a good arrangement?**

**DF:** I certainly think at our level it is a good arrangement, but it actually means that people get to know – well, people ought to get to know – the issues they're talking about. I think you could probably, reasonably accurately say in most committees of 11, there are probably about six people who are really interested and know what they're doing and there are others who tend to be there to make up the numbers, I would say, and they'll be annoyed by it that in some cases the larger parties, which have multiple membership of committees, could have one or two sleepers, without being noticed. Obviously, if you're from a party which only has one representative on the committee, you have just one and that is it. But as I say, whether people were sharp enough on some of the things that were going wrong, I am not sure. If things were going right, and

there was a constructive, positive atmosphere, that's surely better than just having a confrontational atmosphere all the time. I mean, there's no point in getting annoyed with somebody just for the sake of being annoyed. And in committee work, you don't tend to see that, it's not like some of the more set piece debates in the full Assembly chamber.

**JS: In 2016, the Alliance Party said it wouldn't take up the position of justice minister again. What, in your view, would it take to change that position? Is that still the Alliance Party position?**

**DF:** No. It was a specific and conditional position at that point. Remember, back in 2010, we put forward our set of proposals for the justice department. And in effect, there was no need to renegotiate in 2011, because we'd only just started into that, we got one bill through.

In 2016, the proposals we put were more wide ranging about the way the system worked and about some of the fundamental issues of overcoming divisions in Northern Ireland. And we took a view that if you couldn't start to make a wider difference, there was no particular point in being there. We put forward those proposals to Arlene Foster [first minister 2016–17] and Martin McGuinness [deputy first minister 2007–17]. They effectively didn't agree them and that was it. Specifically, we had a meeting which probably lasted between two and three minutes, when I trooped down to Stormont Castle, to the Executive Office headquarters, with Naomi Long [then deputy leader of the Alliance Party] and Steven Farry. We'd just about got seated in the chairs, when Arlene Foster looked across the table and said we will not give up the petition of concern. At which point we said fine and walked out.

I'm not sure what they thought we were going to do. At that point, Steven Agnew, leader of the Green Party and Claire Sugden, the independent, were both around the castle. I can't remember, one was there when we went in and one was there when we went out. And we assumed that they were probably too scared, but what clearly happened was that they got Claire, who, at the risk of being critical of her, made a virtue of the fact that she had no preconditions, which is why they both voted her in as minister. Whereas we thought we had an opportunity by having preconditions, to make a difference.

History will record who was right and who was wrong on that, but when you see the way that the dysfunctional executive failed to get anywhere, I do think there was a huge difference. DUP–Sinn Féin relationships were poor, with nobody there from Ulster Unionists, SDLP or Alliance, they didn't have anybody else to fight with. They only fought with each other, as far as I could see. Frankly, that wasn't the way that you're going to manage a department as complex as justice, in a society as divided as ours is. I think one of the virtues of the way we managed was that we made clear what was going to be done and we did things at times which annoyed both sides, but at times were accepted by both sides.

**JS: Going back to what you said about how not having other parties in government meant that perhaps relationships between the DUP and Sinn Féin worsened. That was obviously one of the reforms that came out in the agreement between the parties – are there any other reforms that you think would make things work better? Do you think perhaps more parties should be introduced again?**

**DF:** Well, I think we will see what emerges from the current set of talks, which I haven't been part of. I've done the odd thing, stepping in for my colleagues, so they can concentrate on the talks, I am not going to get into that particular bit. But fundamentally, all that they are doing at the moment is looking at some minor tinkering things. We believe that the system needs, 20 years on, to be much more significantly reformed. Frankly, the campaigns that we have been talking about for at least 15 years, which is an executive formed on the basis of carrying a weighted majority in the Assembly, around an agreed programme, not the lucky dip with ministers in post and see if they can agree with anything. In civilised places like Dublin and Edinburgh and Cardiff and even, heaven spare us, Whitehall in 2010, people formed a government on the basis that they see if they can agree a programme and then effectively the Queen was advised that we have a viable government, or the Dáil [Irish Parliament] votes for a taoiseach [Irish prime minister].

What we've got at the moment is a system which, if we simply tinker about with things like the petition of concern, isn't going to alter the fundamental basis that you don't have a coherent programme. We have a good system for bringing people together, for overcoming the worst of a divided society but we're not actually establishing a united community. We're merely managing divisions. We believe if you had something like a two-thirds or 70% requirement of MLAs to vote to install an executive, to pass the programme for government, the budget, then you would have a degree of coherence and there would then be an incentive to people to compromise, in order to get into the government. Rather than at the moment, the incentive is just to dig in and satisfy your own supporters, and maximise your vote.

**JS: And how do you think that governance in Northern Ireland could be improved, in terms of the departments?**

**DF:** How long have we got? I think what we have established is a poor system of governance in the sense that too much can get carried – where scrutiny was perhaps required. The point which broke down the system, the RHI scandal, made clear that there was legislation introduced which was not fit for purpose, which a minister signed off on as being fine, which wasn't subject to appropriate level of scrutiny by the enterprise committee [Committee for Enterprise, Trade and Investment] as it then was. And for some reason, nothing happened until things got too late. And I think that is the point where the sort of scrutiny and co-operation which I was subjected to might have overcome that. But there is a real challenge to ensure that we don't just get individual things introduced as they come along, but we actually get a real programme of government which is meaningful. I don't think we've ever had a really meaningful programme for government.

I do remember one of the first programmes which was produced in 2001, as the Ulster Unionist–SDLP programme for government. In my speech in the Assembly, I said if we were Scotland or Wales, I'd give you six or seven out of 10. Because it's sort of dealing with some of the issues, but it's fundamentally failing to deal with the problems of a divided society, so we will be voting against it. And those kind of issues of governance are related to what you're seeking to do in the way of making fundamental reforms to society as a whole. Not just that you run along, oh, there's an idea from Scotland, there's an idea from England, there's an idea from Wales. But you actually look at what the unique problems of Northern Ireland are, and you try to make a real difference there. And I think if you had a greater degree of coherence, and collectively, then they would be better able to get those things working together and the governance would be improved.

I think the civil service has proven, in some departments, that it's not up to it. I can remember, at a very early stage, I wanted to speak to somebody, a civil servant who was in with their team – I can't remember who it was, what the issue was, what the issue was they had been discussing. When my private secretary realised that one person had stayed in the room with me, while everybody else had left, over something utterly unrelated to department business, she was about to come rushing back in, with her notebook, until my spud said "No, David wanted to speak to him about such and such".

Whereas clearly in other places, the governance has failed because fundamental things like actually minuting meetings hadn't happened. I can't think of an occasion – and there weren't very many of them – when somebody asked for a copy of our notes of a meeting with an outside body that we didn't say fine, have it. Because we were trying to be open and accountable. Well, that means if somebody says what did you note at our meeting, you give them the notes. It is not a verbatim record of every word that's said, it's a record of their key points, our key points and any decisions taken. And they got that. And that's why I think the politics of division discouraged proper governance methods. I think in Whitehall, even when ministers within the one party are fighting each other, civil servants probably do still keep minutes at meetings. Maybe not.

**JR: I don't know – in my day, we always kept minutes but that was a long time ago. We have heard that Northern Ireland lacks an external policy community. Did you have any thoughts on the surrounding environment to politicians that might help them make different decisions about longer-term issues or improve the quality of policy debate in Northern Ireland?**

**DF:** There is a think tank in that sense being set up at the moment. You have spoken to Alan Whysall [former NIO civil servant] about the work he is doing. I think that's the kind of thing we need. Beyond that, we really haven't had much – we have the interest groups lobbying, but that's not the same thing as a wider think tank engaging and we really don't have much of that. Limited bits around certain areas from the universities, but not what you really think would make a difference.

The unique position we're in does mean that there are issues which would be better looked at on that, sort of, external basis, to give clear policy advice. Because we can learn from Scotland, we can learn from Ireland, we can learn from Wales and we do need to get those points together. At the same time, we can also initiate ideas ourselves, because one of the virtues of being a small jurisdiction, where everybody knows everybody, is that you can do some of these things much better. I mean, as minister, I had one chief constable to deal with, one prison service, which was directly a part of my department. One court service, which was directly part of my department. One lord chief justice – okay, there's only one Chief Justice in England and Wales. One probation service, one youth justice agency – all those things mean that you can sometimes be a bit fleeter of foot.

And indeed, I think, for example, some of the work that we did around prisons was really pioneering in UK terms. I mean, the fact that what used to be called Hydebank Wood Young Offenders Centre and Women's Prison is now called Hydebank Wood College. And there's a plaque at the front door – every time I go there, I check it's still there – which says this college was opened by David Ford, minister of justice, and Steven Farry, minister for employment and learning. Now, you know fine well that what we did was reach the agreement on the basis of civil service advice that the project would work together and the Belfast Metropolitan College and the prison service just got on with it. But it's that kind of thing, you know, because we're small, we can sometimes do things differently, even including some of the things we did in co-operation North–South [i.e., with the Irish government], we could make a difference. I think it's fair to say I had better relationships with colleagues in Dublin, over many things, than I did with Marsham Street [where the Home Office is based] or Whitehall generally. And again, it was because we tended to think the same way about things. We had an easy way of looking at it.

**JR: So how much did the secretary of state for Northern Ireland feature in your life, as opposed to the home secretary and the secretary of state for justice?**

**DF:** The SoS NI [secretary of state for Northern Ireland] had a significant role still in some areas. I mean, I made the crack that the percentages may not be quite right, but I said that on devolution day, I got 98% of the SoS's staff, 98% of the budget and 98% responsibility and there was one of me, and there were still two ministers in the NIO. But obviously in the liaison with other Whitehall departments, the NIO had a role, and specifically the national security issue which was significant for the NIO. People would come to me and talk about it, I would say "that's not mine". I had a monthly meeting with the secretary of state, the so-called security interface meeting, which we alternately chaired, but it wasn't a meeting where we went into huge details about things. I've no doubt that the SoS was made aware of some specific operational things by MI5 that I was not made aware of – I was made aware of the generalities – and in that sense, it was a slightly unbalanced relationship, even though it was alternate chairing. But the chief constable sat on my side of the table, and if he turned up, Director V of MI5 sat on the SOSs side of the table, which said where things were.

Other than that, there wasn't actually a huge amount [that] came up with the NIO. You would get odd things like firearms appeals: if the chief constable turned down someone's application for firearms, it came to me, but if it was related to a personal protection weapon, it went to the NIO. There were those kind of things that sometimes it was difficult to tell what was what. Because somebody might have a shotgun and a pistol.

**JS: Were there any times when there were any disputes between you and your counterparts at Westminster or the NIO and if so, how did you resolve those?**

**DF:** I can't really think of any significant disputes. It was very funny, because remember I came in at the point when the Westminster campaign was already under way in 2010. I should be kind to Shaun Woodward [secretary of state for Northern Ireland 2007–10] and the late Paul Goggins [minister of state for Northern Ireland 2007–10], who for about six weeks beforehand gave me an hour of their time, one or other of them, every Monday, just talking around some of the issues that were going to be transferred. Whether that was officially proper or not, I don't know. But they would have probably done that for anybody, but they offered it to me, I don't think anybody else asked for it. So, I started off on a very good relationship with them and then, in a bizarre kind of way, I was there before Owen Paterson [secretary of state for Northern Ireland 2010–12] arrived, which was slightly funny. I was the established figure when Owen arrived. I was this even more established figure when Theresa Villiers [secretary of state for Northern Ireland 2012–16] came in. So, it made it slightly different.

And I mean, obviously then certain things went on. Speaking as a Europhile liberal, I clearly didn't get on terribly well on certain issues with Owen [Paterson] and Theresa [Villiers], but they didn't obstruct the work that we were doing and in fairness to Theresa, she very graciously invited me and some of the family to Hillsborough for dinner, one evening, after I stepped down. So, we managed a personal relationship even though we didn't have a huge amount in common. There was the odd occasion when something would come up and I would say to somebody senior, would you have a word with so and so in the NIO and politely tell them I think they're putting their tanks on our lawn. But it wasn't very often and actually the tanks weren't very big.

**JS: What advice would you give to a future minister on how to be effective in office? What do you wish you knew before you started?**

**DF:** Know what you need to do and know what you want to do – they're not always the same thing. Have an incredibly good spad, have a party team which is united, and have a tolerable personal relationship with those you are going to work with, even if you politically disagree with them. After that, it's simple really!

**JR: One of things people have said to us is that the voting system in Northern Ireland cultivates the extreme. You want to pin the other side, and so people are driven to extremes.**



**DF:** Well, it's not the voting system. It's the system for choosing the first minister and deputy first minister.

**JR:** Oh yeah, that's what I mean.

**DF:** And it's what Tony Blair stitched up with Ian Paisley and Gerry Adams at St Andrews<sup>5</sup>. Because what it has done, ever since St Andrews, it has given the DUP a way of going round to every unionist and saying vote for us or else McGuinness is first minister. And it's given Sinn Féin the opportunity to go round every nationalist saying vote for us and maybe Marty [Martin McGuinness] will be first minister. It's a fundamental change from the Good Friday system where, okay, you probably couldn't do much different from the two largest parties, but nonetheless there wouldn't be that additional reward that, under the Good Friday Agreement, any two people can be elected as first minister and deputy first minister as long as they get the weighted cross-community votes. Under St Andrews, it must be the largest party and then the largest party with different designation.

**JR:** Do you think the UK government understood what it was doing there?

**DF:** I think Tony Blair was buying off Ian Paisley, basically. He was sparing Ian Paisley's embarrassment for having to vote for himself and Martin McGuinness. That's what it amounted to. And Tony Blair was the master of doing short-term fixes to get over this year's problem, without thinking of the long-term consequences. The last morning of St Andrews, Tony Blair, in the presence of Bertie Ahern, spoke to Mark Durkan [then leader of the SDLP], Reg Empey [the leader of the Ulster Unionist Party] and me as the leaders of these three other parties and told us the agreement would say there would be an electoral test of the agreement. It will be a referendum, not an election because an election would damage you guys and we don't want to do that. That was on Friday morning. On Wednesday evening following, at a regular meeting of party executive, I said we now need to start preparing for an Assembly election. Because Blair may have believed it as he uttered those words, but I am not sure. But it clearly wasn't going to carry through, which was why we were prepared and why we did reasonably well in 2007, when again there was further squeeze on the Ulster Unionists and SDLP.

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<sup>5</sup> The 2006 St Andrews Agreement paved the way for the restoration of devolution following a period of direct rule 2002–07.

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