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RBS/213/89

FROM: R B SPENCE
US CENT SEC
DATE: 16 JUNE 1989

cc. PS/Sir Kenneth Bloomfield
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MR BURNS

DISTRICT COUNCILLORS AND PUBLIC BODIES

Introduction

1. At the last meeting of PDG I was asked "to head a small team to report by the end of June on the steps Government might take to ensure that the appointment of district councillors to public bodies balanced more fairly the two sides of the Northern Ireland community."
2. The attached paper describes the existing arrangements under which District Councillors are appointed to public bodies.
3. The first meeting of the team (which includes representatives from DOE, CPL and PAB) concluded that it would be essential to have a full picture of the nominations made by the newly elected district councils to public

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bodies. It could, however, be the end of July before Councils complete this process and this minute is, therefore, a progress report.

Councillors on Public Bodies

4. We felt that it would also be useful to be able to report on the current thinking in NI Departments about the involvement of elected representatives on public bodies as we were aware that in a few cases Departments were in the process of reviewing the constitution of public bodies. (As you know, Government has already indicated its intention to exclude elected representatives from the Health Boards). I am, therefore, arranging to talk to Departments over the next few weeks to obtain a fuller picture of their thinking and will thus also be ensuring that any proposed changes are considered in a wider context.

Composition of Public Bodies

5. It is important to be clear about the central issue which we are addressing. We are, I believe, broadly content that the composition of public bodies in Northern Ireland does adequately reflect the two sides of the community. Ministers and Departments are fully aware of the need to achieve this balance and regularly use their powers of appointment to redress imbalances which may arise from nominations by other bodies.
6. This belief is not, however, fully shared by the SDLP and the Irish Government. They tend to regard many of the Catholic members of public bodies as "safe" or "Castle" Catholics and as unrepresentative of "nationalist opinion". They argue that many of the organisations which make nominations to public bodies nominate only Protestants or the occasional non-nationalist Catholic. We believe that we

must continue to defend Government's position on this point and to refuse to exercise a political test in selecting people for public appointment.

7. Nevertheless, there is a powerful political point to be acknowledged here; the involvement of prominent constitutional nationalists in running major public bodies in Northern Ireland can contribute to greater acceptance across the community of the institutions which govern Northern Ireland.

Balancing District Council Nominations

8. To return to the central point which we are addressing, we have interpreted it as - the need to ensure that, where district councillors have a place on public bodies, these places are shared in a way which more broadly reflects the two sides of the community.
9. This has clearly not happened in the past, particularly in unionist-controlled councils. There is some evidence, as PAB has reported, in the recent election of mayor/chairman and deputy mayor/vice-chairman of modest advances towards a sharing of offices. We must await a full picture of the nominations to public bodies but at this stage we do not anticipate a major change of attitude by unionists.
10. Government could of course leave matters as they are, in the hope that a more conciliatory mood in the council chamber will develop. It is arguable that a Government initiative at this stage could undermine the development of a new spirit of co-operation. On the assumption that this will not happen, we have given some preliminary consideration to the options which might be explored in order to achieve a fairer balance.

Proportionality

11. Proportionality - ie requiring councils to allocate places in accordance with party strength - is, in theory, a feasible option and would be consistent with the changes being introduced (in the different circumstances) in England and Wales. However, it would guarantee places on some public bodies to Sinn Fein, largely at the expense of the SDLP.
12. While there are arguments in favour of trying to draw Sinn Fein more in the political process, it seems most unlikely that this solution would commend itself to Ministers and it would certainly be very strongly denounced by unionists. Excluding Sinn Fein members from proportionality would seem to be excluded by Section 19 of the 1973 Constitution Act.

Increasing Ministerial Discretion

13. Our preliminary analysis suggests that the most feasible approach would be to give Ministers freedom to select which councillors should be appointed to public bodies after consultation with the councils involved. If this approach was adopted, it might open the way to increasing the proportion of elected representatives on certain (but not all) public bodies, especially those performing functions which are carried out by local authorities in GB.
14. Unionists, in particular, could react angrily to what they would present as removing the democratic right of councils to decide who should represent them on public bodies. This change could, however, be presented by Government as part of a wider effort (which some political parties have demanded) to secure greater involvement by elected representatives from all sides of the community in running NI's affairs.

Conclusion

15. We would welcome any reactions which PDG members may have to our initial thoughts.

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/JH 1397

LOCAL GOVERNMENT REPRESENTATION ON PUBLIC BODIES

Introduction

1. This paper describes the existing arrangements under which District Councillors are nominated to public bodies in Northern Ireland.
2. There are 15 pieces of legislation which include a statutory requirement for District Council representation on 23 different public bodies (this figure includes the 5 Education and Library Boards and the 4 Health and Social Services Boards). In addition the Articles of Association of the Arts Council for Northern Ireland provide for one member to be nominated by the Association of Local Authorities in Northern Ireland (ALANI).
3. The arrangements are described under 5 broad categories.

ALANI as the Nominating Body

4. In two cases, ALANI has nominating rights:-
 - 4.1 Under the Fire Services (NI) Order 1984, four members of the Fire Authority for NI represent the interests of councils other than Belfast and are appointed by the Head of DOE on the nomination of ALANI (Belfast City Council also nominates 4 members).
 - 4.2 Under the Articles of Association of the Arts Council of NI, ALANI nominates one member.

Direct appointments

5. Under two pieces of legislation, the actual appointments are made by Belfast City Council and a body representative of district councils:-

5.1 The Museums (NI) Order 1981 provides that the Trustees of the Ulster Museum shall include 3 persons appointed by Belfast City Council and 3 persons appointed by "such organisation as appears to the Department substantially to represent district councils;

5.2 The same Order provides that the Trustees of the Ulster Folk and Transport Museum shall include 2 persons appointed by Belfast City Council and 4 persons appointed by "such organisations as appears to the Department substantially to represent district councils".

Nomination by the district councils' representative body

6. The Fisheries Amendment (NI) Order 1983 provides for the appointment by the Head of DANI of one member of the Fisheries Conservancy Board who is a person nominated by such organisation as appears to the Head of the Department substantially to represent district councils.

Appointment after consultation with district councils' representative body

7. In the case of 6 public bodies, appointments are made after consultation with organisations representing district councils:-

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- 7.1 The Health and Safety at Work (NI) Order 1978 provides that before appointing members to the Health and Safety Agency, the Head of DED shall "consult such organisations representing district councils as he considers appropriate".
- 7.2 The Recreation and Youth Services (NI) Order 1973 provides that the Sports Councils shall consist of such persons as the Minister may appoint after consulting a number of interests including "such persons as appear to him to represent district councils".
- 7.3 The Local Government Act (NI) 1972 provides that the Local Government Staff Commission shall consist of a chairman and 6-12 other members appointed by the Minister "after consultation with such associations representative of councils or their staff as appear to the Minister to be concerned".
- 7.4 The Local Government Officers Superannuation Regulations (NI) 1981 provides that the NI Local Government Officers Superannuation Committee shall consist of a chairman and 8 members appointed by the Head of DOE "after consultation with such organisations as may be recognised by him as representative of local authorities".
- 7.5 The Drainage (NI) Order 1973 provides that 10 members of the Drainage Council shall be appointed by the Minister after consultation with "a body which the Minister is satisfied represents the interests of district councils".
- 7.6 The Police Act 1970 provides that the members of the

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Police Authority shall include persons representative of the interests of local authorities appointed by the Minister after consultation with "such organisations as appear to him" to represent district councils.

Appointments on nomination by Councils

8. In addition to the Fire Authority (see para 4.1), there are 13 public bodies where the legislation specifies the Councils to be represented and the number of council representatives:-

8.1 The Harbours - Belfast Harbour Acts (Amendment) Order (NI) 1979 provides that one of the Belfast Harbour Commissioners shall be appointed by the Head of DOE from one of not more than three persons nominated by Belfast City Council; there is no obligation to appoint one of the nominees; DOE can request the Council to nominate a further person; if the Council refuses, DOE can "appoint such person as it sees fit".

8.2 The Londonderry Port and Harbour Commissioners Acts (Amendment) Order (NI) 1976 provides that one of the Londonderry Port and Harbour Commissioners shall be appointed by the Head of DOE from one of not more than three persons nominated by Derry City Council; there are similar provisions as in 8.1 where the Department dislikes the Council's nominees.

8.3 The Warrenpoint Harbour Authority (Amendment) (NI) Order 1974 provides that one of the members of the Warrenpoint Harbour Authority shall be appointed by the Minister from one of not more than three persons nominated by Newry and Mourne District Council; there

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are similar provisions as in 8.1 where the Minister dislikes the Council's nominees.

8.4 The Housing (NI) Order 1981 provides that the Housing Council shall consist of the chairman of the 26 District Councils, with each Council having the right to appoint one of its members rather than the chairman. The Housing Council nominates 3 of the members for appointment by the Head of DOE to the Housing Executive.

8.5 The Health and Personal Social Services (NI) Order 1972 provides for the establishment of 4 Health and Social Services Boards and for each Board to consist of at least one person nominated by each of the District Councils in the Board's area. The Eastern Board includes 10 councillors, consisting of 5 from Belfast and one each from 5 other Councils; the Northern Board has one councillor from each of the 10 Councils in the Board's area; the Southern Board has 7 councillors consisting of 2 each from Craigavon and Newry and Mourne Councils and one each from 3 other Councils; the Western Board has 8 councillors, consisting of 3 from Derry District Council, 2 from Fermanagh District Council and one each from 3 other Councils.

8.6 The Education and Library (NI) Order 1986 provides for the establishment of 5 Education and Library Boards; each Board includes persons appointed by the Head of DENI on the nomination of District Councils so that councillors constitute about 40% of the total membership; DENI is required to determine the number of District Council nominees taking account of the population of each district, provided that each

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Council has at least one place. The Belfast Board includes 14 City Councillors; the North Eastern Board covers 9 Councils and includes 14 councillors; the South Eastern Board covers 5 Councils and includes 14 councillors; the Southern Board covers 6 Councils and includes 14 councillors; the Western Board covers 5 Councils and includes 13 councillors.

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3.3 The Health and Social Services (NI) Order 1972 provides for the establishment of a Health and Social Services Board and the Board is to consist of at least one councillor appointed by each of the District Councils in the Board's area. The Eastern Board includes 14 councillors, consisting of 3 from Belfast and one from each of the 11 Councils in the Board's area. The Southern Board has 7 councillors consisting of 3 from Craigavon and Bally and one from each of the 3 other Councils; the Western Board has 6 councillors consisting of 3 from the 3 District Councils, 2 from Fermanagh District Council and one from 3 other Councils.

3.4 The Education (NI) Order 1985 provides for the establishment of a Education and Library Board; each Board is to be appointed by the Head of NI in the area of the District Councils in that area; the Board is to consist of at least one councillor appointed by each of the Councils in the area; the Board is to be responsible for the provision of education and library services in the area; the Board is to be responsible for the provision of education and library services in the area; the Board is to be responsible for the provision of education and library services in the area.

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