



The Role of the Speaker in the Northern Ireland Assembly

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“The tragedies of the past have left a deep and profoundly regrettable legacy of suffering. We must never forget those who have died or been injured, and their families. But we can best honour them through a fresh start, in which we firmly dedicate ourselves to the achievement of reconciliation, tolerance, and mutual trust, and to the protection and vindication of the human rights of all.”

...

“We reaffirm our total and absolute commitment to exclusively democratic and peaceful means of resolving differences on political issues, and our opposition to any use or threat of force by others for any political purpose ...”

1. Introduction

The road from conflict to peace

Following the partition of Ireland in 1921 Northern Ireland was regularly beset with sectarian conflict. The roots of that conflict can be found in the mutual distrust between the minority Roman Catholic community and the majority Protestant community. This conflict took on a new dimension from 1968 onwards, in what became known as the ‘Troubles’. Between 1968 and 1997 some 50,000 people, out of a population of approximately 1.5 million were either killed or injured, and the financial impact was severe in terms of physical destruction and cost of increased security.

It is easy to over-simplify the Troubles as a religious conflict, however the reality is that its roots lay in conflicting national identities which remain to this day. The majority Protestant community (known as Unionist) has a strong affiliation to the United Kingdom whereas the minority Roman Catholic community (known as Nationalist) has a similarly strong affiliation to the Republic of Ireland.

1998 Belfast (Good Friday) Agreement

Following ‘ceasefires’ by a number of the paramilitary groups in 1994, prolonged multi-party talks resulted in the 1998 Belfast (Good Friday) Agreement. This Agreement committed all of the protagonists to “partnership, equality and mutual respect as the basis of relationships within Northern Ireland, between North and South, and between these islands”. The Agreement marked the beginning of a long transition from conflict and distrust to a more stable society. The Agreement was subsequently amended through the 2006 St Andrews Agreement. Whilst the physical scars have been eradicated, that transition to a stable, peaceful and reconciled society remains far from complete. Nevertheless all of the political parties remain committed to exclusively peaceful and democratic means of resolving differences on political issues.

Power sharing in Government

A central tenet of the Agreement was the establishment of democratic institutions in Northern Ireland, including an Assembly (parliament). Established in 1999, the Northern Ireland Assembly is inclusive in its membership, capable of exercising executive and legislative authority, and is subject to safeguards to protect the rights and interests of all sides of the community. Five parties (two Unionist parties, two Nationalist parties and a cross-community party) share power in the Government (Executive).

The Agreement formalised this sharing of power through the d’Hondt process, which is used to appoint Government Ministers¹ and to allocate Committee Chairs and Deputy Chairs. The d’Hondt process uses a formula based on the number of Members elected from each political party:

$$\left(\frac{\text{No. of seats held by political party on first day of Assembly meeting}}{1 + \text{The number of nominations made}} \right)$$

As a result, following the Assembly elections in 2011 the Assembly appointed a Unionist First Minister and a Nationalist deputy First Minister, and appointed 4 Democratic Unionist Ministers, 3 Sinn Fein (Nationalist) ministers and one Minister each from the Social Democratic and Labour Party (Nationalist), the Ulster Unionist Party (Unionist) and the Alliance Party (cross-community)

To ensure that all sections of the community can participate and work together successfully in the operation of the Assembly and that all sections of the community are protected, key decisions must be taken on a cross-community basis including the election of the Speaker and the appointment of the First Minister and the deputy First Minister. Two mechanisms exist for making decisions on a cross-community basis:

- Either **parallel consent** (a majority of those Members present and voting, including a majority of the Unionist and Nationalist delegations present and voting); or

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- A **weighted majority** (60% of all Members present and voting, including at least 40% of each of the Nationalist and Unionist delegations present and voting).

2. Statutory role of the Speaker

Introduction

“In stable, peaceful parts of the world it is easy to forget why we have parliaments – places where representatives of the community talk (and also listen) to each other. ... In Northern Ireland we have lived through 30 years during which political differences were expressed through violent actions rather than words.”

...
Aggression is a powerful instinct, and the capacity of “talking” to express and contain the violent expression of that aggression depends on the robustness of the structures within which the talking takes place. ... This combination of containment and expression is the purpose of the conventions and Standing Orders of an Assembly. The Speaker is there to make sure that these conventions and Standing Orders are protected and observed”²

The Belfast Agreement specified that, following an election, the first item of business should be the election of a Speaker on a cross-community basis.

The Speaker is the representative of the Assembly in its powers, proceedings and dignity. The Speaker’s role falls into three main categories:

- Presiding over the debates of the Assembly and ensures the observance of all rules for preserving order in its proceedings;
- Having administrative responsibilities, including chairing the Assembly Commission; and
- Acting as the spokesperson or representative of the Assembly in its relations with other parliaments, authorities and persons.

The Speaker as Presiding Officer

The Speaker is the Presiding Officer of the Northern Ireland Assembly as specified in the Northern Ireland Act 1998 and the Standing Orders of the Assembly. The chief characteristics of the office of Speaker are authority and impartiality:

- In debates, all speeches are addressed to the Speaker and his or her choice of Members to speak is not open to challenge.
- In making a ruling or preserving order in the Chamber, the Speaker must be heard in silence.
- No Member may stand when the Speaker is standing.
- Comments on the character or the actions of the Speaker may be punished as breaches of privilege.
- The Speaker cannot be criticised in a debate or by any form of proceedings except a substantive motion.

Members must be confident of the impartiality of the Speaker and this is achieved through the operation of a number of conventions:

- The Speaker does not participate or vote in any debates in the Assembly.
- The Speaker does not become involved in party politics, nor does he or she comment on Northern Ireland political matters or on issues of Government policy.
- When speaking on behalf of the Assembly, the Speaker confines him- or herself to matters relating to the operation of the Assembly.
- The Speaker will only make statements to the press on factual or procedural matters relating to the Assembly.

Standing Orders

“Without some rules, chaos reigns and violence breaks out. But those rules have effect only if they have the respect of the Members. The best way to ensure this is for Members to construct their own agreed rules.”³

The Assembly’s Standing Orders set out the role of the Speaker in the procedural business of the Assembly. When first established in 1999 the Assembly’s Standing Orders were relatively unsophisticated; however Members moved quickly to construct their own agreed rules, which are modified from time to time by agreement on a cross-community basis.

The Speaker's ruling on all questions of procedure and order, as specified in Standing Orders, is **final**. This applies equally to Deputy Speakers, that is, they have the full authority of the Office of the Speaker in respect of procedure and order.

Standing Orders also set out the procedure for the election of a Speaker:

- If the outgoing Speaker is seeking reelection the oldest Member of the Assembly, who is not seeking the appointment, oversees the election as Acting Speaker;
- Nominees are then put forward, seconded and accepted by the nominee;
- A vote is then taken on the first valid nominee which must be passed with cross-community support; and
- The Speaker then continues to hold office until the conclusion of the next election for Speaker unless he or she resigns.

Speaker's rulings and conventions

"Agreed rules are necessary but not a sufficient requirement of working together with differences. Some aspects of working together require a degree of subtlety and flexibility that is hard to encompass in written rules."⁴

Speaker's rulings and conventions are issued from time to time in order to address issues of procedure and order which may not be covered in either the Northern Ireland Act 1998 nor in Standing Orders. These rulings and conventions explain and expand on Standing Orders and give guidance for the future conduct of business. Key rulings made by Speakers of the Assembly include:

- Challenges to the Speaker;
- Standards of debate;
- Questions to Ministers; and
- Respect in the Assembly.

The flexibility provided to the Speaker through rulings and conventions needs also to take account of the emotional tone of the Chamber. For example, at times of tension and high drama a degree of latitude from the Speaker can help to reduce discord; and occasionally a carefully chosen use of humour can serve the same purpose.

Managing the relationship of the Assembly with the Government

The Assembly, comprising all Members and especially those who do not have positions as Ministers, is responsible for sanctioning, criticising and holding Ministers to account, and for authorising Government expenditure.

The role of the Speaker is to ensure that Ministers are able to get their business through the Assembly, the core of which is the Government's Programme for Government. The Speaker must also ensure that there is sufficient opportunity for debate and for holding Ministers to account; maintaining this balance is the responsibility of the Assembly's Business Committee.

As Chair of the Business Committee the Speaker, as in other aspects of his or her work, has both a formal role and a less formal role. The formal role is set out in Standing Orders; the informal role is to ensure the smooth functioning of the Assembly by accommodating the needs of key stakeholders including the Government and business managers (known as 'whips') of the political parties based on the advice provided by Assembly officials.

However there is a balance between the Speaker accommodating the Government's legislative programme and other business, and letting the Government or political parties bring the Assembly into disrepute. Where the potential arises for the Assembly to be brought into disrepute the Speaker may need to 'rule' on the matter in order to prevent its recurrence.

The Speaker also seeks to protect the interests of Members in holding Ministers to account. The first priority for an incoming Government is to develop its 'Programme for Government' with an associated legislative programme. However multi-party coalition governments can have a tendency to produce a Programme for Government which, by necessity, lacks sufficient policy detail, and can subsequently experience significant delays in agreeing key policy details. Where this impacts on the Government's ability to develop and implement a

coherent legislative programme, a key role for the Speaker is to continually encourage the Government to do so. Ideally the requirement to agree a Programme for Government and an accompanying legislative programme should be set out in the Assembly's Standing Orders.

Timetabling of legislation

The Assembly's Standing Orders set out the process for the timetabling of legislation, and the Speaker is required to ensure that Members have adequate time to scrutinise and amend legislation as it passes through its various stages. Therefore the Speaker must ensure that the requirements of Standing Orders are adhered to by the Government.

The nuances of the timetabling of legislation in the Northern Ireland Assembly are numerous; the key point is that the Speaker needs to receive the appropriate support from his or her officials to ensure that their statutory duties are fulfilled and that the interests of **all** Members in ensuring effective scrutiny of the Government are protected.

3. Powers and duties of the Speaker

Introduction

The Speaker is required to exercise powers and duties in respect of the legislative process, the appointment and resignation of Ministers and as Chair of the Assembly Commission. The Speaker has a scrutiny role in relation to the competence of legislation prior to the first and final stages of a Bill. He or she selects amendments to Bills for debate at the Consideration stages and on the completion of all stages of a Bill, sends it to the Secretary of State for Northern Ireland requesting Royal Assent from Her Majesty the Queen.

Written notification of the resignation of the First Minister or deputy First Minister must be given to the Speaker, as should written notification of the appointment, resignation or dismissal of Ministers, Committee Chairs or Deputy Chairs. In the event of a vacancy occurring in the Assembly's membership the Speaker must inform the Chief Electoral Officer for Northern Ireland.

Protecting minority parties and independent Members

An essential role of the Speaker is to ensure that smaller parties and independent Members of the Assembly are not sidelined from the parliamentary process as can be the case in parliaments where there is a clear government and opposition. In the Assembly 87 Members (out of 108) form part of the four-party coalition Government; until September 2015 this figure was 100.

Independence from party politics

Once elected the Speaker is expected to relinquish all party political affiliations. This is a custom rather than being a legislative requirement, however it is essential that the Speaker has the trust of all of the political parties. In reality it would be naive to imagine that, after a lifetime in politics, a newly elected Speaker can immediately and abruptly cut him- or herself off from party politics. It would also be naive to assume that all Members trust the Speaker, or will even engage with the person holding the office, but it is a 'given' that all Members must acknowledge the authority of the Office of Speaker and Members are very clear about the consequences of challenging the authority of the Speaker.

Managing Assembly business

Management of the Business of the Assembly is set out in Standing Orders, and is the responsibility of the Business Committee, which is chaired by the Speaker and comprises the business managers of each of the five main political parties.

The Business Committee decides the agenda for the following two weeks - finalising the order of business (the Order Paper) for the first week and preparing the draft order of business for the second week. The draft order of business (that is for the second week) is then finalised at the following week's meeting of the Business Committee, and so on.

Standing Orders specify that the Government's business must be expedited first, followed by Committee business and then Members' Business. Much of the business of the Assembly is conducted through debate on motions or through questions to Government

Ministers. Almost any motion can be amended, however amendments must be submitted in advance to the Speaker. The Clerk of Business will then make a recommendation to the Speaker on whether the amendment should be selected or rejected. The Speaker will consider the Clerk's advice and will make his or her decision; the Speaker is not required to (and in practice does not) explain his or her decision, and an amendment which has not been accepted cannot be referred to in debate by the Member who has submitted it.

Maintaining order

A key role of the Speaker is to maintain order in the Assembly. However the Speaker has ruled that the ejection of a Member should be the last resort, and has instituted a number of approaches to maintain order short of ejection.

The Speaker is always mindful that a Member's intent may be to provoke a reaction from the Speaker in order to court media and public attention. Therefore the Speaker may, as a last resort, eject a Member; a far more effective approach is to 'silence' the Member by not allowing him or her to speak in debates.

The process for maintaining order progresses through a process of escalation:

- The Speaker will warn the Member that he or she needs to show courtesy, good temper and moderation in his or her language and/or his or her behaviour.
- If this does not have the required effect, or if the Member appears to be challenging the authority of the Speaker, the Speaker will warn the Member that his or her speaking rights will be withdrawn for an indeterminate time.
- If the Member does not deviate from his or her course of behaviour the Speaker will then instruct the Member to resume his or her seat, and will state that the Member's speaking rights have been withdrawn.
- The Speaker will later rule on the length of this period.

The Speaker does not tolerate grave disorder where a Member:

- Assaults, molests, obstructs or acts in a disorderly manner towards the Speaker or any other Member;
- Persistently obstructs the business of the Assembly;
- Is guilty of disorderly conduct;
- Assaults, obstructs or resists any police officer or officer of the Assembly acting under the authority of the Speaker;
- Uses unparliamentary words which he or she refuses to withdraw;
- Refuses to conform with Standing Orders; or
- Disregards the authority of the Speaker.

In the case of grave disorder the Speaker may order the Member to withdraw immediately from Parliament Buildings (the home of the Northern Ireland Assembly) during the remainder of that day's sitting, and potentially for a period of up to five working days (subject to the approval of the Assembly).

Sub Judice

Under Standing Orders the Speaker must prevent conduct which would constitute a criminal offence or a contempt of court. For example Members should not refer to 'live' civil or criminal court proceedings.

4. Non-statutory roles of the Speaker

Introduction

As set out in the previous section the Speaker presides over the debates of the Assembly and ensures the observance of all rules for preserving order in its proceedings.

In addition the Speaker has corporate and representative roles.

Corporate role of the Speaker

The Assembly Commission is responsible for ensuring that the Assembly is provided with the property, staff and services it requires to carry out its work.

The Assembly Commission is chaired by the Speaker and consists of five other Assembly Members who represent the interests of all Members.

In practice the Commission delegates many of its administrative functions to the Assembly's Clerk/Chief Executive.

Representational role of the Speaker

The Speaker's representational role includes:

- Receiving VIP visitors to Parliament Buildings, such as Heads of State, Ambassadors and senior political figures;
- Attending events outside Parliament Buildings to promote the work of the Northern Ireland Assembly; and
- Hosting events in Parliament Buildings to encourage people to visit, to meet with their elected representatives and to get involved in the work of the Assembly.

The Speaker also has the primary role in maintaining and developing the links the Assembly has established with parliaments in the United Kingdom and the Republic of Ireland.

5. Parliamentary reform, modernisation and reconciliation

Reform and modernisation

A legislature is not, or at least should not, be a static organisation. Stasis results in decay and in the case of Parliaments such decay will quickly result in public disengagement with its work. Therefore parliaments must continually evolve their processes, reform and modernise.

For example, the primary focus of the Committee on Procedures at the Northern Ireland Assembly is to review and update the Standing Orders and procedures of the Assembly. However the Committee also considers new innovations to further improve the effectiveness of the Assembly's scrutiny of the Government.

The Speaker has a key role in initiating and assisting the reform and modernisation of the Assembly – similar to the role that has been undertaken by the Presiding Officers of Parliaments across the world.

Promoting women in politics

As in other parliaments in the United Kingdom and the Republic of Ireland the Speaker has encouraged party political consensus on wider Assembly reform which would be beneficial towards increasing the gender balance of the Assembly.

“The issue of encouraging more women into politics poses challenges for many including parties, the Assembly, the media, and voters. ... I recognise that there is a role for me, as Speaker, in showing a lead.

...

Reform of the Assembly would undoubtedly have a significant impact in encouraging more women to come forward and be part of it.

“I believe [that family friendly hours] would be a positive step towards encouraging more female Members of the Assembly but frankly I think it would be welcomed by Members and staff of this Assembly of all genders and with young children or none.”

Role in reconciliation: “Respect – A First Step”

Following his election as Speaker of the Assembly Mitchel McLaughlin MLA set out his approach to his period of office and his intention to be guided by the theme of “respect”. As part of his respect agenda the Speaker has sought to build greater consensus among politicians from all political parties, and has formalised his respect agenda through a Speaker's ruling.

As the Speaker's ruling on respect applies to his role as Presiding Officer it has been reproduced here in full:

“When I am presiding over debates in the Chamber it is my role to ensure that Members are able to express their views and are able to be heard. Often, it is a question of balance. No matter how much they disagree with an opposing view, Members can respond but they cannot make it impossible for someone to give their opinion. Those who shout loudest can often have the least to say and are not the only ones who should be heard.

Conversely, Members cannot abuse the Chamber by making overtly provocative remarks which could not pass without reaction. In extreme cases, I have to judge between those deliberately causing offence and those deliberately seeking to be offended. Often you will hear me or the Deputy Speakers call for courtesy, good temper and moderation but I can sum it up in one word – respect.

Just as my role extends outside the Chamber, the value of respect resonates right across our society. I would like to use my time in office to do what I can to build upon that.

We are a society comprised of a myriad of political views and cultural traditions. The series of negotiations since 1998 have demonstrated that we can only move forward on the basis of discussion and agreement. While that implies an acknowledgement that there are a range of different views to be listened to and accommodated, our day to day political conversation often does not promote that concept to the wider community. There are invariably different narratives to many issues. Too often our approach is to shout down the other view or to seek to degrade the other person’s beliefs to maintain our own.

In the bigger picture we have to ask if this approach moves us forward? Does it help build confidence in this Assembly or our political institutions? Does it help develop the relationships our society needs to move on? Does it set a mature example to our community on the ground? Too often the answer is no.”

Conclusion

Whilst more than twenty years have passed since the first ‘ceasefires’, Northern Ireland remains a society in transition from division through to reconciliation. Similarly the Northern Ireland Assembly is a parliament in transition, as exemplified by the current political talks. All of the political parties have acknowledged that reconciliation is the key to progress – yet a consensus as to how that reconciliation should be achieved remains somewhat elusive.

Ultimately political reconciliation will effect societal reconciliation. The key to political reconciliation is respectful parliamentary engagement and debate – the role of the Speaker is key to ensuring that the nature, tone and effectiveness of that engagement and debate reflects the values and aspirations of society in general.

This can be summed up by the Northern Ireland Assembly Commission’s vision of:

“An Assembly that strengthens democracy and engages the people in creating a better future for all”

Endnotes

¹ Special arrangements were agreed to appoint the Minister of Justice – currently elected by cross-community support.

² Northern Ireland Assembly Companion

³ Northern Ireland Assembly Companion

⁴ Northern Ireland Assembly Companion

About the author



Dr Gareth McGrath serves as both Director of Parliamentary Services at the Northern Ireland Assembly and Executive Director of Politics Plus.

As Director of Clerking and Reporting he is responsible for the management of meetings of the Assembly Plenary and its committees, for the official record of proceedings, and for the production of the Official Report. This includes providing advice to the Speaker, Deputy Speakers, committee chairpersons and Members on parliamentary procedure and practice; and managing the passage of legislation.

Gareth has extensive experience in leadership and corporate strategy development, programme and project management, and procurement in public sector organisations. He has a particular interest in international issues and working with parliaments in countries emerging from conflict.

Before joining the Assembly as its first Director of Engagement in 2008, Gareth worked in the chemical industry, management consultancy and the Civil Service. He received his BSc in Biological Chemistry and PhD in Chemistry from Ulster University and MBA from the Open University.