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Heenan, D., & Birrell, D. (2022). Exploring Responses to the Collapse of Devolution in Northern Ireland 2017–2020 through the Lens of Multi-Level Governance. *Parliamentary Affairs*, 75(3), 596–615.
<https://doi.org/10.1093/pa/gsab013>

[Link to publication record in Ulster University Research Portal](#)

Published in:
Parliamentary Affairs

Publication Status:
Published (in print/issue): 31/07/2022

DOI:
[10.1093/pa/gsab013](https://doi.org/10.1093/pa/gsab013)

Document Version
Publisher's PDF, also known as Version of record

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Exploring Responses to the Collapse of Devolution in Northern Ireland 2017–2020 through the Lens of Multi-Level Governance

Deirdre Heenan  * and Derek Birrell

School of Applied Social and Policy Sciences, University of Ulster, BT 37 OQB, Jordanstown, UK

*Correspondence: da.heenan@ulster.ac.uk

The system of devolution set up in Northern Ireland in 1999 has proved volatile and unstable. In 2017, the Northern Ireland Executive collapsed, following the resignation of the Sinn Féin, deputy First Minister. For a three-year period, Executive and legislative devolution ceased to operate. The UK Government opted not to impose Direct Rule from Westminster, as happened previously. This article examines the consequences of the absence of a devolved government in the context of the existing system of multi-level governance (MLG). It is contended that mitigating action taken or considered to address the gap in governance can be best understood using an analytical framework drawn from the lens of MLG. A range of interventions, adjustments and interactions occurred involving the remaining levels of MLG. Despite the fall of the Executive and Assembly an amended form of governance continued to function in Northern Ireland.

Keywords: devolution, direct rule, multi-level governance, Northern Ireland

1. Introduction

Since the establishment of devolution in 1999, Northern Ireland's power-sharing governments have been fragile and prone to collapse. Under the post-conflict political structures, one party cannot govern alone and consequently a level of consensus between the main parties is required. Devolution has been suspended and Direct Rule from London imposed on a number of occasions between 2000 and 2007. The volatility of the devolution arrangements is symptomatic of fundamental underlying issues including a lack of inter-party trust, policy differences, diverging interpretations of agreements, conflicting constitutional objectives and a

lack of political maturity (McCrudden *et al.*, 2016; Birrell and Heenan, 2017; Torrance, 2018).

In 2017, after almost decade of relative stability, the Northern Ireland Government collapsed when the then deputy First Minister Martin McGuinness resigned in protest against the First Minister's handling of a botched energy scheme. This decision was also reflective of a wider deterioration in relations between the Democratic Unionist Party (DUP) and Sinn Féin. Uniquely though, unlike previous breakdowns of power sharing, this collapse was not followed by the imposition of Direct Rule from London. From January 2017 to 2020, Northern Ireland was in political limbo somewhere between self-government and Direct Rule. This prolonged hiatus raised serious questions about how Northern Ireland was governed in this three-year period. What was the effect of the absence of the devolved level of government and what initiatives and measures were introduced to mitigate the inevitable difficulties? In the light of the assertion by Birrell and Gormley-Heenan (2015) that the governance of Northern Ireland is often read too narrowly, focusing on the internal world of power-sharing, this article evaluates the absence of devolution through the lens of multi-level governance (MLG). It contends that this approach provides some valuable insights into the way in which power was spread through a network of intertwined governance structures during this extensive period without an Executive and Assembly. Scharpf's (2010) framework of interaction and MLG is used to provide valuable insights into the adjustments and processes at play in this approach to governing.

2. Gaps in MLG following the collapse of the Assembly and Executive

The breakdown of the Assembly and Executive lasted for three years long and protracted negotiations between the local parties and the UK and Irish Governments repeatedly stalled. Numerous interventions by both governments (Todd, 2017) were unsuccessful. Difficulties were exacerbated by strains in the British–Irish relationship due to turbulent Brexit negotiations and the existence of a Confidence and Supply Agreement between the Democratic Unionist Party and the Conservative government (Mitchell *et al.*, 2018). It has been argued that the devolved power-sharing arrangements and institutions were at their most precarious for over a decade with both governments dealing with highly complex agendas (Nagle, 2018). During previous periods of the collapse of the Assembly and Executive, Direct Rule from London was reintroduced. In practice, this involved the devolved functions of the Northern Ireland Executive being exercised by the Secretary of State for Northern Ireland alongside a team of ministers from Westminster located in the Northern Ireland Office (NIO) in London and Belfast. The Northern Ireland Assembly's devolved powers over legislation and scrutiny passed to the Westminster Parliament, although what had been primary

Northern Ireland legislation at Stormont on devolved matters was dealt with by a special order-in-council procedure at Westminster (Birrell, 2009). In the continued absence of a devolved administration, the Secretary of State repeatedly resisted calls from unionist politicians to introduce formal Direct Rule.

The absence of a functioning Assembly and Executive led to major gaps in the governance of Northern Ireland. There was no devolved capacity to formulate policies, introduce Bills, pass legislation or implement policy. Some 67 items of policy were estimated to have been suspended (Sargeant and Rutter, 2019). Without ministers, there was no mechanism to respond to urgent situations or make strategic policy changes. There was also no devolved body to allocate the funding from the Treasury under the Barnett formula to the Northern Ireland departments, or to determine priorities. Decisions could not be taken on other financial matters including the imposition of charges or the setting of the regional rate. The areas of health and education were most seriously affected with no devolved ministers to take decisions on planned reforms in health, capital contracts, school amalgamation or workforce planning. There was no one with a democratic mandate to progress issues such as redress for victims of historic child abuse and legacy proposals. Appointments to non-departmental governmental bodies in Northern Ireland's relatively large quango sector stalled without required ministerial approval. In the absence of the Assembly, there was also a halt to the work of the departmental scrutiny committees which left a substantial accountability gap.

The lack of Executive ministers meant there was no political representation at the cross-border bodies and no political representation at UK bodies or British-Irish bodies. This related to three key bodies: the North-South Ministerial Council (NSMC); the British-Irish Council (BIC); and the UK Joint Ministerial Committee (JMC). The missing level of devolved government and gaps in governance were strongly criticised by the Northern Ireland Affairs Committee (NIAC) at Westminster in an inquiry into what it termed a democratic deficit (Northern Ireland Affairs Committee, 2018a). In their final report, the Committee was scathing of Northern Ireland Government departments operating without ministerial direction. The official response from the UK Government was to reiterate its determination to restore a functioning power-sharing Executive (Northern Ireland Affairs Committee, 2018a,b). In the absence of ministers, the ability of civil servants to make decisions was the subject of a judicial review. In 2017, in a case (Buick) relating to approval for an incinerator, the High Court ruled that the Department of Infrastructure did not have the power to approve the scheme without ministers. This judgement was seen as having wider implications for government in Northern Ireland raising concerns that civil servants' already limited decision-making capacity would be substantially constrained (Sargeant and Rutter, 2019, Section 3). The question was raised of what

adaptations could be made to the remaining MLG framework and structure to fill the gaps, mitigate the democratic deficit and maintain the overall governance of Northern Ireland.

3. An MLG analytical framework

MLG has emerged as a valuable framework for categorising and analysing modern systems of government. MLG directs attention to different levels of formal governance within a state other than national government, often highlighting the role of sub-national and supranational levels (Gamble, 2000; Bache and Flinders, 2004; Hooghe and Marks, 2010). MLG focuses on the division and dispersal of powers and the range of elected bodies and institutions with legislative, executive, administrative and delivery functions (Hooghe and Marks, 2010). Developments within the European Union (EU) gave more recognition to the growing number of sub-national bodies and promoted the use of the MLG framework. By locating levels of government around geographical areas, specific functions, jurisdictions and formalised political institutions MLG became particularly relevant to the UK following the introduction of devolution to Scotland, Wales and Northern Ireland. This was seen as changing the unitary state analysis (Bache and Flinders, 2004) or at least moving substantially away from the Westminster model with its concentration on the power of central government. Cairney (2011) described the Scottish government operating within a system of MLG across four levels of government; national UK government, devolved government, local government and the EU. He also utilised a framework of MLG to chart devolved and Europeanised political systems (Cairney, 2012). The complex and sometimes idiosyncratic area of policymaking in Northern Ireland were analysed by Birrell and Gormley-Heenan (2015) using a MLG framework. They argued that the governance of Northern Ireland is complex, involving a multiplicity of actors and should be viewed from a broader perspective than the devolved Executive and Assembly. Hayward *et al.* (2020) use an MLG approach in their assessment of the implications of Brexit for Northern Ireland. This article analyses how Northern Ireland was governed for three years in the absence of core components of MLG, the devolved Executive and Assembly and assesses how this impacted the remaining elements of MLG. The focus is on changes and adjustments to the structures processes and outcomes of governance.

Since 1999, the devolved arrangements for governing Northern Ireland involved five levels of governance, which can be categorised as: (i) the UK Government in the role of the sovereign government with direct responsibility for excepted and reserved, that is non-devolved, matters; (ii) the Northern Ireland Executive and Assembly with a wide range of powers and responsibilities including primary legislation; (iii) local government in the form of eleven local

councils with responsibility for a range of local services, regulatory and representative functions; (iv) the EU has operated as a tier of decision making, funding and political representation, with some future influence on Northern Ireland to be continued after Brexit; and (v) cross-border institutions operating as a somewhat unique level of trans-national governance with the NSMC with designated areas of cooperation and significantly six cross-border implementation bodies.

In complex multi-level configuration of governing institutions, [Scharpf \(2010\)](#) suggests different modes of interaction, and intervention may come into play in the face of problems and pressures. The modes suggested are: hierarchical directions; mutual adjustments; intergovernmental and multi-level negotiations and joint decision-making. Hierarchical direction refers to the centralisation of functions by national government and parliament, often with responsibility removed from other levels of governance. Mutual adjustment is where different levels agree to take on a transfer of functions to respond to needs and problems. Intergovernmental and multi-level negotiations refer to problem-solving through discussions to find a solution acceptable to different levels of MLG. Joint decision-making involves collaboration to resolve issues. If wider interests are involved, this may include supranational mechanisms and strategies. The response by MLG to the prolonged absence of the devolution can be analysed using [Scharpf's \(2010\)](#) typology. The modes that are particularly relevant in Northern Ireland are; hierarchical direction; mutual adjustment at various levels; negotiations at inter-governmental level; interaction at supranational level and a further useful addition are localist-based intervention.

4. Hierarchical direction

In response to the absence of the devolved level of government in Northern Ireland, it was natural to turn to hierarchical direction from central UK Government and Parliament. This level of governance which included the NIO and the Secretary of State exercised a specific range of functions prescribed in the Northern Ireland Act 1998. The main priorities were dealing with legacy issues, supporting devolution, growing the economy and maintaining security. Other key functions related to taking constitutional and political legislation through Parliament, overseeing the transfer of finance to the Northern Ireland Executive, and giving consent to Assembly Bills which may impact upon non-devolved matters. Other UK departments and ministers had responsibilities for providing reserved and excepted services, in Northern Ireland for example the Home Office and the Ministry of Defence.

What was especially important in terms of hierarchical direction was that in the UK system of MLG sovereignty lay with the UK government and Parliament. Constitutionally all the devolved powers could be exercised by the sovereign UK

government and more significantly in practice, the UK government held the power to suspend the devolved institutions and make amendments to the devolved arrangements. Short of reintroducing comprehensive Direct Rule the UK Government and Parliament could legislate on any devolved matter. Although the central UK Government could intervene in a significant way there were strong political and practical reasons not to abandon devolution and impose Direct Rule as happened in 2002. Not least the fact that it would be viewed as a retrograde step, and politically tricky as relations and joint working with the Irish government were at a particularly low ebb. The initial response of the UK Government was to adopt a care and maintenance approach to keep the level of devolved governance ticking over, rather than hierarchical centralisation. Consequently, action was taken to continue the provision of public services and to retain the 90 elected MLAs on existing salaries. The then Secretary of State, James Brokenshire, acknowledged an obligation to take necessary interventionist measures to keep Northern Ireland functioning, but only measures which were essential and limited in nature. Inaction in Westminster to address the stasis was a deliberate tactic to pressurise the local parties to get back into government ([Rutter and Sargeant, 2019](#)).

In the continuing absence of the Executive and Assembly, the secretary of the state acted outside the devolved arrangements to set a budget and allocate departmental funding to ensure good governance and keep public services running ([Northern Ireland Office and Brokenshire, 2017](#)). While a Government Finance Bill was used it was not a UK Government budget and did not reflect priorities or special decisions of ministers in the NIO; but set out allocations for departments as recommended by civil servants and followed the previous year's budgetary priorities of the Executive ([Northern Ireland Office and Brokenshire, 2017](#)). The subsequent Secretary of State, Karen Bradley, had also acted to set a regional rate which had increased domestic rates, equivalent to council tax in Great Britain, and to increase Health and Education budgets ([Northern Ireland Office and Bradley, 2018a](#)). In 2019, legislation was passed at Westminster to require councils to collect rates and place a cap and controls on the controversial Renewable Heating Incentive (RHI). This financial intervention was limited but unavoidable in order to sustain the care and maintenance approach and the UK Central Government was reluctant to move in the direction of further ministerial intervention. Secretaries of state were careful to make exceptional any move into the area of devolved powers. During this hiatus, secretaries of state came under public pressure to pass specific legislation on devolved matters. A high profile example related to compensation payments to the victims of historic institutional abuse, as recommended in a judicial inquiry. The Hart Inquiry recommended in 2017 that a financial redress mechanism be established quickly. After initial hesitation the NIO Office, agreed that draft legislation could be processed in the

continuing absence of the Assembly as a procedure was available to allow Westminster legislation to extend to Northern Ireland.

Overall, the exercise of devolved powers by the secretary of state was kept to a minimum. The NIAC called for the secretary of state intervene to implement the draft Programme for Government, the Bengoa Report on health reform and the Hart Inquiry recommendations. Responding to these calls the UK government stated that it would continue to take those decisions which are necessary to protect Northern Ireland's vital public services but stressed that in relation to wider policy reforms, such as in health, it was not for the UK Government to take these decisions on behalf of the population ([Northern Ireland Affairs Committee, 2018b](#), para. 4).

A further example of the UK Government deciding to intervene to deal with an urgent difficulty related to appointments to public bodies. Appointments to public bodies were the responsibility of devolved ministers and cover over 80 organisations. A failure to make party political appointments to the Policing Board meant this crucial body was not properly constituted, additionally the Probation Board was in danger of collapsing. The Secretary of State acted to appoint members to the Policing Board so it could be fully functional and also made a new appointment to the Office of Police Ombudsman. In July 2018, the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018 included clauses to allow the relevant UK minister to make certain specified appointments in the area of justice as they were pressing appointments, described as essential for good governance and public confidence ([Northern Ireland Office and Bradley, 2018b](#)).

When analysing the mode of hierarchical direction in the form of exercising central power in place of devolution powers, this includes parliamentary action involving initiatives by MPs. Backbenchers in the House of Commons took action to change existing legislation in the devolved areas of abortion and same sex marriage. On 9 July 2019, amendments were successfully attached to the Northern Ireland (Executive Formation, etc.) Bill 2019, which was designed to simply extend the period for forming an Executive until 21 October 2019. The amendment proposed by Labour MP Stella Creasy required the government to liberalise abortion laws in Northern Ireland, if the Assembly had not been reconvened by the end of this extension ([Amery, 2019](#)). This amendment was overwhelmingly supported with 332 votes to 99. Additionally, there was agreement to extend same sex marriage legislation to Northern Ireland ([House of Lords, 2018](#)). MPs voted by 383 votes to 73 to require UK secondary legislation to extend same-sex marriage to Northern Ireland unless an Executive was formed by 21 October 2019. These somewhat unexpected developments illustrated the strength of feeling about the issue in parliament. This action represented a major change in policy in what had historically been controversial and divisive issues. Despite

their Confidence and Supply Agreement with the DUP, the Conservative government did not act to block these developments (Amery, 2019).

A further expansion of UK governance direction lay in the scrutiny role of the Westminster Parliament, particularly through the work of the NIAC. This select committee scrutinises the work of the NIO and, therefore, normally investigates non-devolved matters. In the period of Direct Rule between 2002 and 2007, the work of the NIAC changed to include investigation of the Northern Ireland departments which had previously fallen under the remit of Assembly scrutiny committees. The NIAC, following the absence of the Assembly stated that it had a particular duty to advance accountability on behalf of the population. This enhanced role included undertaking reviews of, and publishing reports on, devolved issues including health and education (NIAC, 2018a). The UK Government published responses to these reports on devolved matters and generally reiterated that the relevant Stormont departments would maintain the status quo until an Executive was restored (NIAC, 2018b). Several committees continued with responsibilities for excepted and reserved matters for Northern Ireland, for example, an inquiry into funding for the devolved administrations. Over the period of collapse, the interest of other committees was usually related to Brexit enquiries. The Home Affairs Committee reported on preparations for exiting the EU relating to security and policing, UK border systems and customs operations. The Business, Employment and Industry Committee conducted an enquiry into the EU Withdrawal Bill and Political Declaration and visited Belfast and Newry. The Exiting the EU Committee and the Public Administration and Constitutional Affairs Committee of the Lords published reports on devolution and exiting the EU and intergovernmental relations in the UK.

The only example of a select committee, other than the NIAC, deciding to examine a single devolved matter was an inquiry into abortion law by the Women and Equalities Committee. They stated that the rationale for this work was major policy developments subsequent to the fall of the Assembly, including a UN report, a Supreme court judgement and a UK Government decision to fund women travelling to England for abortions on the NHS (Women and Equalities Committee, 2019). The committee noted that UK government decisions and funding were involved, and this should therefore be the subject of detailed analysis and review. The UK Government responded to this inquiry stating that unless a power sharing Assembly was returned by 31 October 2019, terminations up to 24 weeks would be decriminalised. Furthermore, the recommendations approved by the House of Commons vote would come into effect on or before 31 March 2020. The Work and Pensions committee initiated a joint enquiry with the NIAC into welfare policy in Northern Ireland, particularly the operation of universal credit, welfare mitigation action by the Executive and the two-child limit on benefits payments. There were special circumstances in Northern Ireland justifying

this joint approach as, although devolved, welfare benefits tended to be kept in parity with Great Britain. It has been concluded that overall the Westminster institutions did relatively little to fill the scrutiny gap left by the absence of the Assembly (Sargeant and Rutter, 2019, p. 35). In terms of substantive policy interventions on devolved functions, the UK Government and Parliament responses were minimalist and limited to emergencies, financial necessity or strong political pressure.

5. Mutual adjustments at devolved levels

A second mode of interaction in dealing with problems in multi-level systems refers to agreed adjustments in roles between or within existing levels of MLG. Despite the collapse of the devolved level of executive and legislative government some aspects of the system of devolved governance continued to function. This applied particularly to three components, the Northern Ireland government departments, the Northern Ireland Audit Office (NIAO) and the continuing activities of the 90 MLAs.

5.1 *The role and use of administrative devolution*

While executive and legislative devolution ceased to operate administrative devolution in the form of civil service departments continued to function. The Northern Ireland Civil Service is an independent organisation from the UK Home Civil Service. Stormont departments continued to deliver services, pass regulations and monitor the large sector of non-departmental public bodies. Without ministers in place in leading departments issues arose concerning the decision-making scope of senior civil servant. However, in 2018 the Northern Ireland Appeal Court confirmed the Buick decision on incinerators, that the powers of the civil service were limited, and they could not approve decisions which would ordinarily be referred to devolved ministers for approval. Senior civil servants expressed the view that the inability of civil servants to make decisions risked stagnation and delay (Sargeant and Rutter, 2019). By mid-2018, pressure was building for more direct intervention from the UK Government to make provisions for taking major policy decisions. In response, the Westminster Government announced its intention to introduce primary legislation to allow certain decisions to be taken in the absence of executive ministers. The Northern Ireland (Executive Formation and Exercise of Functions) Act 2018 introduced a radical adjustment to give senior civil servants in Northern Ireland Departments, power to take decisions when it is in the public interest to do so, subject to published guidance from the secretary of state. The Bill was fast-tracked through all its stages in Commons and Lords in

12 days. The power to be given to senior civil servants was described as follows ‘that a senior officer of a Northern Ireland department is not prevented from exercising departmental functions in the absence of ministers if the officer is satisfied that it is in the public interest to do so’ (UK Government, 2018) Clause 3 of the Act vests a senior officer of a Northern Ireland department with general discretionary powers, to be exercised in the public interest. The guidance from the Secretary of State specifically excluded from civil service discretion any major policy decisions described as ‘the initiation of a new policy, programme or scheme including new major public expenditure commitments, or a major change of an existing policy, programme or scheme’ (Secretary of State for Northern Ireland, 2018). Such decisions would normally be left for returning ministers.

In defining a major decision there is only a short reference to a decision agreed by the Executive, although a history of failures by the Executive to agree on certain policy topics appeared to constitute strong grounds for civil servants deferring a decision. It also seemed that civil servants would not be permitted to draw up primary legislation unless required by the secretary of state. The guidance on decision-making by civil servants suggests that, having determined a matter is not a major policy decision, the civil service then has to consider whether there is a public interest in taking a decision and the guidelines set out four principles to be taken into account (Secretary of State for Northern Ireland, 2018). The constitutional propriety of these provisions attracted considerable criticism with the view that the provisions of the Act challenged established constitutional principles (Select Committee on the Constitution, 2018, para 24). Tierney (2018) notes that it was unclear if decisions taken by civil servants would be open to judicial review in a similar way to those taken by devolved ministers. Treating officials as if they were ministers even for limited purposes represented a major change to established UK constitutional practice.

Deb and McCormick (2018) viewed the legislation as replacing devolved government by giving the Northern Ireland Civil Service the ability to govern by proxy, in practice devising a reordered constitution without parallel in modern times. The UK Government took the view that in the unusual circumstances, it was helpful to make adjustments to protect departments from facing repeated judicial review. The arrangement did not, however, mean that the secretary of state or other NIO ministers was accountable to parliament for the actions of civil servants. The absence of direct parliamentary accountability can be contrasted with Direct Rule when NIO ministers were fully accountable to Parliament. Although measures were introduced that a monthly summary report of decisions taken by senior civil servants should be made available to Parliament and also the Northern Ireland political parties.

5.2 Scrutiny by the NIAO

The NIAO is an independent non-departmental public body closely involved in the operation departments and ministers. Between 2017 and 2020, the NIAO continued to function but without the Assembly's participation in the process. The Audit Office supported the Comptroller and Auditor-General in carrying out value for money investigations into Government departments and other public bodies and into selected topics. Matters in the latter category of investigations included addiction services, nurse workforce planning, digital transformation and social deprivation and educational attainment. Under devolution, reports produced by the NIAO could be subject to a hearing by the Assembly Public Accounts Committee, resulting in a report with recommendations. A formal response was required from the Executive minister and department. In the absence of functioning Assembly committees, a process was introduced with civil servants producing departmental responses to NIAO recommendations ([Department of Finance, 2019](#)).

These NIAO reports were technically presented to the non-sitting Assembly. The Comptroller and Auditor-General has noted that in the absence of the Assembly and Executive the civil service in departments have responded positively to the recommendations in the NIAO reports ([Donnelly, 2019](#)). Copies of all NIAO Audit and Value for Money reports and departmental responses were released by the Secretary of State and placed in both Houses of Parliament. A number of NIAO reports were particularly critical of departmental actions and attracted substantial political attention ([Northern Ireland Audit Office, 2019a](#)). The NIAO investigated aspects of the RHI scheme which had a major role in the collapse of the devolved government and in 2019 published a report into the changes proposed to the incentive schemes payments ([Northern Ireland Audit Office, 2019b](#)). In the absence of the Assembly, legislation was enacted at Westminster in the form of a Northern Ireland (Regional Rates and Energy, No. 2 Bill 2019). An Audit Office Report was highly critical of the secretary of state's use of emergency procedures for the Bill. It stressed that rushing Northern Ireland-related legislation through Parliament had become normal practice and this was described as unacceptable.

5.3 Continuing activities of Assembly members

Despite the collapse of the Assembly, MLAs were paid, although from 2019 at a reduced rate. They continued to represent their constituents by holding surgeries and making representations on their behalf to government departments and other public bodies. In doing this, they maintained staff and constituency offices. This was recognised as significant work justifying only a modest reduction in

salaries recommended in a Government review (Reaney, 2017). While adjustments to constituency work were widely known, the continued functioning of all-party groups was less obvious. There were some 30 of these groups with membership open to all parties and all continued to meet despite the absence of the Assembly. They continued with an adjusted form of their traditional role in providing a platform for discussion, collection of evidence and promoting events related to the subject and interests of the group.

The statutory committees of the Assembly with scrutiny and legislative functions had ceased to operate, consequently encouraging all-party committee participation. Between 2017 and 2020 all-party committees tended to meet to hold meetings around three times a year. Membership was usually between 10 and 16 MLAs and each had a formal organisation with a chair, vice-chair, secretary and treasurer. Administrative support was supplied or funded by a related non-governmental or charitable organisation. Examples of issues addressed by all-party groups included; the cancer group looking at innovative cancer therapies; the ageing and older people's group has addressed social care reform, loneliness, and end of life care, while the housing group examined co-ownership, homelessness, housing rights and rent arrears. All-party groups examined existing and proposed Government strategies, a cancer strategy, organised promotional events at Stormont and have supported research.

6. Negotiations at intergovernmental level

Following the Good Friday Agreement (GFA) and the establishment of devolution a number of inter-governmental level bodies came into existence at both North-South and East-West level. The Northern Ireland Executive was represented on most bodies by the First and deputy First Minister, while other ministers participated in meetings on occasions. Therefore, the collapse of the Executive had major implications. The NSMC composed of Executive ministers and Irish Government ministers met in plenary, institutional and sectional meetings. After the collapse of the Executive the NSMC ceased to meet, although cross-border projects continued to be delivered. This included North-South implementation bodies set up to deliver mainly infrastructural services across the border, as well as all Ireland projects and joint working and cooperation government departments, public bodies and local councils. The BIC is part of the East-West relations, set out in Section 2 of the GFA. It is composed of representatives of the British and Irish Governments, the devolved governments of Northern Ireland, Scotland and Wales and also the governments of the Isle of Man and the Channel Islands. The remit of the BIC is to exchange policy information and consult to reach agreement on areas of cooperation. It operates through summit and ministerial meetings and sectoral work streams. The meetings and policy work of

BIC continued in the period of the collapse of the Executive, but with no executive ministers in attendance.

The Irish Government's main role was participation in the negotiations to restore a fully functioning devolved government. The GFA, acknowledged the Irish Government's 'special interest' in Northern Ireland and included a number of arrangements for the Irish Government to inform debate. With the absence of the NSMC and lack of Executive ministers more attention was paid to the role of another intergovernmental body, the British–Irish Intergovernmental Conference (BIIC). This body was created by the GFA as a mechanism for the Irish Government to put forward views and proposals and discuss non-devolved matters of mutual interest with the UK Government. Originally, it had a strong focus on security issues, but during Direct Rule between 2002 and 2007, it evolved to consider devolved matters of common interest, such as cross-border infrastructure. Following the collapse of the Executive and Assembly, Sinn Féin and the Social Democratic and Labour Party (SDLP) suggested that this body which had fallen into abeyance should be revived. The BIIC was convened again in 2018 and 2019, but with no derogation from the sovereignty of the UK or Irish Governments. There was no representation from the Executive at the BIIC meetings in 2018 and 2019. These intergovernmental meetings discussed the implementation of the Stormont House Agreement, the legacy framework, security cooperation, economic cooperation and East-West matters in general (UK Government, 2019).

The role of the Irish Government has proved a divisive issue between unionist and non-unionist parties. The collapse of the arrangements for devolution led to Sinn Féin and the SDLP raising 'joint authority' arrangements where Northern Ireland would be co-governed by the UK and Irish Governments. The Sinn Féin leader, Mary Lou McDonald called on the British and Irish Governments to implement a new British–Irish partnership as a form of joint authority to implement all the existing Northern Ireland agreements and safeguard rights should the political impasse at Stormont continue. In March 2019, the UK cabinet minister Michael Gove stated that in the event of no restoration of devolution in the context of a no-deal Brexit, the UK Government would 'start 'formal engagement' with the Irish Government about further arrangements for providing strengthened decision making for Northern Ireland' (Staunton, 2019). Following devolution in 1999 in the UK, a formal structure for intergovernmental cooperation was established. The JMC comprised the UK Government, the Scottish and Welsh Governments and the Northern Ireland Executive. Both the First and deputy First Minister were members. The JMC has no Executive power but considers devolved matters of common interest, non-devolved matters which may affect devolution and also could deal with disputes. After the collapse of the Executive, Northern Ireland was represented at meetings of the JMC by a senior civil servant

. This meant that there was no political input from Northern Ireland political leaders. This became of some significance when a new sub-committee of JMC was set up as a Brexit forum, the JMC (EU Negotiations), a body that was not in the end to have a major influence on negotiations. Overall, despite the fact that JMC represents the major formal intergovernmental structure to support devolution in the UK, its role was relatively limited.

7. Supra-national negotiations and joint working and the EU

The EU in 2017 formed the main supra-national body which had an impact upon aspects of devolved policies, through both regulations and programmes. Dealing with the EU was a UK Government responsibility, but the devolved governments including Northern Ireland were empowered to influence UK decision making on EU matters. A UK concordat on devolution covered joint involvement with the UK Government in EU matters. The Office of First and Deputy First Minister assumed a coordinating function for all EU matters, and this is operationalised through a European Policy and Coordination Unit and an NIO presence in Brussels. Historically, the EU has taken a strong interest in Northern Ireland, well beyond the formal engagement through the UK Government. This was reflected in a special peace funding programmes focused on social inclusion, enhancing combatting poverty and labour mobility. An EU Barroso Task Force gave advice on how Northern Ireland could benefit from EU policies (Murphy, 2014). A Special EU Programmes body set up on a cross border basis has continued since the GFA. As the only UK region containing a land border with the EU, Northern Ireland is particularly affected by the UK withdrawal from the EU (Tonge, 2016).

The breakdown of the Executive in 2017 meant that Northern Ireland ministers were no longer involved directly in UK preparation for routine meetings, stopped going to Brussels and were absent from the JMC (EU Negotiations) meetings. The impact of UK withdrawal from the EU on Northern Ireland became a critical issue in the withdrawal negotiations, resulting in the Northern Ireland protocol. Whilst devolution was fully functioning, EU matters were afforded a relatively low profile In Northern Ireland, for example there was no Assembly committee focused on EU matters. The EUs were committed to proactively supporting the GFA and identified the avoidance a hard border on the island Ireland as a key priority in the Withdrawal Agreement. However, there was never any question of the EU intervening to address any gaps caused by the absence of the Assembly and Executive or become involved in political negotiations to restore devolution. The EU will largely cease to be a substantive level of governance after Brexit, importantly though it will continue to have influence through

the NI protocol, ongoing EU peace funding and cross border implementation bodies.

8. Local government and partnership working

Local government is a dimension of MLG that also had some significance following the collapse of the Executive and Assembly. Local councils continued to function during the absence of devolution as had been the case during the previous periods of interruption to devolution. Since the reform of local government in 2015, the system has functioned on the basis of statutory power-sharing between the political parties. Major reforms to the local government system in the early 1970s local councils led to limited functions compared to local government in Great Britain. The reform of local government completed in 2015 had only marginally increased functions mainly over planning. During the devolved hiatus, local government represented the only elected forum in Northern Ireland. A response from the local government representative body, the Northern Ireland Local Government Association, advocated greater powers and resources for local councils to address the existing democratic deficit ([Northern Ireland Local Government Association, 2019](#)). This demand was not supported by the central political party organisations. While acknowledging the frustration caused by the absence of a devolved government it was not seen as viable to return functions or hand over other devolved powers to 11 new local councils, particularly on a temporary basis. A study at the time by the New Policy Institute reported little appetite for acquiring responsibilities by a transfer of services such as social care, housing and education ([Kenway and Petrie, 2018](#)). Thus, the local government level of MLG was not widely viewed as appropriate for the transfer of any devolved government functions.

The other significant impact of the absence of the Assembly and Executive was their removal from partnership and joint working arrangements. There was a local community plan for each council area coordinating services provided by public bodies and departments. The reformed system of local government included provision for a partnership panel consisting chief executives, councillor representatives and all Executive ministers. Panel was established as formal liaison bodies between local and central government. Executive ministers could raise policy developments related to local government and the council membership raise matters of finance, resources and legacy issues following reform. This new partnership panel only met once before the fall of the devolved structures. Further problems in partnership working arose when city deals were planned for Northern Ireland. The Belfast region city deal covered six councils and involved the UK Government giving funding support to encourage economic development and job creation across the region. Funding was also to be provided by the

councils, universities and private bodies but the Executive was required to match UK Government funding. In the absence of Northern Ireland ministers, it was not possible in 2019 to secure the commitment of Executive ministers to specific funding commitments. Under the powers given to senior civil servant's departments were able to carry out preparatory work until such time as decisions could be taken by ministers. When the plan was drawn up for city deal for the Derry and Strabane area the secretary of state announced that Treasury funding was dependent on the return of the devolved Executive. Joined-up working was disrupted in core respects by the collapse of the Executive, but the local government level of MLG did not assume any additional functions.

9. Conclusions

The collapse of the Northern Ireland Assembly and Executive in 2017 produced a crisis politically, but also in governance and raised concerns about the long-term viability of the GFA and its consociational arrangements. At the same time, the fall of the Assembly and Executive did not lead to a total breakdown in the governance of Northern Ireland. This can be explained in the context of the system of MLG that existed in Northern Ireland, with a configuration of multiple institutions at the levels of: national government; devolution; inter-governmental bodies; supra-national bodies and local government. This facilitated limited attempts to mitigate the impact of gaps left by the absence of the Executive and Assembly using other elements of the multi-level system of governance.

In January 2020, government ministers returned after a three-year hiatus. The cross-party deal agreed to restore devolution 'New Decade, New Approach' (Northern Ireland Office, 2020, Annex C3.11) contained measures to increase the sustainability and resilience of the government. These included changes to the procedure for appointing a First Minister and deputy First Minister, if either resigned. Previously, parties had just seven days to fill the vacancy, before the secretary of state was obliged to set a date for new elections. This period was extended to 6 weeks, with the option of a further 18-week extension, if necessary. During this time ministers continue in their posts as caretakers and the Assembly continues to sit. These provisions mean that in the short term, neither of the main parties can collapse the institutions.

The framework developed by Scharpf (2010, p. 75) to analyse modes of interaction in MLG proves useful in understanding responses by the constituent levels. Scharpf (2010) suggests that the complexity of MLG defies all theoretical efforts based holistic concepts, but these difficulties can be overcome by using simpler concepts representing modes of multi-level interaction. A series of initiatives were taken or proposed to help maintain the delivery of services, some radical in nature, some adjustments in roles and some not implemented. Some direct

action was taken by the UK Government, but this was largely confined to necessary financial legislation, measures to continue governance or as a response to political and public demands. Other legislative initiatives were taken by parliament to make a small number of important policy changes. Adjustments were made to the role of some remaining aspects of the devolved institutions including the civil service, the Audit Office and Assembly members. Interaction through other modes was minimal. This included possible action at intergovernmental level by the Irish Government, at the supra-national level by the EU and at local level by a bid to transfer some devolved services to local government. Responses and changes at the MLG were cautious and limited by what was practical, legal, agreed by negotiation, essential or valuable to keep a level of governance operating. This provided a degree of stability while political negotiations continued to fully restore the devolved level of MLG.

Funding

The authors received no funding for this article.

Conflict of interest statement

The authors have no conflicts of interest to report.

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