

FACING REALITY...

A TRUTHFUL ASSESSMENT : THE POLICY CONTEXT : *THE BEST WAY FORWARD*>>>



DUP

www.dup.org.uk

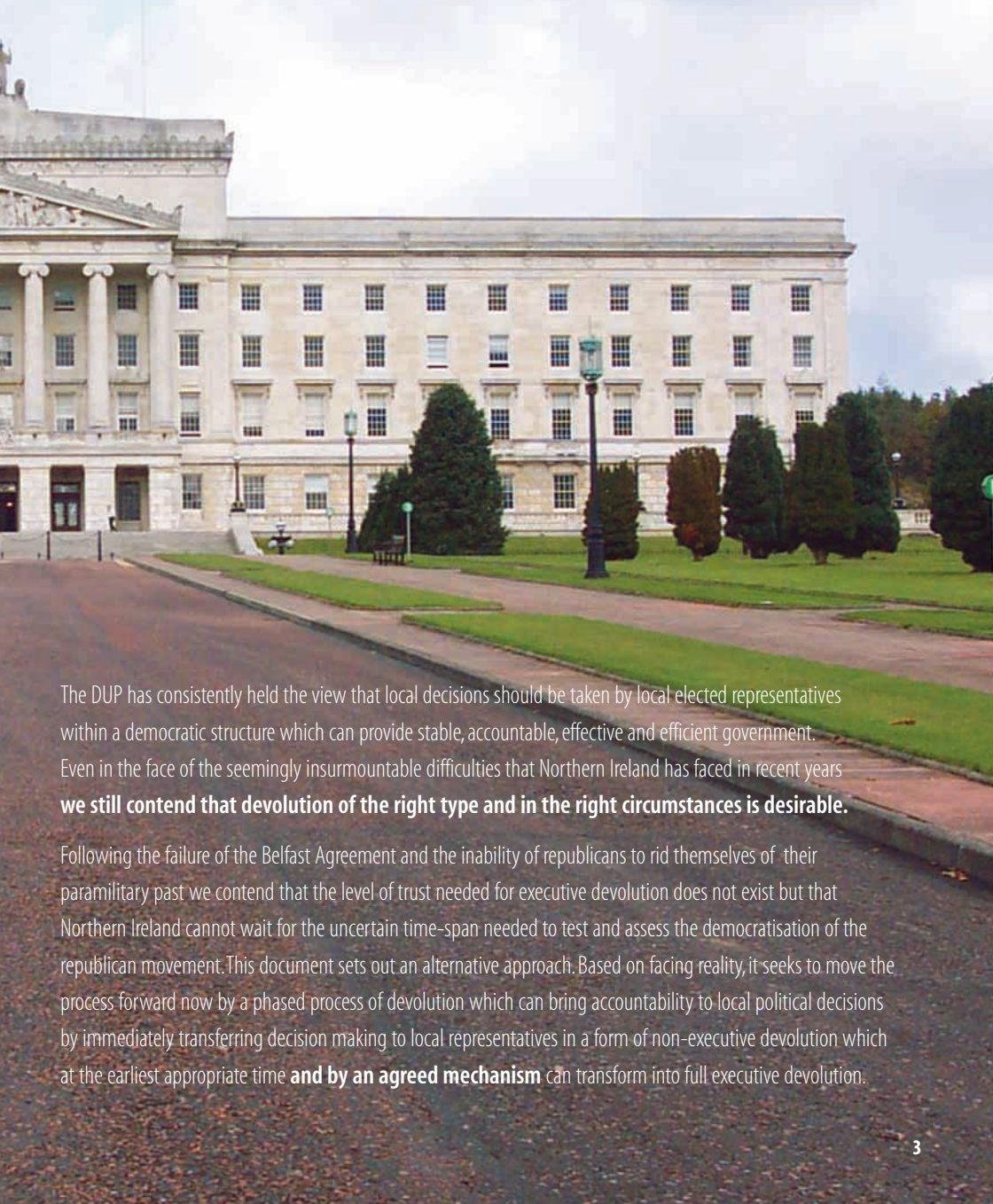


**INTRODUCTION:
DEVOLUTION IS
STILL THE BEST WAY
FORWARD.**



FACING REALITY...

A TRUTHFUL ASSESSMENT - THE POLICY CONTEXT - **THE BEST WAY FORWARD**>>>



The DUP has consistently held the view that local decisions should be taken by local elected representatives within a democratic structure which can provide stable, accountable, effective and efficient government. Even in the face of the seemingly insurmountable difficulties that Northern Ireland has faced in recent years **we still contend that devolution of the right type and in the right circumstances is desirable.**

Following the failure of the Belfast Agreement and the inability of republicans to rid themselves of their paramilitary past we contend that the level of trust needed for executive devolution does not exist but that Northern Ireland cannot wait for the uncertain time-span needed to test and assess the democratisation of the republican movement. This document sets out an alternative approach. Based on facing reality, it seeks to move the process forward now by a phased process of devolution which can bring accountability to local political decisions by immediately transferring decision making to local representatives in a form of non-executive devolution which at the earliest appropriate time **and by an agreed mechanism** can transform into full executive devolution.

1: THE POLICY CONTEXT

In the context of the recognised failure and collapse of the Belfast Agreement institutions the DUP published a number of documents setting out its policy for devolution. In 2001 we published seven principles for devolution. Those principles remain the foundation upon which we believe devolution can be returned.

OUR SEVEN PRINCIPLES:

- 1.The DUP is a devolutionist party.We believe in democratic, fair and accountable government.
- 2.No negotiating with the representatives of terrorism but we will talk to other democratic parties.
- 3.Those who are not committed to exclusively peaceful and democratic means should not be able to exercise unaccountable executive power.
- 4.Terrorist structures and weaponry must be removed before the bar to the Stormont Executive can be opened.
- 5.Any relationship with the Republic of Ireland should be fully accountable to the Assembly.
- 6.The DUP will work to restore the morale and effectiveness of the police force.
- 7.We will strive to ensure genuine equality for all including equality in funding.

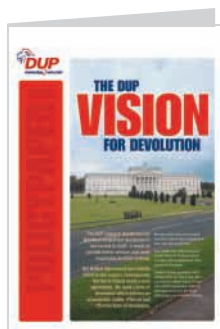
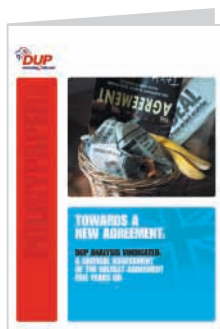
We later set out seven tests we would apply to the outcome of any negotiations.

OUR SEVEN TESTS:

- 1.Any Agreement must command the support of both Nationalists and Unionists.
- 2.Any Assembly must be democratic, fair and accountable. Any executive power must be fully accountable to the Assembly.
- 3.Only those committed to exclusively peaceful and democratic means should exercise any Cabinet-style Ministerial responsibility.
- 4.Within any new Agreement any relationship with the Republic of Ireland must be fully accountable to the Assembly.
- 5.A new settlement must be able to deliver equality of opportunity to unionists as well as nationalists.
- 6.Agreed arrangements must be capable of delivering an efficient and effective administration.
- 7.The outcome must provide a settlement within the UK, not a process to a united Ireland. It must provide stable government for the people of Northern Ireland and not be susceptible to recurring suspension.

FACING REALITY...

A TRUTHFUL ASSESSMENT - THE POLICY CONTEXT - **THE BEST WAY FORWARD**>>>



TOWARDS A NEW AGREEMENT:

In 2003 we provided a critical analysis of the Belfast Agreement which detailed the areas of the deal which were unacceptable to the DUP and would have to be addressed if the party's support for devolution was to be secured. The policy document 'Towards a New Agreement', provided the DUP with a "to do list" for subsequent negotiations.

In particular it highlighted the totally unacceptable provision in the Belfast Agreement which had allowed terrorist representatives to sit in the "cabinet". The policy paper indicated that an unaccountable Executive with unaccountable Ministers participating in an unaccountable all-Ireland body was a fundamental flaw which had to be rectified.

In addition the paper proposed changes in the manner the committees and the Assembly itself operated. Finally it advocated a better deal for the victims of terrorism and also judged that the balance between North-South and East-West relations had to be redressed.

VISION FOR DEVOLUTION:

When we published our 'Vision for Devolution' in 2003 during the Assembly election it committed the party to devolution and defined the ingredients the DUP determined to be essential in any structures which would result from future talks. The policy paper listed four key components. Any new agreement must be –

Stable: The Belfast Agreement did not and was incapable of delivering stable government. An alternative needs to be established which takes cognisance of parties' behaviour but is sufficiently robust to withstand pressure.

Accountable: Ministers were not accountable to the Assembly for their decisions. A mechanism for holding individual Ministers to account must be established.

Effective: The Agreement failed to provide clear direction or effective decision making thus making the process cumbersome. The alternative is a system which is responsive removing unnecessary levels in decision making.

Efficient: Political bureaucracy spiralled out of control under the Agreement. The alternative must provide value for money and cut back the costs of government.

We fought the Assembly election on the basis of these commitments and the unionist electorate mandated us to follow those policies, principles, tests and the underlying strategy.

After the election the DUP – now the largest party in the Northern Ireland Assembly – took up its mandated role of providing leadership to the community and published a set of proposals which are as relevant today as when they were first published. The document *Devolution Now* received a favourable reception and encouraged the government to press ahead with negotiations first at Lancaster House, then at Leeds Castle and subsequently at meetings in both Belfast and London.

DEVOLUTION NOW:

Devolution Now took account of the political realities in Northern Ireland declaring that only those who were committed to exclusively peaceful and democratic means should exercise any Cabinet-style Ministerial responsibility. The proposals suggested that powers would be devolved to the Assembly and not the government departments as under the Belfast Agreement. The Assembly would be empowered to determine how such power was to be exercised. The document outlined some possible models which could result from such a development.

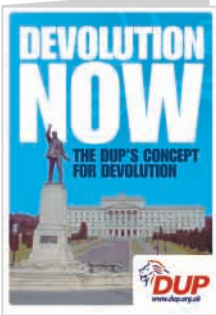
The administration could either be in the form of an Executive or an arrangement where the Assembly acted as a Corporate Body responsible for decision making in an agreed manner. The Executive could be either a Voluntary Coalition with collective cabinet responsibility or a Mandatory Coalition (involving parties committed to exclusively peaceful and democratic means) with arrangements for accountability and effective decision making.

If an Executive could not be formed or if an executive collapsed, powers would be transferred from the Executive/Ministers to the Assembly. The decision making process advocated in the Corporate Assembly Model was not inconsistent with the *modus operandi* in local government.

The DUP declared it would not operate the Mandatory Coalition with Sinn Fein before it met the Blair Necessities but would operate the Voluntary Coalition with parties including the SDLP immediately. The document added, "If the SDLP is unwilling to operate a Voluntary Coalition in the absence of SF then we would be willing to operate the Corporate Assembly Model until either the SDLP agree to operate a Voluntary Coalition or SF/IRA deliver on the Blair Necessities. (Acts of completion, set by the PM requiring the winding up of terrorism.)

FACING REALITY...

A TRUTHFUL ASSESSMENT: THE POLICY CONTEXT: **THE BEST WAY FORWARD>>>**



DUP EUROPEAN MANIFESTO 2004:

In the European election the Devolution Now proposals were placed before the electorate. The party again topped the poll giving a clear mandate for its proposals. Again the manifesto stated:

"A mandatory coalition to include Sinn Fein is only possible when they are demonstrably committed to exclusively peaceful and democratic means."

It added:

"We believe that only when the Blair Necessities have been met can Sinn Fein be entitled to a place in Government. The political process must not be put on hold to await the IRA."

The DUP was sending an unmistakable message to republicans that we would not mark time waiting on them to clean up their act. The days of the UUP facilitating Sinn Fein were over. There would be no movement for Sinn Fein until after the IRA had stood down. The party defined what was needed as the total decommissioning of its illegal weaponry and the end of all its terrorist and criminal activity.

THE PROPOSED COMPREHENSIVE AGREEMENT:

In December 2004 the government published proposals, which were informed by a series of meetings with the political parties which it believed represented the best chance of gaining the support of parties in Northern Ireland for the return of devolved government. Republicans had prematurely left the negotiations clearly unwilling to deliver the end of their illegal activities.

The constitutional elements of the proposals already showed signs of improvement from the Belfast Agreement. In particular the key issue of accountability had been addressed. No longer could Ministers take unilateral decisions without the support of other parties in the Assembly. This applied not only to the devolved structure but also, importantly, to the North-South relationship.

However, the government in publishing the proposals remarked that they had been very carefully balanced. In spite of their claim the government was soon to disturb that "careful balance" by retreating on its requirement for republicans to decommission in a visible and transparent manner.



MOVING ON:

During the 2005 election campaign the DUP published a document Moving On which sought to inject urgency into the political process. The paper argued that decisions were being taken which were to the detriment of the people of Northern Ireland and we should not let Sinn Fein's inability to reform itself hold others back from taking control of key matters.

The policy paper put, what was in fact, a final challenge to the SDLP to form a Voluntary Coalition or the thrust of DUP policy would move away from any immediate expectation of Executive Devolution and towards what was attainable.

As far as a Mandatory Coalition including Sinn Fein was concerned the document declared that "trust" was the key component required to form and maintain an Executive. The party contended that republicans needed much more time to undertake the transition to exclusively democratic politics. Time and events have justified that assessment.



THE DUP WESTMINSTER MANIFESTO 2005:

In the manifesto we said:

"...the DUP insisted that no-one who is associated with paramilitarism or criminality will be in any Executive in Northern Ireland. Sinn Fein could then only be considered for entry to an Executive after –

- complete visible, verifiable decommissioning;
- a total end to all paramilitary and criminal activity;
- the community is convinced the IRA has been stood down.

Inclusive, mandatory coalition government which includes Sinn Fein under d'Hondt or any other system is out of the question.

If executive devolution cannot be set up on a satisfactory basis, then the only option is to make Direct Rule more accountable and acceptable. We will work with the Government to provide the maximum accountability in these circumstances and attempt to integrate Northern Ireland more firmly within the United Kingdom."

Again we asserted our conviction:

"We believe a voluntary coalition supported by democratic parties across the community offers the best way forward."

It is apparent that the SDLP is not willing to act separately from Sinn Fein and thus there is no foreseeable prospect of a voluntary coalition being set up. With trust in Sinn Fein still not present at a level necessary to countenance Sinn Fein's entry into government and the SDLP unwilling to form a voluntary coalition there is, as our manifesto predicted, no route immediately open to executive devolution.



POST ELECTION:

The DUP's firm stand on the pre-delivery of decommissioning and the IRA ending all illegal activity as a standard that must be met before Sinn Fein participation in government started to bear fruit when the IRA carried out a substantial act of decommissioning and stated it would end its terror campaign. Regrettably republicans did not meet the level of transparency recognised as necessary in the Comprehensive Agreement leaving everyone unsure what level of decommissioning had taken place and leaving the community to test the commitment to ending paramilitary and criminal activity on the basis of time and unfolding events.

The opportunity to build confidence had been lost and as later events would show the republican movement was still in paramilitary mode. It remains to be seen that there has been a real change in republican paramilitary behaviour. The unionist community is still dissatisfied with progress in this area. No one can say illegal activity has ended completely and for ever. Trust has been the casualty of the lack of openness in decommissioning and ending the IRA's terror campaign.

EQUALITY AND FAIRNESS CONTEXT:

The DUP stands ready to continue dialogue with the government to advance the agenda outlined in this paper. It will obviously still be a pre-requisite for the government to deliver on the steps needed to provide the atmosphere that will facilitate a positive outcome.

Without establishing equality and fairness unionist support for political movement will be impeded.

We have consistently advised the government on ways to improve confidence in the unionist community and we are ready to offer further assistance in order to achieve our goal.

2: A TRUTHFUL ASSESSMENT

The approach of unionists in making an assessment of republicans is coloured by the reality that while Sinn Fein was negotiating an end to its paramilitary and criminal activities, it was, at the same time organizing a bank heist and proceeded to cover up a foul murder.

Even now, while indicating that it has ended its campaign, P O'Neill is still issuing New Year's messages highlighting that the organization is still operational, though under 'discipline'

Even the manner in which republicans handled the Denis Donaldson affair by taking him away for 'debriefing' indicates that they are still in paramilitary mode. There is also clear evidence that criminal activity still exists at a seemingly high level under the direction of the republican movement. It is only the method of organizing the crime that appears to have changed. Indeed republicans still hold the proceeds of the Northern Bank robbery and other previous criminal activities.

Whatever progress the IMC in January may be able to identify, this falls well short of the level of certainty that people will want and expect of Sinn Fein. In this context the community choice is to continue to mark time, waiting for republicans to transform, or to find a way forward that does not require their participation at executive level.

Setting aside executive devolution as a prospect for the foreseeable future leaves a range of possible structures which can be considered which include low responsibility bodies such as a shadow Assembly.

Then there are mid-range models which solely provide for either legislative devolution or administrative devolution. In the 70s and 80s the DUP had advocated legislative devolution while the UUP had supported administrative devolution.

It is possible to construct a legislative devolution model drawing upon the practices of the EU, where the task is shared between the Council of Ministers and the Parliament.

The NIO Ministers would comprise a College or Council of Ministers. They, or the Assembly (through Committees or as a unitary body), could propose legislation. All legislation on transferred matters would be subject to a co-decision procedure, whereby to be enacted the approval of both the College of Ministers and the Assembly would be required.

In the EU both the Council and the Parliament each produce their own opinion and review those of the other, with a series of readings. If agreement can't be reached between the EP and the Council a Conciliation Committee (consisting of equal numbers from EP & Council) convenes to try and agree a final text.

In essence a horse-trade results, before the legislation returns to both bodies for final enactment.

On reserved matters the case could be made for consultation with the Assembly, if that could be fitted into the Westminster parliamentary processes.

Since legislative devolution was last considered the constitutional arrangements in the UK have softened up. Indeed the Leader of the House is presently considering proposals whereby MEPs might sit on some committees with MPs. It is therefore conceivable that the same facility could be afforded to Members of a Regional Assembly when matters relating to reserved legislation was being processed

At the high end there are possibilities which give the Assembly full devolved power, not exercised by an executive or cabinet but rather by the Assembly as a corporate body. An example of such a structure is the Corporate Assembly model which featured in our Devolution Now policy document. The SDLP proposed a model which sought to appoint outside Commissioners to undertake the role of Ministers.

There are variants of both themes and even overlapping possibilities. One such model might be to make the Departmental Permanent Secretaries responsible as officers of the Assembly and subject to the will of the Assembly in much the same manner as Council Officers are responsible to their District Council while each of them still acts as head of their own department. They would however have a collective role to ensure joined-up government.

There is even the possibility of introducing progressive devolution using elements from several options. For example, it is possible to devise a scheme which commences with a low-range model offering a deliberative Assembly and progressively grafting on to it other functions and responsibilities as trust grows.

In such a model -

- Parliament could amend the Northern Ireland Act 2000 to allow for a partial un-suspension of the Assembly. This un-suspension would not extend to the Executive functions of devolution but would permit the Assembly and its committees to meet.
- In these arrangements Executive authority would continue to be vested in the Secretary of State for Northern Ireland although a procedure analogous to that provided for in paragraph 6 of Annex B of the Comprehensive Agreement could permit requests for the review of Ministerial decisions.
- At a later stage consideration could be given to permitting the Assembly to legislate. It would have the advantage of giving some real power to the Assembly and encouraging a responsible approach, while not altering the current arrangements for Westminster in the short term. It would also encourage the parties to work together.
- It may also be desirable for the Assembly to agree the Budget though clearly in the event that it could not, the option of simply passing it through Order in Council at Westminster would be open to the Government. This would encourage a responsible approach by members of the Assembly and would prevent the culture of criticism which comes with a lack of power.
- The Assembly could also pass a Programme for Government which would act as a powerful direction to Direct Rule Ministers.
- Assembly committees would be established to shadow the work of the Departments and Ministers could attend the Committees from time to time. It would be expected that where the Assembly could agree a particular course of action it would be a consideration which a Minister would wish to take into account when making a decision.

The possibilities are endless and our listing of some of them is only an indication of the variety of options which could be employed.

The DUP has a view of the best option and would advance this in any subsequent negotiations rather than appearing to set the parameters beforehand.

It is sufficient, at this stage, to say –

- waiting for the conditions required for executive devolution to arrive is likely to cause the opportunity for any form of devolution to pass given the need to have the Assembly operating before May 2007;
- we have a preference for a start-up model which allows local politicians collectively to exercise the maximum rather than the minimum power which is consistent with prevailing circumstances;
- we would wish to negotiate both the entry level and the ultimate level of devolution of what ever type now;
- we want the entry level to be considered only as a preparatory point and not as an alternative to executive devolution;
- we believe the community as a whole would prefer tangible progress, however limited, in taking important decisions away from the control of direct rule Ministers.

What is important is that there are a number of structures which can allow devolution to proceed even in our present circumstances and which can:

- allow time to test the bona fides of republicans;
- ensure the community is content with the arrangements before we gear up to the next stage;
- provide a role for those democratically elected in Northern Ireland;
- improve accountability and decision making;
- halt some decisions being taken which are in the pipeline and which will be very damaging to our community;
- provide a politically neutral and safe option which does no violence to any democratic party's position.

This is a pragmatic and sensible way forward. It is a first step but it is attainable. It is a system which allows for further building blocks to be laid when the foundations are firmly set.

3: THE PHASED APPROACH

We see merit in the government opening up negotiations in the context of the enabling environment we have referred to, in order to agree not only the entry level but also the structures to which it is intended we should progress.

The DUP would participate in negotiations on the basis of seeking such progressive movement but we would not see any merit in participating in negotiations to solely agree a form of executive devolution for which we believe the essential ingredients, for the projected future, are absent.

There are a number of advantages in such a proposition.

The agreement on the next level allows certainty about the ultimate direction and destination of the Assembly when the trust exists to the level required to progress to that structure. Our part in negotiations for the final form of devolution to be adopted when circumstances are appropriate will depend upon the extent to which progress is made on the 'start-up' form of devolution.

Equally if, after the elevation, an event occurs which damages that trust and thereby destroys the cohesion of the executive making it impossible for a coalition, of any kind, to continue, the elevator can return to the lower level and lessen the impact of the crisis on the community who will still have continuity in service delivery and consistent policy direction – only the method of decision taking would change. When political stability is re-established the elevator can rise again.

THE LONG TERM:

In many ways both the Belfast Agreement Assembly and that envisaged in the government's proposed Comprehensive Agreement are emergency forms of enforced coalition which in the longer term would not provide the best form of government. Parties might wish to consider structures beyond those needed to cope with Northern Ireland's short to medium term problems.

The advantage of the Phased Approach is that the form of devolution can continue to rise but if circumstances require it can fall to a lower level providing a safety net and strengthening confidence in Northern Ireland's political future.

FACING REALITY...

A TRUTHFUL ASSESSMENT - THE POLICY CONTEXT - **THE BEST WAY FORWARD**>>>



SHIFTING MECHANISM:

The recognised mechanism of attaining cross-community support in the Assembly would be the standard which would have to be met for movement to a higher level of devolution. Equally if it was not possible to retain cross-community support in the Assembly to work at a higher level the structures drop to the lower level.

The government has consistently argued that the requirement for cross-community support was and is necessary for decisions to be taken in the Assembly because of the divisions which exist in our society. It would be patently unworkable to attempt to operate devolution of a type which does not command support from both sections of the community. This is plain common sense.

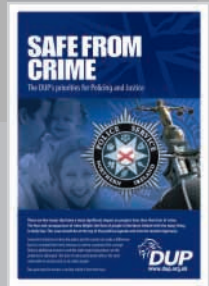
CONCLUSION:

We are convinced, without loss to anyone's position and with minimal effort, an early start can be made on the journey to full and accountable devolution. We will work with others to reach this goal.

We are proposing this course of action in a genuine attempt to lift the political process and create forward momentum.

DUP POLICY DOCUMENTS:

You can request printed copies of all of the DUP policy documents referred to in this publication - and more - from DUP Party Headquarters or your local DUP Advice Centre. You can also download PDF versions from our web site www.dup.org.uk



ULSTER DEMOCRATIC UNIONIST PARTY
91 DUNDELA AVENUE, BELFAST,
NORTHERN IRELAND BT4 3BU
TEL: 028 9047 1155 EMAIL: info@dup.org.uk