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Has it all started to go wrong for Peter Hain?

Today, the Belfast Telegraph focuses on the main controversies to have hit Secretary of State Peter Hain within the past few weeks. It's fair to say that Mr Hain has had better months.

By Chris Thornton

14 November 2006

Judge in call for top-level probe over cover-up bid

By Chris Thornton

He's been accused by a judge of failing in his "duty of candour" to the High Court. The House of Lords has decided to re-open a legal dispute surrounding his appointment of Portadown Orangemen to the Parades Commission. His claim that an "extraordinary" funding package is on offer to Northern Ireland is coming under increasing criticism. It's been revealed that the controversy over 'on the run' terrorists is far from over. And the early optimism surrounding the St Andrews Agreement has taken a buffeting. All this and the Labour Party's deputy leadership race to be won...

One of the most serious charges against Peter Hain's administration in Northern Ireland is that it deliberately set out to mislead the High Court.

Last Thursday, Mr Justice Girvan called for an "immediate and searching inquiry at a high level" because he said the NIO had attempted to cover up the DUP's role in the appointment of the Victims' Commissioner.

This could directly involve the Secretary of State, since he "read and sanctioned" a senior civil servant's affidavit to the court that was torn apart by the judge.

Mr Justice Girvan said Mr Hain, as the respondent in the case, "failed in his duty of candour to the court" and had tried "to divert attention from the true course of events".

The judge's criticism went right back to the NIO's initial attempts to kill off a challenge to Bertha McDougall's appointment.

In response to a request about the background to the appointment, the NIO sent a Freedom of Information letter that was "misleading and contained false information".

The letter claimed there had been no consultation about the appointment of Mrs McDougall, when the DUP had been asked twice to name a candidate.

The NIO then relied on that letter in an early phase of the court case, and as a result "failed to reveal to the court the true factual situation prevailing".

"Since the letter was clearly carefully drafted having regard to the highly political nature of the issues, I am forced to the conclusion that this was no mere drafting error," the judge said.

"Since, within the NIO and OFMDFM, the true factual situation was known, it must be concluded that it was decided that the correct information should not be placed before the court."

He added that the NIO's duty was to "provide the information honestly and correctly. For some reason it was decided within government that incorrect and misleading information would be supplied."

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That court was misled, Mr Justice Girvan concluded. And he said the NIO tried to mislead the Court of Appeal, a higher court, by maintaining that position.

The judge said he asked the NIO how the incorrect information was sent out in the letter, but they did not respond.

The situation was compounded when Nigel Hamilton, the head of the Northern Ireland Civil Service, made an affidavit to the court.

His account was "a less than full explanation of what actually happened and sought to minimise the political considerations".

"One would have expected the Secretary of State, who read and sanctioned the affidavit, to have taken steps to ensure that it fully and accurately explained the situation," the judge said.

Another senior civil servant, NIO Permanent Secretary Jonathan Phillips, made a further statement to the court that brought out the DUP's role - but even part of his affidavit was described by the judge as "misleading".

Such criticism of a Cabinet Minister and his two most senior civil servants might cause disruption to other Government departments, but so far it has barely caused a ripple at Westminster. Mr Hain's supporters for the Labour deputy leadership must be hoping that their opponents maintain their disinterest.

Hain left spinning with pressure on all fronts

By David Gordon and Noel McAdam

Peter Hain was coming under fire today over "spin" and "side deals" as he faced an unprecedented string of controversies at the NIO.

The Secretary of State was rapped by his Tory counterpart amid fall-out from a judicial ruling which accused him of failing in his "duty of candour".

Mr Hain and senior officials are pondering their response to Judge Girvan's call for an inquiry into "misleading" Government evidence to the High Court.

On the political front, meanwhile, the prospects for the restoration of devolution after the St Andrews talks appeared to be receding.

Mr Hain has been dealing with the ongoing anomalies over paramilitary On The Runs, while the House of Lords will re-open a legal dispute regarding his appointment of two Orangemen to the Parades Commission.

And there is now growing scepticism among political and business leaders over a Treasury funding package which Mr Hain hailed as "extraordinary".

The political parties will be briefed by officials tomorrow on the details of Chancellor Gordon Brown's package.

Stormont sources have revealed that MLAs have privately received a negative assessment of the package from an independent economics expert.

Conservative NI spokesman, David Lidington, said Mr Hain deserved credit for being willing to take decisions "but as with so many people in this Government, spin is their undoing".

"Ambiguity and side deals add to mistrust and build up trouble for the future."

An NIO spokesman said Mr Hain was focused on restoring devolution. "St Andrews represents the best opportunity of seeing a political settlement and he will do all in his power to bring that about. He expects and feels that he is entitled to bi-partisan support in this process," he said.

Trouble by appointment ... and courts rule

By Chris Thornton

In two significant court cases, Peter Hain has been accused of riding roughshod over proper procedures for public appointments.

Last week the High Court ruled that the Secretary of State breached Northern Ireland's strict equality laws in the way he appointed Bertha McDougall as the Interim Victims' Commissioner.



And the House of Lords agreed to hear an appeal challenging his choices for the Parades Commission.

In last week's ruling, the High Court declared that Mr Hain had acted from an improper political motive in appointing Mrs McDougall - giving her the job as a concession to the DUP.

Mr Justice Girvan decided that the Secretary of State had chucked aside the merit principle in making the appointment.

The court heard that last year Mr Hain was in a hurry to get a Victims' Commissioner in place, but he was told the full procedures would take months.

So the interim post was created and the DUP was invited - twice - to nominate someone to fill it.

Mrs McDougall, the widow of a former police officer, was the only possible candidate interviewed.

Last week the SDLP praised her work, saying she "deserved a lot better than sleazy politics of the NIO".

On Friday, Mr Justice Girvan will reconvene the court to decide what action to take.

He has the power to award substantial damages against the NIO.

And later this month, the House of Lords will begin looking at papers in the Parades Commission case.

Earlier this year the High Court struck down Mr Hain's two Orange appointments to the Commission.

A judge concluded that it was unfair of the NIO to solicit applications from the loyal orders without inviting residents' groups to do the same.

The decision removed Orangeman David Burrows from the Commission - but the Court of Appeal put him back on.

In a split decision, they decided it lay within Mr Hain's political powers to make the Commission appointments in the manner he did. But the judges warned that Mr Burrows' role could be a problematic - and days later he resigned from the Order.

Now the UK's highest court has agreed to review that ruling all over again.

Devolution crucial to securing political ambition

By Noel McAdam

Peter Hain stood proud as punch next to Gordon Brown in Downing Street, announcing their less-than-meets-the-eye cash package for Ulster.

Except it was the Chancellor who was Punch to Hain's Judy.

For observers the overwhelming image, however, was that this pair plan to become the next Prime Minister and Deputy Prime Minister.

The impression is, since he arrived on our shores a mere 18 months ago, Mr Hain has kept at least a weather-eye on his political fortunes in London.

Some in the political parties argue everything Mr Hain has done or left undone is with the next stage of his career in mind.

And his success in helping to secure Mr Blair's legacy in Northern Ireland - still possible before the Prime Minister finally steps down - will prove key to the Secretary of State's prospects.

Mr Hain makes no secret of his lofty ambitions, boldly announcing his candidature to replace Mr Prescott several months ago and amidst his cabinet colleagues acute personal difficulties.

But it will only really concern Mr Hain if the recent controversies over public appointments including the Parades Commission and Interim Victims Commissioner raise some dust in the Westminster village. So far they haven't even raised eyebrows.

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And reports aimed at all-important middle England that the new house rates system in Northern Ireland is a test run for plans to include the rest of the country seem to have produced little more than a wobble.

None of it will matter should Mr Hain manage to keep Sinn Fein and the DUP on board and bring back devolved government next year.

When he threatens to cut Assembly members pay and chastises them about not doing their jobs for four years, it goes down well with a public readily sceptical about the politicians they keep on voting for.

Mr Hain has successfully applied pressure and injected momentum at crucial junctures which arguably lead to at least the appearance of success at St Andrews.

At the end of the three-day "gunfight" at the St Andrews corral, many were surprised to walk into a room bedecked with a professional backdrop and signage referring to the St Andrews 'Agreement'.

When, we asked, did they knock that together?

According to Mr Hain, in a recent written answer to Lord Laird of Artigarvan, it was only "shortly" before the press conference.

Sure someone as quick on their feet as that could get anywhere.

How the sheen comes off the £50bn package when you take a closer look

By David Gordon

Peter Hain was more than enthusiastic as he helped Gordon Brown unveil a £50bn "package" for a new Stormont power-sharing Executive.

Standing beside the man who wants to be Prime Minister, the man who wants to be Deputy used words like "significant" and "extraordinary".

With a nod towards the November 1 date, Mr Hain also quipped: "On All Saints' Day, it's a very good, saintly day for Northern Ireland."

But if the Secretary of State was expecting deep gratitude from the Ulster natives, he was very quickly disappointed.

The Chancellor's St Andrews Agreement funding offer has, if anything, created more cynicism about the political process.

It certainly has not brought a return of devolution any closer.

The CBI bluntly dismissed the package as "nuisance money".

And last week, MLAs from across the parties were given a downbeat assessment by an independent economist.

One source at the private meeting within the Assembly's Preparation for Government process said: "The expert verdict was basically that there is little evidence of any new money in what the Chancellor announced."

Party leaders are hoping for more details from officials on exactly what might be on offer. But the growing consensus among observers is that the £50bn offer was, at best, overhyped.

The chief elements were a commitment to £35bn of public spending over four years and a 10-year £18bn investment strategy. The £35bn figure was based on annual expenditure rising from £8bn to £9.2bn by 2010-11.

But this seems little different to forecasts already placed on the record by Government.

In December 2004, the then Secretary of State Paul Murphy wrote in a foreword to the NIO's Priorities and Budget report for 2005-2008: "Public spending will continue to grow over the next three years, reaching £9bn annually by 2008, and the Government is committed to using these resources to deliver excellent public services for everyone in Northern Ireland."

Likewise, in a 2005 speech to the Irish Congress of Trade Unions, Mr Hain said expenditure here "will continue to grow over the next three years, reaching £9bn annually by 2008".

Based on these official forecasts, it would seem that £35bn over four years would be pretty close to the spending total - irrespective of whether devolution returns.

The Chancellor's £18bn investment strategy pledge created a bit of a stir, not least because Mr Brown appeared to suggest it was a new initiative. He declared: "I also said today that we would be prepared to have a 10 year agreement about investment in infrastructure for the future, not just four years but 10 years, worth about £18bn in that period."

In fact, Northern Ireland has had such a strategy for some time - it was officially launched in draft form in December 2004.

In its current form, the investment strategy is worth an estimated £16bn for the period 2005 to 2015. The Treasury's blueprint involves extending it by two years and increasing its projected value to £18bn.

A proportion of this £18bn is expected to come from within annual Government expenditure here.

That means that some money could be counted twice if the Treasury's £35bn and £18bn "package" figures are simply added together.

Some 20% of the £18bn will not actually involve any up-front Government investment. This money will come from big business under Private Finance Initiative schemes, with taxpayers paying the companies back over the next two to three decades.

'OTRs' are still a sore point

By Chris Thornton

The IRA fugitives known as on-the-runs (OTRs) remain an unresolved problem for the peace process. What becomes of them is still uncertain, according to Peter Hain.

In an article in this newspaper, he said the OTR issue "will need to be considered as part of a much broader range of issues dealing with the legacy of the past". In the same article, he quoted himself telling the DUP "we have absolutely no intention of bringing legislation back".

Hopefully, that helped clear things up - especially as he said in January that "two things are clear: legislation is needed to resolve the issue and the issue needs to be resolved".

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