Introduction

1. This submission focuses on question 2 of the call for evidence: What models have been used in the past when the Assembly has experienced periods of suspension or long periods with no Executive? Are any of these models useful now or is a fresh approach required?
2. This paper starts from the assumption that the models and initiatives undertaken during the periods when the post-ceasefire era Northern Ireland (1994–) will be well-known to the committee’s members. Instead, we take a longer-term view, and reflect on some of the initiatives undertaken in Northern Ireland by both the British government and local politicians since the prorogation of the Parliament of Northern Ireland in 1972.
3. In part one, we summarise the various models enacted within this period:
   (a) The first power-sharing executive;
   (b) A border poll;
   (c) The Constitutional Convention;
   (d) Rolling devolution;
   (e) British-Irish co-operation.
4. In part two we will consider the possibilities of making use of these approaches in the current context. We will argue that of the previous models of full and interim participation utilised during the years of conflict, a process of rolling devolution would be most appropriate for use in the current context.

Part One: Past Models and Interventions

The First Power-Sharing Executive

5. Following the prorogation of Stormont, the Conservative government set out the founding principles for a political solution, first in a Green Paper of 1972 and subsequently a March 1973 White Paper The Northern Ireland Constitutional Proposals.

6. The 1973 White Paper has formed the basis for the UK government’s Northern Ireland policy ever since, and is premised on three core principles:
(a) That there can be no change in Northern Ireland’s constitutional status without the consent of a majority there; 
(b) That there can be no return to a form of government that draws its support almost exclusively from one section of a divided community; and 
(c) That the government would facilitate institutional mechanisms for co-operation and consultation between Northern Ireland and the Republic of Ireland.

Together, these three aims can be summarised as the consent principle; power-sharing and an "Irish dimension". Despite minor shifts over time, these principles have remained the basis of UK government policy towards Northern Ireland.

7. On 8 March 1973, a referendum was held in Northern Ireland on the question of Irish unity. Two questions were put on the ballot paper: 
- Do you want Northern Ireland to remain part of the United Kingdom? 
- Do you want Northern Ireland to be joined with the Republic of Ireland outside the United Kingdom?

Almost 99 percent of those who voted opted to remain part of the United Kingdom, although the referendum was boycotted by most nationalists.

8. On 28 June 1973, elections were held for a new Assembly, modelled on the White Paper. 60.4 percent of the electorate supported parties which favoured the proposals in the White Paper, but a majority of unionists voted for parties, or factions of parties, opposed to it.

9. Following the elections, political discussions brokered by the then Secretary of State for Northern Ireland, William Whitelaw, were held. Eventually, an agreement to form a power-sharing Executive was reached between the Ulster Unionist Party (UUP), Social Democratic and Labour Party (SDLP), and Alliance Party. The Democratic Unionist Party (DUP) and Vanguard Unionist Progressive Party (VUPP) formed the bulk of the Assembly opposition. The Executive took office on 1 January 1974.

10. Between the formation of the Executive and its first day in office, talks were held between the Executive parties and the British and Irish governments at Sunningdale, Berkshire from 6-9 December. At Sunningdale, the details pertaining to North-South co-operation on issues such as security and other matters were discussed.

11. The talks culminated in the conclusion of the Sunningdale Agreement. The three most important aspects of the Agreement were:
(a) A mutual declaration by the British and Irish governments recognising the constitutional status of Northern Ireland could not be changed without consent of its people, with a reciprocal declaration from the British government that it would support a united Ireland if a majority so wished;
(b) An agreement between the British and Irish governments to co-operate against cross-border paramilitary activity. As a result of British security policy since 1972, the border regions had become the locus of paramilitary activity, with attacks often conducted in frontier areas.
(c) An agreement to form a “Council of Ireland” to facilitate cross-border co-operation in matters of mutual interest.

12. The Council of Ireland provision proved the most controversial for the unionist and loyalist communities, and played a central role in the subsequent loyalist opposition to the Executive.

13. The Executive collapsed in May 1974, following two weeks of a loyalist general strike organised under the banner of the “Ulster Workers’ Council (UWC)”. Direct rule was reintroduced immediately by the Labour government led by Harold Wilson.

14. It has been suggested that, following the collapse of the Executive, Harold Wilson seriously considered withdrawal from Northern Ireland, and considerations for withdrawal were given serious thought in Whitehall. There is no compelling archival evidence that such consideration was ever more than contingency planning, in order to rule out that option.

Post-Sunningdale initiatives

15. Despite the ‘success’ of the UWC strike, the government’s post-Executive policy paper, *The Northern Ireland Constitution*, bore clear similarities to its 1973 predecessor. The document reiterated the government’s commitment to “power-sharing and partnership” and recognised the existence of an “Irish dimension”. Archival sources confirm the Labour government’s commitment to power-sharing, which Wilson communicated to Heath in a private meeting. There is no record of Heath dissenting from Wilson’s view.

16. The key innovation of the 1974 paper was the provision for a Constitutional Convention to be held, comprising Northern Ireland politicians, ‘to consider what provisions for the government of Northern Ireland would be likely to command the most widespread acceptance throughout the community there’.
Behind the scenes, the Prime Minister was informed the Convention was “likely to fail”.

17. **Convention elections** were held in May 1975. 46 of the 78 members opposed the power-sharing arrangements, with 32 in favour.

18. The Convention debates demonstrate the distinctions between those prepared to compromise their core ideological position to enact a political compromise and those who were not.

19. **The Convention’s final report** reflected its political composition – it recommended the return of the old “Stormont” system, despite the government explicitly ruling this out in advance of the Convention.

20. In the aftermath of the Convention, the Secretary of State, Roy Mason, floated the idea of interim devolution for Northern Ireland that might progress towards full devolution in the future. Mason’s “partnership administration” proposals were unacceptable to either nationalists or unionists, but arguably formed the basis for later initiatives under the Conservative government from 1979 onwards.

21. One of the most significant initiatives during the Thatcher era was the “rolling devolution” experiment, associated with Secretary of State James Prior. This involved the establishment of an Assembly, **following elections in 1982**, with a “scrutinising role” which would have more powers devolved to it over time, if a greater degree of cross-party consensus was forthcoming.

22. The Assembly never received more than scrutiny powers, since it was boycotted by the SDLP over the unionist refusal to discuss power-sharing. The UUP also boycotted the Assembly for a period of time, in protest at the security situation. This incarnation of the Assembly officially lasted until 1986, but met infrequently given the problems referred to.

23. Nevertheless, the Assembly was more stable than its 1974 predecessor. It was not opposed by the paramilitary groups, nor was the Irish dimension in the foreground.

**The absence of devolution: British-Irish approaches**

24. The signing of the **Anglo-Irish Agreement (AIA)** in November 1985 saw the most important development in British-Irish relations since the 1920s as both Governments confirmed, for the first time since Sunningdale, that there would be no change in the status of Northern Ireland without the consent of a majority of its citizens. The Agreement was also viewed as a means of
persuading the unionist leadership in Northern Ireland to accept a devolved power-sharing arrangement. It marked a shift in British policy towards Northern Ireland, if perhaps a more subtle one than is sometimes appreciated given the depth of unionist opposition to it.

25. The AIA was a continuation of the British government’s policy laid down in 1973, but based on a recognition that the power-sharing part of the equation would not be forthcoming in the immediate future. However, it provided a more lasting institutional basis for consultation and co-operation with the Republic of Ireland than was possible following the Sunningdale agreement, with security co-operation explicitly addressed.

26. There were no further institutional initiatives undertaken until after the paramilitary ceasefires of 1994, with the short-lived Northern Ireland Forum of 1996, a forerunner of the current, post-1998 Northern Ireland Assembly.

Part Two: Application of the Models

27. Previous initiatives have always been premised on the objectives set out in 1973. When this hasn’t been possible, the focus has been on undercutting support for violence with the involvement of the Irish Government. Of the models applied since the collapse of the first power-sharing Assembly, we would argue that in the current context, a programme of rolling devolution would be more suitable than other approaches tried previously.

28. A Convention would undoubtedly offer interesting opportunities for discussion. The elections of 1975, like the Forum elections of 1996 that allowed voters to select delegates for peace talks, had constituencies that returned more members than for Assembly elections. This brought in a range of views, including the Northern Ireland Women’s Coalition and those of loyalist paramilitaries who had struggled to establish themselves otherwise as an electoral force. A multi-member electoral framework for discussions could be an opportunity to reflect the wishes of a Northern Ireland that has become more ethnically and socially diverse. However, a Convention would still be dominated by Sinn Féin and the DUP who are not in favour of constitutional innovation (for different reasons) and so, as with 1975, any end product would be unlikely to forge a new way forward.

29. A Border Poll would be less likely to meet with such a stringent boycott than happened in the 1970s and if it revealed a greater diversity of constitutional preference, especially within the nationalist community, it might throw up interesting cleavages around which political forces could coalesce. However, the committee doesn’t need this document to learn that referendums are divisive and can set in stone decisions that have emerged in a climate of febrile and volatile politicking. And if there was a significant nationalist minority willing to commit themselves to the union, the parity of esteem for two
aspirations that underpins the current framework would be undermined without actually creating a “Northern Irish” political community in its place. In addition, one of the consequences of the Scottish and EU referendums has been the stimulation of English political nationalism and, as Northern Ireland is already a key issue in Brexit negotiations, the stirring of resentment towards the region cannot be helpful.

30. British-Irish approaches were useful at the time of the Anglo-Irish Agreement for both pragmatic security reasons and for demonstrating that the UK government was serious about finding a way in which meaningful representation of the nationalist community could be effected even without an elected Assembly. However, the likelihood of smooth co-operation in the context of Brexit and continued concerns over the border is reduced. In addition, the equality agenda that Sinn Féin have adopted since committing to mainstream non-violent politics is more sophisticated than parties in the Republic of Ireland such as Fine Gael could offer in the absence of Northern Ireland’s institutions being resuscitated.

31. Rolling devolution is, we believe, the idea that is most worthy of revisiting, particularly if it was linked to disbursement of funds, thus having the potential to build-up accountability.

   a. When the Thatcher Government tried this approach, an Assembly was something that set Northern Ireland apart, with referendums in 1979 returning insufficient support for devolution of power to Scotland and Wales. Now devolution is ‘business as normal’ and the institutions created since 1998 have sought to create distinctiveness from programmes at Westminster in areas such as education and health.

   b. The process of devolution across the whole of the UK has in a sense been one of rolling transfer of powers. The Welsh Assembly of 1998 and the Welsh Government of 2017 are significantly different in terms of their legislative powers and recent headlines about Scotland’s tax policy underline how the Parliament there has grown in power. Northern Ireland itself has seen a transfer of powers, most notably those associated with policing and justice – something that led to an agreed deviation from the D’Hondt model of ministerial portfolio allocation.

   c. There has been a significant sea-change in attitudes to the role of the state in Northern Ireland in terms of public policy. The Thatcher revolution of rolling back the state did not reach Northern Ireland as there was a palpable belief that it could exacerbate the causes of conflict. The democratic deficit of the period of conflict was therefore alleviated in part by the continuation of post-war consensus and an acceptance that the state would be providing high levels of financial support and top-down decision-making. The ‘peace dividend’ that New Labour envisaged, where public funding would be replaced by private wealth-generation, wasn’t actually paid out. However, despite the DUP’s financial deal with the Conservatives in the aftermath of this year’s election, the benign statist approach is no longer in play.
Northern Ireland’s voters need representatives to be actively engaged in setting out what the region’s financial future is and so bringing back even a ‘devolution lite’ forum is vital.

d. Admittedly, an Assembly that was constituted on a rolling-transfer basis faces the risk of non-participation, including by the biggest parties who may see costs without benefits. However, in the first phase of the Assembly a range of voices had the floor and cross-community consent had not become a tool of paralysis that it has often acted as in recent years (aided by the ministerial veto powers effectively granted by the St Andrews Agreement). At various times, the Assembly has witnessed quite a burst of activity, from the abolition of the eleven plus for transfer from primary school, to the development of a much more comprehensive and accountable model of Labour’s Best Value approach to tendering services. Allowing some space for policy initiatives to emerge, even if a ‘rolling devolution’ Assembly doesn’t gain traction, would in itself be a way of challenging the democratic deficit that Northern Ireland currently faces, despite having a connection to the ruling party at Westminster that has not been seen since the outbreak of conflict began to erode the Conservatives’ connection to the Ulster Unionist Party.

28 December 2017