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Assembly Admin duty Suspension
file

FROM: LINDA DEVLIN
OFFICE OF THE FIRST MINISTER AND DEPUTY FIRST MINISTER

DATE: 14 FEBRUARY 2000

TO: NI PERMANENT SECRETARIES

GUIDANCE TO DEPARTMENTS DURING THE PERIOD OF SUSPENSION

1. The Secretary of State has now agreed the draft guidance submitted to him under cover of Tony McCusker's note of today's date.
2. The guidance is effective immediately and should be circulated widely throughout departments. I attach a further copy for ease of reference.

Linda Devlin

☎ 28158

^{15/2}
cc; PS / Speaker
Directores
Special Adviser
Mr Patterson
Mr Reynolds
Mr Torney
Mr Evans
Mr P. Johnston
Ms White

for information.

Q 15/2

cc: PS/Mr Semple
Mr Gray
Mr McCusker
Mr Haire
Mr McCartney
Mr Canavan
Mr Woods
Mr Cosgrave
Mrs Brown
Mr Cameron
Mrs Flanagan
Mr Smyth
Mr Lavery
Mr May
Ms Quinn
Mr Gamble
Dr Smyth, NI Bureau
Departmental Co-ordinators

INTRODUCTION

1. This note offers guidance to officers in the Department of Northern Ireland on the arrangements for the continuation of business during the period of suspension of the NI Assembly and Executive. The purpose of the arrangements described below is to ensure good governance of Northern Ireland during the period of suspension and to facilitate a smooth return to the normal operation of devolution when it is restored.

SUSPENSION OF THE NORTHERN IRELAND ASSEMBLY

2. The Secretary of State signed a Commencement Order on 11 February, bringing the Northern Ireland Act 2000 into effect from midnight on 11 February. On the commencement of the Northern Ireland Act 2000:

- the operation of the Northern Ireland Assembly is suspended. The Assembly and its committees cease to meet and conduct business;
- the First Minister and Deputy First Minister, Departmental Ministers and Junior Ministers, Chairmen and Deputy Chairmen of Statutory Committees all cease to hold office;

GUIDANCE ON WORKING ARRANGEMENTS FOR NORTHERN IRELAND DEPARTMENTS DURING THE PERIOD OF SUSPENSION

INTRODUCTION

1. This note offers guidance to officials in NI departments on the conduct of business during the period of suspension of the NI Assembly and Executive. The purpose of the arrangements described below is to ensure good governance of Northern Ireland during the period of suspension and to facilitate a smooth return to the normal operation of devolution when it is restored.

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 - the operation of the Northern Ireland Assembly is suspended; the Assembly and its committees cease to meet and conduct business;
 - the First Minister and Deputy First Minister, Departmental Ministers and Junior Ministers, Chairmen and Deputy Chairmen of Statutory Committees all cease to hold office;

- direct rule is reinstated; the Northern Ireland departments will discharge their functions subject to the direction and control of the Secretary of State; the functions of the First Minister and Deputy First Minister will be discharged by the Secretary of State;
 - legislation on devolved matters will be made by Order in Council at Westminster;
 - participation of members of the Executive Committee in the North/South Ministerial Council and the British Irish Council is also suspended.
3. Suspension is intended to be a temporary measure. Under the Act, the Secretary of State can, at any time, make an Order ('a Restoration Order'), subject to Parliamentary approval, to restore devolved government. Former Ministerial and Committee postholders who were still eligible at the time of restoration would automatically resume their posts.

RE-INSTATEMENT OF DIRECT RULE

4. During the period of suspension, the Northern Ireland Departments will remain as currently configured. NIO Ministers will assume Departmental responsibilities as set out below:

Secretary of State

Office of First Minister and Deputy First Minister

Mr Adam Ingram MP, Minister of State

Department of Enterprise, Trade and Investment

Department of Agriculture and Rural Development

Department of Finance and Personnel

Department of Higher and Further Education, Training and Employment

Department for Regional Development

Mr George Howarth MP, Parliamentary Under Secretary of State

Department of Health, Social Services and Public Safety

Department of Education

Department of Culture, Arts and Leisure

Department for Social Development

Department of the Environment

CONTACTS WITH EX-NI MINISTERS

5. During the period of suspension, all Northern Ireland Ministers, including the First and Deputy First Ministers, cease to hold office. During that period they will have no formal role in the development of policy or making of legislation. They will have no access to their former departments, civil servants or papers. If an ex-NI Minister makes direct contact with an official in an NI Department, they should be advised to approach the appropriate NIO Minister.
6. While there will be no institutionalised or systematic briefing or other consultation arrangements between NIO Ministers and ex-NI Ministers, there may be matters of particular significance where such contact could be of value. In such cases, officials should raise the matter with the NIO Minister for decision.

ACCESS TO DOCUMENTS

7. The basic principles will apply in respect of access to papers of an incoming Administration. This means that documents of the devolved administration should not be shown to NIO Ministers, nor should Departments refer to varying viewpoints adopted in relation to a policy by members of the Executive Committee. Equally, on the restoration of devolved government, Ministerial papers from the period of suspension should be treated in line with the same principles.

CONTACTS WITH MEMBERS OF THE ASSEMBLY

8. The Northern Ireland Act 2000 suspends the operation of the Northern Ireland Assembly. The Assembly and its committees will not meet nor conduct any business; and Chairmen and Deputy Chairmen of Statutory committees will cease to hold office. There should therefore be no contact made with Departments by Departmental Committees.
9. With the suspension of the Assembly, outstanding Oral and Written Assembly Questions fall and Departments do not need to provide answers to these.
10. Members of the Assembly are however elected representatives and will continue to have constituency responsibilities. Assembly members may therefore contact Departments about such matters. Correspondence from Assembly members should be treated as Ministerial cases and should receive a reply from an NIO Minister. Telephone enquiries should be handled in a similar way to written enquiries, so that, if an Assembly member requests a written reply to a telephone enquiry, he will receive a letter signed by the appropriate NIO Minister. Any significant telephone enquiries by Assembly members, to which a written response is not

requested, should nevertheless be reported to the Departmental Private Office.

11. During the period of suspension, any consultative documents or major policy papers which are issued should be made available to Assembly members in the same way as they are to MPs and MEPs.

OUTSTANDING CORRESPONDENCE

12. Departments will be dealing with correspondence to NI Ministers which had not received a reply before the suspension of devolution. Where such correspondence is of a factual nature, Departments should prepare replies. Where policy or political issues are raised, Departments should reply advising that it is not possible to respond to these points in view of the suspension of devolution. Departments should exercise their judgement in handling outstanding correspondence and should contact the Office of the First Minister and Deputy First Minister for advice as required.

INVITATIONS/ENGAGEMENTS

13. On the suspension of devolved government, Private Offices in each of the NI Departments and in the Office of the First Minister and Deputy First Minister will need to conduct an immediate review of forthcoming diary engagements. Where it is clear that diary commitments of an ex-NI Minister are of a personal nature, these should be referred to the attention of the ex-Minister. Where diary commitments relate solely to Departmental business, the organisation concerned should be informed of the effect of suspension and given the opportunity to request the attendance of the Secretary of

State or NIO Minister instead. It should be made clear to organisations, however, that such an approach is without prejudice to Ministerial availability, since there will clearly be heavy pressures on Ministerial diaries.

LEGISLATION

14. During the period of suspension, primary legislation will be made by Order in Council at Westminster, under the power provided in the Northern Ireland Act 2000. The power includes provision for an Order in Council to be enacted by way of an urgent procedure. Departments will need to consider on a case by case basis, and in consultation with the Office of the First Minister and Deputy First Minister, whether any proposed Assembly Bills in the current legislative programme are of sufficient urgency to need to be taken forward in this way.
15. Procedures for subordinate legislation will revert to those which were in place pre-devolution. The procedure of affirmative resolution before the Assembly will become negative resolution at Westminster. Statutory Rules subject to negative or confirmatory procedures before the Assembly will not be subject to any control.

PUBLIC APPOINTMENTS

16. On public appointments, departments will in the first instance need to consider whether such appointments could be deferred, without unduly impeding the work of the body concerned, or could be handled by extending the period of office of the current appointment holder. Further guidance on handling appointments will issue in due course.

NORTH/SOUTH IMPLEMENTATION BODIES

17. Further guidance will issue shortly on the impact of suspension on the North/South Implementation Bodies.
18. This note is intended to provide basic information only on the conduct of business during the period of suspension. It is not possible to offer definitive guidance on how every issue should be dealt with. Departments will need to exercise their judgement, based on their knowledge of the significance of each issue in terms of its sensitivity, the degree of political interest, its contentiousness, and the importance attached to it by relevant ex-NI Ministers. In cases of doubt, where Departments need further advice, they should contact the Office of the First Minister and Deputy First Minister – Linda Devlin (x28158), Anne O'Boyle (x28424) or Geoff Beattie (x22168) in relation to Machinery of Government and Legislation, Terry Smyth (x28153) or Sam Fitzsimons (x28154) in relation to public appointments.

OFFICE OF THE FIRST MINISTER AND DEPUTY FIRST MINISTER
14 FEBRUARY 2000