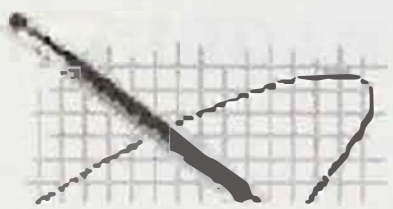


DRAFT



Carol Blakley

21/02/02 14:00

To: Maggie Smith/OFMDFM/DFP@DFP

cc:

Subject: WP - Draft Guidance note

Copy of draft guidance note as requested.

Carol

----- Forwarded by Carol Blakley/OFMDFM/DFP on 21/02/2002 14:03 -----



Carol Blakley

20/02/2002 15:13

To: dcal@dcalni.gov.uk

cc:

Subject: WP - Draft Guidance note

Catherine,

As requested I attach a draft guidance note for information. This draft is still being refined, in particular the legislation section, but the written procedure guidance (at no 19) is current at the moment.



GUIDANCE NOTE 2.c

Carol

Executive Secretariat

Matters to be referred to the Executive

2. The following is a list of issues, which should be referred to the Executive:-

- Legislation
- Significant policy issues which cut across the responsibilities of two or more departments.
- Issues on which the Executive should adopt a common position.
- Ministers should advise the Executive before initiating public consultation exercises or consultation with Departmental Committees on significant policy issues.
- NSMC and BIC papers.
- Developments or progress on major issues within each Minister's responsibility.

GUIDANCE NOTE 2

Ministerial Code

Section 3 of the Ministerial code sets out in detail the role, functions, meetings of, the Agenda and decision making of the Executive.

Functions of the Executive

1. The Executive provides a forum for

- The discussion of, and agreement on, issues which cut across the responsibilities of two or more Ministers;
- Prioritising executive proposals;
- Prioritising legislative proposals;
- Recommending a common position where necessary; and
- Agreement each year and review as necessary a budget and a Programme for Government.

Matters to be referred to the Executive

2. The following is a list of issues, which should be referred to the Executive:-

- Legislation
- Significant policy issues which cut across the responsibilities of two or more departments;
- Issues on which the Executive should adopt a common position;
- Ministers should advise the Executive before initiating public consultation exercises or consultation with Departmental Committees on significant policy issues;
- NSMC and BIC papers;
- Developments or progress on major issues within each Minister's responsibility.

Executive Papers

3. There are four different mechanisms for dealing with papers: -

- Papers for consideration at Executive meetings;
- Written procedure papers;
- Take note papers;
- Ministerial colleagues letters.

Papers for consideration at Executive meetings

4. The Agenda for Executive meetings will include: -

- Legislation items;
- Items for substantive discussion and agreement;
- Items for agreement without substantive discussion;
- Items for information, including future Executive business in the Assembly, the legislation programme, the schedules of NSMC and BIC meetings, reports on JMC and similar business;
- Any other business.

Written procedure mechanism

5. With the approval of the First Minister and Deputy First Minister, a decision of the Executive may be sought by written procedure. These papers are non-controversial papers which require approval/agreement or noting by the Executive.

Take note mechanism

6. This mechanism is used for NSMC and BIC papers only. Ministers should ensure that the Executive has the opportunity to comment on papers to be considered and decisions to be taken at NSMC and BIC meetings. These papers must be circulated to the Executive prior to the plenary/ sectoral meeting taking place. This category of paper is

also used for NSMC and BIC statements/reports to the Assembly. These once again should be circulated to the Executive prior to the Minister making the statement to the Assembly.

Ministerial Colleagues letters

7. This method is used for papers, the content of which is fully within the competence of one Minister, they are purely for the information of Ministers and do **not** require any decision or discussion by the Executive.

Future Executive Business

8. The business for Executive meetings is planned on a rolling basis, for agreement by, the First Minister and Deputy First Minister. Items for inclusion should be notified to the Executive Secretariat at least four weeks in advance of the meeting at which they are to be tabled or the proposed date for issue by written procedure. Departments can notify Agenda items via the Ministerial Representatives Committee or as follow up to the "update request letters" issued by the Executive Secretariat on a weekly basis. When Departments are notifying business they should indicate whether it is proposed (a) to seek First Minister and Deputy First Minister approval to table the issue at an Executive meeting (Agenda item) and the proposed date on which they would like the item discussed by the Executive or (b) that the item should be handled by written procedure and the proposed date for issue by written procedure. They should also give some indication of what action is required by the Executive, for example, approve a policy memorandum, agree the introduction of the Bill, endorse proposals or note a consultation document etc.

See sample letter at Annex A.

Submission of papers to the Executive

9. Any item, which is to be considered by the Executive at a meeting or by written procedure, should be the subject of a written memorandum. Where appropriate, and specifically on policy and legislative proposals, the memorandum should indicate clearly the implications, if any, for: -
- a. Employment and costs to business;
 - b. Equality of opportunity as between those groups listed in section 75 of the Act;
 - c. Human rights;
 - d. New Targeting Social Need;
 - e. Exchequer costs and staffing implications;
 - f. Relations, co-operation or common action on a North/South, East/West or EU basis;
 - g. Any relevant EU issues.

Legislation

10. When it is proposed to introduce primary legislation in the Assembly, Ministers should submit a memorandum to the Executive setting out the policy on which the legislation is based, and should obtain Executive approval to draft the legislation based on the policy memorandum.
11. Ministers should obtain Executive approval for the introduction of all legislation and of secondary legislation, which is subject to affirmative or confirmatory procedures in the Assembly.
12. Ministers should obtain Executive approval for any amendment they wish to move or accept in relation to a Bill as it progresses through the Assembly, which would significantly alter the policy or effect of that legislation. Ministers should also notify the Executive via a Ministerial colleagues letter when they do not wish to accept any amendment made by the committee.

See Primary
Legislation
Procedures- Step
byStep Guidance
and Guide to
Subordinate
Legislation
procedures
which have been
provided by the
Legislation
Progress Unit
OFMDFM

13. Departments should ensure that all papers to be considered by the Executive are signed by the Minister(s) and that the memoranda are as clear and as brief as possible. The memorandum should explain the issues, indicate briefly the relevant considerations, and conclude **with a precise statement of what the Executive is being asked to do**. A template showing the format and submission arrangements for memoranda is attached at Annex B.

See Annex B

- * The First and Deputy First Minister;
- * Any Minister with a functional interest in the proposal;
- * The Minister of Finance and Personnel, in the case of proposals involving expenditure or affecting general financial policy.

15. At the same time a request from the Minister should be forwarded to First Minister and Deputy First Minister for agreement that the item should be an Agenda item.

16. Three weeks before the memorandum is to be considered by the Executive, Departments should consider the comments made by other Ministers and incorporate them into the final version of the memorandum even if the originating Minister does not accept the comments. The memorandum should specify which Ministers were consulted and how any comments have been addressed.

17. The final memorandum should be resubmitted 2 weeks prior to date that the memorandum is to be considered by the Executive. It should also be copied to the Executive Secretariat at this time.

18. Seven days prior to the date paper is to be considered by the Executive the Executive memorandum is issued to Ministers by the Executive Secretariat.

Papers for consideration either at Executive meetings or written procedure

Executive meetings

14. To allow sufficient time for consultation, a draft of any memorandum for presentation to the Executive should be circulated for comment 4 weeks in advance of the meeting or the proposed date for issue by written procedure at which it is to be considered to: -
 - The First and Deputy First Minister;
 - Any Minister with a functional interest in the proposal;
 - The Minister of Finance and Personnel, in the case of proposals involving expenditure or affecting general financial policy.
15. At the same time a request from the Minister should be forwarded to First Minister and Deputy First Minister for agreement that the item should be an Agenda item.
16. Three weeks before the memorandum is to be considered by the Executive,
Departments should consider the comments made by other Minister and incorporate these into the final version of the memorandum even if the originating Minister does not accept the comments. The memorandum should specify which Ministers were consulted and how any comments have been addressed.
17. The final memorandum should be resubmitted 2 weeks prior to date that the memorandum is to be considered by the Executive. It should also be copied to the Executive Secretariat at this time.
18. Seven days prior to the date paper is to be considered by the Executive the Executive memorandum is issued to Ministers by the Executive Secretariat.

Written procedure papers

19. A draft memorandum should be circulated for comment 4 weeks in advance of the proposed date for issue by written procedure to: -
 - The First and Deputy First Minister; and
 - **All other Ministers.**
20. At the same time a request from the Minister should be forwarded to First Minister and Deputy First Minister for agreement, that the item should be handled by written procedure.
21. Before final agreement is given by the First Minister and Deputy First Minister to the handling of a memorandum by written procedure, the originating Minister will be required to provide assurances that departments/ Ministers have had the opportunity to comment on the paper and that as far as the originating Minister is aware no issues will be raised during the written procedure exercise.
22. Three weeks before the memorandum is to be considered by the Executive, Departments should consider the comments made by other Minister and incorporate these into the final version of the memorandum, even if the originating Minister does not accept the comments. The memorandum should specify which Ministers were consulted and how any comments have been addressed.
23. The final version of the memorandum should then be submitted to the Executive Secretariat.
24. The Executive Secretariat circulates the memorandum, indicating the deadline for written response including nil returns. If Ministers raise no objections, the Secretariat advises the Executive in writing and the decision will be recorded in the minutes of the next Executive meeting.

25. Where objections are raised the Secretariat will circulate the comments received in accordance with normal procedures for dealing with written procedure papers where there is not unanimous agreement and where time permits, the matter will be discussed at a future Executive meeting.

Take note papers

26. Departments should ensure that papers to be tabled at NSMC and BIC meetings are forwarded to the Executive Secretariat at least 10 working days in advance of the relevant meeting. NSMC and BIC statements/reports should also be forwarded to the Executive Secretariat. The relevant NI Minister should sponsor these papers.

Ministerial colleagues letters

27. Ministerial colleagues letters should be issued directly from the originating Minister's private office to other Ministers private offices and copied to the Executive Secretariat for information purposes.

DRAFT

Annex A

To: [Co-ordinator]
[DEPARTMENT]

From: Executive Secretariat

EXECUTIVE AGENDA – [DATE]

1. We have been informed that your Department/Division has requested that the following items should be included on the Agenda for the Executive meeting on [date].

[Title of Paper]

2. Under the terms of the Ministerial Code, a Minister wishing to table a Memorandum at the Executive should circulate for comment a draft of the Memorandum to the First Minister and Deputy First Minister and any other Minister who has an interest on the subject, this will almost always include the Minister of Finance and Personnel.

3. Please provide a position statement on these papers, e.g. the current position regarding consultation, by e-mail to execomm.secretariat@ofmdfmni.gov.uk. This information should be forwarded by [date].

4. Consultation on these papers should have commenced by [date]. If a draft of the Memorandum has not yet been circulated to relevant Departments for comments please arrange to do so as soon as possible. Otherwise the item will not be taken until the next meeting of the Executive on [date].

5. The originating Minister should consider all comments on the draft Memorandum and seek to resolve them on a bilateral basis with colleagues. Where this is not possible, the comments should be reflected in the final version of the Memorandum, together with the originating Minister's views and recommendations, for consideration by the Executive.

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6.[Please also note, for your information, that, in future, when seeking FM/DFM agreement to the handling of a paper by written procedure, departments will be required to confirm that the paper has been circulated to other departments/Ministers for comment and that, consequently, they will raise no issues during the written procedure exercise.]

7.The final version of the Memorandum should be forwarded to excomm.secretariat@ofmdfmini.gov.uk by close of play on Tuesday [date] for issue on [date] along with all the other papers for the Executive meeting on [date].

8.If you have any queries regarding the procedure for handling Executive papers please contact Anne Birch on (5) 22343.

Thank you for your co-operation.

Executive Secretariat

DRAFT

Annex B

RESTRICTED-EXECUTIVE

MEMORANDUM E (01) [See Note 1]

FROM: [Minister's Name]
Minister of

Date:

TO: EXECUTIVE

TITLE- title of paper

Background:

Discussion:
(Detailed material should be in Annexes)

Recommendation:

MINISTER'S SIGNATURE
Minister of

Notes:

1. The Executive Secretariat will assign the appropriate paper number. Departments do not need to do this.
2. All papers should be typed in **Microsoft Word** and in 1 ½ spacing, font arial 12.
3. Memoranda must be e-mailed to execomm.secretariat@ofmdfmni.gov.uk except in the case of draft legislation where this is not possible for technical reasons.

RESTRICTED-EXECUTIVE

RESTRICTED – EXECUTIVE

MEMORANDUM E (00) [See Note 1]

FROM: [Ministers Name]
Minister of

Date:

TO: EXECUTIVE

TITLE- Subject for discussion

Background:

Discussion:
(Detailed material should be in Annexes)

Recommendation:

MINISTERS SIGNATURE
Minister of

- Notes:
1. The Executive Secretariat will assign the paper number. Departments do not need to do this.
 2. All papers should be typed in **WORD** and in 1 ½ spacing, font arial.
 3. Memoranda must be emailed to the Executive Secretariat except in the case of draft legislation where this is not possible for technical reasons.
 4. Email to execomm.secretariat@ofmdfm.gov.uk