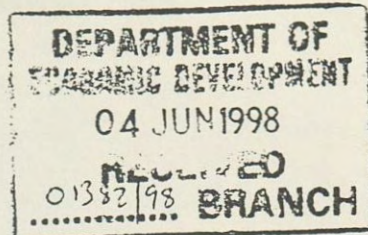


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FROM: DAVID FERGUSON
CENTRAL SECRETARIAT
3 JUNE 1998

cc NI Permanent Secretaries
Mr Watkins
Mr McCusker
Mr Hill

cc Mr Gibson - for action
Mr Warnock
Mr Ray } *for info.*

PS/Mr Semple

NORTH/SOUTH ARRANGEMENTS: LETTER FROM AUSTEN MORGAN

1. I attach a self-explanatory draft submission to Mr Murphy covering a reply to a letter from Austen Morgan (copy also attached), who represents himself as acting for Mr Trimble.
2. I should be most grateful for Mr Semple's comments, and those of colleagues, **by 3.00pm tomorrow** so that I can get it in to Mr Murphy's box tomorrow night.

David Ferguson

DAVID FERGUSON
PB 28196

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DRAFT

FROM: DAVID FERGUSON
CENTRAL SECRETARIAT
JUNE 1998

PS/Secretary of State (B&L)
PS/Mr Pilling (B&L)
PS/Mr Semple
NI Permanent Secretaries
Mr Jeffrey
Mr McCusker
Mr Stephens
Mr Watkins
Mr Hill
Mr Smyth

PS/Mr Murphy (B&L)

**NORTH/SOUTH ARRANGEMENTS: REQUEST FROM A REPRESENTATIVE
TO MR TRIMBLE**

Issue:

Request on behalf of Mr Trimble for access to officials in Northern Ireland Departments to gather information on potential areas of north/south co-operation in advance of decision-taking on implementation bodies etc.

Timing:

Urgent.

Recommendations:

That we agree to the UUP's request but that Mr Murphy should write to all party leaders simultaneously offering them a general opportunity of access to NI Departments .

That I should reply separately to Mr Trimble's representative.

Background

1. The Agreement states that during the transitional period between the elections to the Northern Ireland Assembly and the transfer of power to it, representatives of the Northern Ireland transitional administration and the Irish Government will undertake a work programme covering at least 12 subject areas with a view to

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identifying and agreeing by 31 October 1998 areas where co-operation and implementation for mutual benefit will take place.

2. As I reported in my minute of 15 May (not to all), following a hastily arranged meeting with Mr Morgan the previous day, it would seem that Mr Trimble has become increasingly concerned about the deadline in the Agreement for completing the work programme and is anxious to ensure that he is not rushed into decisions without first having a clear understanding of all the issues involved. He has therefore asked Mr Morgan to begin the process of preparing a detailed analysis of the twelve areas listed in the Agreement and to cross-check them against the last comprehensive report on current co-operation published in the House of Commons in early 1996. At Mr Trimble's suggestion, Mr Morgan has now asked for formal access to officials in the areas concerned.
3. It is also worth mentioning that Mr Morgan has already been in contact with the Irish Attorney-General to discuss the legal aspects of constituting implementation bodies and that, according to him, the Attorney-General shares his view about the technical complexities and the risks of legal challenge. I understand that he will be continuing these discussions in parallel with the work he proposes to begin now with Northern Ireland Departments, with the aim ultimately of producing for Mr Trimble a complete analysis of each of the topics listed in the Agreement.

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Advice

4. This would seem to be a genuine attempt by the UUP to carry out some detailed research to enable them to be as fully informed as possible on North/South co-operation as soon as possible after elections to the Assembly on 25 June. Indeed, it is reassuring to learn that at this early stage Mr Trimble has already turned his mind to the tight deadline which the transitional administration is required to meet.
5. As to the request itself, recently agreed guidelines on the conduct of Government business during the Assembly election campaign have been drawn up to ensure that no party gains any electoral advantage over political opponents in its treatment by Ministers and/or Departments. They provide in particular that requests for information from candidates (in this case, we are dealing with an individual acting on behalf of a candidate) should be assessed on their merits, that any response should be confined to factual references to published material and that any requests for unpublished material should be handled in accordance with the Code of Practice on Access to Government Information.
6. I suggest that this gives sufficient latitude to respond favourably to Mr Morgan's letter. To do otherwise, for example by putting him off until after the election, would appear unnecessarily obstructive and invite criticism from Mr Trimble that we were frustrating a reasonable request. Two points, however:

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- (a) we would need to make the same facility available to other candidates; and

DAVID FERGUSON

- (b) we would need to so do in a way in which access to factual information on potential areas for North/South co-operation listed in the Agreement was covered in the broader context of the functions and responsibilities of Northern Ireland Departments as a whole, if we are to avoid DUP and UKUP neuralgia.

7. Both points anticipate some of the work we had envisaged as part of the training programme for new Assembly members, on which Mr Semple has just put a separate submission to the Minister [DN: PS/Mr Semple - please confirm]; but I do not believe that that is a problem. It has been forced on us by this approach from Mr Morgan; and in any event I doubt if many candidates will take up the offer over the next few weeks.

Recommendation

8. If Mr Murphy is content with this advice I recommend he writes to all party leaders along the lines of the letter at Annex A.
9. I will reply to Mr Morgan dealing with his particular request in relation to North/South co-operation. Since Morgan has been pressing me on the issue over the past couple of days I should be most grateful if the Minister could clear overnight at least the principle of allowing access along the lines recommended. The letters to the party leaders can go out in slightly slower time if he wishes.

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ANNEX A

DAVID FERGUSON

PB 28196

Draft Letter from Mr Murphy to Party Leaders

As we move towards elections to the new Assembly and preparations for its opening over the second half of next year and early next year, I thought it would be helpful to let you know that we will be putting together a programme for Assembly members to enable them to familiarise themselves with the machinery of government in general and the functions and responsibilities of Northern Ireland Departments in particular. This will be an important element of a broader programme which we shall be offering during the Assembly's shadow period to help develop as full an understanding as possible of how transferred matters are currently administered and to ensure a smooth handover of power over those matters.

I am writing separately to party representatives about the broader programme (DN: PS/Mr Sample - please confirm) and I will be letting you know more in due course. In the meantime, officials in Departments will be happy to provide parties with factual information on how they operate, the functional areas which they cover, and other detail such as staff numbers, financial resources and so on. Much of this is, of course, already in the public domain. But I am making the particular offer now, in advance of Assembly elections, in order to give parties as early an opportunity as possible to learn about the administrative system which the new Northern Ireland administration will take over when powers are fully devolved.

Draft Letter from Mr Murphy to Party Leaders

As we move towards elections to the new Assembly and preparations for full devolution over the second half of next year and early next year, I thought it would be helpful to let you know that we will be putting together a programme for Assembly members to enable them to familiarise themselves with the machinery of government in general and the functions and responsibilities of Northern Ireland Departments in particular. This will be an important element of a broader programme which we shall be offering during the Assembly's shadow period to help develop as full an understanding as possible of how transferred matters are currently administered and to ensure a smooth handover of power over those matters.

I am writing separately to party representatives about the broader programme [DN: PS/Mr Semple - please confirm] and I will be letting you know more in due course. In the meantime, officials in Departments will be happy to provide parties with factual information on how they operate, the functional areas which they cover, and other detail such as staff numbers, financial resources and so on. Much of this is, of course, already in the public domain. But I am making the particular offer now, in advance of Assembly elections, in order to give parties as early an opportunity as possible to learn about the administrative system which the new Northern Ireland administration will take over when powers are fully devolved.

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You and your colleagues will, I know, be preoccupied with the election campaign over the coming weeks. But if you wish to take up the offer, I suggest you or your representative make contact with the offices of the various Departmental Permanent Secretaries. Addresses and telephone numbers are attached.

I hope you find this helpful.

Telephone No. 01232-520532

Department of Agriculture
Quadrant House
Stormont Estate
BELFAST
BT4 3BB

Telephone No. 01232-524608

Department of the Environment for NI
Clarence Court
10-18 Adelaide Street
BELFAST
BT2 8GS

Telephone No. 01232-541176

Department of Education
Ridgeway House
Bally Road
BANGOR
BT19 7PR

Telephone 01247-279308

Department of Economic Development
Netherleigh
Massey Avenue
BELFAST
BT4

Telephone No. 01232-529451

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Department of Finance & Personnel
Parliament Buildings
BELFAST
BT4 3SS

Telephone No. 01232-5

Department of Health & Social Services
Castle Buildings
Stormont
BELFAST

Telephone No. 01232-520559

Department of Agriculture
Dundonald House
Stormont Estate
BELFAST
BT4 3SB

Telephone No. 01232-524608

Department of the Environment for NI
Clarence Court
10-18 Adelaide Street
BELFAST
BT2 8GB

Telephone No. 01232-541175

Department of Education
Rathgael House
Balloo Road
BANGOR
BT19 7PR

Telephone 01247-279309

Department of Economic Development
Netherleigh
Massey Avenue
BELFAST
BT4

Telephone No: 01232-529451

572/S
20 MAY 1998
SEC

3 Temple Gardens,
Temple,
London EC4Y 9AU

As from: 76 Inderwick Road,
London N8 9JY
28 May 1998
0181 341 4999 (phone & fax)
0370 947 421 (mobile)

austenmorgan1@compuserve.com (e mail)

D28/S
Mr David Fergusson
Central Secretariat
Parliament Buildings
Belfast BT4 3ST
Fax 01232 528135

Mr Watkins:

Perhaps we could have a word before I take this forward.

D28/S

cc Ps/Mr Sample
Mr Jeffrey etc
Mr Stephen

Dear David,

North/South cooperation under the Belfast Agreement

Thank you for the meeting on Thursday, 14 May, in which you and David Watkins listened to me on the above. ///

I told you I had been instructed by David Trimble to explore possibilities in regard to the work programme specified in the Agreement. I expressed the view that the rest of May and June could be used by the UUP's legal advisers to prepare advice on the paragraph 9 functions and bodies, the annexed 12 being preliminary candidates.

The referendum has delayed my writing to you.

I am now communicating to formally request access in the current period, before the Assembly is established in shadow mode. It would be for myself and Jeremy Carver of Clifford Chance in London.

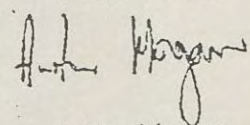
We need a great deal of information on your public administration. Access would involve several meetings in Belfast and other forms of communication. Any information provided would of course be treated on absolute terms of confidentiality.

I told you that we had already done some work with the Irish government on legal models, and intend to pursue North/South cooperation with Dublin officials.

The request of course is entirely without prejudice as to what the UUP representatives will do after the 25 June elections.

I am using my private rather than chambers address for reasons of convenience. Given time is passing, I would appreciate a reply by facsimile.

Yours sincerely,



Austen Morgan,

Barrister