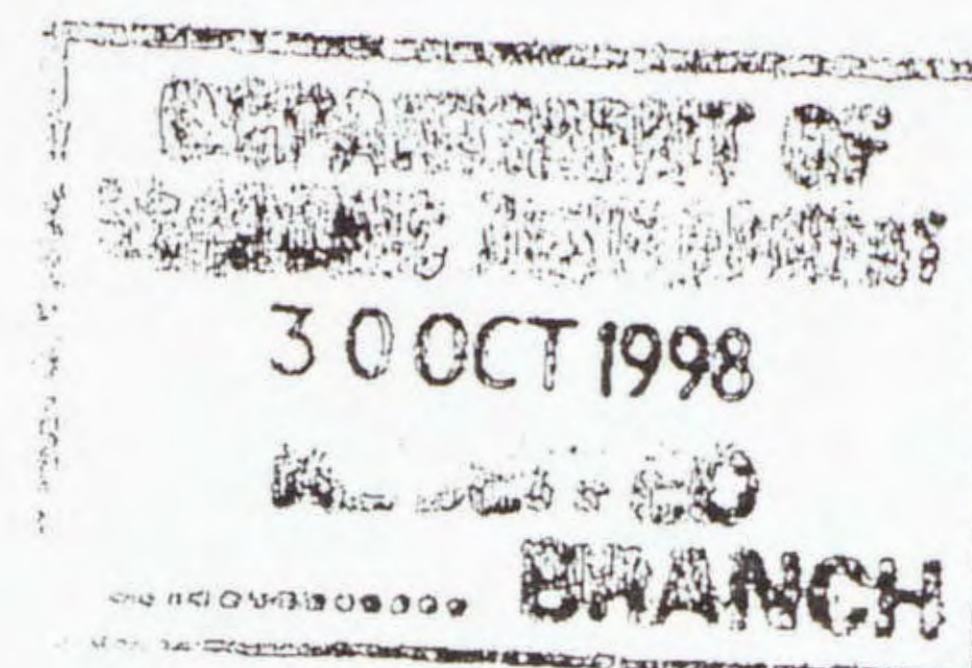


**FROM: MRS DOREEN BROWN
CENT SEC**

30 OCTOBER 1998



NI Permanent Secretaries

**cc PS/Mr Semple
Mr Ferguson
Mr T Smyth**

FURTHER GUIDANCE FOR DEPARTMENTS DURING THE SHADOW PERIOD

1. I attach a draft note which sets out further guidance for Departments on the conduct of business in a range of areas during the shadow period leading up to devolution.
2. I would welcome views from Departments on whether there are other aspects which need to be covered at this stage. Comments by 4 November would be appreciated.
3. It is likely that further guidance will be needed when shadow Ministers are identified.
4. I intend to put the draft guidance to Ministers and the Secretary of State for clearance before issue in final form to Departments.

(Signed DAB)

D A BROWN

Ext 28151

DRAFT

**FROM: MRS DOREEN BROWN
CENTRAL SECRETARIAT
NOVEMBER 1998**

Copy distribution below

**NI Permanent Secretaries
Mr Watkins**

FURTHER GUIDANCE FOR DEPARTMENTS DURING THE SHADOW PERIOD

1. David Watkins' note of 17 July provided guidance to Departments on relationships with the emerging new NI administration during the shadow period leading up to devolution.
2. It has become clear that the July guidance now needs to be revised. It was always envisaged that this would be necessary - and had been foreshadowed in the note of 17 July, with the timing being determined by the way in which, and the speed with which, the shadow administration became active in areas of Departmental interest.
3. While shadow Ministers are not yet in place, the First and Deputy First Ministers are showing interest in a wide range of Departmental business. The attached notes therefore aim to give Departments fresh guidance on a number of areas:

channels of communication and briefing;

public appointments;

development and announcement of policy initiatives;

CHANNELS OF COMMUNICATION AND BRIEFING

involvement of Shadow Ministers.

4. Any queries on the guidance should be addressed to me (x 28151) or Terry Smyth (x 28153). If there are other areas where Departments see a need for additional guidance, Central Secretariat will take this on board.

INVITATIONS

2. NIO Ministers are content that - and indeed - encourage shadow Ministers to receive and accept invitations. It has been agreed with the Office of the First and Deputy First Ministers (Designate) that they should deal direct with Departments on such invitations, with Central Secretariat simply receiving

D A BROWN

☎ 28151

cc PS/Secretary of State (B&L)
PS/Mr Murphy (DFP,B&L)
PS/Mr Ingram (DED,B&L)
PS/Mr McFall (DENI,DHSS&L)
PS/Lord Dubs (DOE,DANI&L)
PS/Mr Pilling (B&L)
PS/Mr Semple

3. In responding to the Office of the First and Deputy First Ministers (Designate), Departments should give an indication of whether they are able to accept an invitation, where appropriate.
4. Should an invitation be accepted, Departments are expected to provide briefing material for the visit/event, including, as appropriate, pot pictures, details of arrangements and, possibly, input for a speech. The latter, if required, should be purely factual in nature.
5. Invitations to NIO Ministers during the shadow period should be handled in the normal way. If an invitation is received to an event which is scheduled to be held after 1 February 1999, the current target date for transfer of responsibility to the Assembly, and it is unclear whether those issuing the invitation are aware of this, the reply could be couched in terms of wishing to accept (if appropriate), but pointing out that, by that time, the Minister may

CHANNELS OF COMMUNICATION AND BRIEFING

1. Departments now routinely receive requests for briefing from the Office of the First and Deputy First Ministers. They also deal with invitations received by the First and Deputy First Ministers to attend a range of events.

INVITATIONS

2. NIO Ministers are content that - and indeed - encourage shadow Ministers to receive and accept invitations. It has been agreed with the Office of the First and Deputy First Ministers (Designate) that they should deal direct with departments on such invitations, with Central Secretariat simply receiving side copies of the correspondence. Departments should ensure that their responses are copied to Central Secretariat also.
3. In responding to the Office of the First and Deputy First Ministers, Departments should give an indication of the priority the invitation should attract and should set out the policy context of an invitation, where appropriate.
4. Should an invitation be accepted, Departments are expected to provide briefing material for the visit/event, including, as appropriate, pen pictures, details of arrangements and, possibly, input for a speech. The latter, if required, should be purely factual in nature.
5. Invitations to NIO Ministers during the shadow period should be handled in the normal way. If an invitation is received to an event which is scheduled to be held after 1 February 1999, the current target date for transfer of responsibility to the Assembly, and it is unclear whether those issuing the invitation are aware of this, the reply could be couched in terms of wishing to accept (if appropriate), but pointing out that, by that time, the Minister may

no longer have responsibility for the particular matter. The correspondence should also be copied to the Office of the First and Deputy First Ministers (Designate).

CONSULTATION WITH FIRST AND DEPUTY FIRST MINISTERS (DESIGNATE)

6. If Departments wish to consult the First and Deputy First Ministers (Designate), this can be done either direct to officials in that office or by contact between the Secretary of State and the First and Deputy First Ministers (Designate). In both cases, it would be appreciated if the correspondence could be copied to Central Secretariat.
7. Departments should write separately to both the First and Deputy First Ministers (Designate) and should make clear the purpose of the communication - if no action is needed, this should be clearly stated at an early stage.

Briefing/Advice

8. In addition to requests from the First and Deputy First Ministers for policy briefings, other requests, on which guidance might be useful, are being put to Departments.
9. The First and Deputy First Ministers are receiving correspondence from a range of organisations, the purpose of which is to set out those organisations' views on current Government policy, including funding allocations, and ideas for change for the future. On receipt, such correspondence is being copied by the Office of the First and Deputy First Minister to the relevant Department(s), with a request for background briefing and a draft reply.
10. Departments receiving such requests should provide the background briefing relevant to the correspondence. The only draft reply, however, which can be

provided is an outline of, and rationale for, current Government policy. It must fall to the First and Deputy First Minister to decide on the terms of the reply to issue to the correspondent, whether to reiterate current policy or to offer a different perspective.

Channels of Communication

11. Requests for briefing, advice, etc from the Office of the First and Deputy First Minister can originate in a number of different areas of the organisation. They can be issued by the Private Offices of the First and Deputy First Ministers (whether from PPS, PS or Diary Secretary level). They can also be issued by the Support Team, headed by David Ferguson. Departments would not, however, expect to receive requests from the FM/DFM's Special Advisers.
12. Requests are directed to the relevant Department's Ministerial Private Office .
Responses from Departments should be cleared through their Private Office
before being issued to the originator of the request.

Documents

13. As stated in the guidance of 17 July, consultative documents, Green and White Papers and other major policy papers should be made available to Assembly members as they would be to MPs and MEPs. Such documents should be sent to Audrey Moore in the Business Office of the Assembly who will ensure they are placed in Assembly members' pigeonholes.
14. In relation to other documents produced by Departments, their Agencies and public bodies, such as annual reports, business plans, accounts, statistical reports, etc, it has been agreed with Assembly staff that it is not necessary to send copies of these for distribution to all Assembly members. Departments should instead send six copies to Audrey Moore in the Business Office of the

Assembly who will arrange for them to be placed in the Library and for Assembly members to be advised of their availability.

Press Releases

15. Departments are reminded of the need to include the Assembly in the distribution lists for their Press Releases. Again, six copies should be sent to Audrey Moore in the Business Office.

• they should be informed at the start of the appointment process of the Department's plans, and should be given an opportunity to comment on the draft "job" and person specifications. This will not, however, be feasible for appointments where the process has already reached a more advanced stage;

• they should, at the same time, be invited to nominate candidates for consideration for appointment, but clearly on the basis of any such nominees being treated in the same way as other candidates;

PUBLIC APPOINTMENTS

1. The guidance of 17 July advised Departments, in broad terms, on how they might go about making public appointments during the shadow period. Since then, it has become clear that the First and Deputy First Ministers have a keen interest in appointments which has developed more rapidly than had been anticipated.
2. The basic principle to be observed is that the First and Deputy First Ministers should have the opportunity to be involved in significant appointments arising during the shadow period. Departments which are considering making significant appointments should, however, **first** 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.
3. If a Department is clear that an appointment must be made, or that action needs to begin during the shadow period in order to have the appointment process completed shortly after devolution, the First and Deputy First Ministers should be involved as follows:
 - ♦ they should be informed at the start of the appointment process of the Department's plans, and should be given an opportunity to comment on the draft "job" and person specifications. This will not, however, be feasible for appointments where the process has already reached a more advanced stage;
 - ♦ they should, at the same time, be invited to nominate candidates for consideration for appointment, but clearly on the basis of any such nominees being treated in the same way as other candidates;

- ♦ they should be consulted at the stage when the process has identified the preferred candidate(s) but before an appointment has been made.

1. As the shadow period progresses towards the likely date of devolution, the

4. This guidance applies to all appointments which currently require Secretary of State approval. It should also be applied to other appointments which do not require to be submitted to the Secretary of State but which would be of interest to shadow Departmental Ministers. In the continuing absence of such Ministers, the First and Deputy First Ministers should be involved in these appointments.

announcing initiatives which will endure beyond devolution.

3. The guidance circulated on 17 July advised Departments that decisions could be taken by NIO Ministers up until the end of November, with the shadow administration being informed at the time of the announcement or, in controversial cases, before announcement. From 1 December onwards, no significant decision should be made without prior consultation.

4. It is now clear that the First and Deputy First Ministers envisage greater involvement than the July guidance anticipated. On that basis, the new guidance from Central Secretariat is as follows:

- ♦ all significant decisions with an impact which will continue post-devolution should be deferred until after devolution, unless time critical;
- ♦ "time critical" means having to operate to a timescale outside the control of NIO Ministers, ie, a timetable set by the EU;
- ♦ in such cases, the First and Deputy First Ministers should be informed of the position, the proposed decision and the reason for its urgency;

DEVELOPMENT AND ANNOUNCEMENT OF POLICY INITIATIVES

1. As the shadow period progresses towards the likely date of devolution, the need for Departments to have regard to the impending new administration increases.
2. The business of government in Northern Ireland must continue, but consideration needs to be given to the appropriateness of current Ministers making decisions or announcing initiatives which will endure beyond devolution.
3. The guidance circulated on 17 July advised Departments that decisions could be taken by NIO Ministers up until the end of November, with the shadow administration being informed at the time of the announcement or, in controversial cases, before announcement. From 1 December onwards, no significant decision should be made without prior consultation.
4. It is now clear that the First and Deputy First Ministers envisage greater involvement than the July guidance anticipated. On that basis, the new guidance from Central Secretariat is as follows:
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 - ♦ "time critical" means having to operate to a timescale outside the control of NIO Ministers, ie, a timetable set by the EU;
 - ♦ in such cases, the First and Deputy First Ministers should be informed of the position, the proposed decision and the reason for its urgency;

- ♦ consultation exercises can continue to be initiated, with the FM/DFM being informed in advance. Action on the outcome of consultation exercises should await devolution.

1. Guidance on Shadow Departmental Ministers will be devised as required over time. One point which is, however, worth registering at this stage relates to the timing of the involvement of Shadow Ministers in Departmental business.
2. Until the date of devolution, NIO Ministers continue to be responsible for the business of NI Departments. NIO Ministers will wish to involve Shadow Ministers in that business but the timing of that involvement will be a matter for NIO Ministers to determine.
3. Officials should continue to work as at present in putting forward submissions to NIO Ministers. Those submissions should not be made available to the Department's Shadow Minister in advance of being seen by the NIO Minister. Officials may wish to advise NIO Ministers in those submissions of the desirability of involving the Shadow Ministers in the issues under consideration. The decision on whether or not to do so will be made by the NIO Minister, who may choose to copy the relevant submission to the Shadow Minister, with his own conclusions also shown, or may opt to provide the Shadow Minister with a separate paper summarising the issues and the NIO Minister's decisions.

SHADOW MINISTERS - PROVISION OF INFORMATION

1. Guidance on the conduct of business with Shadow Departmental Ministers will be devised as required over time. One point which is, however, worth registering at this stage relates to the timing of the involvement of Shadow Ministers in Departmental business.
2. Until the date of devolution, NIO Ministers continue to be responsible for the business of NI Departments. NIO Ministers will wish to involve Shadow Ministers in that business but the timing of that involvement will be a matter for NIO Ministers to determine.
3. Officials should continue to work as at present in putting forward submissions to NIO Ministers. Those submissions should not be made available to the Department's Shadow Minister in advance of being seen by the NIO Minister. Officials may wish to advise NIO Ministers in those submissions of the desirability of involving the Shadow Ministers in the issues under consideration. The decision on whether or not to do so will be made by the NIO Minister, who may choose to copy the relevant submission to the Shadow Minister, with the his own conclusions also shown, or may opt to provide the Shadow Minister with a separate paper summarising the issues and the NIO Minister's decisions.