CONDUCT OF EXECUTIVE BUSINESS

The Executive Office May 2016

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INTRODUCTION

The role and functions of the Executive Committee and the responsibilities and obligations of Ministers to it are set out in the Northern Ireland Act 1998 and the Ministerial Code. Additional protocols have also been developed to govern various aspects of its operation.

By bringing together such protocols and other relevant guidance, this document is, intended to provide a single source of information for Ministers and their officials on matters relating to the operation of the Executive. The guide will be reviewed at regular intervals and, where necessary, revised to ensure its currency.

A full list of current guidance relating to the Executive and the functions of Ministers more generally is provided at Annex A.

Any queries on the content of this guidance should be referred to the Executive Secretariat, The Executive Office, using the contact details below:

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THE EXECUTIVE COMMITTEE

1. The Executive Committee consists of:

The First Minister and deputy First Minister
The Minister of Agriculture, Environment and Rural Affairs
The Minister for Communities
The Minister for the Economy
The Minister of Education
The Minister of Finance
The Minister of Health
The Minister for Infrastructure
The Minister of Justice

2. Meetings of the Executive Committee are conducted in accordance with Section 2 of the Ministerial Code (**Annex B**).

3. The First Minister and deputy First Minister convene and preside over all meetings of the Executive Committee, except where they jointly agree an alternative arrangement.

Designation of a Minister to Exercise the Functions of the First Minister or deputy First Minister on a Temporary Basis

4. Where the First Minister or deputy First Minister is unavailable on a temporary basis to fulfil his or her role as joint Chair of the Executive Committee, he or she may designate another Minister to exercise this function for a period not exceeding six weeks, by writing to the Speaker of the Assembly, in accordance with Section 16A (11) of the Northern Ireland Act 1998.

MEETINGS OF THE EXECUTIVE

5. Executive Committee meetings normally take place fortnightly on Thursdays and Ministers are advised of the schedule of meetings for the forthcoming period as far in advance as possible. Additional meetings may be arranged in the light of business need.

6. **Any three Ministers may request a meeting of the Executive in addition to those scheduled. The First Minister and deputy First Minister will normally convene such a meeting within three days, unless a meeting has already been scheduled within that period.**

Executive Sub-Groups

7. The Executive may from time to time establish a sub-group or designate an existing group as a sub-group for the purposes of examining and, where required, reporting on any aspect of the Executive's responsibilities. An Executive sub-group is defined as one which has been established by the Executive, is chaired by a Minister or Ministers of the Executive, and consists of Executive Ministers; or one which consists of Ministers of the Executive and/or representatives of the parties in the Executive. Any recommendations made by such sub-groups are subject to the agreement of the Executive Committee.

ATTENDANCE AT EXECUTIVE MEETINGS

Ministers

8. Ministers are required to attend all meetings of the Executive except in the most exceptional circumstances. A Minister should inform the Secretary to the Executive as early as possible if he or she is unable to attend an Executive meeting, and advise of the reason for non-attendance.

9. Where a Minister is unable to attend a meeting but has had a paper included on the agenda for that meeting, he or she may nominate another Minister to address any issues arising in the consideration of that paper by the Executive Committee.

Junior Ministers

10. Junior Ministers attend all meetings of the Executive but cannot participate in any vote taken by the Executive. Junior Ministers will provide a report at each Executive meeting on Executive Business in the Assembly and draft Executive papers currently in circulation.

Ministerial Advisers

11. In addition to the special advisers of the First Minister and deputy First Minister, one adviser from each of the other political parties represented in the Executive may attend meetings of the Executive Committee. The adviser of a Minister who has a paper included on the agenda of an Executive meeting, if not otherwise entitled to attend, can also attend that meeting for the duration of the discussion of that item.

Assembly Private Secretaries

12. An Assembly Private Secretary (APS) is not entitled to attend meetings of the Executive Committee. Where a Minister wishes an APS to attend a meeting, a request should be made to the First Minister and deputy First Minister, who will consider the request and, if satisfied that attendance is justified, seek the agreement of the Executive at the commencement of the relevant meeting. Attendance will be limited to specified items of business being tabled by that Minister or for other agreed purposes.

13. Where a special adviser is unable to accompany his or her Minister to a meeting of the Executive Committee and there is no other special adviser of that political party, a Minister may make a request to the First Minister and deputy First Minister that his or her APS may attend the meeting for its duration. Attendance in these circumstances will also be subject to the agreement of the Executive.

Officials

14. The Head of the Civil Service, in his capacity as Secretary to the Executive, the Head of Executive and Central Advisory Division , the Director of the Executive Information Service, the Principal Private Secretaries to the First Minister and the deputy First Minister, and designated officials from the Executive Secretariat attend all meetings of the Executive.

15. Other officials may attend Executive meetings, with the agreement of the Executive Committee on the recommendation of the First Minister and deputy First Minister. Such attendance will normally be only for the relevant items on the agenda.

16. In accordance with Section 28C of the Northern Ireland Act 1998, the Executive may also call for a senior officer of a Northern Ireland department to attend its proceedings.

The Attorney General for Northern Ireland

17. The Attorney General for Northern Ireland is the chief legal adviser to the Executive and may attend meetings of the Executive. His relationship to the Executive is set out in the protocol attached at **Annex C**.

THE EXECUTIVE AGENDA AND DECISION TAKING

Matters to be considered by the Executive

18. The categories of matter which Ministers are required to bring to the attention of the Executive Committee are set out in paragraph 2.4 of the Ministerial Code. The First Minister and deputy First Minister acting jointly may also determine that a significant or controversial matter is one that should be considered by the Executive Committee.

Executive contributions to UN, EU or other International Reports

19. Departments are from time to time asked to provide contributions, either directly or through a UK Government Department, to reports being prepared for or by international agencies, including the EU and the UN, on how this administration is meeting obligations placed on member Governments under various international conventions and treaties. As these responses often cover the responsibilities of a number of Departments and are intended to represent the position of the administration as a whole, they should therefore be subject to agreement by the Executive in accordance with the provisions of Paragraph 2.4 of the Ministerial Code, using the normal Executive papers process.

Legislation

20. The Executive has agreed guidance for Ministers and departments for bringing forward legislation, including the stages at which Executive agreement must be sought. This guidance requires Ministers to obtain Executive agreement at the following key stages of the various legislative processes:

    a. Executive Bills:

(i) final policy content of the Bill and to the drafting of the Bill on that basis;

(ii) the final version of the Bill for introduction in the Assembly and, ifnecessary, accelerated passage; and

(iii) amendments to the Bill following introduction which involve policy changes, including any Committee or backbench amendments which the relevant Minister proposes to support.

b. Committee or Private Members' Bills:

Those elements of such Bills which the relevant Minister intends to support, particularly where it is proposed that drafting and/or policy development support should be offered to the Committee or Member concerned.

c. Westminster Bills (Government or Private Members'):

The inclusion of provisions which deal with a "devolution matter" as defined by Assembly Standing Order 42A and to the bringing forward of a Legislative Consent Motion to obtain the Assembly's endorsement.

d. Subordinate Legislation (Northern Ireland and UK):

(i) Where required under paragraph 2.4 of the Ministerial Code, the final policy of a proposed statutory rule and to the making of the statutory rule on that basis (statutory instrument in the case of UK subordinate legislation containing provisions dealing with transferred matters);

(ii) Where there is to be a transfer of statutory functions between departments, the Minister of the ceding Department should seek Executive agreement to the transfer of the relevant functions and to making of the required Transfer of Functions Order by the First Minister and deputy First Minister.

Executive Agenda

21. The agenda for Executive Committee meetings is agreed by the First Minister and deputy First Minister taking account of proposals made by Ministers. **The Agenda and draft minutes of the previous meeting will be circulated at least one day in advance of the relevant Executive meeting**.

22. Where a Minister considers that a matter requires the agreement of the Executive, this should be sought through the preparation of a draft Executive Paper, which should be circulated for comment to all Ministers, and copied to the Attorney General, the Departmental Solicitor, First Legislative Counsel (where the matter deals with legislation or has legislative implications) and the Executive Secretariat. Where necessary, a subsequent draft (or drafts) should be prepared to reflect comments received and any changes proposed, and submitted to the First Minister and deputy First Minister for inclusion in the Executive agenda.

23. **An Executive paper will normally be included on the Agenda no later than the third meeting following the circulation of the initial draft, subject to the circulation of a final draft by the relevant Minister within this period.**

Special Requests for the inclusion of items on the Agenda

24. **Where a paper has not been included on the agenda of an Executive meeting within the timetable set out in paragraph 23, a request may be made jointly by any three Ministers to have a matter (concerning which a draft Executive paper has been previously circulated) placed on the agenda of a meeting of the Executive Committee for substantive discussion and decision.**

Executive Papers in Circulation

25. **A list of draft Executive papers in circulation will be tabled at each meeting of the Executive. In circumstances where a paper has not been included on the Agenda in accordance with the timescale set out in paragraph 23, this document will note any relevant issue relating to the achievement of agreement on the proposals.**

Any Other Business

26. **A Minister is entitled raise a matter under Any Other Business. Notification is sought by the Executive Secretariat in advance of each meeting of the intention of Ministers to raise items of other business and the details of the issues to be raised should be notified as soon as possible to the Executive Secretariat.**

27. Substantive issues requiring a decision should not be introduced at the meeting under the Any Other Business agenda item which is intended

primarily to afford Ministers an opportunity to brief the Executive on urgent or emerging issues, or to alert them to an issue which may in due course require consideration by the Executive.

Executive Decisions

28. The First Minister and deputy First Minister have a duty as Chairmen of the Executive Committee to seek to secure that its decisions are reached by consensus wherever possible. If a consensus cannot be reached, a vote may be taken at the Executive meeting. A quorum of 7 Executive Ministers is required for any vote.

29. A vote may also be taken on a cross-community basis if requested by any three Ministers before the vote is taken. Cross-community support has the same meaning as that set out in section 4(5) of the Northern Ireland Act 1998 ie:-

(a) the support of a majority of the members voting, a majority of the designated Nationalists voting and a majority of the designated Unionists voting; or

(b) the support of 60 percent of the members voting, 40 percent of the designated Nationalists voting and 40 percent of the designated Unionists voting.

Media Handling for Executive meetings and Protocol for advising the Assembly

30. At the end of each meeting, the Executive will consider whether a statement to the media should be made on any decision taken or other matters discussed.

Urgent Decisions

31. Where a decision which would normally require Executive agreement needs to be taken before the next scheduled Executive meeting, the responsible Minister should write to the First Minister, the deputy First Minister and the Secretary to the Executive, copied to Executive colleagues, the Attorney General, the Departmental Solicitor's Office, First Legislative Counsel (where appropriate) and Executive Secretariat, advising them of the decision required, and providing details of the background to the issue, the reason for urgency, the implications of not taking the decision, and as far as possible, the views of other relevant Ministers. The First Minister and deputy First Minister, acting jointly, will consider the matter in consultation with the responsible Minister and will notify him or her of the outcome of their consideration, copied to Executive colleagues, the Attorney General, the Departmental Solicitor's Office, First Legislative Counsel (where appropriate) and Executive Secretariat A matter dealt with in this way is deemed to have been dealt with in accordance with paragraph 2.4 of the Ministerial Code, and will be included on the agenda for noting at the next Executive meeting.

Retrospective Decisions

32. Where a Minister is required to bring to the attention of the Executive any matter which ought to have been considered by the Executive, the Executive may determine, subsequent to a decision having been taken by the Minister, that the decision has been taken in accordance with paragraph 2.4 of the Ministerial Code.

Format of Executive Meeting Minutes

33. The minutes of Executive meetings record for each agenda item:

(i) the recommendations agreed by the Executive;

(ii) details of any vote taken on those recommendations;

(iii) the position of individual Ministers on those recommendations or on any other issue where they formally request that this be recorded; and

(iv) other agreed conclusions or action points.

34. The draft minutes of each Executive meeting are circulated to Ministers for agreement at the next meeting. Any requests for amendment to the draft minutes should be identified in advance to the Executive Secretariat for consideration under the relevant agenda item.

Executive Confidentiality

35. The content of Executive papers and all aspects of Executive business are regarded as confidential, and Ministers should at all times observe the need for confidentiality in relation to the conduct of Executive business and the proceedings of its meetings, other than by means of any agreed statement which may be issued following a meeting. Ministers should ensure that the necessary steps are taken to protect the detailed content of papers and Executive minutes which are to be, or have been, considered by the Executive.

36. Ministers should, when making public statements about matters which they may later need to bring to the Executive, avoid saying anything publicly which might anticipate the Executive's reaction, fetter its discretion or which might subsequently appear to breach the principle of collective Executive responsibility.

Executive Business and Freedom of Information

37. Requests under the Freedom of Information Act may be received in respect of the business of the Executive. The two exemptions which could apply to most of the information related to Executive business are section 35 (formulation of government policy) and section 36 (prejudice to effective conduct of public affairs). Both these exemptions are qualified exemptions and a case by case public interest test must be carried out on all information under consideration

for disclosure: it should not be assumed that Executive papers and associated correspondence can be automatically withheld.

38. Executive Secretariat should be consulted about, and will provide views on, all requests for information associated with Executive business to ensure a consistent approach to the disclosure of such information**.**

THE EXECUTIVE AND THE ASSEMBLY

Executive Business and the Assembly

39. At the end of each meeting, the Executive will consider whether any aspect of its business should be communicated to the Assembly.

40. Ministers should support the agreed position of the Executive on any matters which arise in the Assembly. They should not vote against any agreed Executive position or in favour of any motion which would have adverse financial or other implications for the Executive.

41. **When making statements to the Assembly, Ministers should, where appropriate, indicate whether the matter reflects an agreed Executive position or where the Executive's agreement will subsequently be required to an intended course of action.** The content of a statement should not anticipate the Executive's decision, fetter its discretion or appear to breach the principle of collective Executive responsibility.

Power of the Assembly to refer Ministerial Decisions to the Executive Committee

42. Where a decision taken by a Minister is referred to the Executive by the Presiding Officer of the Assembly in accordance with section 28B(1)-(3) of the Northern Ireland Act 1998, the Executive is obliged to complete its consideration of the matter not later than the seventh Assembly sitting day beginning with the day of the referral, and to notify the Presiding Officer as to

whether the decision was, in its view, in contravention of section 28A(1) of the Act or that it relates to significant or controversial matters, and what action it proposes to take or has taken in relation to the decision in question.

ANNEX A

GUIDANCE ON EXECUTIVE AND MINISTERIAL BUSINESS

Ministerial Code.

Guidance on the Ministerial Code.

Guidance on Procedures and Conventions for Ministers dealing with Business in the Assembly and Engagement with Statutory Committees.

Guidance on Confidentiality of Executive Business.

Guidance on Freedom of Information (for Executive Ministers).

Guidance on Access to Papers of a Former Minister.

Guidance on Notifying MLAs of Ministerial Visits to their Constituencies.

Guidance to Minister and Departments on dealing with Legislation.

Executive Papers Processes – Guidance for Officials.

ANNEX B

MINISTERIAL CODE
SECTION 2: THE EXECUTIVE COMMITTEE

The Executive Committee

2.1 The Executive committee consists of the First Minister, the deputy First Minister and the Northern Ireland Ministers.

Role of the First Minister and the deputy First Minister

2.2 Section 20 of the Act provides that the First Minister and the deputy First Minister shall be chairmen of the Executive Committee. Under the Belfast Agreement their duties include dealing with and co-ordinating the work of the Executive Committee and the response of the Northern Ireland administration to external relationships. For all meetings of the Executive Committee the First Minister and deputy First Minister will be co-chairmen.

Functions of the Executive Committee

2.3 The Act provides that the Executive Committee shall have the functions set out in paragraphs 19 and 20 of Strand One of the Belfast Agreement (the Agreement) – Section 20(3) of the Act, together with those set out in Section 20(4) of the Act.

The Executive Committee will provide a forum for:-

(i) The discussion of, and agreement on, issues which cut across the responsibilities of two or more Ministers;

(ii) Prioritising Executive proposals;

(iii) Prioritising legislative proposals;

(iv) Recommending a common position where necessary;

(v) Agreement each year on (and review as necessary) a programme incorporating an agreed budget linked to policies and programmes (Programme for Government);

(vi) Discussion of and agreement upon significant or controversial matters that are clearly outside the scope of the agreed programme referred to in paragraph 20 of Strand One of the Agreement; and

(vii) Discussion of and agreement upon significant or controversial matters that the First Minister and deputy First Minister acting jointly have determined to be matters that should be considered by the Executive Committee.

Duty to bring matters to the attention of the Executive Committee

2.4 Any matter which:-

(i) Cuts across the responsibilities of two or more Ministers;

(ii) Requires agreement on prioritisation;

(iii) Requires the adoption of a common position;

(iv) Has implications for the Programme for Government;

(v) Is significant or controversial and is clearly outside the scope of the agreed programme referred to in paragraph 20 of Strand One of the Agreement;

(vi) Is significant or controversial and which has been determined by the First Minister and deputy First Minister acting jointly to be a matter that

should be considered by the Executive Committee; or

(vii) Relates to a proposal to make a determination, designation or scheme for the provision of financial assistance under the Financial Assistance Act (Northern Ireland) 2009;

shall be brought to the attention of the Executive Committee by the responsible Minister to be considered by the Committee.

Regarding (i), Ministers should, in particular, note that:

- The responsibilities of the First Minister and deputy First Minister include standards in public life, machinery of government (including the Ministerial Code), public appointments policy, EU issues, economic policy, human rights, and equality. Matters under consideration by Northern Ireland Ministers may often cut across these responsibilities;

- Under Government Accounting Northern Ireland, no expenditure can be properly incurred without the approval of the Department of Finance and Personnel.

Determining whether a decision which Ministers wish to take or have taken relates to a matter that ought, by virtue of Section 20(3) or (4) of the Act, to be considered by the Executive Committee

2.5 Where a Minister or Junior Minister wishes the Executive Committee to make such a determination, he or she shall set out in writing the details of the decision taken or to be taken, and why he or she believes it is or is not covered by paragraphs 2.4(i) to (v) above, and seek the views of the Executive Committee. The Executive Committee should normally make a response at its next meeting.

Attendance at Executive Committee Meetings

2.6 Attendance at meetings of the Executive Committee shall normally comprise the First Minister, the deputy First Minister, the Northern Ireland Ministers and the Secretary to the Executive Committee. Officials may attend, with the approval of the First Minister and the deputy First Minister.

2.7 Under Section 28C of the Act the Executive Committee may call for a senior officer of a Northern Ireland department to attend its proceedings.

Northern Ireland Ministers and the Executive Committee

2.8 Ministers have affirmed the Pledge of Office to:

- Participate fully in the Executive Committee, the North-South Ministerial Council and the British-Irish Council;
- Participate with colleagues in the preparation of a Programme for Government;
- Operate within the framework of that programme when agreed within the Executive Committee and endorsed by the Assembly; and
- Support, and to act in accordance with, all the decisions of the Executive Committee and Assembly.

Meetings of the Executive Committee

2.9 Without prejudice to Section 16A(11) of the Act, meetings of the Executive Committee will be convened and presided over by the First Minister and deputy First Minister except where they have jointly agreed an alternative arrangement. The meetings will normally be held fortnightly. The relevant

provisions of the following paragraphs also apply to any sub-committees.

2.10 Executive Committee meetings take precedence over all other business. Members of the Executive should attend all meetings except in the most exceptional circumstances. A Minister should as early as possible inform the Secretary to the Executive Committee if he or she is unable to attend a meeting of the Committee and of the exceptional circumstances which cause the inability to attend the meeting.

Executive Committee Agenda

2.11 The agenda for Executive Committee meetings will be agreed by the First Minister and deputy First Minister, taking account of proposals made by Northern Ireland Ministers.

Decision-making by the Executive Committee

2.12 In accordance with Section 28A(8) it is the duty of the Chairmen of the Executive Committee to seek to secure that decisions of the Executive Committee are reached by consensus wherever possible: if consensus cannot be reached, a vote may be taken, and if any 3 members of the Executive Committee require the vote on a particular matter which is to be voted on by the Executive Committee to require cross-community support, any vote on that matter in the Executive Committee shall require cross-community support in the Executive Committee. "Cross-community support" shall have the same meaning as set out in Section 4(5) of the Act. A quorum of 7 members will be required for any vote. The requirement for cross-community support must be requested prior to a vote actually commencing.

Consideration of NSMC and BIC Decision Papers

2.13 NSMC and BIC decision papers shall be circulated to all members of the Executive Committee in advance of the NSMC or BIC meeting at which they

are to be discussed. Such circulation should take place in accordance with any arrangements agreed by the Executive. Any member of the Executive Committee may seek a discussion on such a paper at a meeting of the Executive Committee. Where a decision paper ought, by virtue of Section 20(3) or (4) of the Act, to be considered by the Executive Committee, it shall be brought to the attention of the Executive Committee by the responsible Minister(s).

Urgent Decisions

2.14 Where a decision is required to be taken so urgently as not to be able to await consideration at the next Executive Committee meeting, the responsible Minister must set out in writing to the First Minister, the deputy First Minister and the Secretary to the Executive the decision to be taken and, so far as is practicable, the background to the issue, the views of any other Ministers with a relevant interest, the position of any other interested administrations and the consequences of deferring the decision in question pending the next Executive Committee meeting and of not taking it at all. The First Minister and deputy First Minister, acting jointly, will consider the decision in consultation with the responsible Minister, and notify him/her of the outcome of their consideration of the matter. A matter dealt with in this way will be deemed to have been dealt with in accordance with paragraph 2.4 of this Code. Where the urgent decision is the responsibility of the First Minister and deputy First Minister and, acting jointly, they agree that decision, the decision will be deemed to have been dealt with in accordance with paragraph 2.4 of this Code.

Retrospective Consideration of Ministerial Decisions

2.15 Where, by virtue of paragraph 2.4 of the Code, a Minister, including the First and deputy First Minister acting jointly, or Junior Minister, is required to bring to the attention of the Executive Committee any matter which ought by virtue of Section 20(3) or (4) of the Act to be considered by the Executive

Committee, the Executive Committee may, subsequent to a decision being taken, nonetheless determine that the decision has been taken in accordance with paragraph 2.4 of the Code.

Additional Provision

2.16 The Executive Committee may make additional provision to enable the duty set out in paragraph 2.4 of the Code to be satisfied.

Power to Refer Ministerial Decisions to Executive Committee

2.17 Where a Ministerial decision is referred to the Executive Committee by the Presiding Officer of the Assembly in accordance with Section 28B(1) to (3) of the Act, the Executive Committee is obliged to complete its consideration of the matter not later than the seventh Assembly sitting day beginning with the day on which the reference is made. The Executive Committee must notify the Presiding Officer as to whether the decision in question was, in its view, in contravention of Section 28A(1) of the Act or that it relates to significant or controversial matters and what action it proposes to take or has taken in relation to the decision in question.

ANNEX C

ROLE OF THE ATTORNEY GENERAL IN RELATION TO THE EXECUTIVE

The Attorney General has a range of functions including:

- **legislative and legal functions** – eg referring the legislative competence of Assembly Bills to the Supreme Court in certain circumstances, and defending the public interest in civil law matters;

- **functions in relation to the Director of Public Prosecutions** – eg appointing the Director and arranging for the annual report of the DPP to be laid in the Assembly; and,

- **consultative/advisory roles** – eg issuing guidance on human rights standards; and being consulted on the programme of criminal justice inspections.

In addition the Attorney General should act as chief legal adviser to the Executive.

Engagement with the Executive

In order to ensure that the Executive is fully informed on legal issues and can respond appropriately to matters under consideration, the Attorney General should be able attend Executive meetings and pre-meetings as he considers necessary. It is not anticipated that it would be necessary for the Attorney to attend all Executive meetings. To enable him to assess whether legal issues are likely to arise at an Executive meeting, all draft Executive papers should be copied to the Attorney General at the same time as they are circulated by the originating Minister to other Ministers for comment.

Provision of Advice and Opinions

It would be appropriate to seek the advice of the Attorney General on the most important and complex legal matters facing the Executive and Ministers, including where there is disagreement between Departments on legal issues. This approach could be reviewed following early experience of how the arrangements have operated in practice. DSO should remain the primary contact point for Departments seeking legal advice, and referrals to the Attorney's Office would normally be made by reference from DSO for an opinion. It should be open to the Attorney to consider an issue on his own initiative, when it appears to him that there is a legal context where his advice could be of assistance. Guidance should provide that the Attorney General may have access to papers on any legal issue being dealt with by Departments or the Executive.

Disclosure of Advice

On the basis that the Attorney General is the chief legal adviser to the Executive and because the nature of the issues likely to be referred to him will often be cross-cutting and of interest to more than one Department, the Attorney's advice can be made available, on request, to all Departments, if he decided this was appropriate. Before deciding to make such advice available, the Attorney should consult the Minister for the Department to which the initial advice had been provided.

The release of advice from the Attorney General's Office outside the Departments of the Executive, or any indication that advice has been sought, should require the permission of the Attorney.

In due course, guidance to Ministers and Departments, approved by the Executive, should issue, covering the circumstances in which it would be appropriate to seek the Attorney's advice and the rules on publication of that advice.

Litigation

Although only a small number of matters in which legal advice is sought result in litigation, litigation arising in matters on which the Attorney General's Office had provided advice should be led by the Attorney's Office on behalf of the Executive.

Legislation

The Attorney General has a statutory role in relation to legislative competence. To assist him in assessing any concerns about vires at the earliest stage, relevant Ministerial correspondence on legislation should be copied to his Office for information. When a Bill is being prepared for introduction, DSO currently certifies the legislation to the Minister, who in turn makes a statutory statement of certification. Advice to Ministers prior to certification that legislation is competent should be given by the Attorney and all advice from DSO on legislative competence should be sent to the Attorney General's Office to be issued by the Attorney with appropriate modifications, if required.