

From: HOCS

Date: April 2020

To: First Minister and deputy First Minister

EXECUTIVE BUSINESS

1. Following the recent unhappiness expressed by some Ministers about the effectiveness of the preparations for meetings of the Executive, I have had a useful discussion with Philip and Stephen about ways in which we might improve the process.
2. The impact of Covid-19 on the business of the Executive has been unprecedented in both volume and urgency, but I think that we should positively acknowledge the fact that a great deal of business has been successfully and speedily transacted. At a time when the Executive process was only beginning to resume its normal rhythm, the downside of this has been an expectation on the part of Ministers that that their papers will be included on the agenda immediately following circulation and, partly as a consequence of this, the extremely short timescales in which has been possible to circulate papers before Executive meetings. There is of course an obvious inherent tension in these two positions which it falls to TEO to address.
3. While there will inevitably be further urgent issues to address, I believe we may now be entering a steadier phase in which we might seek to re-order our approach to Executive business. A few fairly basic considerations might be revisited:
 - (i) FM and dFM are under a duty to ensure that as much Executive business is conducted through consensus. Achieving this requires periods of consideration sufficient to iron out difficulties and find mutually agreed outcomes, so that problems can be resolved through official and Spad discussion rather than being brought directly to the Executive table; this also points to a cessation of the current protocol where Covid-19 papers are included automatically on the agenda.
 - (ii) If papers do not proceed immediately to the agenda, however, Ministers will still expect both that this will happen within a reasonable period; and that they will receive papers within a reasonable timescale before Executive meetings. This points to the need for all involved to accord scrutiny and sign off of draft Executive papers a degree of priority.

- (iii) Greater focus should be placed on shaping the agenda in advance. This should determine the papers to be cleared and issued in time for the meeting, and not vice-versa. Departments should be asked to provide advance notice on a weekly basis of papers which will be circulated over the next fortnight. This will form the basis of a discussion with TEO Spads towards the end of each week of provisional agendas.
- (iv) The Executive Committee is primarily a decision making forum. Covid - 19 and, perhaps, the unfamiliarity of some Ministers with the Executive process, have resulted in a wide range of papers for different purposes being referred to the Executive. We need therefore to reinstate a stricter delineation between papers intended to seek a decision, and those which are simply informing or stating a position, and which can be handled through correspondence.
- (v) Dedicating particular Executive meetings on a weekly basis for specific discussions, for example, recovery, will help establish a framework within which regular flow of papers can be established
- (vi) Greater effort must be put into forward planning by departments which will enable the business of Executive meetings to be scheduled as far as possible in advance, potential difficulties identified, and provisional agendas drawn up.
4. I believe that there are therefore a number of procedural improvements which could usefully be advised to departments as applying to the future conduct of Executive business. These are that:
- The agenda will normally include only Executive Memorandums on matters requiring the explicit agreement of the Executive; or monitoring, progress or update reports which the Executive has agreed should be provided on specific issues and at specified intervals. All other communication between Ministers, especially for information or to note purposes, should as far as possible be handled through Dear Colleagues letters.
 - In the continuing context of three meetings of the Executive each week, and the responsibility of FM and dFM to set an agenda based on consensus, it is unlikely to be the case, except in cases of extreme urgency, that papers will be included in the agenda at the first meeting after circulation;
 - The Urgent Decision procedure should also be used where there is a clear justification;

- Departments need to invest more in prior consultation with other departments where necessary before bringing forward proposals to the Executive. Executive papers themselves should not be used as the primary consultation mechanism.
 - Departments will be asked to advise Executive Secretariat on a weekly basis of forthcoming Executive business over the coming fortnight. This will enable outline agendas to be drafted for the week ahead in consultation with TEO Spads.
5. Subject to Ministers' agreement and to any other matters that they wish to have recorded, I propose that, to ensure these considerations are embedded in the process, I should write to Permanent Secretaries as Secretary to the Executive, on this basis.