

Draft Ministerial Code

Approved by the Transitional Assembly
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Section 1: Introduction

Preamble

- 1.1 Section 28A of the Northern Ireland Act 1998 (the Act) provides for a Ministerial Code. This document is that Ministerial Code. It sets out the rules and procedures for the exercise of the duties and responsibilities of Ministers and junior Ministers of the Northern Ireland Assembly as specified in the Belfast Agreement, the Northern Ireland Act 1998, the St Andrews Agreement and the Northern Ireland (St Andrews Agreement) Act 2006.
- 1.2 In accordance with section 28A (1) of the Act, without prejudice to section 24 of that Act, a Minister or junior Minister shall act in accordance with the provisions of this Code.
- 1.3 The Ministerial Code of Conduct, referred to at paragraphs 1.5 and 1.6 below is an integral part of the Ministerial Code. The Ministerial Code of Conduct is not to be regarded as a substitute for, or an alternative to, the full provisions of the Ministerial Code.

Pledge of Office

- 1.4 Under the Belfast Agreement and under sections 16, 18 and 19 of the Act, it is a condition of appointment that Ministers of the Northern Ireland Assembly, including the First Minister and the deputy First Minister and junior Ministers, affirm the terms of the following Pledge of Office.
 - (a) to discharge in good faith all the duties of office;
 - (b) commitment to non-violence and exclusively peaceful and democratic means;
 - (c) to serve all the people of Northern Ireland equally, and to act in accordance with the general obligations on government to promote equality and prevent discrimination;
 - (ca) to promote the interests of the whole community represented in the the Northern Ireland Assembly towards the goal of a shared future;
 - (cb) to participate fully in the Executive Committee, the North-South Ministerial Council and the British-Irish Council;
 - (cc) to observe the joint nature of the offices of First Minister and deputy First Minister;

- (cd) to uphold the rule of law based as it is on the fundamental principles of fairness, impartiality and democratic accountability, including support for policing and the courts as set out in paragraph 6 of the St Andrews Agreement;
- (d) to participate with colleagues in the preparation of a programme for government;
- (e) to operate within the framework of that programme when agreed within the Executive Committee and endorsed by the Assembly;
- (f) to support, and to act in accordance with, all decisions of the Executive Committee and Assembly;
- (g) to comply with the Ministerial Code of Conduct.

Paragraph 6 of the St Andrews Agreement says:

“We believe that the essential elements of support for law and order include endorsing fully the Police Service of Northern Ireland and the criminal justice system, actively encouraging everyone in the community to co-operate fully with the PSNI in tackling crime in all areas and actively supporting all the policing and criminal justice institutions, including the Policing Board.”

Ministerial Code of Conduct

1.5 The Ministerial Code of Conduct referred to at (g) above is as follows.

Ministers must at all times:-

- (i) observe the highest standards of propriety and regularity involving impartiality, integrity and objectivity in relationship to the stewardship of public funds;
- (ii) be accountable to users of services, the community and, through the Assembly, for the activities within their responsibilities, their stewardship of public funds and the extent to which key performance targets and objectives have been met;
- (iii) ensure that all reasonable requests for information from the Assembly, users of services and individual citizens are complied with; and that departments and their staff conduct their dealings with the public in an open and responsible way;
- (iv) follow the seven principles of public life set out by the Committee on Standards in Public Life;
- (v) comply with this Code and with rules relating to the use of public funds;
- (vi) operate in a way conducive to promoting good community relations and equality of treatment;
- (vii) not use information gained in the course of their service for personal gain; nor seek to use the opportunity of public service to promote their private interests;

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- (viii) ensure they comply with any rules on the acceptance of gifts and hospitality that might be offered; and
 - (ix) declare any personal or business interests which may conflict with their responsibilities. The Assembly will retain a Register of Interests. Individuals must ensure that any direct or indirect pecuniary interests which members of the public might reasonably think could influence their judgement are listed in the Register of Interests.

The Seven Principles of Public Life

1.6 The seven principles of public life referred to at (iv) above are as follows:-

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

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 of) 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; or
- (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

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 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 subcommittees.

- 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.

Section 3: The North-South Ministerial Council and the British-Irish Council

Advance notice of meetings of the North-South Ministerial Council and the British-Irish Council

- 3.1 In accordance with section 52A (1) of the Act, the First Minister and the deputy First Minister acting jointly shall, as far in advance of each meeting of the North-South Ministerial Council or the British-Irish Council as is reasonably practicable, give to the Executive Committee and to the Assembly the following information in relation to the meeting:-
- (a) the date;
 - (b) the agenda;
 - (c) (once determined, under this section) the names of the Ministers or junior Ministers who are to attend the meeting.

Attendance at meetings

- 3.2 In accordance with section 52A (2) of the Act, each Minister or junior Minister who has responsibility (whether or not with another Minister or junior Minister) in relation to any matter included in the agenda of a meeting of either Council (appropriate Minister) shall be entitled:-
- (a) to attend the meeting; and
 - (b) to participate in the meeting so far as it relates to that matter.
- 3.3 An appropriate Minister may nominate another Minister or junior Minister:-
- (a) to attend the meeting in place of the appropriate Minister; and
 - (b) to participate in the meeting so far as it relates to matters for which the appropriate Minister has responsibility,
- but a person may not be nominated under this paragraph without his or her consent.
- 3.4 Each appropriate Minister shall notify the First Minister and deputy First Minister, as soon as reasonably practical and in any event no later than 10 days before the meeting, that

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- (a) he or she intends to attend the meeting,
 - (b) he or she does not intend to attend the meeting, but has nominated another person under paragraph 3.3 to attend in his or her place; or
 - (c) he or she does not intend to attend the meeting and he or she does not intend, or has not been able, to make such a nomination,

and a nomination under paragraph (b) shall include the name of the person nominated.

3.5 If the appropriate Minister gives a notification under paragraph 3.4 (c) (or if the First Minister and the deputy First Minister receive no notification from him or her under paragraph 3.4), the First Minister and deputy First Minister acting jointly shall nominate a Minister or junior Minister:-

- (a) to attend the meeting in place of the appropriate Minister, and
- (b) to participate in the meeting so far as it relates to matters for which the appropriate Minister has responsibility.

3.6 In relation to a matter for which the First Minister and the deputy First Minister are the appropriate Ministers:-

- (a) the notification to be made by each of them under paragraph 3.4 shall be made to the other; and
- (b) if either of them (“A”) gives a notification under paragraph 3.4 (c) (or if the other (“B”) receives no notification from A under paragraph 3.4), B (acting alone) shall make the nomination under paragraph 3.5 in relation to A.

3.7 The First Minister and deputy First Minister acting jointly shall make such nominations (or further nominations) of Ministers and junior Ministers (including where appropriate alternative nominations) as they consider necessary to ensure cross community participation in either Council as is required by the Belfast Agreement.

3.8 Paragraph 3.9 applies in relation to any matter included in the agenda for a meeting of either Council if:-

- (a) the First Minister and the deputy First Minister are not the appropriate Ministers in relation to the matter, but
- (b) the matter is one that ought, by virtue of paragraph 2.4, to be considered by the Executive Committee.

3.9 The First Minister and deputy First Minister acting jointly shall also be entitled:-

- (a) to attend the meeting; and
- (b) to participate in the meeting so far as it relates to that matter.

3.10 In this section “day” does not include a Saturday, a Sunday, Christmas Day, Good Friday and any day which is a bank holiday in Northern Ireland.

Duty to participate in the North-South Ministerial Council and the British-Irish Council

- 3.11 In accordance with section 52B (1) of the Act, it shall be a Ministerial responsibility of:-
- (a) each appropriate Minister; or
 - (b) if a Minister or junior Minister is nominated under paragraphs 3.3 or 3.5 to attend a meeting of the North-South Ministerial Council or the British-Irish Council in place of an appropriate Minister, that Minister or junior Minister,
- to participate in that meeting so far as it relates to matters for which the appropriate Minister has responsibility.
- 3.12 It shall be the responsibility of a Minister or junior Minister nominated to attend a meeting of either Council under paragraph 3.7 to participate in the meeting so far as specified in the nomination.
- 3.13 Each appropriate Minister shall give to:-
- (a) a person nominated under paragraph 3.3 or 3.5 to attend a meeting of either Council in his or her place, or
 - (b) a person nominated under paragraph 3.7 to participate in a meeting of either Council so far as specified in the nomination,
- such information as may be necessary to enable the person's full participation in the meeting.
- 3.14 But if the appropriate Minister does not give sufficient information under paragraph 3.13 to enable the person's full participation in the meeting:-
- (a) the First Minister and the deputy First Minister acting jointly may request the necessary information; and
 - (b) if they do so, the appropriate Minister must give that information to the person nominated.
- 3.15 In accordance with section 52B (5) of the Act, a person nominated under paragraphs 3.3 or 3.5 may enter into agreements or arrangements in respect of matters for which the appropriate Minister is (or the appropriate Ministers are) responsible.
- 3.16 Without prejudice to the operation of section 24 of the Act, a Minister or junior Minister attending a meeting of either Council by virtue of any provision in paragraphs 3.1-3.20 shall act in accordance with any decisions of the Assembly or the Executive Committee (by virtue of the provisions contained in paragraph 2.4) which are relevant to his or her participation in the Council concerned.
- 3.17 If any question arises under the paragraphs above as to which Minister or junior Minister has responsibility for any matter, the First Minister and the deputy First Minister acting jointly shall determine that question.

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- 3.18 In accordance with section 52C (2) of the Act, a Minister or junior Minister who participates in a meeting of either the North-South Ministerial Council or the British-Irish Council by virtue of any provision in the paragraphs above shall, as soon as reasonably practicable after the meeting, make a report:-
- (a) to the Executive Committee; and
 - (b) to the Assembly.
- 3.19 A report under paragraph 3.18 (b) shall be made orally unless standing orders authorise it to be made in writing.
- 3.20 In the above paragraphs, the term “participate” shall be construed, in relation to the North-South Ministerial Council in accordance with paragraphs 5 and 6 of Strand Two of the Belfast Agreement. In relation to the British-Irish Council, the term “participate” is to be construed in accordance with Strand Three of that Agreement. Participation in the North South Ministerial Council should be in accordance with the agreed Memorandum of Understanding on Procedures for that Council. Participation in the British-Irish Council should be in accordance with the Memorandum on Procedural Guidance for that Council. Copies of both memoranda are contained in the procedural guidance which accompanies this Ministerial Code.

Work of the North-South Ministerial Council

- 3.21 Ministers participating in the North-South Ministerial Council must engage in the work of the Council as specified in paragraph 5 of Strand Two of the Belfast Agreement:-
- (i) exchange information, discuss and consult with a view to co-operating on matters of mutual interest within the competence of the Assembly and the Oireachtas;
 - (ii) use best endeavours to reach agreement on the adoption of common policies, in areas where there is a mutual cross-border and all-island benefit, and which are within the competence of the Assembly and the Oireachtas, making determined efforts to overcome any disagreements;
 - (iii) take decisions by agreement on policies for implementation separately in each jurisdiction, in relevant meaningful areas within the competence of the Assembly and the Oireachtas;
 - (iv) take decisions by agreement on policies and action at an all-island and cross-border level to be implemented by the North-South implementation bodies.

Work of the British-Irish Council

- 3.22 Ministers participating in the British-Irish Council must engage in the work of the Council as specified in paragraph 5 of Strand Three of the Belfast Agreement:-
- (i) exchange information, discuss, consult and use best endeavours to reach agreement on co-operation on matters of mutual interest within the competence of the relevant Administrations;
 - (ii) make suitable arrangements for practical co-operation on agreed policies.

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