

EXECUTIVE COMMITTEE DEALING WITH EU EXIT MATTERS

TERMS OF REFERENCE

This document sets out the Terms of Reference for the Executive Committee meeting to deal with EU Exit matters “the Committee” as set out in the New Decade, New Approach. The Executive Committee meeting to deal with EU Exit matters replaces the Brexit sub-committee of the Executive.

Purpose of the Committee

- 1) To provide a forum for Executive Committee consideration of the implications of EU Exit for Northern Ireland, with a focus on:
 - considering and where possible agreeing a common policy position on all the relevant issues in order to influence the UK negotiators, the Irish Government and the EU;
 - considering and where possible agreeing a common policy position on the implementation of the Executive’s devolved responsibilities in implementing decisions and policies adopted by the UK Parliament, and/or the Joint Committee and its subordinate fora as may be established under the Withdrawal Agreement;
 - developing an Executive response to managing the impacts of EU Exit; and
 - developing proposals to maximise its influence in the realisation of opportunities arising from the implementation of the Withdrawal Agreement (including the Northern Ireland Protocol) and the future relationship with Europe and the Rest of the World.

- 2) The scope of material considered by the Committee will follow the existing protocol for issues which are to be brought to the attention of the Executive (cross-cutting significant, or controversial). It is anticipated this will cover the vast majority of Brexit issues given the interdependencies between negotiating strands and Departmental business, and the need to secure best outcomes in

support of wider Executive priorities (in the PfG context, and in related strategies such as the Economic/Industrial Strategy and the Energy Strategy).

3) The role of the Committee will be :

a) Without prejudice to the consideration of any issues it considers appropriate, to provide an opportunity for collective discussion and agreement on:

- strategic priorities for negotiations across all relevant strands. input to specific UK positions for negotiations, which are likely to be needed at speed as negotiations progress;
- any issues to be agreed in advance of all Ministerial engagement structures (at UK level: JMC (EN), JMC (E), XO, Ministerial quadrilaterals discussing EU Exit business etc; and at EU level Joint Committee and related meetings)
- UKG and Irish Government commitments in ‘New Decade New Approach (NDNA)’ - getting the right deal for NI, close engagement with the Executive, representation on the UK-EU specialised or Joint Committees, legislating for unfettered access, PEACE plus etc;
- resources required of HMG to mitigate costs and maximise opportunities arising from the Protocol and the Future Economic and Security Relationship; and
- general sharing of information on key meetings, events, visits on an ongoing basis (attendance at relevant Ministerial quadrilaterals, Assembly business including legislation etc).

b) To initiate, as soon as is practicable, an assessment of the impact of Brexit on the institutions and North/South and East/West relationships, as committed to in New Decade, New Approach (NDNA).

c) To provide a forum to discuss high level cross-Executive impacts arising from the UK’s Withdrawal from the European Union, and the implementation of the Northern Ireland Protocol.

- d) To give Ministers an opportunity to shape the Executive's response to issues arising from the EU Exit work programme, ensuring that any response is aligned with the existing Executive's objectives as will be identified within the Programme for Government.

Membership

- 4) The Committee will be chaired by the First Minister and deputy First Minister.
- 5) All Executive Ministers are entitled to attend meetings of the Committee. The Ministers for the Departments most impacted by Brexit (DAERA, DoF, DfE, DfI, DoJ and DoH) will provide the core membership of the committee and will thereby ensure representation from each Party in the Executive as envisaged in the NDNA.
- 6) Other Executive Ministers can attend the Committee if they wish. In recognition of the NDNA commitment on the composition of committee, there must be attendance by at least one Minister from the DUP and Sinn Fein. A Special Adviser may attend in the absence of a Minister from Alliance party, SDLP or UUP by prior agreement of the First Minister and deputy First Minister. Although they can communicate the views of the Minister and contribute to the discussion, they would not be able to vote.

Meetings and Proceedings

- 7) Meetings of the Committee will be held on a fortnightly basis. Additional meetings may be held if the need arises. The Committee will keep the frequency of meetings under review.
- 8) The Committee will adhere to the principles on confidentiality agreed by the Executive (attached at Annex A)

Agenda and papers

- 9) The agenda for each meeting will be agreed by the First Minister and deputy First Minister prior to each meeting.
- 10) Officials should work collectively to prepare analysis and advice on EU Exit issues sharing factual information and emerging drafts of papers or presentations (except where another administration has expressly requested restricted or no further dissemination of a paper which it has provided) recognising that officials' input to inter-departmental and/or cross cutting work should always reflect the views of their Ministers.
- 11) Papers to be considered at each meeting should be submitted to the Secretariat for submission to the First Minister and deputy First Minister for information and to assist in considering the agenda.
- 12) Agenda and papers will be circulated no later than three working days before a meeting.
- 13) Papers and presentations for the Committee should be treated in the same way as all Executive papers, with the following amendment:

in recognition of the political input on Brexit issues and to support consultation at Party level in advance of meetings, papers can be shared outside the Committee to a list of designated Party colleagues which should be notified to the Secretariat. This should however be undertaken within the principles governing the confidentiality of Executive business.

Decision Making

- 14) Decision making by the Committee will be undertaken in accordance with the requirement set out in paragraph 2.12 of the Ministerial Code. (attached at Annex B)

- 15) Where a Minister is not able to attend a meeting of the Committee they should, preferably, indicate their views on papers to the First Minister and deputy First Minister prior to the meeting.
- 16) In the absence of Ministerial attendance from all parties represented on the Executive Committee, decisions, where practicable, will be deferred to the next meeting of the Committee.
- 17) In the absence of Ministerial attendance from all parties represented in the Executive Committee and a decision is required so urgently that it cannot await the next meeting of the committee:
 - (i) A decision may be taken if the issue has been put to Ministers in writing and where the absent Minister has previously given his or her agreement to the recommendation(s) or no comment has been received;
 - (ii) Where the Minister has signalled a disagreement to the recommendation(s) the First Minister and deputy First Minister shall consider the matter further and, after consultation with the Minister, will take an urgent decision on the matter within two working days.

In Attendance

- 18) The Secretary to the meetings of the Committee will be Andrew McCormick, the Director General for International Relations in the Executive Office.
- 19) Ministers may be accompanied by a departmental official to the meeting.
- 20) The Secretariat for the Committee will be provided by the EU Future Relations Branch of The Executive Office.

Governance Arrangements

- 21) The work of the Committee will be subject to scrutiny by the Assembly's Committee on The Executive Office.
- 22) In accordance with best practice governance arrangements, the implementation of the Withdrawal Agreement (including the Northern Ireland Protocol) and the future relationship with Europe and the Rest of the World will be managed in the EU Future Relations Division of The Executive Office, through appropriate management structures and processes.
- 23) Within these arrangements a cross departmental group of Permanent Secretaries and Senior Officials has been established to consider the strategic and operational implications of Brexit and support the committee at official level. The membership of this group (*Future Relations Programme Board*) is as follows:
 - Senior Responsible Officer: David Sterling (HOCS)
 - Programme Director: Karen Pearson (TEO)
 - Members: Mike Brennan (DfE); Sue Gray (DoF); Andrew McCormick (TEO); Peter May (DoJ); Denis McMahon (DAERA); Katrina Godfrey (DfI); Hugh Widdis (DSO)

Annex A

Principles – confidentiality of Executive business

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 subsequently appear to breach the principle of collective Executive responsibility; and

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 and should consult Executive Secretariat in the event of the disclosure of such papers being sought under the Freedom of Information legislation.

Extract from the Ministerial Code:

Decision Making by the Executive

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 three 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 seven members will be required for any vote. The requirement for cross-community support must be requested prior to a vote actually commencing.