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#### Northern Ireland

# Assembly

**Committee on Procedures**

**Stakeholder “Call for Evidence” Paper in support of Inquiry entitled**

“*the extent to which Standing Orders should permit the Attorney General for Northern Ireland to Participate in Proceedings of the Assembly”*

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*Please note this document can be made available in large print format if required*

**List of Abbreviations**

AGNI Attorney General for Northern Ireland
NIA Northern Ireland Assembly

PPS Public Prosecution Service

SO Standing Order

SOs Standing Orders
TOR Terms of Reference

**Section 1 – Stakeholder Details**

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| **Stakeholder Name** | **Telephone Number** |
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| **Stakeholder Address** | **Stakeholder Type (Tick as many as applicable)** |
|  | Registered Political Party |  | Local Government |  |
|  | Legislature |  | Government |  |
|  | Academic |  | Non Government |  |
|  | Other (please specify) e.g. member of public etc.  |  |  |
| **Please provide some background information on your role as a stakeholder** |
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| **Guidelines for Completion of Submissions** |
| 1. The Committee requests that stakeholders submit responses electronically using this pro-forma.
2. Stakeholders should be aware that their written evidence will be discussed by the Committee in public session and included in the Committee’s published report.
3. Stakeholders should also be aware that if they decide to publish their submissions, the publication would not be covered by Assembly privilege in relation to the law of defamation.
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**Section 2 – Introduction**

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| **Powers** |
| 2.1 The Committee on Procedures is a Standing Committee of the Northern Ireland Assembly established in accordance with paragraph 10 of Strand One of the Belfast Agreement and under Assembly Standing Order 54. The Committee has the power to:* Consider and review, on an ongoing basis, the Standing Orders (SOs) and procedures of the Assembly;
* Initiate inquiries and publish reports;
* Republish SOs annually; and
* Call for persons and papers.
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| **Process** |
| **2.2 Phase 1 – Inquiry Evidence Gathering**The Committee will take evidence on the Terms of Reference as outlined in Appendix 1**2.3 Phase 2 – Consideration and Report**The Committee will consider all evidence received in relation to the Inquiry, and report and make recommendations to the Assembly on these matters by October 2013. |
| **Matters Outside the Scope of the Inquiry** |
| 2.4 This inquiry aims to consider legislation relating to the extent to which SOs should permit the AGNI to participate in proceedings of the Assembly. It does not aim to review the legislation, or to amend it. For example, it will not consider whether the AGNI should be permitted to vote in the Assembly, nor will it examine the AGNI appointment process. |

**Section 3 - Background**

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| **This section provides some background information on the issues being considered by the Committee as part of this Inquiry.** |
| 3.1 The role of the AGNI is referred to in various legislation, however, areas of specific interest to the Committee for the purposes of this Inquiry are:1. **Section 25(1) of the Justice (Northern Ireland) Act 2002** (which states that the AGNI may participate in the proceedings of the Assembly to the extent permitted by its SOs, but he may not vote in the Assembly);
2. **Section 25(2) of the Justice (Northern Ireland) Act 2002** (which states that the Assembly’s SOs may in other respects provide that they are to apply to the AGNI as if he were a member of the Assembly);
3. **Section 25(4) of the Justice (Northern Ireland) Act 2002** (which states that Section 43 of the Northern Ireland Act 1998 (interests of members of the Assembly) applies to the AGNI as if he were a member of the Assembly);
4. **Section 8(1) of the Justice (Northern Ireland) Act 2004** (which states that the AGNI shall issue, and as he thinks appropriate from time to time revise, guidance to organisations to which this section applies on the exercise of their functions in a manner consistent with international human rights standards relevant to the criminal justice system.
5. **Section 8(3) of the Justice (Northern Ireland) Act 2004** requires any guidance issued or revised under that section to be published in such manner as the AGNI thinks appropriate and to be laid before the Assembly. Such guidance shall not come into operation until the AGNI so provides by Order. Any such Order is subject to the negative resolution procedure. Pursuant to section8(1A) of the Justice (Northern Ireland) Act 2004, the AGNI shall consult the Advocate General for Northern Ireland before issuing or revising any guidance under this section.

The organisations to which the guidance will apply are listed at subsection (4). **Section 8(5) of the Justice (Northern Ireland) Act 2004** gives the AGNI, after consulting the Advocate General for Northern Ireland, the power to amend this list by order by adding an organisation having a role in the criminal justice system in Northern Ireland (apart from a court or tribunal), omitting an organisation or altering the description of an organisation. In evidence to the Committee for Justice on 5 July 2012, the current AGNI, Mr John Larkin QC, further explained the process: “This guidance will have to be laid before the Assembly, and it will be subject to negative resolution. It will then come into effect the day after it is made”.To date, the AGNI has produced draft guidance for Forensic Science Northern Ireland, the State Pathologist’s Department and draft guidance on Human Rights Standards relevant to the Protection of the Right to Life. 3.2. Pursuant to section 30(1) of the Justice (Northern Ireland) Act 2002, the AGNI must appoint the Director and Deputy Director of Public Prosecutions for Northern Ireland. However, when policing and justice powers were transferred to the Assembly the AGNI ceased to have powers of superintendence or direction over the Director of Public Prosecutions. Post devolution, the relationship between the AGNI and the Director of Public Prosecutions is one of consultation, not superintendence.  |

**Section 4 – Issues to consider as set out in the Inquiry Terms of Reference**

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| TOR under consideration1. **To examine the extent to which Attorneys General or Law Officers in other legislatures contribute to plenary and committees.**
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| Are you aware of the extent to which the Attorneys General or Law Officers in other legislatures contribute to plenary and committee meetings, and if so, are there any processes which you think could be applicable / adapted to work in the NIA? |
| [*N.B. This box will expand as you type*] |

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| TOR under consideration1. **To consider stakeholder views on whether, and if so how, they would wish to see the AGNI being accountable to the Assembly both in plenary and to committees for the exercise of his functions, the operation of his office and his relationship with the Public Prosecution Service (PPS).**
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| In your view should the AGNI be held accountable to the Assembly in **plenary** for the exercise of his functions, the operation of his office and his relationship with the PPS?If you have answered yes to the question above please explain why and provide your view on how this could be achieved in practice? |
| [*N.B. This box will expand as you type*] |
| In your view should the AGNI be held accountable to the Assembly in **committee** for the exercise of his functions, the operation of his office and his relationship with the PPS?If you have answered yes to the question above please explain why and provide your view on how this could be achieved in practice? |
| [*N.B. This box will expand as you type*] |

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| TOR under consideration1. **To report recommendations on whether, how and the extent to which the AGNI may, if required, participate in plenary or committee on guidance issued by the AGNI under section 8 of the Justice (Northern Ireland) Act 2004, to a range of criminal justice organisations on the exercise of their functions.**
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| In your view should the AGNI be required to participate in plenary or committee on the guidance he issues under section 8 of the Justice (Northern Ireland) Act 2004, to a range of criminal justice organisations on the exercise of their functions?If you have answered yes to the question above please explain why and provide your view on how this could be achieved in practice? |
| [*N.B. This box will expand as you type*] |

**Section 5 – Additional Information**

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| **Do you have any other comments or information that you believe will be of assistance to the Committee on Procedures in respect of the Terms of Reference of this inquiry?****If so, please provide this information below.** |
| [*N.B. This box will expand as you type*] |

**Section 6 – Contact Details**

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| **If possible, all responses should please be sent by email to:** |
| Email: alison.ross@niassembly.gov.uk**OR addressed to:**The Committee Clerk Tel: 028 90521670 orCommittee on Procedures 028 90521436Room 430Parliament BuildingsBallymiscawStormontBelfastBT4 3XXTo arrive no later than **9 May 2013.** Earlier receipt of submissions is welcomed. |
| **Thank you for your Submission** |

 **Appendix 1**

**Terms of Reference for the Inquiry**

1. To consider the legislation and relevant publications on the role and powers of the Attorney General for Northern Ireland (AGNI) e.g. section 25(1) of the Justice (Northern Ireland) Act 2002; section 25(2) of the Justice (Northern Ireland) Act 2002; “Establishing the Office of the AGNI (DP628); “The Governance and Accountability of the Public Prosecution Service;
2. To examine the extent to which Attorneys General or other Law Officers in respect of other legislatures contribute to plenary and committee meetings;
3. To consider stakeholder views on whether, and if so how, they would wish to see the AGNI being accountable to the Assembly both in plenary and to committees for the exercise of his functions, the operation of his office and his relationship with the Public Prosecution Service (PPS);
4. To make recommendations on whether, how and the extent to which the AGNI will otherwise participate in proceedings of the Assembly, both in plenary and in committees;
5. To report recommendations on whether, how and the extent to which the AGNI may, if required, participate in plenary or committee on guidance issued by the AGNI under section 8 of the Justice (Northern Ireland) Act 2004, to a range of criminal justice organisations on the exercise of their functions;
6. To consider whether, how and the extent to which the AGNI might be asked to give views on the content or competence of Bills prior to Final Stage; and
7. To consider section 25(4) of the Justice (Northern Ireland) Act 2002 and its application of section 43 of the Northern Ireland Act 1998 (interests of members of the Assembly) to the AGNI and the role of the Northern Ireland Assembly Commissioner for Standards in respect of the AGNI and to report as to appropriate amendments to Standing Orders in this regard.