

**The Office of the First Minister
and Deputy First Minister**

Machinery of Government Division

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From: Geoff Beattie
Date: 10 July 2000

Geoff Harrison, DHFETE

**CORRESPONDENCE WITH WHITEHALL DEPARTMENTS ON
RESERVED OR EXCEPTED MATTERS: [REDACTED]**

1. We discussed the case of [REDACTED] As this case raises some general questions on the handling of Ministerial correspondence I am copying this minute widely. I am grateful to Denis McCartney for advice on this issue.

Background

2. [REDACTED] residing in Northern Ireland pending a decision on his application for asylum and attending the University of Ulster. Gerry McKenna, Vice Chancellor of the University of Ulster has written to Dr Farren asking that he consider supporting [REDACTED] application for asylum and encourages the Home Office to make a swift decision.

Discussion

3. Mr McKenna's letter rightly does not assume that Dr Farren can take any decision on this application for asylum, the Home Office and ultimately Jack Straw being responsible for this area.
4. Denis McCartney's reading of the issue is that Dr Farren should reply to Mr McKenna stating that he has no standing in the matter and advising that Mr McKenna might wish to write directly to the Home Secretary. Alternatively Dr Farren, as an MLA, could write to the Home Secretary. Sections 2.27 and 10.5 of the Ministerial Code contain useful guidance on such issues.
5. We discussed the risks attached to Ministers making representations outside of their remit. The general principle is that Ministers should not use the weight of their Ministerial position to try to influence decisions for which they have no authority or which do not directly impact on their Ministerial responsibility. This does not, of course, extend to discussions within the Executive Committee where each member of the Committee has a responsibility to bring their personal contribution to any debate.
6. This principle extends to excepted or reserved subjects. Any representations made to the UK Government on such matters should be made by the First Minister and the Deputy First Minister on behalf of the Executive Committee. Individual Ministers should not make representations to UK Government Ministers on excepted or reserved matters. Paragraph 17 of the draft concordat between the NIO and the Executive Committee is relevant.

Recommendation

7. I recommend the following general guidance to Departments:

Re Ministers becoming involved in correspondence with other Ministers on matters that are outside their responsibility.

Correspondence received by a Minister that is outside her/his departmental responsibility should be sent directly to the Minister who is responsible for the issue¹.

Ministers may make their views about constituency matters known to the responsible Minister. In doing so they should make it clear that they are acting as their constituent's representative and not as a Minister².

It would be proper for a Minister pass to the responsible UK Minister any correspondence she/he receives on an excepted or reserved matter³. The Minister may, in this case, wish to write to the correspondent advising them that their letter has been transferred.

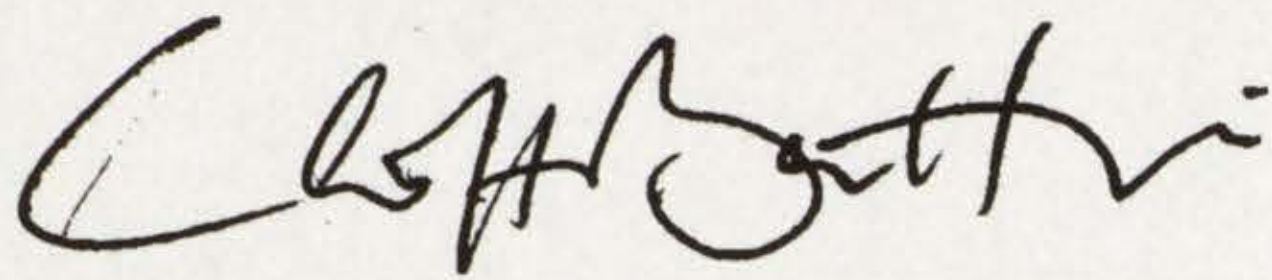
A Minister may make representations on behalf of a constituent to the UK Minister as a Member of the Northern Ireland Assembly. Again, the Minister should point out that they are not acting in their capacity as a Minister.

¹ See paragraph 2.27 of the Ministerial Code

² See paragraph 10.5 of the Ministerial Code

³ See paragraph 17 of the NIO Concordat

8. I would be glad to discuss.



Geoff Beattie

Copy List

PS/First Minister
PS/Deputy First Minister
PS/Departmental Ministers
PS/Mr Haughey
PS/Mr Nesbitt
PS/Mr Semple
PS/Mr Loughran
Permanent Secretaries
Mr McCusker
Mr Haire
Mr Canavan
Mr McCartney
Mrs Devlin
Ms Flanagan
Mr McKervill
Mr Smyth
Mr Lavery
Mr May
Departmental Co-ordinators
Mr Campbell
Dr Gudgin
Mr Kerr
Mr Larkin
Mr Logue
Mr Barrington

follow-up in writing. 491546

Geoff Beattie
28/06/2000 10:04 AM

To: Lynne McDonald/BDS/DFP.taylor@dhfeteni.gov.uk
cc: Linda Devlin, Linda McCausland/OFMDFM/DFP@DFP, Will Shaw, Sonya Kilpatrick

Subject: [REDACTED]

FAO Geoff Harrison

Geoff

You discussed this case with Sonya Kilpatrick.

[REDACTED] residing in NI pending a decision on his application for asylum and attending the University of Ulster. Gerry McKenna, Vice Chancellor of the University of Ulster has written to Dr Farren asking that he consider supporting [REDACTED] application for asylum and encourage the Home Office to make a swift decision.

Mr McKenna's letter rightly does not assume that Dr Farren (or the devolved administration) can take any decision on this application for asylum. The Home Office and ultimately Jack Straw is responsible for this area. It is however perfectly acceptable for Dr Farren, if he so wished, to make representations supporting [REDACTED] case for asylum. If so he should write to Mr Straw, copying the letter to Peter Mandelson. It would be appropriate for Mr McKenna to be so advised if this is the case.

I hope this is helpful.

g

Geoff
Maybe have a word with
Annabel about this.

WD 30/6

Mr M^c Cartney,

Linda Devlin has asked if you could consider
the attached please, to see if our line is OK.

Linda M^c Causland
29/6/00
(ext 20055)

Is the representation to
Dr Farren as
Minister or as
MLA?

Should reply as Minister that
he has no standing in
the matter, and representations
should be made direct
to the Home Secretary (presumably
they have been).

MLA, and
As a constituency issue (Coleraine?), he
could take the matter up with the Home Secretary.
But should he?