

CONSULTATION PAPER on Proposal for a Special Advisers Amendment Bill

Issued by Jim Allister MLA

Deadline for responses: 31st August 2015

Please respond to:

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INTRODUCTION

Controversy about the number, expense and accountability of ministerial Special Advisers led me to examine the adequacy of the law relating to such civil servants.

BACKGROUND

In Northern Ireland ministerial Special Advisers are appointed in accordance with Article 3(2)(b) of the Civil Service Commissioners (Northern Ireland) Order 1999 as amended ('the 1999 Order'). Each minister of the Executive, including junior ministers, is entitled to make one appointment, but the First Minister and deputy First Minister can appoint three each. Thus, at present there are 19 appointees.

In 2013 I piloted a Private Member's Bill through the Assembly specifically preventing anyone with a serious criminal conviction from holding the post of Special Adviser and more generally making statutory provision for a Code of Appointment, Code of Conduct and an annual report on the number and cost of special advisers.

When special advisers were first appointed they were remunerated within one of two pay bands. Band A currently permits a salary of £37,420-£52,816; Band B permits a salary of £59,037-£91,809. Now, however, all special advisers at Stormont are paid from within the higher band, Band B. Thus, their cost to the taxpayer has been maximised. In 2013/14 they collectively cost almost £2m.

The level of salary available to special advisers in Northern Ireland seems to exceed that in the other devolved institutions within the United Kingdom.

Country.	Total SpAds.	Cost 2013/14	Average cost per SpAd
Ni.	19	£1,967,240 ¹	£103,538.95
Scotland.	14	£1,022,396 ²	£73,029.00
Wales.	8	£468,468 ³	£58,558.50

The number of special advisers in Northern Ireland, 19, also appears excessive when compared to 14 in Scotland and 8 in Wales. In Stormont there are 8 SpAds in OFMDFM alone - the same as for the entire Welsh Government. The First Minister and deputy First Minister have 3 each and each Junior minister has one.

The DSD Committee into 'the Redsky affair' highlighted that though an independent fact-finding investigation by the Department of Finance and Personnel (DFP) recommended that the minister's special adviser should be subject to a disciplinary investigation, his minister was able to intervene and abort any such course of action. Thus, raising the important issue of the adequacy of the accountability and disciplinary processes to which SpAds are subject.

Special advisers are classed as temporary civil servants. As such they are supposed to be subject to NICS Code of Ethics and a Code of Conduct specific to SpAds.

THE ISSUE

Is it desirable or in the public interest that special advisers in Northern Ireland are more numerous and more expensive than in the other devolved institutions in the UK? As civil servants should they be able to escape the disciplinary processes and procedures applicable to all other civil servants?

THE PROPOSAL

It is proposed that a Bill should be introduced in the Assembly to

- a) reduce the number of SpAds by restricting the number available to OFMDFM to 4, as opposed to the current quota of 8;
- b) restrict the remuneration of SpAds by linking it to the salary scale applicable to an Assistant Secretary Grade 5, whose current salary band is £65,422-£78,275.
- c) expressly apply the disciplinary processes and procedures applicable within the Civil Service to SpAds.

The proposed terms of the Civil Service (Special Advisers) Amendment Bill are attached. It is proposed that the changes introduced by the amendment should come into effect at the start of the next mandate (May 2016).

¹<http://www.scottish.parliament.uk/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S4W-25214&ResultsPerPage=10>

²<http://gov.wales/about/cabinet/cabinetstatements/2014/specialadvisers/?lang=en>

³<http://www.dfpni.gov.uk/annual-report-spads-employed-during-1-apr-13-to-31-march.pdf>

Question 1

Do you agree that there is a case for reform of the present arrangements through legislation?

Yes ☐ No ☐ Unsure ☐

Comments here: _____

Question 2

Do you agree that the number of SpAds should be reduced?

Yes ☐ No ☐ Unsure ☐

Comments here: _____

Question 3

If you agree the number should be reduced, is it reasonable to reduce the number in OFMDFM from 8 to 4?

Yes ☐ No ☐ Unsure ☐

Comments here: _____

Question 4

Have you any other alternative suggestion as to the appropriate reduction?

Comments here: _____

Question 5

Do you agree that the salaries of SpAds should be reduced to bring them more into line with that paid in the other devolved institutions in the UK?

Yes ☐ No ☐ Unsure ☐

Comments here: _____

Question 6

If you think that salaries should be reduced do you agree that they should be linked to senior civil service rates?

Yes ☐ No ☐ Unsure ☐

Comments here: _____

Question 7

If salaries should be linked to senior civil service rates, is linkage to Assistant Secretary Grade 5 appropriate?

Yes ☐ No ☐ Unsure ☐

Comments here: _____

Question 8

Have you any alternative suggestion as to how SpAd salaries should be set?

Comments here: _____

Question 9

Do you agree that SpAds should be subject to the disciplinary processes and procedures applicable to other civil servants?

Yes ☐ No ☐ Unsure ☐

Comments here: _____

Human Rights & Equality Implications

Question 10

How do you think the proposed legislation will impact on human rights?

Positively ☐ Negatively ☐ Not at all/not significantly ☐ Unsure ☐

Comments here: _____

Question 11

How do you think the proposed legislation will impact on equality of opportunity?

Positively ☐ Negatively ☐ Not at all/not significantly ☐ Unsure ☐

Comments here: _____

Question 12

Do you have any comments on the likely cost / financial implications of the proposed legislation?

Comments here: _____

Question 13

Do you have any other comments on the proposed legislation?

Comments here: _____

Your Contact Details:

Name:.....

Name of Organisation (if relevant):.....

Address:.....

Tel No:.....

Email:.....

Privacy statement

Following the end of the consultation we may publish a paper summarising the responses. Information you provide in your response to this consultation, may be published or disclosed in accordance with the Freedom of Information Act 2000 (FOIA).

The Northern Ireland Assembly will process your personal data in accordance with the Data Protection Act 1998 and this will mean that if you request confidentiality your personal information will not be disclosed to third parties.

Please tick if you request confidentiality ☐

Civil Service (Special Advisers) Amendment Bill

A Bill to Amend sections 7 and 8 of the Civil Service (Special Advisers) Northern Ireland Act 2013 and article 3 of the Civil Service Commissioners (Northern Ireland) Order 1999 in relation to special advisers in the Northern Ireland Civil Service

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:-

1. Amendment of the Civil Service (Special Advisers) Northern Ireland Act 2013

- (1) The Civil Service (Special Advisers) Northern Ireland Act 2013 (c.8) is amended as follows.
- (2) In section 7 (Code of Conduct), after subsection (3), insert-
 - (4) Without prejudice to the generality of subsection (1), the code must provide that special advisers are subject to the processes and procedures of the disciplinary code operative in the Northern Ireland Civil Service and, for the avoidance of doubt, that there can be no ministerial involvement or interference.
- (3) In section 8 (Code for appointments), after subsection 3(b), insert –
 - (c) must not be remunerated above the rate within the Senior Civil Service Pay Structure applicable to Assistant Secretary (Grade 5).

2. Amendment of the Civil Service Commissioners (Northern Ireland) Order 1999

- (1) The Civil Service Commissioners (Northern Ireland) Order 1999 is amended as follows.
- (2) In Article 3 (Selection on merit), in paragraph (4) the words “up to three persons” shall be replaced with the words “one person”.

3. Commencement

Sections 1 and 2 come into operation on 6th May 2016.

4. Short Title

This Act may be cited as the Civil Service (Special Advisers) Amendment Northern Ireland Act 2015.