



FOURTH GUIDING PRINCIPLE AND ASSOCIATED RECOMMENDATIONS

FILLING NEW OR SUBSTANTIALLY NEW POSTS IN NEW ORGANISATIONS BEING CREATED AS A RESULT OF THE REVIEW OF PUBLIC ADMINISTRATION.

Introduction

The Commission's role is to safeguard the interests of staff and to ensure their smooth transfer to new organisations established as a consequence of Government decisions on the Review of Public Administration, taking into account statutory obligations, including those arising from Section 75 of the Northern Ireland Act 1998.

In pursuance of that role, the Commission's position in relation to filling new, or substantially new, posts in new organisations, which are not to be filled by staff transfer as covered by the Commission's third Guiding Principle, is represented in the Guiding Principle and associated recommendations described below. In formulating the Guiding Principle and associated recommendations, the Commission has also had due regard to the Secretary of State's commitment, as set out in his statement of 22 November 2005, that "Every possible effort will be made to avoid redundancies."

The Public Service Commission has consulted Government, employers in the RPA Affected Group, the sectoral Staff Commissions and representatives of NIC/ICTU about the most appropriate way to fill new, or substantially new, posts in new organisations. This is part of a wider set of arrangements which will be required to achieve the Secretary of State's commitment to make every possible effort to avoid redundancies in bodies affected by RPA and to safeguard the interests of staff and ensure their smooth transfer into new organisations.

Guiding Principle

There may be special circumstances where a need arises to fill a new, or substantially new, post in a new organisation by competition. In such cases, where an organisation is considering taking an action which may increase the risk of redundancy for staff, applications should be sought, in the first instance, from people employed in the RPA Affected Group. The organisation should undertake an analysis of the relevant data to ensure that this approach is compliant with relevant statutory obligations and therefore represents a proportionate means of meeting the Secretary of State's commitment to make every possible effort to avoid redundancies.

Associated Recommendations

The Commission also recommends that:

Government should take powers to enable it to determine the field of consideration for new, or substantially new, posts in all of the bodies being created as a result of the RPA, including local authorities, to ensure consistent and fair treatment of all staff in the RPA Affected Group, thus fulfilling the Secretary of State's stated intention that "Government is wholly committed to the implementation of the recommendations of the Commission consistently across the public sector."^[1]

In consultation with trade unions and employers, Government should publish a definitive list of public sector organisations deemed to be affected by the Secretary of State's announcements. This will ensure that all staff, considered to be part of the RPA Affected Group are clear on their entitlement to apply for new or substantially new posts, provided they can satisfy the eligibility criteria for the specific job.

Government should advise the Commission of instances where it believes that exceptional circumstances^[2] justify, or a substantive business need requires, that an organisation should go outside the position reflected in this guiding principle. Such notification should be given at least 3 weeks in advance of the post being advertised.

In cases where Government considers it wishes to make appointments to organisations which do not exist in law, the Commission expects Government to accept the principles of fairness, equality and consistency, which the Commission believes are best achieved by the new, or substantially new, posts being advertised throughout the RPA Affected Group. In order to safeguard the interests of staff, the Commission recommends that Government identify a legitimate mechanism to enable it to make appointments, other than by way of substantive appointment to the Civil Service, which comply with statutory obligations and satisfy the Secretary of State's redundancy commitment.

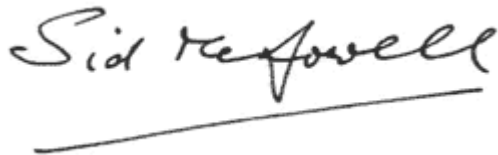
Commentary

The Commission's view is that where there is a potential redundancy situation, external recruitment as a matter of first resort is unreasonable and frustrates the primary objective of safeguarding the interests of staff. Significantly, such an approach would fail to meet statutory obligations. Competitions "open" to staff in the RPA Affected Group would have the effect of enabling relevant public sector employers to demonstrate a commitment to safeguarding the interests of employees and minimising the risk of redundancies.

If it is intended to fill a post through the application of this principle or Associated Recommendations, the Public Service Commission would expect that, in keeping with good practice and having regard to statutory obligations, employers would consult with the relevant trade unions. The Commission would also expect employers to retain the justification explaining why it proved necessary, ultimately, to proceed with a fully open competition.

The Commission is mindful that the creation of new organisations may necessitate a review of this Guiding Principle.

The Commission expects Government to provide periodic reports on the implementation of this Guiding Principle by employers.

A handwritten signature in black ink that reads "Sid McDowell". The signature is written in a cursive style and is positioned above a solid horizontal line.

SID McDOWELL
CHAIRMAN
PUBLIC SERVICE COMMISSION
20th November 2006

- [1] Written Ministerial Statement announcing the Establishment of the Public Service Commission, 6 March 2006.
- [2] Exceptional circumstances include, for example, where the duties of the post are so specialised or unique, and/or that it is evident that those in the RPA Affected Group do not have the skills and experience necessary to undertake the job, or that the composition of the potential pool, from within the RPA Affected Group and from which candidates, might be drawn, is so unbalanced as to be regarded as failing to comply with statutory obligations.

Non-NICS RPA Affected Group

Wholly affected

Local Government (DOE)

Antrim Borough Council
Ards Borough Council
Armagh City and District Council
Ballymena Borough Council
Ballymoney Borough Council
Banbridge District Council
Belfast City Council
Carrickfergus Borough Council
Castlereagh Borough Council
Coleraine Borough Council
Cookstown District Council
Craigavon Borough Council
Derry City Council
Down District Council
Dungannon & South Tyrone Borough Council
Fermanagh District Council
Larne Borough Council
Limavady Borough Council
Lisburn City Council
Magherafelt District Council
Moyle District Council
Newry & Mourne District Council
Newtownabbey Borough Council
North Down Borough Council
Omagh District Council
Strabane District Council
Arc 21

Education

Youth Council for Northern Ireland

Northern Ireland Council for the Curriculum, Examinations & Assessment

Belfast Education & Library Board

North Eastern Education & Library Board

South Eastern Education & Library Board

Southern Education & Library Board

Western Education & Library Board

Staff Commission for Education & Library Board

Regional Training Unit

Health

The Royal Group of Hospitals & Dental Hospital HSS Trust

Mater Infirmorum Hospital HSS Trust

Altnagelvin Hospitals HSS Trust

Armagh & Dungannon HSS Trust

Belfast City Hospital HSS Trust

Causeway HSS Trust

Craigavon Area Hospital HSS Trust

Craigavon & Banbridge Community HSS Trust

Down Lisburn HSS Trust

Foyle HSS Trust

Green Park HSS Trust

Homefirst HSS Trust

South & East Belfast HSS Trust

North & West Belfast HSS Trust

Newry & Mourne HSS Trust

Sperrin Lakeland HSS Trust

Ulster Community & Hospitals HSS Trust

United hospitals HSS Trust

Eastern Health & Social Services Board

Northern Health & Social Services Board

Southern Health & Social Services Board

Western Health & Social Services Board

Eastern Health & Social Services Council
Northern Health & Social Services Council
Southern Health & Social Services Council
Western Health & Social Services Council
Northern Ireland Regional Medical Physics Agency
Health Promotion Agency
Central Services Agency
NI Practice and Education Council for Nursing and Midwifery
NI Medical and Dental Training Agency
Mental Health Commission for NI
Regulation and Quality Improvement Authority

Housing Executive

Private Sector Grants
Houses in Multiple Occupation
Group Repair
Traveller Site Provision
Supporting People
Energy Conservation
Urban Renewal Areas
Unfitness

Other Executive Public Bodies

NI Fishery Harbour Authority (DARD)
Local Government Staff Commission (DOE)
NI Events Company (DCAL)
Construction Industry Training Board (DEL)
Rural Development Council (DARD)

Advisory Public Bodies

Disability Living Allowance Advisory Board (DSD)
NI Housing Council (DSD)
Drainage Council (DARD)
Council for Nature, Conservation and the Countryside (DOE)

Historic Buildings Council (DOE)

Historic Monuments Council (DOE)

Largely Transferring (include all for now)

Education

Council for Catholic Maintained Schools

Northern Ireland Council for Integrated Education

Comhairle na Gaelscolaíochta

Partly Transferring

Executive Public Bodies

National Museums Northern Ireland (Armagh County Museum (DCAL))

Abolished

Executive Public Bodies

Fisheries Conservancy Board (DCAL)

NI Museums Council (DCAL)

Enterprise Ulster (DEL)

Pig Production Development Committee (DARD)

Transferred Responsibility

Health

Fire and Rescue (Fire Authority for NI) (DHSSPS)

NICS RPA Affected Group

Wholly affected

Executive Agencies

Health Estates Agency (Health)

Department of Social Development

Belfast Regeneration Office

North West Development Office

Regional Development Office

Belfast City Centre Regeneration Directorate

North Belfast Community Action Unit

Largely Transferring

Executive Agencies

Department of the Environment - Planning Service

Department for Regional Development - Roads Service

Partly Transferring

Department for Employment and Learning

Department of Education

Department of Health, Social Services and Public Safety

Department for Regional Development

Bodies not in RPA Affected Group

NICS

Department of Enterprise, Trade and Investment
Department of Culture, Arts and Leisure
Department of Agriculture and Rural Development
Department of Finance and Personnel
Office of the First Minister and the Deputy First Minister

Department of the Environment (excluding planning service)
Department for Social Development (part)
Department for Regional Development (part, also excluding roads service)
Department for Employment and Learning (part)
Department of Health, Social Services and Public Safety (part)
Department of Education (part)

Executive Agencies

Driver & Vehicle Licensing (DOE)
Driver & Vehicle Testing Agency for NI (DOE)
Public Record Office NI (DCAL)
Ordnance Survey NI (DCAL)
Rivers Agency (DARD)
Environment and Heritage Service (DOE)
Valuation and Lands Agency (DFP)
Rate Collection Agency (DFP)
Land Registers NI (DFP)
Child Support Agency (DSD)
Social Security Agency (DSD)
NI Statistics and Research Agency (DFP)
Forest Service (DARD)
Business Development Service (DFP)

Non-NICS

Executive Public Bodies

Agri-food and Bioscience Institute

Arts Council of NI (DCAL)

Sports Council (DCAL)

NI Local Government Officers' Superannuation Committee (DOE)

NI Transport Holding Company (DRD)

Trust Ports (DRD)

General Consumer Council for NI (DETI)

Health & Safety Executive for NI (DETI)

Equality Commission for NI (OFMDFM)

NI Commissioner for Children and Young People (OFMDFM)

Strategic Investment Board (OFMDFM)

ILEX (OFMDFM)

Economic Research Institute of NI (OFMDFM)

Community Relations Council (OFMDFM)

NI Film and Television Commission (DCAL)

Museums and Galleries of NI (DCAL)

Ulster Supported Employment Ltd (DEL)

Labour Relations Agency (DEL)

Agricultural Wages Board (DARD)

Livestock and Meat Commission (DARD)

Housing Executive (DSD) - part

Invest NI (DETI) – not clear if any staff will transfer

NI Tourist Board – not clear if any staff will transfer

Advisory Public Bodies

Higher Education Council (DEL)

Research and Education Advisory Panel (DARD)

Charities Advisory Committee (DSD)

Office of the Social Fund Commissioner for NI (DSD)

Statute Law Committee for NI (OFMDFM)

Advisory Council on Infrastructure Investment (OFMDFM)

Statistics Advisory Committee (DFP)

NI Building Regulations Advisory Committee (DFP)

The Lay Observer (DFP)

Law Reform Advisory Committee for NI (DFP)

Tribunals

Combined Tribunal Administration Service under NI Court Service

Health

Guardian Ad Litem Agency

Blood Transfusion Agency

NI Social Care Council

Ambulance Trust

Education

General Teaching Council