



## **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.**

**Note: This reissued Guiding Principle supersedes the previous Filling New or Substantially New Posts in New Organisations Being Created as a Result of the Review of Public Administration dated 20th November 2006, which was accepted by the direct rule administration on 6<sup>th</sup> December 2006.**

#### **Introduction**

1. 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 Executive decisions on the Review of Public Administration, taking into account statutory obligations, including those arising from Section 75 of the Northern Ireland Act 1998.
2. In pursuance of that role, the Commission's position in relation to filling vacancies and 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 previous administration's commitment, as set out in the statement of 22 November 2005, that "Every possible effort will be made to avoid redundancies." The Commission welcomes the Executive's commitment to this underlying objective.
3. The Public Service Commission has consulted the Executive, the sectoral Staff Commissions and representatives of NIC/ICTU about the most appropriate way to fill vacancies and new or substantially new posts in new organisations. This is part of a wider set of arrangements which will be required to achieve the Executive'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.
4. This revised Guiding Principle on Filling Vacancies and New or Substantially New Posts arising in New Organisations created as a result of the Review of Public Administration, supersedes the version dated 20th

November 2006, which was accepted by the direct rule administration on the 6th December 2006. This revision reflects a redefinition of the concept of the RPA Affected Group and also experience from the implementation of RPA so far and focuses on the practicalities associated with the fair and consistent handling of vacancies as well as new or substantially new posts in new organisations.

### **Guiding Principle**

5. After the establishment of a new organisation created as a result of RPA, the Public Service Commission recommends that, where an organisation is considering taking action which may increase the risk of redundancy for staff, it should seek to fill vacancies and new or substantially new posts in the following order of consideration:

- By the use of a mechanism or competition internal to the new organisation with the objective of dealing in the first instance with staff who have been identified as being at a clearly identified risk of compulsory redundancy.
- By targeting “at risk” staff in that sector as a whole.
- By targeting “at risk” staff across all the sectors in the RPA Affected Group.
- By way of open competition.

A “clearing house” mechanism may be used to enable employers to collaborate in filling vacancies and new or substantially new posts across the sectors thereby ensuring that “at risk” staff have an opportunity to apply for positions/vacancies as might arise.

6. The Commission recognises that there will be instances when it will be necessary to fill a post in a new organisation which does not yet exist in law. In such instances, the Commission recommends that the Executive accepts that the principles of fairness, equality and consistency should apply. The Commission further recommends that the authority responsible for filling such posts considers the use of (ii) and (iii) above in advance of the use of (iv) above.

7. The Commission expects that, in keeping with good practice and having regard to statutory obligations, employers would consult with the relevant Trade Unions and staff representatives on the filling of vacancies and new or substantially new posts.

### **Associated Recommendations**

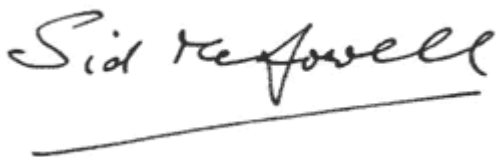
8. The Commission also recommends that:

- In consultation with Trade Unions and employers, the Executive should publish an updated list of public sector organisations deemed to be affected by the direct rule administration’s announcements and recent decisions taken by the Executive.

- Employers should identify staff who are at a clearly identified risk of compulsory redundancy and should advise staff whether they are, or are not, in the “at risk” group. Should an individual consider themselves to be “at risk” they should be entitled to a response from their employer clarifying the position. Employers should consult with Trade Unions and staff representatives on the designation of “at risk” staff.
- Employers should take all reasonable steps, both pre and post transfer, to manage or accommodate surplus staff thereby meeting or exceeding their statutory obligations.
- When considering the methods available for filling a vacancy or a new post and when determining the composition of the selection pool employers should take account of employment law and equality considerations.
- New organisations apply this Guiding Principle until a minimum of 12 months after their establishment or for a minimum of 12 months after the subsequent absorption of new functions into the new organisation

### **Commentary**

9. 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. Internal mechanisms being implemented in the first instance signal an intention to protect the interests of staff who are “at risk” within the sector. The next stage of consideration whereby the competition targets “at risk” staff across all sectors 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 across all of the sectors affected by decisions arising from the RPA process. The Commission would also expect employers to retain the justification explaining why it proved necessary, ultimately, to proceed with a fully open competition.
10. The Commission recommends that the Executive should provide periodic reports on the implementation of this Guiding Principle by employers.



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