

CIVIL SERVICE (SPECIAL ADVISERS) (AMENDMENT) BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared by Mr Jim Allister (“the Member”) in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require an explanation or comment, none is given.

POLICY OBJECTIVES

3. The Bill has three objectives: a) to provide that special advisers are subject to the processes and procedures of the disciplinary code operative in the Northern Ireland Civil Service; b) to restrict the remuneration of special advisers so that it cannot be greater than that applicable within the Senior Civil Service Pay Structure to Assistant Secretary (Grade 5); and c) to reduce the number of special advisers within the Office of the First and Deputy First Minister (OFMdfM) from 8 to 4.

BACKGROUND

4. Controversy about the number, cost and disciplinary regime applicable to special advisers caused the Member to investigate the arrangements within the devolved institutions elsewhere in the United Kingdom. This comparison revealed the following in respect of the number and costs of special advisers in Northern Ireland, Scotland and Wales in 2013/14:-

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

5. On the question of discipline the Committee for Social Development investigation into "the Redsky affair" highlighted that though an independent fact-finding investigation by DFP recommended the minister's special adviser should be subject to disciplinary investigation, his minister was able to intervene and abort any such course of action. Thus raising for the Member the adequacy of the current arrangements.

CONSULTATION

6. The Member carried out an eight week consultation on the policies behind the Bill and the intended wording of the Bill. A total of 150 responses were received. Of those over 98% supported the introduction of the Bill, with many recording they felt the pay scale was still too generous and that OFMdfM did not need four special advisers.

OPTIONS CONSIDERED

7. In developing this legislation, the Member considered the following options:
 - **Option 1:** do nothing.
 - **Option 2:** to introduce and enact the Civil Service (Special Advisers) Amendment Bill to amend the Civil Service (Special Advisers) Act 2013 and the Civil Service Commissioners (Northern Ireland) Order 1999 to deliver the three objectives outlined at paragraph 3.
8. The response to the Member's consultation was overwhelmingly in favour of each of the proposed changes. The extravagance and unnecessary extra expense associated with local special advisers, in contrast to the situation in the other

devolved regions, along with the absence of any executive sponsored proposals, have caused the Member to conclude that a Bill is necessary.

9. If passed the resulting changes would become effective at the scheduled start of the next mandate.

OVERVIEW

10. The Bill consists of four clauses.

COMMENTARY ON CLAUSES

A commentary on the provisions follows below. Comments are not given where the wording is self-explanatory.

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

Clause 1 requires the Code of Conduct, established under the 2013 Act, to provide that special advisers are subject to the processes and procedures of the disciplinary code operative in the Northern Ireland Civil Service and makes clear there can be no ministerial interference. This clause also requires the Code for Appointments, provided for in the 2013 Act, to prescribe that special advisers must not be remunerated above the rate applicable to Grade 5 civil servants.

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

Clause 2 amends the 1999 Order to reduce the number of special advisers within OFMDFM from 8 to 4.

Clause 3: Commencement

Clauses 1 and 2 will come into operation on 6th May 2016 in anticipation of the commencement of the next mandate when fresh special adviser appointments would be made.

FINANCIAL EFFECTS OF THE BILL

11. The Bill would save resources by reducing the cost of special advisers; otherwise the Bill has no financial implications.

HUMAN RIGHTS ISSUES

12. The Member is satisfied that the Bill is human rights compliant.

LEGISLATIVE COMPETENCE

13. At introduction, the sponsor of the Bill, Mr Jim Allister, had made the following statement under Standing Order 30:

“In my view the Civil Service (Special Advisers) (Amendment) Bill would be within the legislative competence of the Northern Ireland Assembly.”