

24 October 2012

Please find attached a submission in relation to the call for evidence regarding the SP-AD bill.

Regards

Arthur Carson

Tar Anall

Evidence submission to the Civil Service (Special Advisers) Bill

This bill aims to discriminate against former political prisoners imprisoned during the conflict. Political prisoners will be barred as Special Advisers to Government Ministers and serving Special Advisers will be sacked.

Former political prisoners already face serious discrimination in many areas that detrimentally affects their lives and the lives of their families. This is especially so in the area of employment where many barriers exist, both structural and political, excluding them employment in numerous sectors of the labour market.

This Bill will add to the number of legal ways in which former political prisoners can be excluded from employment and it will reinforce the discriminatory attitudes and practices with which former political prisoners have to contend.

This bill will operate as a breach of the international agreement between two sovereign states, the Irish and British governments, that gave effect to the Good Friday Agreement. It will also contravene the commitments given in regard to political ex-prisoners' in the Good Friday Agreement and in the St Andrews Agreement. If it is passed in the form proposed its retrospective penalisation of current special advisors will be in contravention of domestic and international human rights provision.

This Bill should be rejected in its entirety; it has no place in the current political circumstances of the North of Ireland, specifically,

The purpose of Clause 2 would;

1. Operate as a breach of the international agreement between two sovereign states, the Irish and British governments, which gave effect to the Good Friday Agreement.

2. It will contravene the commitments given in regard to political ex-prisoners' in the Good Friday Agreement and in the St Andrews Agreement.
3. Its 'retrospective penalisation' of current special advisors will be in contravention of domestic and international human rights provision.
4. The Bill in its entirety has not been Equality Impacted Assessed
5. In its intention and spirit it completely contradicts the purpose and intention of the OFMDFM commissioned 'Employers' Guidance On Recruiting People With Conflict-Related Convictions' (EGRPCRC) May 4th 2007

This Bill (CSSAB) and the discriminatory thinking behind it demonstrate the need for change in three important areas, that is;

1. *Article 2(4) of the FETO(1998) should be amended, or repealed to reflect the changed political circumstances of the north of Ireland, in order to reflect the terms of the Good Friday Agreement with its reference to the introduction of measures to facilitate the reintegration of prisoners into the community in the area of employment.*
2. *The urgent need for the promised review of the 'effectiveness of the operation of the voluntary guidance' (Employers' Guidance On Recruiting People With Conflict-Related Convictions) after 18 months. That promise was made in May 2007. The guidance has been completely ineffective in 'reducing barriers to employment and enhancing the re-integration of ex-prisoners with conflict related convictions'.*
3. *The North Ireland Civil Service Recruitment Policy should be amended to reflect the terms of the Good Friday Agreement with its reference to the introduction of measures to facilitate the reintegration of prisoners into the community in the area of employment, and that any conviction for a conflict-related offence that pre-dates the Good Friday Agreement (April 1998) should not be taken into account unless it is materially relevant to the employment being sought.*

This Bill will add to the number of legal ways in which former political prisoners can be excluded from employment and it will reinforce the discriminatory attitudes and practices with which former political prisoners have to contend.

HUMAN RIGHTS AND EQUALITY ISSUES

The provisions of the Civil Service (Special Advisers) Bill are not compliant with the European Convention on Human Rights (ECHR). The Bill engages Article 6 of the convention and Article 1 of the First Protocol. The Bill excludes a person from employment as a civil servant without taking due regard to an international agreement and will operate as a breach of that international

agreement between two sovereign states, the Irish and British governments', which gave effect to the Good Friday Agreement. In addition, my concern is that the Bill is in breach of Sections 75 and 76 of the Northern Ireland Act 1998.

LEGISLATIVE COMPETENCE

Jim Allister has not provided details of his discussions with the Secretary of State for Northern Ireland regarding this Bill. It is therefore necessary for the Committee for Finance and Personnel to confirm that this Bill does not breach any agreements between the Northern Ireland Assembly and the Westminster Government and that it falls within the legislative competence of the Assembly.