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**Mr Shane McAteer  
Clerk  
Committee for Finance and Personnel  
Room 419  
Parliament Buildings  
Stormont**

**13 September 2012**

**Dear Shane,**

**CIVIL SERVICE (SPECIAL ADVISERS) BILL**

This paper provides the Committee with an introductory briefing on the above Private Member's Bill (the Bill) in advance of the evidence session by officials on Wednesday 19<sup>th</sup> September 2012. It sets out the background to the current arrangements for the appointment of Special Advisers, the proposals in the Bill, and highlights the key areas of difference.

The Minister for Finance and Personnel, who has policy responsibility for issues affecting the management of the Northern Ireland Civil Service (NICS), including arrangements for the appointment of individuals to posts in the NICS, undertook a review of the arrangements for the appointment of Special Advisers in 2011. Special Advisers are civil servants appointed under Article 3 of the Civil Service Commissioners (Northern Ireland) Order 1999 as amended. The main outcome of the review was the decision by the Minister to introduce a vetting / character checking process for the appointment of Special Advisers similar to that which is applied to all other civil servants. The Minister informed his Ministerial colleagues that the new arrangements for appointing Special Advisers were effective from September 2011.

The Bill proposes a number of key changes to the current arrangements. **Clause 2** prohibits a person with a serious criminal conviction from being appointed as a Special Adviser. Special Advisers currently in post with a serious criminal conviction and those who incur such a conviction while in

post would have their appointment terminated by this legislation. A duty is placed on Ministers to inform DFP whether any Special Adviser appointed by them has a serious criminal conviction. A 'serious criminal conviction' is defined in **Clause 3** of the Bill as one for which a sentence of imprisonment of five years or more, or another specified sentence, was imposed. This goes beyond the current vetting arrangements for the appointment of civil servants by automatically providing for a bar on appointment as a result of a "serious criminal conviction" and does not provide for any mitigating factors to be taken into account in the vetting process such as an expression of remorse/regret; no pattern of repeat offending; the relevance of the conviction to the post to be filled; the nature of the offence; evidence of rehabilitation and contribution to the community; and third party references regarding the individual's character. Under the current arrangements for appointing civil servants, disclosure of an unspent criminal conviction prior to appointment will result in a decision on the individual's appointment being taken on a case by case basis in accordance with the policy on convictions set out in the NICS recruitment policy and procedures manual. The Bill contains a retrospective dimension as the current arrangements relate to future appointments only.

**Clause 4** of the Bill would require the preparation by DFP of an annual report on Special Advisers, and its submission by the Minister for Finance and Personnel to the Assembly, providing information about the number and cost of Special Advisers employed during the year. At present there is no such central collation of information of this kind, although information about the number of Special Advisers employed and the salary bands on which they are paid is routinely included in each department's published Annual Resource Accounts.

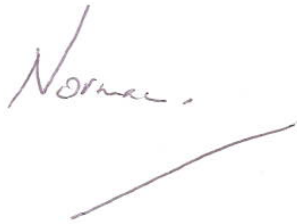
**Clause 5** of the Bill places a statutory duty on DFP to issue, and on the Minister for Finance and Personnel to lay before the Assembly, a code of conduct for Special Advisers. There is currently in existence a Code of Conduct for Special Advisers, which forms part of a Special Adviser's contract of employment, but it is not on a statutory footing.

**Clause 6** of the Bill places a statutory duty on DFP to issue, and on the Minister of Finance and Personnel to lay before the Assembly, a code governing the appointment of Special Advisers. The existing code of practice on the appointment of Special Advisers, as amended by the guidance issued by the Minister for Finance and Personnel in September 2011, is not on a statutory footing. It also provides that the code should ensure that any such

appointments are subject to the same vetting procedures as apply when appointing senior civil servants to the NICS. Under current NICS policy, vetting arrangements for civil servants apply equally to staff at all grades. There are no separate vetting arrangements for senior civil servants.

**Clause 7** proposes to amend the Civil Service Commissioners (NI) Order 1999 to remove the Presiding Officer of the Northern Ireland Assembly from the list of office-holders who are entitled to appoint a Special Adviser to the Civil Service without adhering to the merit principle of appointments on the basis of fair and open competition. This Clause may have limited practical impact on existing arrangements in that it is not thought that the Presiding Officer of the Assembly has ever appointed a Special Adviser to the civil service. Any Special Advisers to the Presiding Officer are thought to have been appointed as employees of the Northern Ireland Assembly, rather than the civil service.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Norman', with a long horizontal flourish extending to the right.

**NORMAN IRWIN**