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

Our Ref: CFP180/11-15

7 December 2012

Dear Shane,

Civil Service (Special Advisers) Bill

In your letter of 29 November 2012 you asked for comments on the issues raised by NIACRO on the application of the Civil Service Code and vetting procedures.

All appointments to the Northern Ireland Civil Service (NICS) are made in line with the Civil Service Commissioners' Recruitment Code and the NICS Recruitment Policy and Procedures Manual. This ensures that appointments are made on merit on the basis of fair and open competition – the merit principle. The Civil Service Commissioners (Northern Ireland) Order 1999 disapplies the merit principle in respect of Special Advisers in recognition of their unique role and the personal nature of their appointments.

NICS policies and procedures comply with the Rehabilitation of Offenders Order (NI) 1978 which is aimed at protecting the rights of rehabilitated ex-offenders.

NICS recruitment policy and procedures are kept under review. In 2010 the Department of Finance and Personnel conducted an internal review of its

recruitment security vetting arrangements. As a result the NICS Risk Assessment, used to carry out security vetting/character checking of applicants with convictions, was revised. The revised Risk Assessment is attached at Annex A and sets out the guidelines which must be applied. This has resulted in a less constrictive approach when considering applicants with convictions and has promoted inclusion rather than exclusion. Each case is considered carefully on its own merits. Applicants with convictions, including those which cannot be “spent”, are not automatically rejected for appointment. To ensure greater consistency in the treatment of those with criminal records all decisions on acceptability are taken by DFP Corporate HR. When considering potential candidates with criminal convictions against the Risk Assessment Corporate HR also follows a process which gives candidates the opportunity to provide statements of disclosure to provide information about the context to their convictions. The following factors are also taken into account before decisions are made:

- Relevance of conviction to post applied for;
- Nature of the conviction and severity of penalty imposed by court;
- Circumstances surrounding conviction;
- Rehabilitation and contribution to society;
- Statements of character;
- Any other information provided by the candidate which tends to suggest that the convictions are not representative of the overall character of the individual.

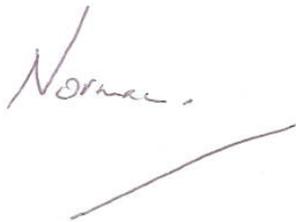
Without specific information it is difficult to comment on the applicants' experiences to which NIACRO has referred in the correspondence to the Committee for Finance and Personnel. However I would wish to make the Committee aware that the application of our policy and procedures for vetting have frequently resulted in candidates who might otherwise be rejected for appointment being found suitable when the context and mitigating circumstances of their convictions are disclosed.

Our policy and procedures are communicated openly in the NICS Recruitment Policy and Procedures Manual which is published on the DFP and NICS recruitment websites and can be accessed at:

<https://irecruit-ext.hrconnect.nigov.net/resources/documents/r/p/p/rppmv13.pdf>. In particular, Section 9.1 details the process for Criminal Record Checks and clearly describes how disclosures are managed. The Manual provides contact details for the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO) to help and support potential applicants with criminal convictions seeking assistance in making application for employment in the NICS. The Candidate Information Booklets for all NICS recruitment competitions also advise potential candidates “you should not put off applying for a post because you have a conviction.”

The Department believes that these procedures provide a sound and fair basis for determining the suitability of candidates to be appointed to the NICS.

Yours sincerely,

A handwritten signature in blue ink that reads "Norman". Below the signature is a long, horizontal, slightly wavy line, also in blue ink, which serves as a decorative flourish or underline.

NORMAN IRWIN

Annex A – NICS Risk Assessment

In making appointments to the NICS the following guidelines must be adhered to:

Generally Reject	
1	Convictions demonstrating a propensity to violent, destructive, or abusive behaviour.
2	Convictions demonstrating serious negligence causing death or injury to others.
3	Convictions demonstrating dishonesty.
4	Convictions for motoring offences which are directly related to the post applied for or where the individual has been convicted on more than one occasion for the same offence.

*These guidelines must be **applied in line with current law on rehabilitation of offenders**. The vast majority of convictions will usually become “**spent**” after a prescribed period. Spent convictions can only legally be taken into account for certain ‘excepted’ posts e.g. those involving substantial access to children or vulnerable persons.*

*Employing departments or agencies may apply **enhanced standards or additional checks** for particular posts where they can justify and defend it e.g. for posts involving contact with young people (see above); driving test work where particular offences or penalty point levels may cause concern or otherwise, for example, in posts which involve driving duties and where any reasonable person would be likely to conclude that a particular conviction indicates a significant risk or is incompatible with the duties of a particular post. Any specific additional requirements should be decided upon, at latest, prior to the vacancy being advertised.*

*A candidate should not normally be appointed if he/she has repeated, or has been convicted on more than one occasion for an offence. All candidates who have convictions which could preclude them from appointment must be invited to provide a **statement of disclosure** before any decision on his/her suitability is made.*

***Convictions which cannot be ‘spent’** – Applicants with convictions which cannot be ‘spent’ should not be automatically rejected. All information available will be considered.*

***In-post Candidates** –In-post candidates with criminal convictions which would preclude them from being appointed to an externally advertised competition are required to advise their Departmental HR of such convictions and may be subject to internal disciplinary proceedings.*

***Pending charges or convictions**– In accepting offers of appointment, candidates are required to advise of any convictions they have had in jurisdictions outside the United Kingdom and of any pending charges which have not yet been dealt with by the Courts. Failure to advise of any pending charge or conviction, including those outside of the United Kingdom, will invalidate the offer of appointment.*