



**SUB/1004/2011**

From: Will Haire  
Permanent Secretary

Date: 17 May 2011

Nelson McCausland

**APPOINTMENT OF SPECIAL ADVISER**

**Issue:** The purpose of this note is to provide you with briefing on the procedures for appointing a Special Adviser.

**Timing:** Urgent.

**Priority:** Important.

**FOI Implications:** This note is likely to be disclosable.

**Presentational Issues:** None.

**Financial Implications:** None.

**Legislation Implications:** Special Advisers are appointed in accordance with the Civil Service Commissioners (Northern Ireland) Order 1999 as amended.

**Equality implications:** The appointment of special advisers is subject to Northern Ireland's employment legislation, including anti-discrimination legislation.

- Executive Referral:**        **The Executive Committee must be informed in due course of the name of any appointee, but the decision on who is appoint is yours to take.**
- Recommendation:**        **That you note the content of this briefing and advise whether you intend to appoint your Special Adviser from your previous department or whether you intend to make a new appointment.**

**Detail**

One of the early issues you may wish to consider is the appointment of a Special Adviser. As you are aware, Ministers in the Executive may choose to appoint a Special Adviser. You are designated as the Appointing Authority for the Special Adviser position.

**The selection process**

2.        Special Advisers have the status of civil servants and are remunerated from public funds. Such appointments are subject to Northern Ireland's employment legislation, including anti-discrimination law but are exempt from the principle of selection on merit on the basis of fair and open competition, which is a requirement for all other NICS recruitment.
  
3.        Special Advisers to Executive Ministers ceased to hold office at the point at which their Minister ceased to hold office. As such, all Executive Ministers will have to go through a formal process to appoint, or reappoint, Special Advisers. However, were you to wish to reappoint the Special Adviser from your previous department, there would be no requirement to go the formal selection and appointment process again and a new contract of employment would issue.
  
4.        In all other circumstances it will be necessary for you to go through each stage of the selection process; to document it and be prepared to justify decisions if challenged. A Code of Practice on the Appointment of Special Advisers has been drawn up by the Department of Finance and Personnel for use by all

Ministers in the Northern Ireland Executive. A copy of the Code of Practice is attached to this paper.

5. The Code of Practice sets out the framework which Ministers should use to guide them in their objective consideration of the selection and appointment process.

The main points are:

- Given Northern Ireland's unique equality legislation, Ministers should not put themselves in a position which gives rise to challenge. Ministers should be careful therefore to make the selection on justifiable grounds and to consider potential candidates on their merits;
- Ministers have a personal responsibility to ensure that selection is free from unlawful discrimination;
- Ministers should ensure that they consider a number of candidates;
- Each stage of recruitment must be documented and such documentation should be retained for at least one year; and
- All posts must have a contract of employment.

6. The Code of Practice recognises that decisions on how to select are ultimately for Ministers and that there are no hard and fast rules on procedures for these personal appointments. However, it suggests some basic procedures which could be followed and which flow from this framework. The basic procedures cover issues around the job description, the person specification and the candidate pool. Details on these points can be found in paragraphs 5 to 10 of the attached Code of Practice. For ease of reference I also attach, at annex 1, an outline of the sorts of functions which you might expect to include in a job description.

## Remuneration

7. Remuneration arrangements for Special Advisers are set out in Schedule 3 of the Code of Practice. Special Advisers are paid on personal pay points contained within two broad pay bands, A and B. Pay Band A ranges from £36,320 per annum to £51,775 per annum and Pay Band B ranges from £57,300 per annum to £82,531 per annum.

8. Allocation to a pay band is based on set role descriptions. These are as follows:

➤ **Pay Band A**

In line with the job requirements as determined by the Appointing Authority (i.e. the Minister), the postholder has appropriate experience and skills to provide advice and research on policy and political issues. The postholder undertakes analysis and maintains contacts both within and outside government on policy and political issues. The Adviser may be a subject specialist.

➤ **Pay Band B**

Postholder has senior level experience in public or commercial life, with an acknowledged track record of achievement. In line with the job requirements as determined by the Appointing Authority, the postholder provides a significant level of policy advice and meets and influences key policy and decision-takers within and outside Government, contributing significantly beyond the level required by those remunerated within Pay Band A.

9. The appropriate pay band and the starting salary within that pay band are determined jointly by the Permanent Secretary, the Head of the Civil Service and the Appointing Authority. The decision must be made on the basis of a business case prepared by the Appointing Authority setting out the requirements of the post, together with the relevant qualifications, experience, skills and track record of achievement of the individual. Starting salary may also be informed by the

appointee's previous remuneration package and a written record must be held of the rationale for the salary determined.

**Procedures after Selection**

10. If you appoint a Special Adviser, you should, in line with paragraph 11 of the Code, inform me in writing of your choice and the reasons for it.
11. I will then communicate the name to the Secretary to the Executive Committee for notification to the Executive Committee and set in train the practical arrangement to enable the appointee to take up post.

**Recommendation**

12. You are invited to note the content of this note. I should be grateful if you would indicate whether you intend to appoint a Special Adviser and, if so, whether you intend to appoint the Special Adviser from your previous department or whether you intend to make a new appointment.
13. I will of course be happy to discuss any issues around the appointments process if that would be helpful.



**WILL HAIRE**

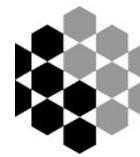
cc: Heather Cousins  
Pat Magee  
Dave Wall  
John Ball

**OUTLINE OF FUNCTIONS OF A SPECIAL ADVISER**

- To review papers going to the Minister, drawing attention to any aspect which they think has party political implications, and ensuring that sensitive political points are handled properly. They may give advice on any aspect of departmental business (other than staffing issues), including giving advice to their Minister when the latter is taking part in party political activities.
- To “devil” for the Minister, and checking facts and research findings from a party political viewpoint.
- To prepare speculative policy papers which can generate long-term policy thinking within the Department, including policies which reflect the political viewpoint of the Minister’s party.
- To contribute to policy planning within the Department, including ideas which extend the existing range of options available to the Minister with a political viewpoint in mind.
- To liaise with the Minister’s party to ensure that the Department’s policy reviews and analysis take full advantage of ideas from the party, and encouraging presentational activities by the party which contribute to the Administration’s and Department’s objectives.
- To help brief Assembly Members and officials of the Minister’s party on issues of the Administration’s policy.;
- To liaise with outside interest groups including groups with a political allegiance to assist the Minister’s access to their contribution.
- To undertake speechwriting and related research for the Minister, including adding party political content to material prepared by permanent civil servants.

- To represent the views of the Minister to the media, including a party viewpoint, where they have been authorised by the Minister to do so.
- To provide expert advice as a specialist in a particular field.
- To attend party functions (although they may not speak publicly at the party conference) and to maintain contact with party members.
- To take part in policy reviews organised by the party for the purpose of ensuring that those undertaking the review are fully aware of the Administration's views and the Minister's thinking and policy.





From: Will Haire  
Permanent Secretary

Date: 27 May 2011

Nelson McCausland

**LETTER OF APPOINTMENT TO BE ISSUED TO SPECIAL ADVISER**

1. I am writing further to your recent decision, following my submission of 17 May, to appoint Mr Stephen Brimstone as your Special Adviser.
2. In line with the provisions of the Code of Practice on the Appointment of Special Advisers, I am attaching a formal letter of appointment which you should issue to Mr Brimstone together with the accompanying Schedules 1, 2 and 3.
3. If Mr Brimstone is content, he should indicate acceptance of the terms set out in the letter both to yourself and the Department by signing both of the forms enclosed with the letter. You should ensure that the date of your letter of appointment is entered at the appropriate place on both these forms.
4. As Mr Brimstone is being reappointed, having been your Special Adviser in your previous Department, he will not experience any break in continuity of employment for the purposes of either pay or pension. The attached letter of appointment has been tailored to reflect this, particularly in relation to Mr Brimstone's pension arrangements.
5. I am of course available to discuss if that would be helpful.

**WILL HAIRE**

cc: Heather Cousins  
Pat Magee  
Dave Wall  
John Ball

**RESTRICTED*****Dear Mr Brimstone******Date: May 2011*****APPOINTMENT AS SPECIAL ADVISER TO NELSON McCAUSLAND**

This is to confirm the terms of your appointment as my Special Adviser with effect from 16 May 2011. Unless terminated earlier, your appointment will be for a period terminating on a date on which I cease to be a Minister or move to another appointment.

The details of your terms and conditions are set out in the NICS HR Handbook, the NICS Pay and Conditions of Service Code and related Civil Service Circulars. Copies of these documents are available for inspection in Departmental HR in the Department for Social Development. The HR Handbook can be accessed on HR Connect.

Those parts of the Handbook and Code that have contractual effect, as amended from time to time, form part of your terms and conditions. The main elements of your conditions of service are contained in the attached Schedule 1. The Code of Conduct for Special Advisers at Schedule 2 outlines the duties and responsibilities of a Special Adviser.

Your basic salary is £ Personal information redacted by the RHI Inquiry within the Special Adviser Pay Band of £57,300 to £82,531 per annum as set out in Schedule 3 of your contract. You will be paid monthly in arrears via Bankers Automatic Clearing Service.

Your appointment continues to be pensionable under the Northern Ireland Civil Service pension arrangements from the outset. You do not have to join the Northern Ireland Civil Service pension arrangements; you may opt out and be covered instead by a personal pension or the State Second Pension Scheme (S2P). However, if you do not opt out of the Principal Civil Service Pension Scheme (NI) [PCSPS (NI)] you will continue to be a member of the nuvos arrangement, which is a defined benefit occupational pension arrangement. It pays a pension based on 2.3% of your

pensionable earnings for each year you are in nuvos. You contribute 3.5% of your salary. Your employer meets the rest of the cost of the scheme.

You retain the right to join the Partnership pension account arrangement instead of nuvos. The Partnership pension account is a stakeholder pension with an employer contribution based on your age. Your employer will pay this regardless of whether you choose to contribute anything. You do not have to contribute, but, if you do, your employer will also match your contributions up to 3% of your pensionable earnings. The contributions are in addition to the age-related contribution mentioned above.

If you have a PCSPS (NI) pension already in payment, you should be aware that the pension scheme rules prevent members from receiving more by way of NICS pay and pension combined on re-employment that they were earning as salary before they retired. This is called 'abatement'. If you want to know more about how this may affect you, please contact Civil Service Pensions at the contact details provided below.

If you left the NICS with an early retirement, severance or redundancy package then your existing benefits may be affected if you accept this post. If your service was enhanced (increased) when you left then you will not be able to build up benefits in the defined benefit arrangement. If you opt to join the stakeholder scheme, we will not pay employer contributions for this enhancement period but you will be able to contribute if you wish. If you are receiving a pension or annual compensation payment then this may be reduced during your re-employment. If you received a top-up payment under early severance temporary arrangements then your pay may be reduced during your re-employment.

As mentioned above you do not have to join the NICS pension arrangements. If you opt out, you will build up benefits in the State Second Pension Scheme (S2P) instead. If you are considering opting out, CSP strongly recommends that you read the Pension Starter Pack before you make a decision.

Please note that you will **not** be covered during your appointment as a Special Adviser by the provisions of the Civil Service Compensation Scheme (Northern Ireland), irrespective of whether you join the NICS pension arrangements or opt out.

In the event that you join either nuvos or partnership and your health subsequently becomes such that our medical adviser agrees that you should be medically retired, you will be entitled to the ill health retirement benefits provided by the relevant pension arrangement. For this purpose, in the case of nuvos, you will be treated as serving for a fixed term expiring at the latest date at which the Administration that appointed you must end.

In the case of partnership, the maximum benefits payable cannot exceed the amount that you would have earned had your appointment continued until the date defined above for the purposes of determining the end of the fixed term.

Please contact CSP (contact details provided below) if you have any questions about the pension arrangements.

Civil Service Pensions

Waterside House

75 Duke Street

Londonderry BT47 6FP

Tel: 028 71319000, E-Mail: [cspensions.cpg@dfpni.gov.uk](mailto:cspensions.cpg@dfpni.gov.uk)

Web address: [www.dfpni.gov.uk/civilservicepensions-ni](http://www.dfpni.gov.uk/civilservicepensions-ni)

Please indicate your acceptance of these terms, both to me and the Department for Social Development, on the forms set out below.

Yours sincerely

**APPOINTING AUTHORITY**

To: Nelson McCausland

I accept the offer of appointment as your Special Adviser on the terms and conditions referred to in my appointment letter dated May 2011.

Signed: ..... Dated: .....

Name: STEPHEN BRIMSTONE

To: JOHN BALL  
Assistant Director of Human Resources  
Department for Social Development

I have accepted the offer of appointment as Special Adviser to Nelson McCausland on the terms and conditions referred to in my appointment letter dated May 2011.

Signed: ..... Dated: .....

Name: STEPHEN BRIMSTONE