

E. R.

APPOINTMENTS - IN CONFIDENCE

cc: PS/SOS(B & L)
PS/Mr Bloomfield
Mr Spence

Mr Sonnenberg

In your minute of 29 May you requested information on the guidelines given to Departments in seeking Ministerial approval to public appointments.

All appointments to public bodies in Northern Ireland are listed in a schedule attached to Cent Sec circular C.1/86 (copy attached, Annex A). In the list each appointment is categorised A, B or C.

The most important appointments are category A. Para 4.1 of Cent Sec C1/86 lays down the criteria for category A appointments ie those which are either politically sensitive, carry a salary of £2,500 or more per annum or are regarded as prestige appointments. In many cases only the chairmanship of a body is category A while the members are category B.

Category A appointments require the Secretary of State's approval (sometimes even the Prime Minister's approval). Category B and C appointments require only Ministerial approval. The difference between category B and C appointments is that Departments are required to consult CAU about their proposals on category B appointments before submitting recommendations to Ministers while there is no such requirement on category C appointments which are to bodies of a very specialised nature or where outside bodies have the right of nomination of practically all the members.

The categories set out in the schedule to Cent Sec C1/86 have been agreed between Departments and CAU over a number of years. Some explanation may be helpful on one or two of these appointments, which appear to be out of step with the general guidelines on categorisation for example the chairmanships of the Health and Social Services Boards are category A while the chairmanships of the Education and Library Boards are category B. The reason for this difference is that the chairman of an Education and Library Board is elected by Board Members while the chairman of a Health Board is appointed by the Head of the Department, subject to Ministerial approval.

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Other appointments which appear to be out of line are the transport bodies where all the appointments to the NI Transport Holding Company are category A but appointments to the 4 subsidiary companies (NI Railways Ltd, Citybus Ltd, Ulsterbus Ltd and NI Airports Ltd) are category C. One would have expected the chairmanship if indeed not the total membership of these subsidiary bodies to be in category A. However these are commercial companies to which appointments are made by the Transport Holding Company under S.48(1) of the Transport Act (NI) 1967 which gives the Holding Company "power to form, provide and assist companies (including subsidiary companies)...".

There are 225 appointments in category A, 766 in category B and 1267 in category C. CAU is satisfied that the categories correctly reflect the appointments procedures and status of the appointments apart from the commercial transport companies which if the Secretary of State so wishes we can, in consultation with DOE, consider upgrading to category A.

Joan Owens

JOAN OWENS

9 June 1986

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Cent Sec CI/86

PUBLIC APPOINTMENTS PROCEDURES

1. The purpose of this circular is to provide Departments with general guidance in the handling of public appointments. It supersedes all existing guidance dating from 1974.

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3. **Central Appointments Unit (CAU) Stormont Castle - General**

The Central Appointments Unit is the Northern Ireland counterpart of the Public Appointments Unit, London. It maintains the Northern Ireland Central Register

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of persons who have offered their services in the public appointments field and provides advice to departments in the selection of such persons to fill vacancies on public bodies and boards as and when they arise. It also provides advice generally on public appointments procedures but does not itself make appointments. In addition CAU monitors progress towards the achievement of greater diversity in public appointments and acts as an intermediary in the submission to the Secretary of State of Departmental proposals for the filling of the more important and sensitive appointments (ie those graded Category 'A').

4. Categorisation of Appointments

4.1 Existing bodies

All appointments made by Departments and Ministers are Categorised A, B or C. Appointments which are either politically sensitive, carry a salary of £2,500 or more per annum or are regarded as prestige appointments are graded as Category A and require the approval of the Secretary of State. (It should be noted that the salary limit is raised from £2,000 to £2,500 reflecting present money levels. This figure will be revised from time to time). The most important of the remainder are Category B. Those falling in Category C are mostly of a specialised character or are of a relatively low level of importance. A list of scheduled appointments is maintained by CAU and is updated periodically.

4.2 New bodies

All proposals for the creation of new bodies should be cleared with Department of Finance and Personnel in the first instance. Departments should contact their Departmental Supply Officer, indicating the purpose, function and objectives of the new body, the resource implications in terms of personnel and money, and the authority for its creation. Thereafter CAU should be consulted and the categories agreed as soon as possible for inclusion in the list of scheduled appointments.

5. Appointment Procedures

The following procedures in relation to Category A, B and C appointments apply.

Category A: The Department responsible for proposed appointment should first clear it with CAU, who may have knowledge of other commitments an appointee has or may have, and then with the Departmental Minister. Where a Department intends to proceed with a nomination in spite of CAU reservations, the CAU view should be brought to the attention of the Minister. The proposal including any CAU reservations should then be forwarded to the Head of the Northern Ireland Civil Service with an accompanying draft submission to the Secretary of State. It is important that this procedure is adhered to and that adequate time is allowed for all stages of the operation. Cases have occurred from time to time where the Secretary of State's approval has had to be obtained urgently. It is highly undesirable that he should be put in the position of having very little time to consider proposals and Departments are asked to ensure that this does not happen. While CAU will circulate periodically a list of appointments falling due and the time limits to

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be observed it is the responsibility of Departments to be aware of the dates on which their appointments fall due and to make appropriate arrangements well in advance. In making such submissions Departments:-

- (i) should include a brief paragraph stating the purpose and functions of the body to which the appointment is being made, together with an assessment of the organisation's performance in carrying out its functions.
- (ii) should avoid submitting a single name for appointment, but rather should indicate the names of others (with brief CV details) who have been seriously considered and in each case why the recommended name is preferred. If for any exceptional reason, only one name can be put forward the detailed reasons for this should be fully set out in the submission.

Category B: The Department responsible for the proposed appointment/s should obtain CAU clearance before submitting a recommendation to the Minister. CAU should also be consulted on the make-up of a Department's final list. Additional names to supplement the Department's list will be supplied by CAU, if required.

Category C: The Department responsible for the proposed appointment will not be required to consult CAU, but should inform CAU of such appointments and may, if so desired, seek its assistance.

6. Appointments requiring the Prime Minister's approval

Responsibility for identifying politically sensitive appointments which may require the Prime Minister's approval rests with CAU who will also initiate, where necessary, the procedure for reference to Downing Street. The following is the definitive list of such appointments:-

- Chairman - Harland and Wolff Ltd
- Chairman - Short Bros Ltd
- Chairman - NI Housing Executive
- Chairman - NI Police Authority
- Chairman - NI Electricity Service
- Chairman - NI Economic Council
- Chairman - Industrial Development Board

UK instructions require that the Prime Minister shall be consulted in good time about proposed appointments and also about re-appointments. This in effect means one month in advance of the due date of the appointment and the Secretary

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of State has given No 10 an assurance that this timescale will be met in all cases. Before submission to the Prime Minister the proposals require to be approved by the Departmental Minister, the Secretary of State, the Head of the Home Civil Service and such UK Departments as have an interest. It is obvious that to allow adequate time for these preliminaries thought must be given to such appointments well in advance of the date of appointment. In some difficult cases this may well mean starting off the process of selection a year ahead. In any event CAU must have the proposals at least 3 months in advance of the appointment falling due.

7. CAU Central Register - Requests for Names

CAU will provide assistance to Departments in identifying the best candidates to fill particular vacancies. Basic information on roughly 2,500 persons who have volunteered their services is held on the CAU micro-computer; more detailed confidential information is held in individual case folios. All persons featuring in the CAU central register have indicated among other things their areas of particular interest in one or more of 22 categories of service and it is essential if the potential of the computer is to be fully utilised and the best results obtained in selecting possible candidates that Departments give CAU an indication of the type or types of persons required. This should be in the form of a profile or short job description. Requests which simply ask for names will not be entertained. Lists of names will be supplied to Departments by way of a computer printout. More detailed confidential information will be supplied for short-listed candidates on request. Requests should be made in writing and should allow CAU reasonable time to respond.

8. Expansion of CAU Central Register

Steps are currently being taken to expand the central register and CAU hopes thereby that in due course it will be able to provide Departments with a wider range of candidates for consideration. Departments are asked to assist in this exercise by accepting some responsibility for "talent spotting" in the course of their day-to-day activities. The identification of top class people, rising stars and potential Chairmen would be helpful. Recommendations should be forwarded to CAU with the fullest possible information about the background and interests of the person concerned. Candidates from outside the Belfast area will be particularly welcome. CAU should also be contacted where a serving member of a body or board resigns or dies or of any significant change in the status of an individual likely to have a bearing on his suitability for public service of this kind.

9. Age Limit

In line with Government policy to encourage the involvement of younger people in the work of public bodies Departments are particularly asked to look to the 40-55 age group when putting forward names for inclusion in the CAU index or in making appointments to public bodies. In making appointments to public bodies Departments should take account of the fact that persons currently holding public appointments should normally be retired at the end of the term of office in which they reach 70 years of age. Only in very exceptional circumstances should anyone over 70 be offered a fresh appointment or reappointment and then only after consultation with CAU.

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10. Period of Service on a Public Body

10.1 Rotation of membership

Greater diversification in the membership of public bodies will not be achieved without a reasonable degree of rotation of membership and it is thus desirable to set some limitation on the period of membership to allow for the injection of fresh blood and to provide for the replacement of those whose contribution has been of limited value. To this end 2 terms of either 3 or 4 years will be regarded as the norm or general objective to be held clearly in view as a means of securing a reasonable degree of turnover. Not every Department will be able to apply that norm in every situation and a degree of flexibility in its application will be allowed, but an appointment for a third or subsequent term will have to be justified by a better than average contribution to the deliberations of the particular body over the previous 6 or 8 years or by some other compelling consideration.

10.2 Local Government Representatives

Save in those cases where the law demands otherwise, the period of appointment of Local Government representatives should be tied in with the life cycle of the Council.

11. Plurality of Appointments Held

In 1981 the number of public appointments to be held by any one individual was set at a total of 5, subject to the membership of certain bodies being discounted. That total has now been reduced to 4 appointments, with the following appointments being disregarded for the purposes of the count -

Sub-Committees of main boards and committees;

Wages Councils;

Panel from which members of Industrial Tribunals and Industrial Court are drawn;

Industrial Training Boards; and

Appointments to bodies subsidiary to the main body concerned and in the same field.

A very rigid application of this rule might cause difficulties at some stage and a measure of flexibility to provide, for example, for those with overlapping appointments (ie where the membership of one body leads to an appointment to one or more related bodies) will therefore be permitted. Where appropriate, consideration should be given to talented people being encouraged to relinquish minor posts to enable them to take on more important ones and special attention should be paid to Chairmanship appointments to ensure that an appointee who holds other appointments (and much will depend on what they are) is not seriously overburdened.

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It is the intention ultimately to reduce the number of appointments held still further to a total of 3.

12. Balance and Discrimination in Public Appointments

In putting forward recommendations to Ministers for appointments to public bodies and boards, the prime consideration is an individual's ability to make a positive contribution to the work of the particular body or board. It is also essential that Ministers should be offered a choice of candidates which enables them to achieve a fair and equitable balance as regards religion, sex, age and geographical spread among the members.

But vigilance is necessary to ensure that Section 19 of the Northern Ireland Constitution Act (which prohibits discrimination, by governmental and other public authorities, on the basis of religious belief or political opinion) is scrupulously observed in making public appointments. For example, when replacing an individual member of a board, there may be advantage in looking for someone possessing similar qualities and background, but it would infringe Section 19 of the Act to exclude from consideration altogether people whose religion or politics differ from that of the individual being replaced.

Other considerations in the making of appointments cannot be allowed to outweigh the need to appoint to public bodies those capable of discharging their responsibilities in an effective way. While due regard should continue to be paid to the balance of the various community and other interests which are the concern of that particular body, it is important to ensure that consideration of individual nominees is not limited because of their religious belief or political opinion. Requests should not therefore be made to CAU for specific candidates on the basis of religious belief or political affiliation, although it is reasonable to include religious persuasion and party affiliation (where known) in the CV of those considered. Every effort should be made to ensure that candidates considered for the vacancies arising on public bodies are drawn from the widest possible field, so that Ministers have a broadly constituted group from which to choose.

It should also be borne in mind that it is the stated policy of Government to take positive steps to increase the number of women on all public bodies, the targets being not less than 2 women on a body with 7 or more members and at least one woman on a body with under 7 members. More needs to be done to improve the percentage of women serving on public boards. Given the dissatisfaction being expressed by the Equal Opportunities Commission, further efforts are necessary to identify women whose names can properly be submitted for appointment.

13. Appointment of Disabled Persons

Section 9 of the Chronically Sick and Disabled Persons (NI) Act 1978 states:-

"Where an advisory committee is appointed under any statutory provision as defined by Section 1 of the Interpretation Act (Northern Ireland) 1954, regard shall be had, in the appointment of persons to be members of that committee, to the desirability of the committee including one or more persons with experience of work among, and the special needs of, disabled persons and of the person or persons with that experience being or including a disabled person or persons."

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It is desirable that Departments have regard to this provision when considering appointments to statutory advisory committees.

14. Checks on Appointees

(i) Public Debt

Over the period 1976 to 1981 a public debt check was carried out on all persons considered for appointment to public bodies in Northern Ireland. The number of cases coming to light was found to be of insignificant proportions and the checking procedures were discontinued in April 1981, save in respect of persons being considered for appointment to the Boards of the Northern Ireland Housing Executive and the Northern Ireland Electricity Service. Such checks should continue to be observed.

(ii) Security Considerations

Departments should consider the possible security implications of appointments to public bodies and boards. If necessary, after consultation with the Department's own Security Officer, the advice of the Head of DFP Security Branch in Rosepark House should be sought. If a security clearance is needed this must be obtained before the appointment is made. In those cases where the Official Secrets Act apply the appointee should be invited to sign the customary declaration form on accepting the offer of appointment. If he or she declines to do so, the matter should be referred to the Head of DFP Security Branch.

15. Nominations by outside bodies

Ideally those bodies from whom Departments seek nominations should provide a panel of names from which a choice may be made in filling given vacancies, but in practice Departments have tended to receive, in some cases, the exact number of nominations appropriate to the vacancies. This is particularly true in the cases of NIC/ICTU and to a lesser degree the CBI and the NI Chamber of Commerce and Industry. The argument advanced by such nominating bodies is that they regard themselves as better placed than Government to select those best able to serve their interests. This practice does not permit the degree of choice which a Minister might expect to have in making public appointments and makes more difficult for him the task of arriving at a fully balanced membership which reflects the diversity of the Northern Ireland Community in terms of geographical location, age, religion, culture and sex. Some flexibility on the part of both nominating bodies and Departments is thus called for.

The revised arrangements at (i) to (vi) below have now been agreed with NIC/ICTU (the 'Concordat' of 1974 having been superseded), the CBI and the NI Chamber of Commerce and Industry and apply to them only. The objective of the revised arrangements, which may require some modification in the light of experience, is to ensure that the very best people are brought into service on our public bodies and boards:-

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- (i) Save in those instances where one of the three nominating bodies is prepared to offer a panel of names (eg the CBI has done so in the case of the Education and Library Boards) nominations may be accepted on a "one for one" basis.
- (ii) In requesting nominations Departments should give some indication of the requirements of the particular appointment in terms of expertise and/or experience. In this connection a prior consultation with the Chairman of the Committee or Board to which the appointment is being made may, in some cases, be advisable. The nominating bodies should be encouraged to identify new talent in making nominations.
- (iii) A Department's approach to the nominating body should be made at least 2 months in advance of the vacancy occurring, either in writing or orally, by an appropriate senior officer, normally Principal or Assistant Secretary level.
- (iv) In those cases where nominations are being made en bloc, the nominating body should be asked to have regard to balance, by way of geographical location, age, community and sex, in making their nominations. In cases of a single nomination where appointments are made on a "staggered" basis, the nominating body should take account of its sitting members with a view to achieving an overall balance.
- (v) Departments will have the right to consult with the nominating body about any nominee whom their Minister considers unsuitable. In any case where a Department is unable to reach an accommodation with the nominating body, the matter should be referred to CAU.
- (vi) Departments should inform the nominating body whether or not their nominees have been accepted.

At present the Association of Local Authorities cannot be considered representative of Local Government and alternative arrangements for the obtaining of Local Government nominations are being handled by the Department of the Environment. Until such time as the position of ALA is clarified Departments should contact DOE on all aspects of Local Government nominations which would normally come through that Association.

It is recognised that Departments have long-standing and satisfactory arrangements with various organisations which are prepared to provide a panel of names from which a choice can be made and such arrangements should be allowed to continue.

16. Anglo-Irish Intergovernmental Conference

Article 6 of the Anglo-Irish Agreement provides that the Intergovernmental Conference is to be a framework within which the Irish Government may put forward views and proposals on the role and composition of bodies appointed by the Secretary of State for NI and NI Departments. The Article singles out for special mention 5 bodies - the Standing Advisory Commission on Human Rights, the Fair Employment Agency, the Equal Opportunities Commission, the Police Authority for Northern Ireland and the Police Complaints Board - but

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Departments should note that, within the terms of the Article, it is open to the Irish to put forward through the Conference, views and proposals on the role and composition of bodies other than those individually specified. Central Secretariat will advise on whether the Irish should be informed through the Conference about any other major appointments, in addition to appointments to the 5 bodies named in the Agreement.

17. Review Form

As a means of assessing that information held by CAU is relevant and up to date, Departments will be issued with Review Forms periodically. These forms will also require feedback on the performance of all the appointees for which they are responsible. Such feedback is essential to the function of CAU and the co-operation of Departments is sought in providing a meaningful evaluation of a member's performance. In those cases where a body is at one remove from Government, the monitoring of members' performance may cause problems, but Departments are encouraged to devise ways and means of obtaining such assessments. For the more important bodies in this situation an approach to the Chairman may be the only way forward and in such cases it is considered that this would best be done by the Permanent Secretary, in private conversation in an informal way and not in writing. Approaches should not be made to administrators save in those cases where they are Civil Servants except where a Permanent Secretary expressly authorises an approach to the Chief Executive Officer of a board.

18. List of Scheduled Appointments

The list of Scheduled Appointments has been updated and a copy is attached.

19. The circular cancels the following OEC and Cent Sec Circulars, all of which should now be destroyed -

<u>OEC</u>	<u>Cent Sec</u>
16/74	6/76, 1/77, 7/77, 12/77, 14/77, 3/78, 4/81, 10/81, 15/82, 7/83 and 4/85

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March 1986