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Mr Goodman
file pl.

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MLDFP

Without Annexes

- cc: PS/Mr Atkins (DOE, DEB B&L)
- PS/Michael Ancram (DENI, B&L)
- PS/Lord Arran (DANI, DHSS B&L)
- PS/PUS (B&L)
- PS/Mr Fell
- NI Perm Secs
- Mr Shannon
- Mr M Legge
- Miss Taylor
- Mr E Jardine
- Mr Wilson

McHagan
Very interesting
for file pl
11.11.93

a M Spence
M Gibson
Miss Goffe
Mr Howe

FROM: P J SMALL
Department of Finance & Personnel

4 November 1993

- 1. PS/Sir John Wheeler (DFP, B&L)
- 2. PS/Secretary of State (B&L)

APPROVED BY NOS 5/11

ENQUIRY FROM MR DAVID TRIMBLE MP ABOUT THE NORTHERN IRELAND CIVIL SERVICE (NICS) REVIEW UNDER SECTION 31 OF THE FAIR EMPLOYMENT (NORTHERN IRELAND) ACT 1989

- 1. This submission provides advice on how best to reply to the enquiry from Mr David Trimble MP about the NICS Section 31 Review. This issue is complex and in view of the political undercurrent we have elaborated in the submission to a greater extent than would normally be appropriate. It is important however that the Secretary of State considers the draft reply within the context of a fairly full explanation of policy and practice in this area of work.

Introduction

- 2. On 15 October 1993, the Department of Finance and Personnel published a Summary Report of the Northern Ireland Civil Service (NICS) review of employment practices and composition, and fair participation as between Protestants and Roman Catholics in the organisation. The Review was a legal requirement under Section 31 of the Fair Employment (Northern Ireland) Act 1989. A copy of the published report is attached at Annex A and the main features and findings of the review are set out at Annex B, attached.
- 3. On 18 October Mr David Trimble MP wrote to the Secretary of State about the Summary Report, essentially putting two questions:-

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While there were tables, at Annex A of the report, analysing applications to the NICS, there were no tables analysing actual appointments on an individual basis (we are not clear what Mr Trimble means by "individual basis"); and

there was no indication of the Service being concerned over a fall in Protestant application rates from 61.24% in 1991 to 56.89% in 1992.

4. Mr Trimble suggests that a similar reduction in respect of Roman Catholic application rates would result in the immediate launch of affirmative action to remedy the position and he therefore seeks assurance that the NICS will be even-handed in its pursuit of equality of opportunity and fair participation.

Background

5. The pursuit of equality of opportunity and fair participation in an organisation the size of the NICS, with many different occupational groups and grade levels, is a complex issue with many nuances. Given the contentious and politically charged nature of the fair employment issue in Northern Ireland, objectives set and work undertaken is inevitably vulnerable to criticism by one or other side of the community. This is particularly so when information is presented in summarised form (though a full explanation of the same information can also lead to criticism). This is evident from the way the Summary Report of the Section 31 Review was covered by the media when published last month. Despite a substantial press release, coverage was highly selective, superficial and in many cases misleading. For example affirmative action measures, such as abolition of seniority as a criterion for promotion, and grade-skipping designed to introduce additional flexibility into the promotion process were sensationalised. There was no mention of the fact that the measures applied to both Roman Catholics and Protestants and that actual selection for promotion would, as now, be based solely on merit.
6. It must be recognised, of course, that fair employment legislation, although couched in neutral terms, was introduced in 1976 and strengthened in 1989 as a reaction to Roman Catholic disadvantage in employment. Without an expansion in job opportunities an improvement in the position of Roman Catholics can only come about at the expense of Protestants or those who are classed as neither Protestant or Roman Catholic (ie Not Determined) for the purposes of the fair employment legislation. With the best will in the world we cannot pretend that Protestant representation will not be affected. We must keep repeating, however, that the concept of fair participation means just that - fair to both sections of the community.

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Response to Mr Trimble

7. We believe that Mr Trimble's enquiry, although based on a somewhat narrow interpretation of bald summary statistics, is founded on a genuine concern increasingly evident among representatives of the Protestant section of the community and indeed among some of our own staff, that equality of opportunity and fair participation is being pursued in a less than even-handed fashion. For that reason, the attached draft reply goes beyond Mr Trimble's specific questions and seeks to set the matter in the wider context of the Service's approach to equality of opportunity and fair participation.

8. NICS equal opportunities policy is that selection for employment or for advancement within the Service is on the basis of ability, qualifications and aptitude for the work, ie merit. In addition the NICS is bound by, and diligently seeks to comply with, the stringent requirements of the Fair Employment (Northern Ireland) Act 1976 which makes both indirect and direct discrimination on the grounds of religion or political opinion unlawful. This means that assurances of an objective and even-handed approach can readily be given: anything less would be impolitic and unwarranted. Detailed monitoring of promotion and recruitment carried out since 1985, reported in a regular series of published reports by the Service's Equal Opportunities Unit (EOU) bear this out. The EOU reports provide, amongst other things, detailed information on the composition of the NICS and comparative information on application, appointment and promotion rates for Protestants and Roman Catholics.

9. Turning to the first of Mr Trimble's two specific questions, it is true that the Summary Report contained less detail on actual appointments than it did on application rates. The information on annual application rates in Annex 1 of the Summary Report was included to give a broad picture of the level of interest in employment opportunities in the NICS as between Protestants and Roman Catholics and to illustrate the broad trends in application rates (insofar as any trend is evident). The relevance of this information is that the emergence of a trend in application rates might be an early, albeit very general, indicator of potential change in the composition of the organisation in the long term, which might warrant further investigation.

10. So far as appointment rates are concerned there is a brief reference in paragraph 12 of the Summary Report to the effect that "Applications and appointments on a Service-wide basis for competitions which closed during 1989 and 1990 were in the range of 58/60% Protestant and 38/40%

E.R.

Roman Catholic". Once again, this simply gives the broad picture. Paragraph 10 of the Report drew attention to the fact that detailed information about the composition of the NICS in terms of both sex and religion is contained in the regularly published reports of the Service's Equal Opportunities Unit.

11. Given this information we saw no reason to include any information on annual appointment rates. Indeed to do so would have invited comparison between applications and appointments in a particular year, which would have been misleading since the timescale between application and appointment in the NICS is such that the two groups would be comprised of different people and would therefore not be comparable.
12. This is not an academic point but is fundamental to the whole NICS equal opportunity monitoring effort. In practice, judgements about affirmative action need to be based on specific information and this is why NICS equal opportunities monitoring is pitched at the level of individual competition. It is this rigorous monitoring of individual competitions which underpins the Service's commitment, as part of the Section 31 Review, to a policy of positive action advertising taking account of application rates in the last directly comparable recruitment competition, the composition of the group being recruited to and best estimates of labour availability including, where relevant and practicable, qualifications and age profiles. Such affirmative action will apply where under-representation is shown to exist to a significant degree, be it in the Protestant section or the Roman Catholic section of the community.
13. The drop in Protestant applications from 61.24% in 1991 to 56.89% in 1992 amounts to just over 4% and not 7% as Mr Trimble indicates. In fact consideration of the other tables in Annex 1 of the Summary Report confirms that the 1991 figure is also on the high side when compared with 1989 (57.49%) and 1990 (56.24%). None of this will be of much comfort to Mr Trimble, however, since census data puts overall Protestant representation among the economically active population at 60.1%. DFP has considered these figures carefully and so far we have not regarded the figures for Protestant representation as unreasonable, particularly in view of the qualifications outlined in the following paragraph.
14. However, to answer Mr Trimble's specific question, the explanation for the drop in Protestant applications between 1991 and 1992 appears to be the cumulative effect of movement in Protestant and Roman Catholic applications in the eight main occupational groups which go to make up the total applications, as shown in Annex 1 of the Summary Report, particularly those involving large numbers.

15. The key points in this respect are:

- (a) In the General Service grades absolute numbers rose considerably from 1991 (2569 Protestant; 2275 Roman Catholic) with Roman Catholic representation rising from 46.97% to 48.76% which is broadly in line with the population split among the under-35 population from which the bulk of applicants to the General Service recruitment grades are drawn.
- (b) The significant increase in the category "Other Professional and Departmental Grades" where Protestant applications rose from 911 in 1991 to 1540 in 1992 but where Roman Catholic applications rose from 509 in 1991 to 1053 in 1992. In percentage terms, however, Roman Catholic representation in 1992 amounted to 40.61%.
- (c) In Central Services grades Protestant applications remained steady over the 2 years (2037 and 2076 respectively) whereas Roman Catholic applications rose from 569 (21.83%) in 1991 and 1078 (34.18%) in 1992, both below the overall Roman Catholic census figure of 40%.
- (d) The inclusion in the 1992 figures of applications to a competition for computer grades. Given the nature of the work such competitions tend to attract a pool of younger applicants and thus higher than usual Roman Catholic representation. There was no equivalent competition in 1991.

16. To summarise, therefore, variations in the headline figures and across occupational groups reflected in the tables at Annex 1 are a factor of the mix of competitions run in any one year.

17. We have sought to carry through the main points of the above into the proposed reply to Mr Trimble (draft attached). We also believe that there would be merit in alluding to the likelihood, if not the inevitability, that if Roman Catholic under-representation is to be addressed the level of Protestant representation is likely to fall in proportion. It would be worth stressing, however, the absolute primary factors that the essence of any affirmative action is to bring more of the under-represented group within the pool of staff eligible for recruitment or promotion, and that selection to the NICS will continue to be on merit. At the end of the day the best person should get the job: this is the objective rather than advantaging or disadvantaging one or other section of the community.

E.R.

18. Finally, the Secretary of State may consider that in view of the complexity of this issue Mr Trimble should be offered a briefing by officials. Alternatively, the Secretary of State might wish to keep this in reserve and only offer it if Mr Trimble comes back with further queries. This latter approach would be DFP's preference.

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P.P. P J SMALL

RW 29/10.1

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<p>To:</p> <p>Mr D Trimble Esq MP 2 Queen Street Lurgan BT66 8BQ</p>	<p>Enclosures:</p>	<p>Copies to be sent to:</p>
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Letter drafted for signature by SECRETARY OF STATE

Thank you for your letter of 18 October about the Summary Report of the Northern Ireland Civil Service Review under Section 31 of the Fair Employment (Northern Ireland) Act 1989 published on 15 October. This is an important piece of work and I welcome your interest in the matter. I also understand your concern that the objectives of equality of opportunity and fair participation should apply across the whole community. I thought you would find it helpful if I provided you with a fulsome reply to the points you raise; this is however a complex issue and thus a lengthy response is unavoidable.

I am happy at the outset, to confirm that Civil Service equal opportunity policy since 1985 has been that "All eligible persons shall have equality of opportunity for employment and advancement in the Northern Ireland Civil Service on the basis of their ability, qualifications and aptitude for the work". The NICS Equal Opportunity Policy Statement also makes it clear that the aim of the Civil Service is to tap the entire labour market and that advertisements must not be confined unjustifiably to areas of publications which would exclude or disproportionately reduce the number of applicants of a particular group.

This internal policy is reinforced by the provisions of the fair employment legislation with which the Civil Service complies fully. Application, appointment and promotion rates in the NICS are carefully monitored by the Service's Equal Opportunities Unit (EOU) and published in a regular series of EOU reports, the last of which was in November 1991. A further detailed report is due to be published next year.

It must be recognised, however, that these policy and legislative provisions were introduced against a background of evident Roman Catholic disadvantage in employment. The legislation was strengthened by the inclusion in the Fair Employment (Northern Ireland) Act 1989 of the concept of fair participation and the review arrangements which resulted in the publication of the Summary Report about which you have written. This is not to ignore the under-representation of Protestants which exists in some areas of work. I make the point simply because in many areas, including a fair number of Civil Service occupational groups, Roman Catholic under-representation is still unacceptably high and progress in addressing it will inevitably impact on Protestant representation. The pursuit of fair participation is a clear legislative obligation. It must of course be pursued within the boundaries of fair employment legislation and thus the essence of any affirmative action is to bring more of the under-represented group whether Protestant or Roman Catholic within the pool of staff eligible for recruitment or promotion. After that selection must be on merit. The best person should get the job.

Turning to your specific questions, you refer to the absence of a breakdown of appointments by occupational group to match those in Annex 1 of the Summary Report. It is true that the Summary Report contained less detail on the former than it did on the latter. The information on annual application rates in Annex 1 of the Summary Report was included to give a broad picture of the level of interest in employment opportunities in the NICS as

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This is not the case where the unit of comparison is competitions which have closed during a particular year. As shown in paragraph 12 of the Summary Report applications and appointments on a Service-wide basis for competitions which closed during 1989 and 1990 were in the range of 58/60% Protestant and 38/40% Roman Catholic. Once again, this gives the broad picture.

In practice, however, judgements about affirmative action need to be based on specific information and this is why NICS equal opportunities monitoring is pitched at the level of individual competition. It is this rigorous monitoring of individual competitions which underpins the Service's commitment, as part of the Section 31 Review, to a policy of positive action advertising taking account of application rates in the last directly comparable recruitment competition, the composition of the group being recruited to and best estimates of labour availability including, where relevant and practicable, qualifications and age profiles. Such affirmative action will apply where under-representation is shown to exist to a significant degree, be it in the Protestant section or the Roman Catholic section of the community.

Your second point relates to the drop in Protestant applications from 61.24% in 1991 to 56.89% in 1992 (just over 4% and not 7% as your letter suggests). It is evident from the tables in

Annex 1 that the drop is explained by the cumulative effect of movement in Protestant and Roman Catholic applications in the eight main occupational groups which go to make up the total applications, particularly those involving large numbers.

The key points in this respect are:

- (a) In the General Service grades absolute numbers rose considerably from 1991 (2569 Protestant; 2275 Roman Catholic) with Roman Catholic representation rising from 46.97% to 48.76% which is broadly in line with the population split among the under-35 population from which the bulk of applicants to the General Service recruitment grades are drawn.
- (b) The significant increase in the category "Other Professional and Departmental Grades" where Protestant applications rose from 911 in 1991 to 1540 in 1992 but where Roman Catholic applications rose from 509 in 1991 to 1053 in 1992. In percentage terms, however, Roman Catholic representation in 1992 amounted to 40.61%.
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To summarise, therefore, variations in the headline figures and across occupational groups reflected in the tables at Annex 1 are a factor of the mix of competitions run in any one year.

I hope you have found these necessarily lengthy explanations helpful and that you are assured that Civil Service monitoring is on the right tracks. I am confident that the Service will continue to be even-handed in the pursuit of its objectives of equality of opportunity and fair participation for both sections of the community in Northern Ireland. [In the event that you feel some further elucidation would be helpful I would be happy to arrange a briefing by officials who carry responsibility for this area of work.]

PATRICK MAYHEW

RW 29/10

URGENT

SECRETARY OF STATE'S MINISTERS CASE

Reference : SOS/00755/93

Raised By : DAVID TRIMBLE ESQ MP

Subject : THE NI CIVIL SERVICE EQUAL OPPORTUNITIES REVIEW

ACTION REQUIRED

1. Please provide advice and draft reply for ~~Sir John Wheeler's~~ signature no later than 02/11/1993.

SOS (26/10/93)

2. Draft reply to be provided by :

1. PRIVATE OFFICE, DFP

3. Reply to be co-ordinated with PRIVATE OFFICE, DFP.

4. Circulated to :-

PS/Secretary of State (B) PS/Secretary of State (L) PS/Sir John Wheeler (DFP)
PS/Sir John Wheeler (B) PS/Sir John Wheeler (L) Mr Semple (DFP)
Private Office, DED

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Letter Received : 19/10/1993 Interim Reply Sent : ___/___/___

Letter Acknowledged : 19/10/1993 Final Reply Sent : ___/___/___

Referred To	Date	Referred To	Date
PRIVATE OFFICE, DFP	19/10/1993		

Mr Wilson 21/10/93

Mr Smith 21/10/93

Mr V. J. 22/10/93

Mr Smith 1/11/93

Extension to date of reply to 5/11 sought 1/11 L.N

