

cc Miss Beattie
Mr Hamilton

FROM: DOROTHY ANGUS

DATE: 25 AUGUST 1999

TO: MEMBERS OF ASEOM

DEVOLUTION - CODE OF ETHICS

Introduction

1. In preparation for devolution the Code of Ethics has been amended to reflect the new accountability arrangements under local Ministers. The current Code is written in the context of direct rule and the accountability of Northern Ireland civil servants to the Secretary of State, and of the duties and responsibilities Ministers in the Westminster Ministerial Code. The NIO will require a separate Code since staff in that department, whether members of the HCS or the NICS, will continue to owe loyalty to the Secretary of State.

Revised Code

2. The text of the revised Code has been agreed by the Civil Service Management Board and by the First Minister (Designate) and the former Deputy First Minister (Designate). It will require the endorsement of other Ministers in the event of devolution and will not issue, of course, until that endorsement is obtained. At that stage, it is intended to send a personal copy to each member of staff.
3. A copy of the revised text is attached at Annex A. The main changes are:
 - (i) references throughout the Code to "Government" have been changed to "Administration" and Administration has been defined to mean Executive Committee.
 - (ii) the new accountability line for civil servants is defined in the first tier of paragraph 4. The definition recognises that the Executive Committee has itself no executive function and civil servants will serve the Administration through their departments. At the same time, the desirability of retaining some corporacy and coherence across the NICS is reflected by expressing the focus of overall loyalty of the NICS as accountability to the Executive

Committee, as representing the collective authority of Government in Northern Ireland, but through the Departmental Minister.

- (iii) paragraph 12 introduces an additional line of appeal to the Head of the NICS, if a civil servant feels that a matter reported has implications for a decision of the Executive Committee or for the programme of Government.
- 4. TUS are content with the revisions except that they would prefer to see the original wording retained at the second tiret of paragraph 3. The change simply reflects language used in the draft Code of Conduct and Procedures for Ministers of the Northern Ireland Assembly. This is a minor point which we should be able to resolve quickly.

Procedure For Reporting Matters Under the Code of Ethics

- 5. Otherwise, TUS have argued that the corporacy and coherence evident in the Code of Ethics should be reflected in a common procedure across the NICS for reporting matters under the Code. This is a return to an argument which they deployed when the Code of Ethics was introduced. Since then departments and agencies have developed their own procedures based on central parameters agreed by ASEOM and written into the draft conduct section of the Staff Handbook. As far as we can ascertain, the departmental/agency procedures rely heavily on the central parameters and the purpose of this paper is to ascertain whether those parameters continue to meet departments' and agencies' needs.
- 6. The central parameters have been amended to take account of the additional line of appeal to the Head of the NICS and the draft is attached at Annex B. Furthermore we are working with Central Secretariat to devise a procedure for the appeal process. If departments wish us to do so, we are content to develop the parameters further into a model procedure which could be adopted by all departments and agencies. Alternatively, departments may have good reason for needing departmental/agency specific procedures or they may not wish to disturb their current procedures which may only need the addition of reference to the availability of the appeal to the HOCS. If a common procedure is agreed in principle we would take forward the detail with EOM.

Conclusion

- 7. Departments are asked to confirm whether they are content with the central parameters or whether they wish CPG, in conjunction with EOM, to develop a service wide procedure for reporting matters under the revised Code of Ethics.

Dorothy Angus

DOROTHY ANGUS (MRS)

DRAFT

NORTHERN IRELAND CIVIL SERVICE

CODE OF ETHICS

Introduction

1. The constitutional and practical role of the Northern Ireland Civil Service (the 'Civil Service') is, with integrity, honesty, impartiality and objectivity, to assist the duly constituted Administration¹ of Northern Ireland, constituted in accordance with the Northern Ireland Act 1998, whatever its political composition, in formulating policies, carrying out decisions and in administering public services for which it is responsible.
2. Constitutionally, civil servants are servants of the Crown. Subject to the provisions of this Code, civil servants owe their loyalty to the Administration, which they serve.

¹ In this Code Administration refers to the Executive Committee of the Northern Ireland Assembly as defined in section 20 (1) of the Northern Ireland Act 1998.

The Duties and Responsibilities of Ministers²

3. This Code should be seen in the context of the duties and responsibilities of Ministers set out in Schedule 4 of the Northern Ireland Act 1998 and in the Code of Conduct and Procedures for Ministers of the Northern Ireland Assembly which include:

- ♦ accountability to the Assembly;
- ♦ the duty to give accurate and truthful information to the Assembly and to be as open as possible with the Assembly and the public;
- ♦ the duty not to use public resources for party political purposes, to uphold the political impartiality of the Civil Service, and not to ask civil servants to act in any way which would conflict with the Northern Ireland Civil Service Code of Ethics;
- ♦ the duty to give fair consideration and due weight to informed and impartial advice from civil servants, as well as to other considerations and advice, in reaching decisions; and

² In this Code Minister means a member of the Executive Committee of the Northern Ireland Assembly and junior Ministers.

- ♦ the duty to comply with the law, including international law and treaty obligations, and to uphold the administration of justice;

together with the duty to familiarise themselves with the contents of this Code.

The Duties and Responsibilities of Civil Servants

4. Civil Servants should serve the duly constituted Administration of Northern Ireland in accordance with the principles set out in this Code and recognising:

- ♦ the accountability of civil servants to the Executive Committee, as representing the collective authority of Government in Northern Ireland, through the departmental Minister;
- ♦ the duty of all public officers to discharge public functions reasonably and according to the law;
- ♦ the duty to comply with the law, including international law and treaty obligations, and to uphold the administration of justice; and
- ♦ ethical standards governing particular professions.

Civil Servants should conduct themselves with integrity, impartiality and honesty. They should give honest and impartial advice to Ministers, without fear or favour, and make all information relevant to a decision available to Ministers. They should not deceive or knowingly mislead Ministers, the Assembly, Parliament or the public.

6. Civil servants should endeavour to deal with the affairs of the public sympathetically, efficiently, promptly and without bias or maladministration.
7. Civil servants should endeavour to ensure the proper, effective and efficient use of public money.
8. Civil servants should not misuse their official position or information acquired in the course of their official duties to further their private interests or those of others. They should not accept benefits of any kind from a third party which might reasonably be seen to compromise their personal judgement or integrity.
9. Civil servants should conduct themselves in such a way as to deserve and retain the confidence of Ministers and to be able to establish the same relationship with those whom they may be required to serve in some future administration. They should comply with restrictions on their political activities. The conduct of civil servants should be such that Ministers and potential future Ministers can be sure that confidence can be freely given,

and that the Civil Service will conscientiously fulfil its duties and obligations to, and impartially assist, advise and carry out the policies of the duly constituted Administration.

10. Civil servants should not disclose without authority official information which has been communicated in confidence within the Administration, or received in confidence from others. Nothing in this Code should be taken as overriding existing statutory or common law obligations to keep confidential, or to disclose, certain information. They should not seek to frustrate or influence the policies, decisions or actions of the Administration by the unauthorised, improper or premature disclosure outside the Administration of any information to which they have had access as civil servants.

Issues of Conscience

11. Where a civil servant believes he or she is being required to act in a way which:
 - ♦ is illegal, improper, or unethical;
 - ♦ is in breach of constitutional convention or a professional code;
 - ♦ may involve possible maladministration; or

- ♦ is otherwise inconsistent with this Code;

he or she should report the matter in accordance with procedures laid down in the Staff Handbook or in departmental guidance or rules of conduct. A civil servant should also report to the appropriate authorities evidence of criminal or unlawful activity by others and may also report in accordance with departmental procedures if he or she becomes aware of other breaches of this Code or is required to act in a way which, for him or her, raises a fundamental issue of conscience.

12. If a civil servant feels that the matter which he or she has reported has implications for a policy or a decision of the Executive Committee or for the programme for Government, he or she may refer the matter to the Head of the Civil Service, if not satisfied that the response from the department represents a reasonable response to the grounds of his or her concern.
13. Where a civil servant has reported a matter covered in paragraph 11 and 12 in accordance with procedures laid down in the Staff Handbook or in departmental guidance or rules of conduct and believes that the response does not represent a reasonable response to the grounds of his or her concern, he or she may report the matter in writing to the Civil Service Commissioners for Northern Ireland.

Civil servants should not seek to frustrate the policies, decisions or actions of the Administration by declining to take, or abstaining from, action which flows from ministerial decisions. Where a matter cannot be resolved by the procedures set out in paragraphs 11 to 13 above, on a basis which the civil servant concerned is able to accept, he or she should either carry out his or her instructions, or resign from the Civil Service. Civil servants should continue to observe their duties of confidentiality after they have left the Civil Service.

3. While many complaints will be raised through the management line, there should also be a nominated officer or officers (the Investigating Officer(s)), who can be approached in confidence in the first instance. The Officer will be nominated by the Department but will normally be at Grade 5 level or above. Internal need and procedures will normally involve the Establishment/Personnel Officer.

4. Where possible, reports to Investigating Officer(s) will be treated in confidence but, all staff should be warned that, in the interests of justice to any party concerned, it will probably not be possible in the longer term to protect confidentiality, especially if criminal or disciplinary proceedings ensue.

5. Staff outside the Department might become involved if they are aware of any facts of relevance to the matter being reported.

6. If it becomes apparent that a report has serious implications, consideration might be given to the Department of Finance and Personnel centrally investigating the issue. In that case, the reporting officer should be made aware that the investigation is being taken forward centrally.

7. Reports should preferably be lodged immediately, but in any event no later than 1 month after an officer considers that justice is being or has been asked to take action which comes within the areas defined in the Code of Ethics or becomes aware of evidence of criminal or unlawful activity or any breach of the Code. This time limit might be extended in exceptional circumstances at the discretion of the Investigating Officer.

PROCEDURES FOR REPORTING MATTERS UNDER THE CODE OF ETHICS

Central parameters for such procedures are set down below. It will be a matter for individual Departments to devise and promulgate their own more detailed procedures within these parameters.

1. Departments should ensure that clear guidance on the procedures is available to all staff.
2. The procedures will cover cases where a civil servant believes he/she is being required to act in a way which is illegal, improper or unethical or is in breach of constitutional convention or a professional code; which might involve possible maladministration; or which is otherwise inconsistent with the Code of Ethics. A civil servant should report to the appropriate authorities evidence of criminal or unlawful activity by others and may also report in accordance with departmental procedures if he or she becomes aware of other breaches of the Code of Ethics or is required to act in a way which, for him/her, raises a fundamental issue of conscience.
3. While many complaints will be raised through the management line, there should also be a nominated officer or officers (the Investigating Officer(s)), who can be approached in confidence in the first instance. The Officer will be nominated by the Department but will normally be at Grade 5 level or above. Internal resolution procedures will normally involve the Establishment/Personnel Officer.
4. Where possible, reports to Investigating Officer(s) will be treated in confidence but, all staff should be warned that, in the interests of justice to any party complained of, it will probably not be possible in the longer term to protect confidentiality, especially if criminal or disciplinary proceedings ensue.
5. Staff outside the Department might become involved if they are aware of any facts of relevance to the matter being reported.
6. If it becomes apparent that a report has service-wide implications, consideration might be given to the Department of Finance and Personnel centrally investigating the issue. In that case, the reporting officer should be made aware that the investigation is being taken forward centrally.
7. Reports should preferably be lodged immediately, but in any event no later than 1 month after an officer considers that he/she is being or has been asked to take action which comes within the areas defined in the Code of Ethics or becomes aware of evidence of criminal or unlawful activity or any breach of the Code. This time limit might be extended in exceptional circumstances at the discretion of the Investigating Officer.

8. The facts and grounds of the report must be agreed between the member of staff raising the concern and the Investigating Officer before the matter is formally investigated. In a case of alleged criminal or unlawful activity, the relevant Solicitor's Branch would normally be consulted.

9. If an individual has reported concerns but the process of internal review is not complete before action is required, he/she - except where a clear breach of the law would occur - should carry out instructions pending a response from the Department. However, the individual may formally record his/her dissent with the action.

10. The Investigating Officer will inform the officer of the outcome of the investigation and any further action which will be taken.

11. If a civil servant feels that the matter which he or she has reported has implications for a policy or a decision of the Executive Committee or for the programme of Government, he or she may refer the matter to the Head of the Northern Ireland Civil Service, if not satisfied that the response from the department represents a reasonable response to the grounds of his or her concern. The referral to the Head of the Civil Service should be made within one month of receipt of the response from the department.

12. Departments should ensure that staff feel confident to voice complaints, and are not penalised for raising genuine concerns in accordance with the procedures.

13. Where a civil servant has reported a matter in accordance with Departmental procedures and believes that the reply does not represent a reasonable response to the grounds of his/her concern, he/she may report the matter in writing to the Civil Service Commissioners for Northern Ireland.