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Hayes Review

A Report on Staff Deployment in the Northern Ireland Civil Service

22 April 1997

HAYES REVIEW

A REPORT ON STAFF DEPLOYMENT IN THE NORTHERN IRELAND CIVIL SERVICE

- 1.00 On 10 March 1997 I was invited by Sir David Fell, Head of the Northern Ireland Civil Service, on the authority of the Secretary of State for Northern Ireland, to carry out a review of the manner in which staff had been deployed in the Minister's Private Office in the Northern Ireland Department of Agriculture, and other related cases to which reference had been made in the media.

2.0 TERMS OF REFERENCE

- 2.01 The Terms of Reference for the review, which were published on 13 March are as follows:—
- (a) to review the circumstances surrounding the deployment of staff in the Department of Agriculture Private Office, focusing mainly on the case of sectarian harassment in that Department in 1995, though without re-opening that case, which has already been settled by agreement among the parties;
 - (b) drawing upon the Department of Agriculture case, and any other relevant material, to identify any scope for improving procedures in the Northern Ireland Civil Service (NICS) regarding the handling of cases involving harassment;
 - (c) further drawing upon the Department of Agriculture case, the circumstances surrounding the appointment of a Minister's Travelling Private Secretary in 1995, and any other relevant material, to identify any scope for improving NICS arrangements for appointing and deploying staff in Ministers' Private Offices and Departmental Press Offices in Northern Ireland, and Travelling Private Secretaries;
 - (d) to note that the scope of the opportunities for improvements at (b) and (c) should embrace both good management practice generally, and the Northern Ireland Civil Service equal opportunities policies in particular; and
 - (e) to make a report on the outcome of this work to the Head of the Northern Ireland Civil Service by mid-April 1997.

- 2.02 The Terms of Reference were in my view wide enough to allow me to investigate any other similar case which might become public or be brought to my attention, or which I might come across in the course of my inquiries, and one such did come to light. This was drawn to my attention by the Permanent Secretary of the Department of Economic Development (DED) as having occasioned some media interest recently. The case concerned an appointment in the Private Office of that Department. I also received a letter from an elected representative calling my attention to an allegation of possible bias by the Minister in favour of the wives of policemen when selecting Private Secretaries. He did not supply any supporting evidence.
- 2.03 My inquiries have been confined therefore to four specific sets of circumstances, the transfer of a member of staff from the Private Office in the Department of Agriculture for Northern Ireland (DANI), the transfer of a Departmental Press Officer in DANI, the filling of a post as Travelling Private Secretary in the Northern Ireland Office (NIO) and the appointment of a Departmental Private Secretary in DED.

3.00 PROCESS

- 3.01 My Review, although popularly referred to in the media as a Commission, has neither the formality nor the powers of a Commission of Inquiry. I have no power to compel the attendance of witnesses, to take evidence on oath or to cross examine. On the other hand those providing evidence for me, or those who might be exposed to criticism, did not have the safeguards which would be provided by a Commission of Inquiry. My inquiries therefore were informal and conducted in private and depended to a great extent on the willingness of those concerned to co-operate.
- 3.02 I must say at the outset that I had no indication of any lack of willingness to co-operate in the Review. I met all those who appeared from the papers to have played some role in the events under review. I asked them to meet me in order to assist my inquiry. In all about 30 people were invited (including two senior officers who had retired) and also including the Minister most directly concerned and the Secretary of State and the Permanent Under Secretary of the NIO. No one declined my invitation. I thought that people were frank and open in conveying their account of what had taken place and their part in it. All were seized of the importance of the issues. I am grateful to them for this co-operation and assistance.
- 3.03 I had suggested to those whom I wanted to talk to me that they might wish to be accompanied by a friend or a trade union representative. Two junior officers took this offer up. One was accompanied by a Trade Union representative, the other by a relative. One officer who was on a career break in England travelled over for the interview and for this I am grateful. I thought it proper that the Department of Finance and Personnel (DFP) should meet the costs involved.

- 3.04 My first step on taking on the Review was to seek to secure and take possession of all files and papers relating to the cases under review. This was done immediately and a senior official approved by me to assist me in the Review took control of files from the four Departments concerned in the first three cases (DANI, NIO, DED, DFP) on 11 March. The papers on the other DED case were submitted to me later by the Permanent Secretary.
- 3.05 I am satisfied that the files as I have received them are complete and that (subject to a minor criticism which I make below) are in order. I am also satisfied that I have had sight of all relevant papers (regardless of classification) to the extent that they exist. In saying this I am not suggesting that any papers have been suppressed or destroyed but rather to recognise that much detailed personnel work is carried out verbally and that the exchanges of senior officers may often be opportunistic or episodic not generally set down in minutes or memoranda except when a formal submission is being made. Nevertheless, it would have been helpful if the reasons for decisions which had significant implications for the careers of junior officers had been recorded however briefly at the time in a note for the record. I mentioned a minor criticism of the way in which files were kept. The files presented to me were festooned with notes with stick-on tabs which could be easily removed. I am not suggesting that this happened in these cases. Indeed I am pretty certain that it did not. However old fashioned it may appear in these days of electronic data processing, E-mail and Internet, I believe that a file, whether held on computer or on hard copy, should be permanent and complete in itself.
- 3.06 My inquiry has extended over five weeks during which I have interviewed some 30 people, some at considerable length. I have also read all the papers concerning the cases under review and I was asked to report by mid-April. The calling of a general election since the inception of my Review has added another deadline given my understanding of the desirability of having these matters cleared up during the tenure of the present Secretary of State.
- 3.07 It is also my understanding that my Report will be published. I hope that this is so and, if published, that it can be released in full. I appreciate that this does impose some constraints on the form of expression and that it may not necessarily be covered by privilege. I am also aware that some of those concerned, especially junior Civil Servants, have been distressed by their unwarranted projection into the public arena and the consequent loss of privacy. I do not wish to add to that distress. As a result, I have decided not to mention any official by name (although some by virtue of status or office or what is already in the public domain will be identifiable) and as far as possible to anonymise references in the Report. This is in line with undertakings which, with my agreement, were given to the public service trade union at the inception of the Review.

- 3.08 However since the Report is being written for wider consumption, I think it would be helpful if I spent a little time explaining the role of a Minister in a Northern Ireland Department and the nature and work of a Private Office.

4.00 CONSTITUTIONAL POSITION OF NORTHERN IRELAND MINISTERS

- 4.01 In Northern Ireland as distinct from Great Britain (GB) it is the Department and not the Minister which is the legal entity. In Great Britain the Heads of major Departments are, with some exceptions, Secretaries of State. The Northern Ireland Office is a GB Department which conforms to this constitutional arrangement.
- 4.02 The civil servants in those GB Departments headed by a Secretary of State exercise powers in the name of and on behalf of the Secretary of State who is what is known as a "corporation sole". A Department has no separate legal existence from its Secretary of State and the act of a Departmental official is the act of the Secretary of State.
- 4.03 In Northern Ireland the Departments are themselves the corporate bodies, created by Northern Ireland Statute (The Ministries of Northern Ireland Act 1921 and later enactments). So, Northern Ireland Departments, unlike those in GB do have a legal existence separate from their Heads of Department.
- 4.04 Under the Northern Ireland Constitution Act, 1973 (under which the Northern Ireland Executive was set up) Heads of Departments were to be appointed by the Secretary of State. However under the Northern Ireland Act 1974 (which provided the framework for "Direct Rule") no Head of Department may be appointed in the interim period. Accordingly the six Northern Ireland Departments do not have political heads. Under Direct Rule the functions of the Head of a Department are performed by the Department.
- 4.05 Under Direct Rule the Northern Ireland Departments act under the direction and control of the Secretary of State. Junior Ministers, (Ministers of State or Parliamentary Under Secretaries) are appointed to assist the Secretary of State in supervising the work of his Department. In doing so they act on behalf of the Secretary of State and do not themselves discharge the functions of Northern Ireland Departments. In recent years the practice has been for each of them to be assigned oversight of one or two Northern Ireland Departments. In common parlance they are described as the "Minister for ..." but it is not always understood that this is a courtesy title, in its relation to the Northern Ireland Departments and that the role is not that of a Minister of the Department concerned.

- 4.06 Each Department is responsible for management of its own staff. The Department of Finance & Personnel has however the delegated function of general management and control of the Northern Ireland Civil Service by order of the Secretary of State. Like other Departments, it operates under the direction of the Secretary of State during Direct Rule, though in practice the function is effectively delegated to the Department.
- 4.07 Ministers (however described) are expected to be guided by Cabinet Office Guidance "Questions of Procedure for Ministers". To the extent that it is relevant to the present cases, it is stated (para 55) that "Ministers have a duty to give consideration to informed and impartial advice from civil servants as well as to other considerations and advice in making policy decisions, a duty to refrain from asking or instructing civil servants to do things which they should not do ... and a duty to observe the obligations of a good employer with regard to terms and conditions of those who serve them."

5.00 NATURE OF PRIVATE OFFICES

- 5.01 The Minister's Private Office is the nerve centre of a Department. It is typically staffed at a relatively junior level and is a small office somewhat detached from Departmental line management. In DANI, the Private Office comprised six people headed by a Private Secretary at Executive Officer I (EOI) level, with an Executive Officer II (EOII) as Diary Secretary and another EOII as Correspondence Secretary along with two Administrative Officers and an Administrative Assistant (the most junior rank in the Civil Service). Line management support is normally provided by an officer at Grade 7, who will have other Departmental responsibilities. There is also a Travelling Private Secretary at Staff Officer rank who is on the strength of NIO (in some cases on secondment from NICS) who travels with the Minister and is managed by the Secretary of State's (resident) Private Secretary in Belfast.
- 5.02 Work in the Private Office of a busy Minister is concentrated and intense and much depends on the interests, style and personality of individual Ministers. The prime function of the office is to serve the Minister, to ensure the efficient flow of papers and submissions so that decisions can be made in a timely way, co-ordinating a response where this is required, ensuring that requests for information and support by the Minister from the Department are dealt with, ensuring the best management of Ministerial time, making arrangements for Ministerial visits and appointments and generally acting as the link between the Minister and the Department. In addition the Travelling Private Secretary will have to spend several days a week away from home and will find domestic and social life severely disrupted. The work requires a knowledge of what goes on in the Department and of the main people concerned at senior level and a degree of judgement as to what is important, what not. The people work under pressure, often at unsocial hours and very often under tension and strain.

The Private Secretary, in particular, may often be caught between the Minister's desire for information or immediate action and the tardiness or inability of officials to supply either. The office is also expected to cope with the unexpected and to react quickly and efficiently to crises or emergency.

5.03 Postings to the Private Office are normally expected to last about 2 years. Despite the workload and the strain, jobs in the Private Office are sought after not only because of the opportunity to earn overtime, but because they are seen as opportunity posts. The opposite is also true, such posts are not risk free. Further, all posts in the Private Office are covered by the general provisions of the Civil Service Code relating to transfers and promotions, and come within the ambit of Fair Employment and Equal Opportunities legislation and procedures. Specifically however the Private Secretary posts are increasingly being regarded as opportunity posts (ie, posts that give the holders experience which is beneficial to their future careers). Paradoxically, unlike the UK Civil Service, Travelling Private Secretary posts are sometimes hard to fill in Northern Ireland because of the additional travel required and also because by the age people reach the eligible grade they will have taken on domestic and family responsibilities.

5.04 The NI Civil Service is an Equal Opportunities and a Fair Employer, as are the individual Departments. There is probably no other large employer with such extensive and highly developed procedures for ensuring the equality of treatment in recruitment, promotion and otherwise. A great deal of time, money and effort is devoted to Equal Opportunities training at all levels. The Service as a whole has been subject to inspection and scrutiny and continues to monitor policy and practice against declared norms and standard practice in the field. Included in this activity is a policy and a set of guidelines for handling cases of harassment. Each Department has an Equal Opportunities Officer with the task of ensuring compliance with legal standards, with promoting a climate of Equal Opportunities within the Department, of sensitising management to the need for change and to provide a source of advice and counselling outside line management for individual officers who may have problems or who apprehend that they have been unfairly treated or harassed.

6.00 SUMMARY OF CASES INVESTIGATED

6.01 Against this background I will now set down as neutrally as possible in the light of the information available to me what seems to have been the sequence of events in each of the cases I have reviewed.

THE DIARY SECRETARY

- 6.02 The first came to notice as a result of the settlement of a complaint of harassment in the Private Office of the Department of Agriculture. On 28 July 1995 the Grade 7 line manager for the DANI Private Office had a meeting with the Grade 5, Personnel in which he told him that the Minister had requested that Mrs B, Diary Secretary in the Private Office, should be transferred as she was "not fitting in". Between them they decided that no action should be taken in the short term. However later the same day the Permanent Secretary instructed Mrs A to inform Mrs B that she would be moving.
- 6.03 On the following working day, 31 July 1995, Mrs B had a meeting with two other Personnel officials who after listening to her story arranged for her to meet the Grade 5 at which she described as unsatisfactory, the relationship between her and Mrs A and claimed that she had been the subject of harassment by Mrs A on a number of occasions. The Grade 5 discussed two possible options, one that she should return to the job in the Private Office and the other that she could be transferred elsewhere. He also asked her to put the allegations of harassment in writing.
- 6.04 The Grade 5 recorded that Mrs B expressed a preference to be transferred and indicated that she would be interested in working in the Tourist Board and in due course he was able to arrange for a transfer to that office with effect from 10 August 1995. Some time before that date Mrs B's desk was cleared by Mrs A. Mrs B objected to the manner in which this procedure was carried out .
- 6.05 Meanwhile, on 8 August 1995, Mrs B wrote to the Grade 5 as requested, setting out in more detail, the three alleged incidents of harassment. He carried out an informal investigation with the agreement of Mrs B and on 17 August wrote to her confirming that Mrs A had accepted "in broad terms" her account of what had taken place, and also agreed that it had been unwise for the reported conversations to have taken place. The Grade 5 offered an apology on behalf of Mrs A. In taking this action the Grade 5 had formed the judgement that the harassment and the transfer were not connected. He was anxious to minimise the distress to Mrs B given her expressed desire to move to another post, by effecting the transfer as easily as possible while, at the same time, dealing effectively with the harassment issue.
- 6.06 Mrs B did not accept the result of this procedure and made a complaint to the Fair Employment Commission. The Department then carried out a formal investigation of the events and as a result on 20 May 1996, Mrs A received a formal warning in respect of one of three alleged incidents, the other two not having been substantiated.

- 6.07 In response to the complaint to the FEC the Department decided to seek a settlement and this was reached in January 1997. During Jan/Feb 1997 the matter received publicity in the media alleging that the Minister had procured the transfer of a harassment victim against accepted Departmental procedures. By this stage the Department had a new Permanent Secretary and he wrote to the newspaper involved on 21 February 1997 denying that the Minister had ordered the decision to transfer Mrs B. However, on 28 February 1997 a partial copy of the Departmental document was printed in a local paper showing that the Minister had indeed requested Mrs B's removal. In the light of this, a further letter, this time from the Minister, was sent to the editor of the newspaper providing the important additional information that the Minister had sought the transfer of the officer in question.

THE PRESS OFFICER

- 6.08 The second case reviewed, concerned the staffing of the Press Office of the Department of Agriculture.
- 6.09 Unlike the other NI Departments the Press Office in the Department of Agriculture had always been run independently from the NI Information Service with staff being recruited directly from the Department. Between 1983 and 1991 the Press Officer post was held by Mr C. In 1991 he transferred to another job in order to broaden his experience and enhance his future career prospects.
- 6.10 In September 1995 the opportunity arose for Mr C to move back into the Press Office. The Minister's view of the way in which the Press Office should be run was different from the Department's previous practice and this impacted seriously on Mr C's capacity to do the job.
- 6.11 In April 1996 Mr C was told that the Minister had asked for changes to be made in the staffing of the Press Office and the opportunity would be taken to merge the office with NIIS. He was in fact replaced by a Press Officer of the next highest grade.
- 6.12 He was told that every effort would be made to find him an interesting and acceptable posting and this was done. In the event he did not find the job offered to him entirely to his satisfaction. He became ill and had a lengthy period of sick leave from which he only recently returned.

THE DED CASE

- 6.13 The third case which I investigated involved the transfer of a Departmental Private Secretary in the Department of Economic Development and the circumstances in which that officer was replaced. This case overlaps to some extent with the fourth case which follows.

- 6.14 Mr D transferred into the DED Private Office on 24 October 1994. At that time Mrs E who had filled the post of Departmental Private Secretary (DPS) was on extended sick leave and another member of the Private Office staff was working as Acting Departmental Private Secretary in her absence. Mr D was moved to work alongside the Acting DPS to take on an extra workload - a move for which there would not normally have been a competition.
- 6.15 The current Travelling Private Secretary was coming to the end of her placement and was due to be replaced. Mr D had not applied for the Travelling Secretary interview but towards the end of January 1995 or early February the Minister asked him if he would be interested in taking the Travelling Secretary post. He declined this for personal reasons and within a few weeks Mrs E had returned to the office from her sick leave. Mr D remained in place in the Private Office and for a time deputised as Travelling Secretary within Northern Ireland together with the DPS in the Department of Agriculture.
- 6.16 A short time later it became general knowledge in the office that the Minister had requested that Mrs E should be her full-time Travelling Private Secretary. It was also known that this was causing some procedural problems which the Departments were attempting to sort out and an interim arrangement was set up whereby he and Mrs E were to share the Departmental and Travelling Private Secretary posts between them. This was really not a very practical arrangement and over time Mrs E gradually assumed the Travelling Private Secretary duties full time. When this happened Mr D took over the role of Departmental Private Secretary.

On May 1st, after Mr D had been in post about 18 months the Minister expressed some dissatisfaction to the Permanent Secretary with the way in which Mr D was carrying out his duties. Mr D became aware of this but believed that his superiors still had confidence in him.

- 6.17 On 24 June 1996 the Minister approached the Permanent Secretary of DED to suggest that Mr D should be replaced by Mrs F as DPS. She had established that Mrs F would be interested in the post. The Permanent Secretary expressed concern about the regularity of the approach to this, pointed out that Mr D would shortly be seen by a Deputy Principal promotion board and that a more appropriate time to consider moving him would be after the board had taken place. The Permanent Secretary proposed to fill the vacancy thus created from a Staff Officer promotion board to be held in September but the Minister was not prepared to accept that the office should be under-staffed for this length of time. In deference to the Minister's opinion, senior officers in DED were requested by the Department's Personnel Branch to identify any suitable candidates at Staff Officer level to fill the forthcoming vacancy. Three out of five suggested, were interviewed by the Minister. The Minister recorded her findings from the interviews, selected Mrs F and set down her reasons for so doing.

- 6.18 Mrs F took up the post on 29 July 1996, replacing Mr D who had been successful in his board and had transferred to another job with the rank of Deputy Principal.

THE TRAVELLING PRIVATE SECRETARY

- 6.19 The fourth and final case which I considered involved a civil service wide competition to select Travelling Private Secretaries for Northern Ireland Ministers.
- 6.20 Early in 1994 there was discussion between DFP and NIO on the procedure to be followed for that year's selection of Ministers' Private Secretaries. On 9 September 1994 a Service wide interest circular was issued by DFP who then arranged the interviews from which the panel selected a short-list.
- 6.21 In an attempt to ensure that the applicants were well informed as to the nature of the job, a seminar was arranged in mid-October 1994 in which they were briefed in detail on the duties involved. The interviews were held on 17 November 1994. Fourteen candidates were interviewed on that day and one slightly later. Eleven candidates were short-listed as suitable and that list was made available to the Private Secretary to the Secretary of State. Of the eleven candidates listed three were women and eight men.
- 6.22 The four junior NI Ministers were then each provided with details of a selection of the successful candidates and were invited to interview them. Subsequently two Ministers, Mr Moss and Mr Ancram selected Secretaries from amongst those they interviewed. Sir John Wheeler's post was not due to be filled until later in 1995.
- 6.23 There was a meeting on 28 February 1995 between Baroness Denton and officials from NIO and DFP. The Minister indicated that she had not found anyone suitable from amongst those she had interviewed to date but that she had identified a person presently employed in her Private Office who, she felt, would be suitable and whom she would like to appoint. This person had, because of illness, had not responded to the general interest circular and had not therefore applied for interview and was not included in the list of candidates from which Ministers had been invited to choose.
- 6.24 The advice provided to the Minister by officials was that, under the relevant Equal Opportunities and Fair Employment guidelines, selection had to be competitive, based on merit and all of those found suitable at interview would have to be considered. To do otherwise could be considered unfair and would be risking a challenge from those persons on the list who had not been considered by the Minister. At this point the Minister, who had already interviewed four candidates and considered a further two CV's agreed to consider and possibly interview the remaining candidates.

- 6.25 In a discussion with officials and the DED Permanent Secretary the possibility was explored of Mrs E being appointed on a temporary basis with a review in six months. However at a later meeting officials advised the Minister that even a temporary appointment could be successfully challenged. It was agreed that the Minister would proceed to interview all the remaining eligible candidates and if she found none of them to be satisfactory then once Sir John Wheeler had also chosen his replacement Travelling Private Secretary the competition would be closed and a new competition organised for the purpose of inviting further applications for the post of Travelling Private Secretary to Baroness Denton. Mrs E would then be able to apply for the post and would be available together with any others for selection by the Minister. In the meantime it was agreed that the vacant post would be shared by Mrs E and Mr D who was also working in the DED Private Office.
- 6.26 However Sir John Wheeler was unwilling to bring forward the date for replacement of his Travelling Private Secretary which was not due to take place until September 1995. During this period, given Mr D's reluctance to travel, Mrs E had gradually assumed more and more of the Travelling Private Secretary duties until she was in fact carrying out the post in a full-time capacity.
- 6.27 In the event Sir John Wheeler did not find anyone that met his particular criteria from amongst the list of candidates and his post was eventually filled by someone from London. On 19 October 1995 DFP wrote to the remaining candidates in order to notify them that the competition was now closed. Mrs E continued to fill the DED Travelling Private Secretary post without having been formally appointed to it. The post was not readvertised.

7.00 COMMENTARY

- 7.01 I now set out my comments on the handling of the cases and the issues involved. I appreciate that this involves some repetition of information already given in the previous section but it is convenient to avoid the need for constant reference back.

DANI CASES

7.02 *THE DIARY SECRETARY*

Differences of opinion about working methods, clashes of temperament and personalities are not uncommon in small offices. They are usually dealt with competently by line management and by the application of common sense. Equally, it is not unusual for a manager to seek the transfer of a member of staff and there are well developed procedures for handing such cases. There is no reason why a Minister, like any other manager should

not seek change if he/she thought that the level of service was not satisfactory. The fact that the cases arose in the Private Office gave them an undue importance for management and caused them to be dealt with at a much higher level than would ordinarily be the case. However, in this case the proximity of the Minister seems to have had an undue impact on the corporate decision of the Department to effect the transfer.

- 7.03 Accepted personnel procedure would have been to examine the complaint that standards of service were not being met, to identify the problem and the officer's shortcomings, if any, and to seek to offer advice and try to secure improvement. This would be particularly the case where an officer had been transferred into a new area of work and was learning the ropes. It would be quite unusual in such a circumstance to deal with the problem by asking for the immediate transfer after less than 12 weeks in the job.
- 7.04 The problem which arose here, had it happened anywhere else in the Department would have been dealt with by line management and the personnel professionals with very little fuss. The fact that it was the Private Office created its own tensions. There was the understandable desire to maintain service in a key section of the Department. There was also the desire to satisfy the Minister and to provide the level of service she required. In these circumstances there can be a very thin line between what may be intended as a request and apprehended as a direction, and senior management seems to have limited its options at a very early stage.
- 7.05 The Grade 7 in line management control of the Private Office interpreted the Minister's intervention as a request to remove Mrs B. When the Grade 5 Personnel was consulted on the morning of 28 July 1995 his decision was to delay action. This was the response of a concerned personnel officer who was anxious to protect the interests of the junior officer. However it is clear that following discussion with his senior officer it was accepted that Mrs B should move. The focus of attention then was on trying to arrange for this to be done in a way that would be most acceptable to her.
- 7.06 After that, however, there is a lack of specific information. I have not been able to establish definitively the process by which Departmental management moved from a decision to temporise in the morning to a decision in the late afternoon that she was to move from the Private Office. The G5 officer was not available for consultation during the time these decisions were taken. The Minister was not in the office that afternoon. The Permanent Secretary was unaware of the state of feeling between the two officers. What is clear, however, is that Mrs A had a discussion during the course of the afternoon with the Permanent Secretary and, on his instructions, informed Mrs B that she was being transferred. Mrs B left the office in some distress.

- 7.07 There was no discussion with Mrs B at this stage, or indeed later about any perceived difficulties about her work or any criticism of her performance which would have been good practice in such a case. She was an officer with a good work record in previous posts, who had been selected as having an aptitude for Private Office work. She had carried the duties of a higher grade for an extended period in the previous posting and had consistently received excellent markings in the Annual Reports. It is not surprising that she suffered considerable distress.
- 7.08 After that too, as often happens in these cases, things started to go even more wrong. Apart altogether from the nature and grounds for the decision to move Mrs B (for which evidence is not available) the way in which the duty of informing her was entrusted to Mrs A (whom she already blamed for her misfortunes) can only have confirmed her apprehension that the system was loaded against her. A further indignity was to ensue in the clearance of Mrs B's personal property from her desk by none other than Mrs A which she might be forgiven for interpreting as the addition of insult to injury. In fairness, however, it should be recorded that the action of clearing the desk was taken by Mrs A before she had been notified of the complaints of harassment made by Mrs B and that the reason given by Mrs A for that action was to clear the way for Mrs B's replacement who was due to move to the post on 7 August 1995.
- 7.09 On Monday, 31 July Mrs B in an interview with the Grade 5 Officer (Personnel) made allegations about harassment of a political/religious nature by Mrs A. The Grade 5 asked her to put these in writing and she did so on 8 August 1995. I can appreciate that management attention at this stage was concerned with the task of effecting an acceptable and beneficial posting for Mrs B, of keeping the Private Office running, as well as dealing expeditiously with the complaint of harassment. However it was still early enough in the process to freeze the transfer (even if it involved what is oddly called "gardening leave" for both parties) and this might have been in greater conformity with the well defined grievance procedure which exists for dealing with allegations of harassment.
- 7.10 I accept that the objective of most good managers faced with an allegation of harassment would be to seek to resolve matters informally. I accept that in this case the G5 was anxious to deal with the matter firmly, but with a compassionate regard for what he understood to be Mrs B's wish, in the circumstances to work in another Department, and to avoid the added distress for her of a long delay in resolving the matter. It was also consistent with the DANI and NICS policy statement that "it is better for a complaint to be resolved informally, if possible". This does not preclude subsequent recourse to the formal procedure if, as in this case, informality does not produce satisfaction. It has been argued that given the nature of the allegations a formal investigation should have been started immediately, but the informal procedures did at least enable the Grade 5 to convey an apology from Mrs A to Mrs B. That she found it unacceptable does not vitiate the effort.

- 7.11 It is not part of my remit to re-open the investigation of harassment or to review the settlement by which the Department admitted liability and apologised to Mrs B, paid a sum in settlement, agreed to a posting in a different Department and made a reaffirmation of its commitment to Equal Opportunity principles.
- 7.12 Neither is it part of my remit to consider the appropriateness of the disciplinary decision which was confirmed on appeal by the then Permanent Secretary. There does not however appear anywhere any evidence of a discussion as to whether there might be any problem in retaining Mrs A in a relatively high profile post in the Private Office.
- 7.13 Mrs B, on the other hand, was left with an additional grievance. In a complaint of harassment in which she was seen to be the victim, it was she who had suffered the indignity of a move and it was the harasser who had been left in possession. Apart altogether from Mrs B's feelings, this would be regarded as quite an unusual outcome if the guidelines had been followed.
- 7.14 There is no suggestion that the Minister was in any way involved in the harassment complained of. None of the people I interviewed imputed discrimination to the Minister or senior officials concerned and neither do I. I do not believe that any of the decisions or actions taken involved discrimination.
- 7.15 The Department's troubles were not yet over. It was felt necessary in 21 February 1997 to refute a newspaper report that the Minister had ordered the removal of Mrs B from the Private Office. The new Permanent Secretary's letter stated categorically that the transfer of staff in this case as in all cases was a decision made by the Department and not by the Minister. This may have been the theoretical position and it was correct as a statement of the legal position but the semantics did not represent the realities. The newspaper was able to quote from a Departmental paper that the Minister had asked for the transfer and a further letter was issued, by the Minister, to the editor of the newspaper accepting that this was the case.
- 7.16 An outside observer, perhaps with the benefit of hindsight, might wonder whether the Departmental statement could not just have stated that the Minister did indeed have a major influence on staffing in her office even if technically the decision was one to be taken by Departmental management and to wonder whether the public would not have found this more understandable and more acceptable than the official line.

THE PRESS OFFICER

- 7.17 The Press Officer case is much simpler in that only one person was involved, there was no pre-history of animosity in the office and no suggestion of harassment of a religious or political nature.
- 7.18 The Press Office in DANI was unique in not being part of the Northern Ireland Information Service. In every other Department the information function was performed by an Officer outposted from and centrally managed by the NIIS. These officers are likely to have had a background in journalism or the electronic media and to be abreast of modern news management and information techniques and equipment. They would also have the professional support and line management of senior officers in the NIIS. The DANI office traditionally was filled by a career Civil Servant from the Department performing mainly an information function and relating mainly to specialised agricultural correspondents.
- 7.19 The postholder had recently returned to the Press Office at his own request, (not itself a very usual career move.) He had served very successfully for some years as Departmental Press Officer and was highly respected by his peers and by the agricultural press.
- 7.20 The Minister, coming from a marketing background and anxious to develop a brand image of Northern Ireland food products took quite a different view of the sort of operation which was required. Additionally the incidence of BSE transferred Agriculture from the specialist journals to the front pages of the national press and produced an unprecedented demand for a response on what was a highly sensitive political topic from a quite different sort of political and investigative journalist. The Minister wanted a quite different sort of operation and requested that the Press Officer should be moved. This was duly effected and he transferred to other duties and DANI entered the NIIS system.
- 7.21 It is difficult to apprehend such a gap in understanding of what was required to provide the sort of service the Minister (and perhaps the circumstances) required. It should surely have been possible to mediate an arrangement whereby the Press Officer could have been retained to handle the traditional DANI information-giving function while the professionals from NIIS were brought in to fight the forest fire of BSE and to oversee the re-equipping of the office for a more aggressive marketing approach. In the event however, a dedicated and a hardworking officer, with a good career record, highly thought of by his peers found himself, an innocent victim caught in the middle of a conflict of view about the nature and function of a Departmental Press Office.

8.00 CONSIDERATION OF THE CASES INVOLVING DED, DFP AND NIO

- 8.01 The DED case concerning the filling of the post of Departmental Private Secretary, has many of the features of the other cases with one significant difference - the decisive and unambiguous intervention of the Permanent Secretary. His clearly stated advice and the Minister's acceptance got the situation back on the rails and introduced a modicum of process which ensured that the Department met its responsibilities under Fair Employment and Equal Opportunities practices. A cynic might remark that the result was that the Minister finished up with the person who was her first choice. Having examined the papers carefully I am satisfied of the integrity of the process. The reasons for making the decision were fully set out, it was clear that due consideration had been given to each candidate and the final choice could not be regarded as unreasonable.
- 8.02 Mr D, for his part was happy to move. He felt that his relationship with the Minister had deteriorated and he had been successful in a promotion board. It was an entirely logical move for him to take up another post.
- 8.03 In preparing for the competition to fill anticipated vacancies in Travelling Secretary posts Civil Service management both in the NIO and DFP sought to devise a procedure which would avoid problems which had arisen in previous years (which had caused Ministers to go outside the list of approved candidates in making appointments,) and which would meet all the requirements of the Fair Employment and Equal Opportunities legislation.
- 8.04 Difficulties arose when the names were submitted to Ministers. Only two Ministers found a Private Secretary to their liking out of a list of eleven, one of these only at the second attempt. The DED Minister found none of the candidates satisfactory and the DFP/NIO Minister declined to make a choice until the post became vacant several months after the others, and then rejected all the names offered. Until he had done so it was not possible to declare the competition closed which would allow for the running of a new competition. While all this was going on an Officer who had been in the DED Private Office as Departmental Private Secretary returned from an extended period of sick leave. The Minister liked her work and requested her appointment to the post of Travelling Private Secretary. No promotion would have been involved.
- 8.05 Officials advised that, not having applied for consideration, she could not be considered and that such an appointment would be open to challenge. Their advice was reiterated and reinforced in subsequent discussions with the Minister by senior officers in NIO. Meanwhile the previous postholder had moved on in what was clearly a natural career move. She had completed her two-year stint. The duties of the post were being covered by the static Private Secretary and Mrs E. Again this would not be unusual pending a

substantive appointment. Since no candidate on the list met the Minister's criteria and since the competition could not be closed until the other Minister had made his choice the result was stalemate. Officials continued to advise that the position could not be regularised by the appointment of Mrs E. However it is the prerogative of Ministers to decline to act on advice and to be politically answerable for the outcome. This the Minister did in consultation with the Secretary of State. The assumption was that when the lines were cleared by the closure of the competition another competition would be held for which Mrs E, amongst others, would be eligible to apply.

- 8.06 Ministers decided that the duties of the post should continue to be discharged for a temporary period by the Private Secretary and Mrs E. Sharing was soon found to be impractical and in effect Mrs E became the temporary Travelling Private Secretary. She was not transferred to NIO (as would have been the case with a regular appointment) although NIO refunded the cost of her salary to DED and her Reporting Officer was the Private Secretary in NIO.
- 8.07 The competition was declared closed on 19 October 1995 but no further action to regularise the position was taken with the result that Mrs E has now completed the two-year stint which she would have served had she been appointed in 1995. Management in NIO took the view that the office was working harmoniously and the Minister was satisfied with the service and that a competition was unlikely to produce any better result and in any case would not be completed for many months.
- 8.08 Incidentally the post of Travelling Private Secretary to the remaining Minister, was filled by NIO as a London appointment which avoided the necessity of running another competition in Northern Ireland an option which was apparently not considered in the other case.
- 8.09 At some stage in the process it was suggested that it should be a requirement that the Travelling Private Secretary of a female Minister should also be female. The argument was that the rigour of foreign travel, the necessity to work closely in hotel rooms at unsocial hours, the need for the Minister to be able to relax after long and tiring duties constituted a requirement for a female officer on grounds of decency. The Minister herself does not take this view. Whatever about the merits of the argument if adopted as a requirement before the competition had started, as officials correctly pointed out it could not properly be imported as a criterion in mid-stream. It is likely however that such a requirement would not be regarded as lawful. There is the added difficulty that it might then be argued that male Ministers should employ only male Travelling Private Secretaries. This, since there are many fewer female than male Ministers, would severely restrict opportunities for otherwise qualified female officers.

9.00 COMMENTARY ON NIO/DFP CASE

- 9.01 Problems seem to have arisen by perhaps under-estimating the desire of Ministers to choose their own Private Secretaries. This had happened on previous occasions but was discounted as "Ministerial idiosyncrasy". It may be thought odd to discuss Ministerial preference in this way since the purpose of the process is to meet the needs of Ministers and provide them with a choice. It does reflect the fact that most Ministers in the past tended to accept the Departmental nominee, that some are more exacting than others in their requirements and that the system, any system, works well enough for most of the time.
- 9.02 The process may also have been too complex in trying to provide a field of choice for all Ministers at once (although all the posts did not fall vacant simultaneously) thus expanding the number of possible permutations of choice. This meant that the process was prolonged. Ministers who legitimately found that they could not find a compatible Secretary from the list could not be offered a second choice until all the others had exercised their options. Meantime offices had to be kept running. Officials and Ministers were at all times clearly aware of Fair Employment implications and Ministerial responsibility in that regard. The problem was how to match the desire to find a compatible and efficient Private Secretary with the requirements of Northern Ireland Fair Employment procedures and practices. This dilemma was never fully resolved.

10.00 GENERAL COMMENTS

- 10.01 There are a few common themes in all these cases. On the one hand there is an energetic and forceful Minister who is widely recognised and respected for the tireless vigour with which she pursues industrial development and job promotion and on the other, the need to ensure consistent compliance with procedures and with the Department's responsibilities for Fair Employment. Most people whose experience has been in the private sector will find it difficult to understand that a Chairman or Chief Executive should not be free to choose even a Private Secretary. Furthermore Ministers may well be more accustomed to practice in Whitehall where these posts are filled with less formality, where the input of Ministers is accepted, where Fair Employment procedures are less specifically prescribed and where the legal position is quite different.
- 10.02 My impression is that the Minister could at times be a hard task master who drove nobody harder than herself. She set high standards for herself and required high levels of effort and performance from others. Work in Private Offices is generally taxing, there are periods of concentrated activity and periodic crises which some can handle better than others. I spoke to some junior officers who had served in the offices. Some had left when their term had been completed, some felt that they had been pushed. Most of those did not complain and

took their fall from grace philosophically. Some had completed their stint and moved on, others had left gladly enough, given that it is in any case a stressful position.

- 10.03 No-one of those I have spoken to has suggested that the Minister was involved in discriminatory behaviour in connection with the selection or rejection of candidates for posts. Since the possibility had been raised I made a careful analysis of the background of the various appointees and postholders. There was nothing in the least to suggest a pattern of discrimination. In fact there was no pattern either of religion or gender. It was quite clear that the religion or political opinions of the officials concerned was not in any way a factor (or, indeed, who they might have married.) I am quite satisfied that in these cases discrimination was not a factor and that the Minister in particular did not behave in a discriminatory manner.

11.00 FAIR EMPLOYMENT ISSUES

- 11.01 Having said that it is necessary to re-emphasise the importance of Fair Employment and real equality of opportunity in the NICS. The NICS is a major institution in this society, a place where people from all backgrounds can work together for a common purpose. It is important that the good name and integrity of the service be protected and that as far as possible, steps are taken to avoid discrimination or the appearance of unfairness. As I acknowledge at paragraph 5.04 there is probably no other large employer with such extensive and highly developed procedures for ensuring the equality of treatment in recruitment, promotion and otherwise, than the Northern Ireland Civil Service.
- 11.02 But in this context Civil Service management needs to take a serious view of harassment whether on grounds of politics or religion or gender or disability or ethnicity (and indeed when simple bullying is involved). Junior officials are particularly at risk, and officials drawn from minority groups in society or those traditionally under-represented in the Service can easily feel threatened. There are procedures but Senior Management needs to give a lead in taking the matter seriously. This involves more than drawing up a list of taboo subjects which must never be discussed but the development of relationships of trust and respect in which even delicate or divisive issues can be discussed. The ideal of a Civil Service is that it should be representative of all shades of opinion, all the traditions, all the diverse elements that make up the society and that each should contribute from his or her own background. This could not be effected if every possible divisive topic were to be outlawed. To achieve this degree of trust and openness requires training, requires the development of human relations and the building of confidence. It also requires the promulgation of clear procedures and very clear identification of people at various levels in the Department to which victims of harassment can turn for help and counsel and encouragement for them to do so. Above all it should be a system which protects the victim

not only from further harassment but from intimidation or alienation or loss of benefit or status.

- 11.03 The fact that Private Office posts are seen to bring benefits in career prospects to the post holders increasingly result in them being seen as opportunity posts, unlike most other posts. This clearly brings them within the ambit of specific Fair Employment procedures relating to appointments and promotion.
- 11.04 Since the relationships between a Minister and those closest to him/her are essential to the smooth running of a Department I suggest that this should be accepted and catered for. The problem is how to align the legitimate interest of a Minister in having a significant input in the selection of personal staff with the legal and procedural requirements of Fair Employment and Equal Opportunities to which the Departments and the Ministers are committed.
- 11.05 I believe that Ministerial input in these matters should be allowed but carefully limited to specified positions. These would be the Travelling Private Secretary, the Departmental Private Secretary and the Departmental Press Officer. These Officers, and especially the Travelling Private Secretary, spend so much time with the Minister or are so closely involved in day to day business that it is hard to see how they could work effectively together without rapport. There is no point in forcing a Private Secretary on a Minister simply to satisfy procedures. In any case the Officer's life would probably be hell.

12.00 PROPOSALS ON PROCEDURES AND OTHER MANAGEMENT ISSUES

- 12.01 I believe that it is possible to devise a set of procedures which recognises that these are opportunity posts which should be open to qualified Civil Servants. This would provide for a process whereby a short-list was provided from which a Minister could make a selection and which could be continued until a suitable candidate was found. I go into this in greater detail later.
- 12.02 In order to emphasise the crucial importance of compatibility it could be made clear that in the initial weeks of the appointment it would be possible for either party to withdraw from the arrangement with dignity intact, without detriment or loss of face.
- 12.03 To achieve this it would be necessary to prepare well framed job descriptions and to involve the Minister in this and to determine the criteria for suitability before seeking applications. A corollary of this would be that a Minister's involvement in Departmental Personnel matters should be limited to these three posts, that questions of the quality of service should

be a matter for Departmental management and that problems of relationships or discipline, promotion or transfer whether in the Private Office or elsewhere should be a matter for line management and Personnel.

- 12.04 The position of Press Officer should present fewer difficulties in the future given that all Departments are now served by the NIIS. The Press Officer is the spokesperson for both the Department and the Minister and it is accepted that there needs to be a mutual understanding between the Minister and the spokesperson. What is needed is a clear agreement on objectives, the nature of the task and how it is to be carried out. If the Minister is dissatisfied with the quality of service the remedy is through the Head of the NIIS who may have to redeploy his resources or reallocate staff in order to provide the service required. Again, in a world where the requirement of rapport is accepted from the start, disengagement can be effected without loss of dignity.
- 12.05 Some of the problems appear to have arisen because the Private Office is somewhat detached from Departmental line management. Staff in Private Offices are invariably junior. Some may not have wide experience of management or aptitude for it. They should have the support of a defined Officer in the Department who would also act as Reporting Officer for the Departmental Private Secretary and provide pastoral care when necessary. There is much to be said for the arrangement in some Departments which run the Minister's Private Office and the Permanent Secretary's Office as a single central resource unit. This at least would ensure that more Senior Officers were aware of what was going on in the Private Office and could provide an element of support and guidance.
- 12.06 I believe that it would open up the field of competition if the posts of Travelling Private Secretary were open more widely to younger people. Staff Officers tend to be in their thirties and to have acquired domestic and other commitments which make them reluctant to take on the unsocial hours and the travel involved. EO I's, for example, might be younger, more mobile and more willing to apply thus widening the field of choice for Ministers.
- 12.07 Since these appointments are developmental posts which may enhance the career prospects of the postholders and provide an opportunity, rare in the NICS, for personal and professional development, they should be regarded as one-off appointments. No Officer should be appointed for a second term save in the most exceptional circumstances.
- 12.08 Although the Travelling Private Secretary posts are nominally on the strength of NIO, it is important that they remain available for competition to members of the NICS. It would be regrettable if perceived difficulties in filling the posts under Northern Ireland procedures were to result in the posts being filled in Whitehall and restricted to the UK Civil Service.

- 12.09 It is important to allay public concern arising from these cases that all those involved in the senior management and direction of NICS reiterate their commitment to Fair Employment and Equal Opportunities and their willingness to work within existing procedures even when these become tiresome. It would be regrettable and highly counter-productive if the impression were given abroad that Departments and Ministers were not fully willing to follow the procedures which the law for which they are responsible imposes on employers in the Private Sector, simply because they found them to be inconvenient or irksome.

13.00 PROPOSALS FOR FUTURE RECRUITMENT

- 13.01 The purpose of these proposals is to accommodate the wish of a Minister to have a significant input into the selection process of his/her Private Secretary while, at the same time, complying with the law and practice in Northern Ireland relating to Fair Employment and Equal Opportunities. This would involve only two posts, that of Departmental Private Secretary and Travelling Private Secretary. These would be regarded as opportunity posts which should be open to competition.

DEPARTMENTAL PRIVATE SECRETARY

- 13.02 Departmental Private Secretary is the simpler problem and I shall deal with that first.
- 13.03 It is assumed that most Departments would wish to find a suitable Private Secretary from within the Department and that Ministers would be better served by a Private Secretary well grounded in the work of the Department, who knew something of the personalities concerned and the interests of its client groups.
- 13.04 In my preferred model, before a vacancy arose, senior management should discuss with the Minister the requirements of the post. This should result in a clearly focused job description and a person profile which would define, not only the core competences and the type of experience required, but the personality preferences of the Minister. Ministerial preferences and requirements should be accommodated as far as possible at this stage, provided they fall within the legal requirements. This job description should carefully limit the areas of subjectivity and should set the criteria against which candidates are to be measured at all stages of the process. Procedures should as far as possible conform to accepted practice in the Department.
- 13.05 There should then be an interest circular to staff in the relevant grades (including, I suggest EO I) along with the job description (and including too officers on sick leave or annual leave or detached duty.) Eligible officers would be invited to express an interest. It should also be made clear that the object of the exercise was to provide Ministers with a list of

qualified candidates from whom a selection could be made and not all of whom could be appointed. Senior officers might be encouraged to stimulate applications from promising young officers who would benefit from career development. Applications should be made in a self-nomination format giving sufficient information to enable a view to be formed of the experience, potential and interests of the candidate.

- 13.06 Two Officers (Grade 5 Personnel and Department Personnel Officer) might form a panel to assess applications, form a list, informally interview candidates and draw up a short-list of suitably qualified people who meet the criteria of the job description from which three or four names might be submitted to the Minister. Before listing, some structured arrangement should be made to familiarise applicants with what is involved in working as a Private Secretary and this should stress the difficulties of the job as well as its attractions.
- 13.07 The Minister with the assistance of the Grade 5 (Personnel) might then consider the applications, interview those nominated and make an appointment. If the Minister is not satisfied, another three or four names could be submitted from the short-list. If no selection proves possible, management should consider whether to re-trawl, to postpone a selection until promotion boards bring new people into the pool of eligibility, to widen the field for which applications are sought, or to seek applications outside the Department. The list should have a limited life of 6 months after which the competition could be regarded as closed and unsuccessful applicants notified.
- 13.08 Consideration should be given to arranging for a short introductory period of work experience in the Private Office and to an arrangement whereby during the initial stages of the appointment there should be a short probationary period at the end of which either party could withdraw from the arrangement. Problems of relationships arising thereafter should be resolved by discussion between the Minister and the Permanent Secretary with due regard for the career of the Private Secretary when it is a clash of personalities and not inefficiency which is at issue. Appointments should be for a period of 2 years or until a change of Minister when a decision can be made in consultation with the Minister whether to continue for the remainder of the period or to seek a new candidate.

TRAVELLING PRIVATE SECRETARY

- 13.09 Filling the Travelling Private Secretary post is rather more complex in that three or four Departments are involved: the two Departments for which the Minister is responsible, NIO (to which the appointee will be attached) and DFP (with its general responsibility for management and personnel in the Northern Ireland Civil Service.)

13.10 The previous procedure ran into difficulties partly because of the number of permutations required to provide a full range of choice to four different Ministers and to satisfy their needs at the same time, particularly when the appointments were not synchronised. It was also expensive of time and effort and left a large number of dissatisfied and disappointed candidates who were kept uninformed for an inordinate length of time. To avoid this I suggest consideration be given to restructuring the competition for Travelling Private Secretary to the two Departments concerned and the NIO. I appreciate that even this might create difficulties on the Equal Opportunities front if the pool from which the candidates were being drawn was itself unbalanced. There might also be a complaint that qualified officers in very large Departments (like DHSS or DOE) had a statistically poorer chance of selection than those in small Departments like NIO or DENI.

13.11 Again there should be a careful job description and person profile prepared in discussion with the Minister.

- there would be a general interest circular to appropriate grades, with a job description
- applications with self-nomination forms should be sifted by Grade 5 (Personnel) NIO and PrivateSecretary/Secretary of State
- after the preparation of a list, candidates should be made familiar with the requirements of the post, the stresses and tensions, the travel requirements and the domestic disruption
- a short-list should be prepared from which three or four names would be drawn for consideration by the Minister
- names to be considered and candidates interviewed by Ministers assisted by the Grade 5, Personnel NIO
- the list to have a life of 6 months only after which the competition could be declared closed and unsuccessful candidates notified

13.12 I am conscious that the details of this model will have to be scrutinised to ensure compliance with Fair Employment and Equal Opportunities law and practice in Northern Ireland. I believe that it is possible in this way to harmonise the desire to allow a significant input to Ministers within clearly defined limits with the requirements of Fair Employment practice in Northern Ireland. I am conscious that my suggested model might have to be fine-tuned to achieve this but the main thrust of openness, transparency, fairness and practicality should not be lost sight of.

14.00 RECOMMENDATIONS

- 14.01 Senior management should reiterate the commitment of the NICS to Fair Employment and Equal Opportunities.
- 14.02 Civil Service management should seek a clear Ministerial commitment to whatever procedures emerge as a result of this Review.
- 14.03 Ministers should have a significant input to the appointment of Private Secretaries, but only those posts. Otherwise staff management, selection, transfer and promotion should be a matter exclusively for the Department.
- 14.04 Private Secretary posts should be seen as opportunity posts and treated accordingly.
- 14.05 In the initial weeks of an appointment there should be the ability for either party to withdraw from the arrangement without fault and this should be made clear to candidates at the outset.
- 14.06 Private Secretaries should generally be in post for two years.
- 14.07 Since these are developmental posts they should not be held twice by the same officer.
- 14.08 There should be a renewed appraisal of the extent of harassment in the NICS and a concerted programme to deal with this.
- 14.09 DANI, as part of the settlement of Mrs B's complaint of harassment, apologised for the harassment. I think the system might well acknowledge any additional distress caused to her by the way in which her case was handled. In order to remove a doubt that her work was substandard, she should, if she wishes, on return from career break, be offered a post in a Private Office where her capabilities can be properly tested.

15.00 GENERAL CONCLUSIONS

- 15.01 My broad conclusion is that the cases I have examined do not exhibit any evidence of discrimination so much as insensitivity in the handling of staff and poor personal relationships. (The complaint of harassment is, of course, another matter.) There has also been a degree of unsureness in personnel management and general lack of clarity in the way in which important messages were conveyed.
- 15.02 The individual cases, although stressful for the individuals concerned, are neither unusual nor particularly significant. They can arise when people are working at high pressure in

small offices in a highly charged atmosphere. There are, generally, well developed personnel procedures for coping with such situations. But for the location in a Minister's Private Office these incidents would not have attracted public attention or interest. Together they form a pattern which should be sufficient to raise concern about management style and alert Ministers and Departments to the need for clarity and certainty in the procedures for appointing and transferring Private Office staff and for pastoral care and line management support for junior staff working in these exposed positions.

- 15.03 I also conclude that there are sufficiently well developed procedures to meet most eventualities provided they are applied correctly, courageously and with common sense. It would be a mistake to introduce elaborate new procedures to deal with the exceptional case. What is needed is the will to make existing arrangements work and to respect the spirit of Fair Employment and Equal Opportunities procedures. I have pointed to some ways in which the role of Ministers in the appointment of Private Secretaries could be clarified and facilitated. I also urge the development of a programme of training to familiarise staff with procedures for dealing with harassment and to secure the commitment of senior management.
- 15.04 I was asked specifically to consider how the procedures for handling cases involving harassment might be improved. I found well developed procedures in all Departments and active Equal Opportunities Officers. Here again procedures may well be sufficient and what is required is greater training in their application and for senior officers to take the issue seriously and with commitment. Harassment is a sort of iceberg - the bit you see is not always the most potentially damaging. Junior staff should not have to suffer under a feeling of threat or of being "got-at". They should know where to turn to for help. I am glad to know that DANI had, in any case, increased the number of identified mentors to whom staff who perceive themselves to be harassed can turn for help.
- 15.05 It would not be desirable to remove the informal stage of the current procedures. There should always be room to deal appropriately with minor incidents or those which arise from misunderstanding or insensitivity rather than malice. To require these to be dealt with by formal investigation would be poor personnel practice and would run the risk of making mountains out of molehills. A serious case might well demand immediate formal investigation but the important consideration must always be the wishes of the person being victimised.
- 15.06 In these circumstances the procedures should (and do) protect the victim. It requires courage often to make a complaint, particularly against an immediate superior or a more senior officer. In doing so, the complainant may well be doing the employer a service in helping to fulfil his obligation to protect the workers from harassment. The procedures too

provide that should any transfer or relocation of staff result, the wishes of the victim should take priority.

- 15.07 There is a need for increased attention in training to issues of harassment, of the nature of the problem and how it should be handled. Staff at all levels should know what standard of behaviour is required of them, how to handle the interpersonal and group relation aspects of harassment, what form of redress is open to them and where to turn for help.
- 15.08 Although there are procedures and policies for dealing with harassment, senior officers who have not themselves suffered may not fully appreciate the dilemma of the victim. Delay in reporting, for instance, is not necessarily an indication of triviality but of toleration until the dam finally bursts. Reliance on procedures alone and a focus merely on acceptable behaviour while necessary, may not be enough to make an organisation a place where the different contribution of minority groups is welcomed and diversity is accommodated easily and naturally. This is less a matter of law and procedure than of education and training, which would encourage people to report offensive behaviour or hurtful occurrences at an early stage.
- 15.09 Some Departments have already developed training in interpersonal relationships and in team building. I have been impressed by the scope and quality of the training being undertaken by DANI, for instance. I think this is the best way to counter harassment - to build a Service which is open and trusting with a common purpose, where difference is valued and respected and where even divisive issues can be discussed sensitively and without hurt or offence. This is important work - the field of prevention. It is important that there should be procedures to deal effectively with presenting cases of harassment, but the ideal must be to develop a Service, representative of the wider society, in which harassment does not take place, a beacon light of tolerance in a divided society. In such a Service too, individual officers would have the security, trust and confidence to contribute from their background and tradition to the creation of a common ethos, as they work together in the service of the community.
- 15.10 Most of the staff concerned particularly Mrs A, Mrs B, Mrs E and G5 in DANI have been thrust into the limelight as a result of a legitimate media interest in a matter of public concern. Some of them were the innocent victims of a conflict of opinion at a senior level about how posts should be filled. They have suffered a great loss of privacy, exposure of themselves and their families to unwanted publicity and considerable distress. I hope they can now be allowed continue their careers in relative quiet.

16.00 ACKNOWLEDGEMENTS

- 16.01 I have been helped throughout my Review by Mrs Agnes Peacocke a senior Civil Servant with wide experience of personnel work and general administration who works with DFP. She has been an invaluable help and a source of sound advice and counsel. I am also grateful to Mrs Deirdre O'Kane for acting as my Private Secretary and for typing the Report through several drafts. Mr David Bell, Commissioner of Valuation, kindly provided me with office space - a base to work from in Belfast City Centre which avoided the possible embarrassment to junior staff of having to meet me at their place of work.

Maurice Hayes

