

Critical Review 18 of Appendix IIb of the Public Service Reform Plan

Abolish/Merge Disciplinary Code of Appeals Board and the Independent Mediator with new employment rights body in D/JE&I (listed under Appendix IIa of Public Service Reform Plan)

The background to these bodies and why they should not be merged in the new employment rights body was examined and the following is the justification for not recommending proceeding with this merger.

The Industrial Relations legislation provides for the preparation of draft codes of practices. SI 143/2000 sets out the Code of Practice on Grievance and Discipline procedures in general. Section 3 of the schedule outlines the procedures that should be taken and among them are referrals to a third party, either internal or external, in accordance with any locally-agreed arrangements. It is considered by both Civil Service management and unions that it is best practice to have at least one external member of the Board to ensure that officers who are being sanctioned under the Disciplinary Code are treated in a fair and just manner. The practice has been to have the Chairperson and the Deputy Chairperson as the external member appointed by the Minister for Public Expenditure & Reform.

The following is a brief description of the Civil Service Disciplinary Code and Grievance procedures currently in operation

- The Civil Service Disciplinary Code is outlined in Circular 14/2006. Prior to the 2006 Circular the Code was contained in Circular 1/1992. The procedures were revised in 2006 following the enactment of the Public Service Management Act 1997 and the Civil Service Regulation (Amendment) Act 2005. Both of these Acts gave responsibility to Secretaries General for the appointment, performance and dismissal of civil servants below Principal level. Included in the Code is a provision that in cases where a decision is made to take disciplinary action against an officer they may seek an appeal to the Civil Service Disciplinary Appeal Board. This Board comprises of a Chairperson or a Deputy Chairperson, a serving civil servant and a whole-time official of a recognised trade union nominated by the General Council Staff Panel. The Chairperson and the Deputy Chairperson who are external members of the Board are a Senior Counsel and Barrister-at-Law respectively.
- The Civil Service Grievance Procedures is currently outlined in Circular 11/2001. Included in these procedures is the appointment of an Independent Mediation Officer appointed by the Minister for Public Expenditure & Reform where in certain cases as determined by the Personnel Officer complaints may be referred to him for consideration of the complaint.

We consider that these two bodies are not appropriate for inclusion in the new employment body as they are the internal appeal mechanism for civil servants in respect of these two policies. This is in line with the Minister for Jobs Enterprise and Innovation's reform programme that workplace issues should be resolved as close to the point of origin and the workplace as possible.

The two bodies are the internal appeal stages of the Civil Service grievance and disciplinary processes and abolishing the current arrangements and transferring responsibility for them to the Workplace Relations Commission would conflict with the Minister's objectives. Both of these policies are in operation since the mid 1980's and both have been revised as outlined above in 2001 and 2006.

The arrangements currently in place have been jointly agreed by management and staff representatives. To depart from these agreed procedures would have a serious impact on industrial relations and would be perceived as being unjust and unfair. Both of these procedures have in the majority of cases being successful in that they are viewed by both management and unions to be a fair process where civil servants are treated in an equitable and just manner and are given access to an appeal process which has external membership.

Our processes are in line with other Employers' Codes where procedures for discipline and grievance procedures have internal appeal mechanisms built into their policy to ensure that all employees have the right to a fair and impartial determination of the issues concerned.