

Jayne Brady
Head of the Northern Ireland Civil Service
Stormont Castle
Stormont Estate
BELFAST
BT4 3TT

23 October 2024

Dear Jayne,

STAFF IN CONFIDENCE

Rules pertaining to NICS staff undertaking secondary roles within the public sector

1. Further to our conversation I undertook to set out my concerns on seeking assurance in relation to the provision of unequivocal guidance for staff and managers in relation to NICS staff undertaking secondary roles within the public sector. The aim of this is to avoid potential double payment from the public purse and to ensure strict adherence to NICS and other requirements.
2. You will be aware that I currently have two senior staff who undertake secondary roles as employment tribunal judges with the Northern Ireland Courts and Tribunal Service. It is important that NICS staff with appropriate skills can support other areas of the public service with their expertise and I am pleased to support this within my own team. However, I have had to invest considerable time and effort with

a wide range of stakeholders including NICSHR, NIJAC and DE (Tribunal employer) and other government legal partners such as DSO, CSO and the PPS in order to obtain clarity on the correct rules and procedures in order to ensure regularity on this issue.

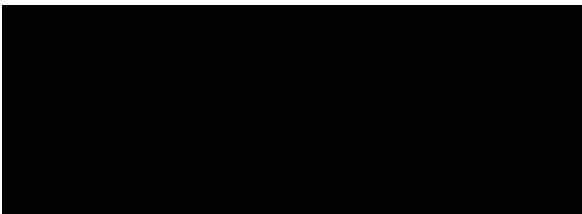
3. I believe the guidance within the NICS Handbook (Standards of Conduct, Annex 10, section 3.1 [6.01 Standards of Conduct v19 \(policy\) \(23\).pdf](#)) on the undertaking of paid work in another public sector post is clear. In the case of my own staff, and in line with this guidance, they are required to take ***unpaid leave*** in order to undertake Tribunal work which currently attracts a fee of £542 per day. Training in order to be able to undertake these roles also attracts payment. NIJAC and NICS policy is clear that there can be no double-payment from the public purse for ***public sector work undertaken concurrently***. (i.e. the taking of annual leave (which is paid leave) would create a ‘double payment’ from the public purse for that day if a fee was claimed in addition.) NIJAC policy states that “public servants paid by central government will receive no remuneration for any fee-paid offices held concurrently”.
4. While this example relates to fee paid judges whose primary role is within the NICS, similar scenarios may arise for other NICS staff in relation to positions such as board/committee/audit appointments in a variety of public sector roles.
5. While I have regularised the position within my office which I discovered to exist at the time I took up office so that it accords with advice I sought and received from NICS HR and legal advisers, staff continue to debate this issue. I remain entirely open to further clarity or evolving policy which may emerge. However, the difficulties we have

faced in arriving at what we consider to be the settled and agreed position continues to trouble me. The level of wider NICS knowledge of this matter for both managers and staff appears to be both limited and inconsistent, which poses potential risks for the equitable application of the rules and proper management of the position across the NICS.

6. The need for scrupulous propriety on this matter is obvious and Accounting Officers will wish to be assured in this regard.

7. I would welcome your views on how best to provide clarity and assurances of strict and equitable application of the NICS rules in relation to staff undertaking secondary roles within the public sector.

Yours sincerely



Dame Brenda King
Attorney General for Northern Ireland