

[REDACTED]
From: [REDACTED] (DETI)
Sent: 05 August 2015 17:13
To: [REDACTED] (DETI)
Cc: [REDACTED] (DETI)
Subject: FW: Enterprise Bill: A Small Business Commissioner

Tried to get you on the phone there but you're out so apologies for this note but I will be in and out of the office quite a bit tomorrow and just wanted to update you on the business below rather than leave it until Friday.

We think [REDACTED] has misinterpreted your message to him (in that he has stated that we would provide a formal NICS response to BIS) but we wanted to clarify for the record that we were not proposing a public response to BIS. We are liaising with BIS at present on behalf of DETI/DFP as we agreed and once we bottom out the policy implications we'll take it from there.

We are preparing a response to [REDACTED] and we'll copy you in once it is finalised.

From: Rooney, Eugene
Sent: 05 August 2015 14:30
To: McCormick, Andrew (DETI); Stewart, Chris (DETI)
Cc: [REDACTED] McLean, Diarmuid; [REDACTED]
Subject: RE: Enterprise Bill: A Small Business Commissioner

(ORMDFM & DETI)

Andrew

[REDACTED] in BRD is leading on this and BIS were in touch with the branch shortly before the consultation was launched. [REDACTED] provided a submission to the Private Office on Friday to advise of the consultation. DETI will continue to liaise with BIS as the thinking develops. In that regard the email from [REDACTED] to [REDACTED] seems to have been misinterpreted. BRD had not been planning to co-ordinate a response across NI departments to the consultation but use existing DETI-BIS channels to input into the policy thinking. Indeed there is likely to be very little interest outside DETI, and perhaps DFP. [REDACTED] is clarifying the communication with [REDACTED]

Whilst we have not yet been sent the correspondence from BIS to FM and DFM for input to a response we should on reflection prepare to provide one.

We will provide you with a draft response to [REDACTED]

Eugene

From: McCormick, Andrew (DETI)
Sent: 05 August 2015 12:14
To: Rooney, Eugene; Stewart, Chris (DETI)
Cc: [REDACTED] McLean, Diarmuid; [REDACTED]
Subject: FW: Enterprise Bill: A Small Business Commissioner

(ORMDFM & DETI)

This follows on from the correspondence forwarded to us from HOCS Office. Grateful for a quick update on the factual position (ie had we picked up the BIS action off our own bat? Have we a position on the proposals) even aside from a response to [REDACTED]

Happy to discuss. Many thanks.

From: Private Office DETI
Sent: 05 August 2015 07:47
To: McCormick, Andrew (DETI)

Cc: [REDACTED]
Subject: FW: Enterprise Bill: A Small Business Commissioner

From: [REDACTED]
Sent: 04 August 2015 20:13
To: Private Office DETI
Subject: Enterprise Bill: A Small Business Commissioner

For the attention of Dr Andrew McCormick (Permanent Secretary)

Andrew,

I understand from [REDACTED] (DFPNI) that DETI have taken the lead role and will be responding to BIS on behalf of the N Ireland devolved administration. Other departments are to provide input as necessary.

Can I ask you to confirm who within DETI will be acting as the Department's Single Point of Contact (SPoC) in this regard?

In view of the fact the consultation closes in 16 days can you perhaps advise what information is likely to be sought from other Departments and Public Bodies before your Department finalises its submission to the BIS consultation?

I look forward to hearing from you.

Regards

[REDACTED]
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/448328/BIS-15-438-a-small-business-commissioner.pdf

From: [REDACTED] fpni.gov.uk
To: [REDACTED]
CC: David.Sterling@dfpni.gov.uk; Des.Armstrong@dfpni.gov.uk; Jack.Layberry@dfpni.gov.uk
Date: Tue, 4 Aug 2015 15:59:30 +0100
Subject: RE: Enterprise Bill: A Small Business Commissioner

[REDACTED]
BIS are engaging with colleagues in DETI on this issue.

DETI will take the lead with other departments providing input as necessary.

Regards,

From: [REDACTED]
Sent: 27 July 2015 09:37
To: [REDACTED] (DFP)

Cc: Sterling, David; Armstrong, Des
Subject: Enterprise Bill: A Small Business Commissioner

Further to my email of 7 July I am forwarding a link to a Consultation launched by BIS yesterday - 26 July 2014. Apologies if you have already received a copy in your role as the Department's Single Point of Contact (SPOC) with BIS. I assume you still are your Department's SPOC?

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/448328/BIS-15-438-a-small-business-commissioner.pdf

You will note the consultation runs for four weeks and closes on 21 August 2015 and that in para 2.8 mention is made of involving the Devolved Administrations.

"We recognise that the matters discussed in this paper could potentially impact on both reserved and devolved areas of policy responsibility across the UK's family of nations. The Government will engage with the Devolved Administrations, and welcomes evidence and contributions from the Devolved Administrations, businesses and business associations, and other interested stakeholders in Scotland, Wales and Northern Ireland."

I certainly intend responding to the consultation and I anticipate my evidence will make reference to specific Public Bodies and name individuals within those Public Bodies. All references will be supported by copies of correspondence, FoI responses etc.

Can I anticipate bearing in mind your own, your Department's (not forgetting the Central Procurement Board) detailed knowledge of the "SSI issue" DFP will be keen to submit a response before the consultation closes?

Returning to my submission It would of course be helpful if I could have your reply to my letter of 7 July before I finalise my response.

Looking forward to hearing from you.

Regards

Note: I have copied this email to both David Sterling and Des Armstrong to ensure they are at aware of the consultation.

From: [REDACTED]
To: [REDACTED] dfpni.gov.uk
Subject: PPN 05-15
Date: Tue, 7 Jul 2015 18:14:25 +0100
Cris,

I attach a letter and supporting document for your attention and response.

Regards

[REDACTED]

From: private.office@detini.gov.uk
Sent: 07 August 2015 15:57
Subject: COR-1177-2015 : First Session Enterprise Bill
Attachments: Sajid Javid to Jonathan Bell - First Session Enterprise Bill - p7815.pdf

Raised By: The Rt Hon Sajid Javid MP
Reference: COR-1177-2015

Subject: COR-1177-2015 : First Session Enterprise Bill

Referred To: DIARMUID MCLEAN
Date referred: 07/08/2015

ACTION REQUIRED

REISSUED TO REQUEST PART INPUT FROM DFP
EPD Final response to be with private.office@detini.gov.uk not later than 19/08/2015
DFP Please forward your input to private.office@detini.gov.uk not later than 14/08/2015
Grateful for part input in respect of the LCM - If you have any queries in relation to this request, please liaise directly with
[REDACTED] Ext 29508

For further information etc. contact:

[REDACTED]
Private Office
29222

Copied To For Input:
Private Office, DFP

Copied To For Information:

[REDACTED]
[REDACTED] PO CC EPD Admin , [REDACTED]

[REDACTED]

From: [REDACTED] (DETI)
Sent: 12 August 2015 13:42
To: [REDACTED] (DEP)
Cc: [REDACTED] (DETI & DEP)
Subject: Fw: Enterprise Bill: A Small Business Commissioner
Attachments: Sajid Javid to Jonathan Bell - First Session Enterprise Bill - p7815.pdf
Importance: High

[REDACTED]

We spoke previously about the letter from Anna Soubry MP to FMdFM regarding the Discussion Paper on proposals for a Small Business Commissioner.

Since then we've had sight of a letter (attached) from Sajid Javid MP to the ETI Minister, Jonathan Bell MLA, which also makes reference to the SBCS proposal and its inclusion in the planned Enterprise Bill.

As you know were currently investigating which NI Departments (DETI included) may have an interest or role in those aspects of the Enterprise Bill which may require LCMs or similar actions on the part of the devolved administration here. The letter's Annex presents quite a broad range of proposals and the LCMs may be the responsibility of various Departments here.

Mr Javid's letter is very useful in setting out the various proposals for the Bill, and has very helpfully identified the areas of the proposals where an LCM is likely to be required for NI. A commitment is also given to writing to Minister Bell again once the position is clearer on the SBCS proposal.

Do you know if BIS is yet in a position to clarify what pieces of legislation (if any) are likely to be affected or amended by the SBCS proposal, once it becomes law?

At the moment, based on the discussion paper and our initial conversations with you, it seems that if the SBCS was established by the proposed Bill, it would have a UK-wide territorial extent, and no LCM would be required (subject to confirmation from BIS that no other pieces of legislation are amended or revoked and subject to advice from Departmental Solicitors). That would, in our opinion, be the most efficient approach as it would avoid unnecessary replication on our part, and it is in keeping with previous policy of maintaining parity between NI and GB law in relation to business.

I note that LCMs may be needed for other parts of the Enterprise Bill, and DETI will be forwarding the letter to the other NI Departments to allow them to determine whether they will need to bring forward any LCMs. We'll keep you informed if any other Departments express an interest.

From a policy point of view on the SBCS, we're awaiting a response from our Minister to Mr Javid's letter, and we'll keep you posted on the outcome of that as soon as we receive his comments/views.

Regards

[REDACTED]

Company Law
Department of Enterprise, Trade & Investment
Netherleigh
Massey Avenue
Belfast, BT4 2JP
Tel: [REDACTED]
Text: [REDACTED]
Web: www.detini.gov.uk

From: McCormick, Andrew (DETI)

Sent: 12 August 2015 16:09

To: HOCS

Cc: Pengelly, Richard; [REDACTED] Rooney, Eugene; Stewart, Chris (DETI); [REDACTED] McLean, Diarmuid;

Subject: RE: 28-7-15 Note to Andrew McCormick re Small Business Commissioner (COR63/15)

Business Regulation Division here had been in touch with BIS on this, and will lead on NI input on the particular issue – since receipt of [REDACTED] email, we have seen the letter from the BIS Secretary of State which seeks a response of the forthcoming Enterprise Bill – EPD here will co-ordinate advice on that (DFP also has an interest). We will keep your office copied in as these issues progress.

Hope this helps.

Many thanks.

From: HOCS

Sent: 12 August 2015 09:37

To: McCormick, Andrew (DETI)

Cc: Pengelly, Richard; [REDACTED]

Subject: RE: 28-7-15 Note to Andrew McCormick re Small Business Commissioner (COR63/15)

Andrew

Can you please advise on whether comments need to be forwarded to BIS.

Thanks

[REDACTED]
[REDACTED]
HOCS Office
Stormont Castle
Belfast
BT4 3TT
[REDACTED]

All e-mails and attachments issued by the Head of the Civil Service Office must be filed appropriately by the responsible business area. HOCS office does not keep official records of such correspondence.

From: McCormick, Andrew (DETI) [mailto:[REDACTED]]

Sent: 28 July 2015 17:38

Subject: RE: 28-7-15 Note to Andrew McCormick re Small Business Commissioner (COR63/15)

We are looking into this. I recall the case from my DHSSPS days.

Many thanks.

From: [REDACTED] Behalf Of HOCS
Sent: 28 July 2015 08:40
To: McCormick, Andrew (DEI)
Cc: Pengelly, Richard
Subject: 28-7-15 Note to Andrew McCormick re Small Business Commissioner (COR63/15)

Andrew,

Please see attached from Malcolm McKibbin.

Kind Regards

[REDACTED]
[REDACTED]
Executive Assistant to Dr Malcolm McKibbin, Head of the Civil Service.
HOCS Office, Stormont Castle, Stormont Estate, Belfast BT4 3TT

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[REDACTED]
From: [REDACTED] bis.gsi.gov.uk]
Sent: 20 August 2015 17:42
To: [REDACTED] (DET)
Cc: [REDACTED]
Subject: RE: Enterprise Bill: A Small Business Commissioner

(DET & BIS)

[REDACTED]
Please accept my apologies for the delay in responding. Thank you for your email below.

We do not envisage that the SBC proposals would affect or amend any existing legislation. The SBC could have UK-wide territorial extent, but this is subject to each of the DAs confirming that the measures should extend to Northern Ireland, Wales and Scotland. We believe a legislative consent motion from Northern Ireland requesting inclusion would be required if the decision is to apply the provisions to Northern Ireland. This is because we are proposing to provide support to businesses by establishing a statutory office holder, with functions to assist small businesses to avoid and resolve disputes with larger businesses, in relation to payment practices. It would be useful to have a view from your Departmental Solicitors.

Thank you for coordinating the input of other Departments. We are very interested to discuss any feedback you have on the proposals. Perhaps we can set up a call early next week to discuss? We are keen to work closely with you to establish whether the SBC measures should, in principle, extend to Northern Ireland, and whether the Northern Ireland Executive is content to support an LCM.

Best wishes,
[REDACTED]

[REDACTED] Business to Business Team
Department for Business, Innovation and Skills (BIS)

1 Victoria Street, London SW1H 0ET

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**Department
for Business
Innovation & Skills**

From: [REDACTED] detini.gsi.gov.uk]
Sent: 12 August 2015 13:42
To: [REDACTED] (ED) (BIS)
Cc: [REDACTED]
Subject: FW: Enterprise Bill: A Small Business Commissioner
Importance: High

(DET & BIS)

[REDACTED]
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As you know were currently investigating which NI Departments (DETI included) may have an interest or role in those aspects of the Enterprise Bill which may require LCMs or similar actions on the part of the devolved administration here. The letter's Annex presents quite a broad range of proposals and the LCMs may be the responsibility of various Departments here.

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Do you know if BIS is yet in a position to clarify what pieces of legislation (if any) are likely to be affected or amended by the SBCS proposal, once it becomes law?

At the moment, based on the discussion paper and our initial conversations with you, it seems that if the SBCS was established by the proposed Bill, it would have a UK-wide territorial extent, and no LCM would be required (subject to confirmation from BIS that no other pieces of legislation are amended or revoked and subject to advice from Departmental Solicitors). That would, in our opinion, be the most efficient approach as it would avoid unnecessary replication on our part, and it is in keeping with previous policy of maintaining parity between NI and GB law in relation to business.

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From a policy point of view on the SBCS, we're awaiting a response from our Minister to Mr Javid's letter, and we'll keep you posted on the outcome of that as soon as we receive his comments/views.

Regards

[REDACTED]
Company Law
Department of Enterprise, Trade & Investment
Netherleigh
Massey Avenue
Belfast BT4 2JP
Tel: [REDACTED]
Text [REDACTED]
Web: www.detini.gov.uk

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[REDACTED]
From: [REDACTED]@etini.gsi.gov.uk
Sent: 21 August 2015 09:26
To: [REDACTED] (BIS & DETI)
Cc: [REDACTED]
Subject: RE: Enterprise Bill: A Small Business Commissioner

(DETI
&
BIS)

Importance: High

[REDACTED]
Thanks for your email.

I note that you are now suggesting that a LCM may be required for the proposed SBCS to exercise powers here in NI. In our initial conversation, we spoke about LCMs and amendments to existing legislation such as the Companies Act 2006. At that stage, you confirmed that CA2006 was not to be amended and you have reiterated that in your email below. This would suggest that a LCM is not required, provided that BIS intends to exercise powers which confer the ability to make legislation for all of the UK, and provided that the relevant part of the Bill does not legislate for a devolved matter.

On the other hand, if you are aware of advice from your departmental solicitors to the contrary, i.e. that a LCM is categorically necessary for the SBCS proposals to extend to NI, we'd be grateful if you could share that with us. We can then seek confirmation from our departmental solicitors that the LCM is required, as LCMs are usually required in cases where Parliament requires the NI Assembly's consent to legislate on a devolved matter. It's not entirely clear that in this case, the intent is to legislate for a specifically devolved matter.

As regards the territorial scope of the SBCS proposals, as stated in my previous email we have no objections (at this stage) to a UK-wide scope for the Commissioner, based on the precedence of company law being administered UK-wide. However, we do not wish to comment categorically on that until it becomes clearer what powers BIS intends to exercise and what the knock-on effect of the Enterprise Bill may be.

I note that a response to Mr Javid's letter to Jonathan Bell MLA is being drafted with input from other NI departments – DETI Economic Policy Division are collating that response and I understand that 28/08/15 is the deadline for the reply to Mr Javid and it is likely the reply will include comments on the wider Enterprise Bill proposals which Mr Javid outlined in his letter. Other departments may have LCM requirements on some of the other proposed clauses of the Bill, as I note Mr Javid's letter advises that LCMs may be required for two of the policy areas covered by the Bill. If it emerges that we do need a LCM for the SBCS, it is likely that would become part of a wider LCM to encompass those other clauses, and would be cross-departmental.

In the meantime we are happy to have a teleconference or to call you, we can arrange this early next week at your convenience. I think it would be useful to establish more detail of the powers BIS intend to use, and the impact of these on devolved matters, when the SBCS aspect of the Enterprise Bill is delivered. I realise this is still "early days" as is clear from the discussion paper, however you'll appreciate the earlier we can agree on whether a LCM is needed, the sooner we can seek Executive approval etc as necessary. You'll be aware from previous interactions on LCMs that the entire process can (depending on Assembly priorities) take anything up to 8/9 months to complete fully – and as things stand, this may mean it could be difficult to achieve within the lifespan of the current Assembly.

Perhaps we could speak on Monday to agree next steps?

Regards

[REDACTED]
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Department of Enterprise, Trade & Investment

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Massey Avenue
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Tex: [REDACTED]
Web: www.detini.gov.uk

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From: [REDACTED] bis.gsi.gov.uk]
Sent: 20 August 2015 17:42
To: [REDACTED] (DET)
Cc: [REDACTED]
Subject: RE: Enterprise Bill: A Small Business Commissioner

(DET & BIS)

[REDACTED]

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Best wishes,

[REDACTED]
[REDACTED] Business to Business Team
Department for Business, Innovation and Skills (BIS)

[REDACTED] | 1 Victoria Street, London SW1H 0ET

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Department
for Business
Innovation & Skills

From: [REDACTED] detini.gsi.gov.uk]
Sent: 12 August 2015 13:42
To: [REDACTED] (ED) (BIS)
Cc: [REDACTED]
Subject: FW: Enterprise Bill: A Small Business Commissioner
Importance: High

(DET & BIS)

[REDACTED]

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Regards

[REDACTED]

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[REDACTED]
From: [REDACTED] bis.gsi.gov.uk]
Sent: 21 August 2015 21:43
To: [REDACTED] (DET)
Cc: [REDACTED]
Subject: RE: Enterprise Bill: A Small Business Commissioner

(DET & BIS)

Many thanks for your response. My email below sets out our lawyer's initial analysis of the Northern Ireland devolution position for the proposed SBC.

We hope to be in the position to share draft clauses, in confidence, with you by Wednesday. I'm very happy to have a call on Monday to talk you through our current proposals which are subject to consultation responses. I'm free between 11am - 2pm and 4.30pm - 5.30pm.

Best wishes,

[REDACTED] Business to Business Team
Department for Business, Innovation and Skills (BIS)

[REDACTED] 1 Victoria Street, London SW1H 0ET
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Department
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To: [REDACTED] (BIS & DET)
Cc: [REDACTED]
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Importance: High

(DET & BIS)

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Regards

[Redacted]
Company Law
Department of Enterprise, Trade & Investment
Netherleigh
Massey Avenue
Belfast, BT4 2JP
Tel: [Redacted]
Tel: [Redacted]
Web: www.deti.ni.gov.uk

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From: [Redacted] bis.gsi.gov.uk
Sent: 20 August 2015 17:42
To: [Redacted] (DET)
Cc: [Redacted]
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(DET & BIS)

[Redacted]
Please accept my apologies for the delay in responding. Thank you for your email below.

We do not envisage that the SBC proposals would affect or amend any existing legislation. The SBC could have UK-wide territorial extent, but this is subject to each of the DAs confirming that the measures should extend to

Northern Ireland, Wales and Scotland. We believe a legislative consent motion from Northern Ireland requesting inclusion would be required if the decision is to apply the provisions to Northern Ireland. This is because we are proposing to provide support to businesses by establishing a statutory office holder, with functions to assist small businesses to avoid and resolve disputes with larger businesses, in relation to payment practices. It would be useful to have a view from your Departmental Solicitors.

Thank you for coordinating the input of other Departments. We are very interested to discuss any feedback you have on the proposals. Perhaps we can set up a call early next week to discuss? We are keen to work closely with you to establish whether the SBC measures should, in principle, extend to Northern Ireland, and whether the Northern Ireland Executive is content to support an LCM.

Best wishes,

[Redacted]
[Redacted] Business to Business Team
Department for Business, Innovation and Skills (BIS)

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Department
for Business
Innovation & Skills

From: [Redacted] [Redacted]@detini.gsi.gov.uk]

Sent: 12 August 2015 13:42

To: [Redacted] (BIS)

Cc: [Redacted]

Subject: FW: Enterprise Bill: A Small Business Commissioner

Importance: High

(DETI & BIS)

[Redacted]

We spoke previously about the letter from Anna Soubry MP to FMdFM regarding the Discussion Paper on proposals for a Small Business Commissioner.

Since then we've had sight of a letter (attached) from Sajid Javid MP to the ETI Minister, Jonathan Bell MLA, which also makes reference to the SBCS proposal and its inclusion in the planned Enterprise Bill.

As you know were currently investigating which NI Departments (DETI included) may have an interest or role in those aspects of the Enterprise Bill which may require LCMs or similar actions on the part of the devolved administration here. The letter's Annex presents quite a broad range of proposals and the LCMs may be the responsibility of various Departments here.

Mr Javid's letter is very useful in setting out the various proposals for the Bill, and has very helpfully identified the areas of the proposals where an LCM is likely to be required for NI. A commitment is also given to writing to Minister Bell again once the position is clearer on the SBCS proposal.

Do you know if BIS is yet in a position to clarify what pieces of legislation (if any) are likely to be affected or amended by the SBCS proposal, once it becomes law?

At the moment, based on the discussion paper and our initial conversations with you, it seems that if the SBCS was established by the proposed Bill, it would have a UK-wide territorial extent, and no LCM would be required (subject to confirmation from BIS that no other pieces of legislation are amended or revoked and subject to advice from Departmental Solicitors). That would, in our opinion, be the most efficient approach as it would avoid unnecessary replication on our part, and it is in keeping with previous policy of maintaining parity between NI and GB law in relation to business.

I note that LCMs may be needed for other parts of the Enterprise Bill, and DETI will be forwarding the letter to the other NI Departments to allow them to determine whether they will need to bring forward any LCMs. We'll keep you informed if any other Departments express an interest.

From a policy point of view on the SBCS, we're awaiting a response from our Minister to Mr Javid's letter, and we'll keep you posted on the outcome of that as soon as we receive his comments/views.

Regards

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