6.06 INEFFICIENCY SICKNESS ABSENCE

1. INTRODUCTION

1.1 While it is recognised that staff will occasionally have reasons to be absent from work through sickness or injury, any absence may cause operational difficulties, including quality, efficiency and increased costs. The aim of this policy is therefore to promote regular attendance at work, minimise absence across the service and to provide a framework within which sickness absence can be effectively managed.

1.2 The policy covers two key aspects of absence, namely, frequent short-term absence and long-term absence and sets out the procedures to be followed when managing such absences. It is therefore important to ensure that a decision to initiate inefficiency action takes place after full investigation, with proper safeguards for the individual concerned. This policy should be read in conjunction with the Sickness Absence section of the HR Handbook (Section 3.01).

2. SCOPE AND APPLICATION OF THE POLICY

2.1 Except where otherwise stated, this policy will apply to all permanent industrial and non-industrial staff. For those serving a probationary period or appointed on a temporary / casual or fixed-term basis, policy and procedural variations will apply, which are set out at paragraph 5.1.

2.2 The role and responsibility of Departmental HR and Line Management in the management of sickness absence can vary with some Departments delegating much of the day-to-day management and decision making in sickness cases to line management, while others retain much of the responsibility within Departmental HR. While this policy has been designed to accommodate these different approaches, Departmental HR will retain a key management role. It is therefore important to ensure regular communication is maintained between Line Management and Departmental HR in the management of individual sickness absence cases.

3. THE LINE MANAGEMENT ROLE

3.1 Your line manager has a key role to play in managing sickness absence and early and positive intervention is very important. Your line manager will conduct a Return to Work Interview following each absence at which point your level and/or the pattern of absence will be reviewed. Your line manager may, if necessary, advise you that your attendance levels are giving cause for concern and will make you aware of the implications of unsatisfactory attendance, including the possibility of formal inefficiency action which could lead to Written Warnings and ultimately dismissal. A record of each Return to Work Interview will be prepared by your line manager.

3.2 Every effort will be made to give you reasonable and appropriate support and assistance to improve your level of attendance. If it is thought that your sickness absence is due to an underlying health reason, you will be referred to the

Occupational Health Service (OHS). You may also wish to consult your GP. You must ensure that your line management is aware of any relevant factors, medical or non-medical, and whether these are likely to impact on your ability to attend work on a regular basis.

3.3 Your line manager may also inform you of the support services available, such as the Welfare Support Service (WSS) or the Employee Assistance Programme (EAP).

4. FREQUENT SHORT-TERM ABSENCE

Review Points

4.1 Review points are used to identify the level and pattern of sickness absence that require closer examination. The Review points are 4 occasions or 10 working days in a rolling 12 month period.

4.2 Review points will not apply to probationers, or to those appointed on a fixed-term or temporary basis, where each spell of sickness absence will lead to a review and consideration of inefficiency action.

4.3 Should your level of sickness absence reach a Review point, Departmental HR and/or your line management will assess what action, if any, might be required. In so doing, they will consider a range of factors such as those listed below:

- nature of the illness or injury;
- circumstances falling within relevant legislation, including disability legislation;
- frequency / pattern of absences;
- prior sickness absence record;
- relevant information contained in return to work records; and
- any relevant circumstances highlighted by you or your line management.

This is not an exhaustive list and there may be other factors that will influence whether formal inefficiency action is appropriate.

4.4 Sickness absence due to pregnancy related illness during the protected period i.e. from the start of pregnancy to the end of maternity leave must be excluded from inefficiency considerations. This protected period will also apply at the final stage (implantation) of In vitro Fertilisation (IVF) treatment and should you become pregnant, the period of protection will continue to the end of maternity leave. Should the treatment fail, a period of 14 days after the implantation fails will be considered part of the protected period. IVF is a form of medical treatment and any absence due to tests and appointments should be covered in the normal way. Sickness absence due to IVF treatment which falls outside the period mentioned above will be considered as sickness absence and managed accordingly.

4.5 Departmental HR and/or line management, when reviewing your attendance record, may decide that formal inefficiency action is not required and you will be advised accordingly.

Consideration of Inefficiency Action

4.6 Where a decision is taken to consider formal inefficiency action, the procedures set out below must be followed.

4.7 Prior to initiating formal inefficiency action your Departmental HR or line management will write to you and invite you to a meeting to discuss your sickness absence record. The letter will make clear the purpose of the meeting and the fact that inefficiency action is being considered. You will have the right to be accompanied at the meeting by a Trade Union representative or work colleague (See paragraph 4.12 and 4.13).

4.8 If you are unable to attend the meeting this will be rescheduled, as soon as possible thereafter; the meeting should normally take place within 10 working days of the original date. Should you fail to attend the meeting without a reasonable explanation acceptable to your Department, a decision will be taken in your absence, based on the information available.

4.9 At the meeting, you will be given an opportunity to explain any circumstances which might be contributing to your level of sickness absence, or any other relevant information which you feel should be taken into account. If, during the meeting, information about a medical condition is presented, or if you or your Departmental HR or line management believe that a referral to OHS may be necessary, a decision on inefficiency action may be deferred pending the outcome of the referral.

4.10 Following the meeting, a summary will be prepared and copied to you and, if accompanied, to your Trade Union representative or work colleague within 5 working days of the meeting. You will be given a further 5 working days to agree the summary or suggest any factual amendments. While every effort will be made to agree the summary of the meeting, should there remain disagreement over the factual contents of the summary, your comments will be appended to the summary of the meeting. Should you fail to respond regarding the summary within the timescale without a reasonable explanation acceptable to Departmental HR or line management the original summary will be treated as agreed.

4.11 Where, following the meeting, a decision is taken that no formal inefficiency action is to be taken, you will be advised in writing and the letter will be copied to your Trade Union representative or work colleague if you were accompanied.

Right to be Accompanied/Role of the Trade Union Representative or Work Colleague

4.12 You are entitled to be accompanied at all formal inefficiency meetings, including appeal meetings, by a Trade Union representative or work colleague of your choice. Trade union representation will be subject to the rules/procedures of the Trade Union. Although normally only a Trade Union representative or work colleague will be allowed to accompany you, requests to be accompanied by other individuals may be considered in exceptional circumstances for example, in the case of a reasonable

adjustment under the Disability Discrimination Act (DDA). It will not be permitted for you to be accompanied by a legal representative.

4.13 The Trade Union representative or work colleague may participate in the meeting and sum up at the end of the interview, respond on your behalf to any views expressed at the meeting and offer any advice to and confer with you. The Trade Union Representative or work colleague will not be allowed to answer questions on your behalf or act in any way that might obstruct the process.

5. FORMAL INEFFICIENCY ACTION

Probation, Temporary and Fixed-Term Workers

5.1 If you are serving a probationary period, or you have been appointed on a temporary/casual or fixed-term basis, you may have your appointment terminated at any time if you have been assessed as no longer capable of undertaking your duties efficiently because of your level of sickness absence. The inefficiency considerations as set out at paragraph 4.6 – 4.11 will apply, which may lead to the issue of a Written Warning. If there is insufficient improvement in your sickness absence record following the Written Warning, your Department may decide to initiate dismissal procedures as set out at paragraph 5.12 – 5.13. A Final Written Warning will not normally apply in such cases.

Written Warning

5.2 If following the meeting it is decided to proceed with formal inefficiency action, you will be issued with a Written Warning. The Written Warning will be in the form of a letter recording the outcome of the meeting and will be copied to Departmental HR, line management and, if accompanied, to your Trade Union representative or work colleague.

5.3 The warning letter will set out the implications should you be unable to make an immediate and sustained improvement in your attendance throughout the warning period. The implications include moving to Final Written Warning stage and ultimately dismissal. The Written Warning will be effective from the date of issue i.e. date which appears on the warning letter.

5.4 The Written Warning will remain valid for two years and your level of attendance will continue to be monitored. If at any time during this warning period your level of sickness absence does not improve to a level acceptable to your Department, a Final Written Warning will be considered.

5.5 The letter will also advise you of the right of appeal against the Written Warning. This is in accordance with the terms set out at paragraphs 8.1 – 8.5

Final Written Warning

5.6 Where you have a valid Written Warning and your level of sickness absence has not improved to an acceptable level, Departmental HR will consult with line management and consider if it is appropriate to move to the Final Written Warning stage and will invite you to a meeting in line with the procedures set out at paragraphs 4.6 to 4.11.

5.7 If following the formal meeting it is decided to proceed with a Final Written Warning, a letter recording the outcome of the meeting will be forwarded to you, copied to Departmental HR, line management and, if accompanied, to your Trade Union representative or work colleague.

5.8 The Final Written Warning letter will set out the implications should you be unable to make an immediate and sustained improvement in your attendance throughout the warning period. The implications include moving to dismissal. The Warning will be effective from the date of issue i.e. date which appears on the Warning letter.

5.9 The Final Written Warning will remain valid for 2 years and your level of attendance will continue to be monitored. If at any time during the warning period your level of sickness absence does not improve to a level acceptable to your Departmental HR, dismissal action will be considered.

5.10 You will also be advised of your right of appeal in accordance with the terms set out at paragraphs 8.1 – 8.5.

Occupational Sick Pay (OSP)

5.11 In accordance with the Sickness Absence section of the HR Handbook (Section 3.01), OSP will cease to be payable for a period of 6 months, effective from the date of the Final Written Warning. Entitlement to OSP will not be restored until the 6 month period has been satisfactorily completed. This period may be extended at departmental discretion should the level of attendance remain unsatisfactory.

Dismissal

5.12 Where the level of sickness absence has not shown a significant and sustained improvement, Departmental HR will consider dismissal. Departmental HR will write to you and invite you to a meeting, the purpose of which will be to consider dismissal.

5.13 If following this pre-dismissal meeting and following consultation with relevant parties, including where applicable, the OHS and WSS, it is decided that the level of sickness absence can no longer be sustained, Departmental HR will write to you and confirm the decision to dismiss you on grounds of inefficiency. The letter will confirm your effective date of dismissal, taking account of the Notice Period, see paragraph 16. You will also be advised of your right of appeal – see paragraph 8.6 – 8.11. The letter will be copied to your line management and if you request to your Trade Union representative or work colleague.

6. LONG-TERM SICKNESS ABSENCE

6.1 Long-term sickness absence is defined as 20 consecutive working days or more. The primary aim in managing long-term sickness absence is to help facilitate your return to work at the earliest reasonable point.

6.2 In all long-term sickness absence cases Departmental HR and line management will work closely with you, your Trade Union representative (should you request such involvement) and the OHS through appropriate and timely referrals. The WSS also has a key role in managing sickness absence, both in terms of providing support and advice when you are ill and liaising with Departmental HR and line management as required.

6.3 When you have been absent for 20 consecutive working days you will receive a letter that outlines the sources of help and support available, such as the WSS and the EAP. In addition, this letter will provide details on how your case will be handled, including medical referrals and contact arrangements, and will serve to notify you of the process to be followed should your absence continue.

Contact

6.4 It is important that regular contact between you and someone in your line management is maintained throughout your absence. The regularity and form of contact should be agreed between you and your line management (normally this would be every two weeks). This contact should be by the most appropriate means, including e-mail, letter, telephone or home visits.

6.5 You must arrange to update your line management regularly on any medical consultations that may provide further information on the progress you are making and a possible date of return to work, or if your health has not improved or has deteriorated further. This will help your line manager both to decide the most appropriate course of action to assist you and also to enable suitable planning/organisational arrangements in terms of the workload during your absence to be made.

6.6 Departmental HR or line management may refer your case to the WSS who will then contact you to discuss your circumstances. Welfare will also remind you of the support services available and provide you with support and guidance to help facilitate your return to work.

Review Meetings

6.7 Formal Review Meetings will be held from time to time, as determined by Departmental HR or line management. The meetings may be timed to coincide with the outcome of the OHS referral process and will be led by Departmental HR or line management. You will have the right to be accompanied at any such meeting by a Trade Union representative or work colleague (See paragraph 4.12 and 4.13).

6.8 The purpose of the Review Meeting is to discuss your absence and to give you an opportunity to present any information that you think may be relevant to your case. The meeting will also be used to consider any OHS medical opinion that may be available on your fitness or otherwise for work and to explore any reasonable adjustments that might facilitate your return to work at the earliest reasonable point.

6.9 Departmental HR or line management will write to you and provide a summary of the Review Meeting, which will be copied to your Trade Union representative or work colleague, if you were accompanied. While every effort will be made to agree the summary of the meeting, should there remain a disagreement over the factual contents of the summary, your comments will be appended to the summary of the meeting.

6.10 Should you be unable to attend the Review Meeting due to your illness, you can provide a written statement which will be considered by Departmental HR and/or line management in your absence.

Warnings during long-term sickness absence

6.11 The Written Warning and Final Written Warning process as set out at paragraph 5.2 – 5.10 will not apply when you are on a period of long-term sickness absence. Your sickness absence will be case managed by Departmental HR and line management, in consultation with the OHS and Welfare Support Service, as appropriate.

6.12 You will be consulted during your absence from work through Review meetings and correspondence. It is important to note that while the formal warning process will not apply (as above) dismissal will remain an option should the Department decide that it can no longer sustain your absence.

6.13 Departmental HR and line management will also review your overall sickness absence record on your return to work and may consider that formal warning action is appropriate. In so doing, a range of factors will be considered such as those listed in paragraph 4.3. Any such warning will also be influenced by:

(a) any pattern of repeated periods of long-term sickness absence or combinations of intermittent and long-term absence; and

(b) your level of sickness absence prior to the period of long-term sickness absence.

The terms of paragraph 4.5 – 4.11 must be followed before proceeding with formal warning action.

7. OHS REFERRALS

7.1 Early intervention is key to the successful management of sickness absence cases. Referral to the OHS is an important intervention and can be made at any time where Departmental HR or line management considers it appropriate. All absences of 20 working days or more must be reviewed with a view to referral. Earlier or more urgent referrals to the OHS may be made where Departmental HR or line management considers such an intervention to be helpful either to you or to the management of your case.

7.2 Departmental HR may decide to refer you to the OHS in order to obtain advice on the following:

- any medical condition affecting your performance or attendance at work;
- whether a definitive return to work date can be given (and if not, an indication of likely timescale for recovery and return to work);
- whether you are currently fit to carry out the duties of your grade;
- whether there are any adjustments to the work tasks or environment that would help facilitate your rehabilitation or an early return to work, and the likely duration of any adjustments;
- whether your health problem is likely to recur and/or affect future attendance;
- other issues specific to your individual case;
- where appropriate, whether the criteria for early retirement on medical grounds are satisfied. See HR Handbook, Early Retirement on Medical Grounds (Section 2.04).

7.3 It is a condition of your employment that you co-operate fully with the sickness absence procedures, including attendance at meetings with line management or Departmental HR and for occupational health assessment at OHS when required. Failure to co-operate could result in the withholding of Occupational Sick Pay in accordance with the Sickness Absence policy and / or other disciplinary action. Continuing failure to co-operate could lead to dismissal on the grounds of misconduct.

7.4 If you are referred to the OHS, you will be asked to sign and date a consent form to allow the Occupational Health Adviser to carry out the assessment and send a report on your medical condition and fitness for work to your Department. If you do not consent to an OHS assessment, your Department will have to take decisions without the benefit of medical advice. Withholding consent for an OHS sickness absence assessment will not delay the inefficiency process.

7.5 You may also be asked to sign consent to allow OHS to contact your GP or Consultant for a medical report. This applies only in relation to medical information. This will not be required in all cases. The Access to Personal Files and Medical Reports (Northern Ireland) Order 1991, allows you to have access to reports about you provided to OHS or your department, by your GP, hospital specialist or other medical practitioner. The procedure which you should use if you wish to have such access will be explained on the consent form.

Fit to Return to Work

7.6 If the Occupational Health Adviser's opinion is that you are fit to return to duty, OHS will inform your Departmental HR. OHS will also write to your GP advising that you have been found fit to return to work. Departmental HR will then inform you of the OHS opinion and advise you to return to work by a specified date, which will normally be within 7 calendar days, unless agreed otherwise. A closing medical certificate from your GP will not be required.

7.7 Departmental HR or line management will discuss with you any reasonable adjustments, or rehabilitation arrangements that may be needed prior to your return to work. Following this, where appropriate, a return to work plan will be developed, which will confirm any adjustments agreed and any associated timeframes within which such adjustments can reasonably be implemented. Examples could be working reduced hours for a limited period (phased return) or alterations to facilities/equipment or transfer to other duties and/or line management. The return to work plan will be monitored by Departmental HR and/or line management, in consultation with you, to ensure effective application.

7.8 If your Department receives a further medical certificate stating that you are unfit for work beyond the return date specified by your Department, you will be advised that the submission of the medical certificate is being treated as an appeal against the decision of the OHS. The procedures for such an appeal are set out at paragraphs 7.15 – 7.25.

7.9 The treatment of OSP, should you fail to return to work by the date specified by your Department, is set out in the Sickness Absence section of the HR Handbook. Failure to return to work by the date specified may result in disciplinary action, including dismissal.

Temporarily Unfit to Return to Duty

7.10 If the Occupational Health Adviser's opinion is that you are temporarily unfit for duty, OHS will inform your Departmental HR who will write to you and advise you of the outcome of the OHS referral. Departmental HR or Line Management may decide to invite you to a Review Meeting (see paragraphs 6.7 – 6.10) to discuss the outcome of the referral and any action that may be required to help facilitate your return to work as early as possible (see paragraph 7.7).

7.11 Your case will be dealt with sympathetically and on its own individual merits with full appreciation of the circumstances. You will have every opportunity to put forward your views by way of the Review Meetings and / or by correspondence.

7.12 Should the Department decide that based on the medical evidence, including an up-to-date OHS assessment, it can no longer sustain your absence you will be invited to a meeting with Departmental HR or line management, the purpose of which will be to consider dismissal.

7.13 If following the meeting, a decision is taken to proceed with dismissal action you will be advised in writing. The letter will set out the reasons, your effective date of termination, taking account of the Notice Period and your right of appeal.

Early Retirement on Medical Grounds

7.14 If at any stage your Department thinks, or if you consider that the nature of your medical condition may make retirement on medical grounds appropriate, your case will be referred to the OHS. If OHS advise that the criteria for early retirement on medical grounds have been satisfied and the Department decides to retire you on medical grounds the procedures set out in the HR Handbook, Early Retirement on Medical Grounds, will be followed (Section 2.04). This policy also sets out the procedures to be followed should the OHS advise that your medical condition has not satisfied the criteria for early retirement on medical grounds.

Appeal Against OHS Opinion

7.15 If the OHS opinion is that you are unfit to work and you wish to appeal against this, you should follow the procedure set out below.

7.16 If the OHS opinion is that you are fit to return to work and a further medical certificate is received from your doctor stating that you are unfit for work beyond the return date specified by your Department, Departmental HR will write to tell you that the submission of this medical certificate is being treated as your appeal against the OHS opinion.

7.17 For your appeal to be considered by your Department, you will be required to provide medical evidence to Departmental HR. The medical evidence must be in the form of a new report from your doctor and/or hospital specialist which is comprehensive and clearly supports your case on medical grounds. Further information about what is required in the new report can be found in the Early Retirement on Medical Grounds Section of the HR Handbook (2.04), Annex 1.

7.18 The report and supporting medical evidence should normally be provided to Departmental HR within 4 weeks of the date of their letter to you regarding the appeal. Departmental HR will forward the evidence you have provided to the OHS. Exceptionally, Departmental HR may allow a late appeal to be considered, provided you make it no later than eight weeks after the date of their letter to you about your appeal. For a late appeal to be considered, you will be required to explain the exceptional circumstances that prevented you from submitting it within four weeks.

7.19 Should you fail to submit the medical report within the stipulated deadline, without an acceptable reason, the original OHS opinion will stand and you will be advised accordingly.

7.20 Any costs that you incur in obtaining medical evidence must be borne by you. The following points should be noted:

- the medical evidence you supply to Departmental HR in the form of a new report will be rejected by the OHS if it is deemed not to be comprehensive and supportive of your appeal;

- the opinion of the Medical Board will be final and you will have no further opportunity to appeal against the Board's opinion.

7.21 When OHS receives the comprehensive medical evidence that supports your appeal supplied by you to Departmental HR, an Occupational Health Adviser who did not make the original decision will review the original OHS opinion along with all the associated case-related documentation and may overturn the original decision without recourse to a Medical Board. OHS will send any new opinion to Departmental HR. Departmental HR will write to tell you about the new opinion and its implications for the Department's handling of your case.

7.22 If OHS decides not to overturn its original opinion, a Medical Board will be convened by the OHS which will consist of at least one independent consultant specialist.

7.23 Should the Medical Board uphold the OHS opinion that you are fit to return to work, Departmental HR will write to you:

- telling you the Medical Board outcome;
- instructing you to return to work by a specified date, which will normally be within 7 calendar days, unless agreed otherwise; and
- reminding you that, as the medical appeal process has been exhausted, failure to return to work by the date specified or agreed may result in disciplinary action, including dismissal.

7.24 If the Medical Board's opinion is that you are temporarily unfit for duty, Departmental HR will write to tell you this and will handle your case as outlined in paragraphs 7.10 – 7.13 above.

7.25 If the Medical Board's opinion is that you are unable to return to work and that you meet the criteria for early retirement on medical grounds, Departmental HR will follow the procedures set out in the Early Retirement on Medical Grounds Section of the HR Handbook (2.04).

8. APPEALS

Action short of Dismissal

8.1 Where a Written Warning or Final Written Warning is issued, you will have the right to lodge an internal appeal against the decision. The appeal must be submitted within 10 working days from the date of the warning letter. Out of time appeals will not be accepted unless Departmental HR or line management are satisfied as to the reasons for the late appeal. You will be given the opportunity to make written and/or oral representations to the individual(s) appointed to hear the appeal. You have the

right to be accompanied by a Trade Union representative or work colleague (See paragraph 4.12 and 4.13).

8.2 The appeal meeting may be rescheduled should you or your Trade Union Representative or work colleague be unable to attend. However any rescheduling should not unduly delay the process and the meeting should normally take place within a further 5 working days of the original date. This 5 day limit may be extended by mutual agreement.

8.3 The appeal meeting should take place as soon as reasonably possible but, normally, no more than 10 working days after receipt of the appeal. It must be heard by an officer independent of those who made the decision and should be at least one grade higher than the decision making officer. Occasionally, it may be necessary for an officer at the same grade, not previously involved in the case, to hear the appeal.

8.4 The role of the officer hearing the appeal is to review the evidence relied upon by the Department in making the decision to issue a Written or Final Written Warning and to decide if the Department has followed procedures and acted fairly and reasonably. The officer hearing the appeal will be provided with all relevant documentation, including any Departmental or NICS policies or procedures.

8.5 The officer hearing the appeal has 2 options in reaching a decision: he/she can either confirm the original decision to issue a Written Warning or Final Written Warning or set aside the original decision. In either case, the officer must clearly state in writing the reasons for the decision and any recommendations made. A decision will normally be issued within 15 working days of the hearing date.

Dismissal

8.6 Where a decision is taken to dismiss you on the grounds of inefficiency, the Establishment Officer (Personnel Officer) will give you formal written notice of dismissal on grounds of inefficiency and will advise you of the reasons, including the appropriate period of notice and also your right to an internal appeal. Should you wish to appeal the decision, you must lodge your appeal as soon as possible but no more than 10 working days after the date of the dismissal letter. Appeals received after 10 working days will only be considered in exceptional circumstances and if you provide an acceptable reason for the delay. You will be advised of your right to be accompanied at the appeal by a Trade Union representative or work colleague (See paragraph 4.12 and 4.13).

8.7 On receipt of such an appeal the Department will acknowledge and arrange for the appeal to be heard. The internal appeal hearing should take place as soon as reasonably possible but, normally, no more than 10 working days after receipt of the appeal. It must be heard by an officer independent of those who made the decision to dismiss and should be at least one grade higher than the decision making officer(s).

8.8 The role of the officer hearing the appeal is to review the evidence relied upon by the Department in making the decision to dismiss and to decide if the Department has followed procedures and acted fairly and reasonably. He/she will be provided with all relevant documentation, including any Departmental or NICS policies or procedures.

8.9 The officer hearing the appeal has 2 options in reaching a decision: they can either confirm the original decision to dismiss or set aside the original decision. In either case, they must clearly state in writing the reasons for the decision and any recommendations made. A decision will normally be issued within 15 working days of the hearing date.

8.10 If the appeal is rejected Departmental HR will advise you in writing of the decision to proceed with dismissal on grounds of inefficiency. In the case of dismissal, and subject to eligibility considerations, you will be informed of your right of appeal to the Civil Service Appeal Board in accordance with the procedures set out in Section 2.07 of the HR Handbook.

8.11 If you have the necessary qualifying service and are dismissed on grounds of inefficiency you may also be eligible to take your case to an Industrial Tribunal. Industrial Tribunals are independent judicial bodies that have jurisdiction to hear cases arising from legislation relating to employment. Further information on this can be obtained from the Customer Information Officer, Office of the Industrial Tribunals and Fair Employment Tribunals, Killymeal House, 2 Cromac Quay, Belfast.

9. COMPENSATION

9.1 Departments have discretion to pay compensation in cases of dismissal on grounds of inefficiency. Departments will consider whether compensation should be paid and, if so, how much. In doing so they will assess in percentage terms the extent to which the inefficiency is caused by factors beyond your control and the efforts you have made to remedy the inefficiency and / or the underlying causes of it. Guidance for assessing compensation in such cases is attached at Annex 1.

9.2 The amount of compensation payable will be calculated by applying the percentage determined by the Department to the maximum that could be paid under the Civil Service Compensation Scheme (Northern Ireland). Details of the maximum amounts of compensation that can be paid are set out in Section 11 and Rule 3.3 of the Civil Service Compensation Scheme (Northern Ireland). If a Department decides not to pay compensation, or to pay less than the maximum, you will be informed when notice of dismissal is given.

9.3 In the event that you are dismissed on grounds of inefficiency and you are not paid compensation or paid less than the maximum, you may, subject to eligibility, appeal to the Civil Service Appeal Board against the Department's decision on compensation. You will have the right to be accompanied at the appeal by a Trade Union representative or other work colleague. The procedures for appeal are set out in the Civil Service Appeal Board Section of the HR Handbook (2.07).

10. PERIOD OF NOTICE

10.1 The minimum period of notice given to staff with 4 years' or more continuous service and who are dismissed on grounds of inefficiency is one week for each year of continuous employment plus one week, to a maximum of 13 weeks. A shorter period of notice applies where service is less than 4 years. Details are set out in the Notice section of the HR Handbook (Section 2.05).

ANNEX 1

DETERMINING ELIGIBILITY FOR COMPENSATION WHEN STAFF ARE DISMISSED ON GROUNDS OF INEFFICIENCY DUE TO UNSATISFACTORY ATTENDANCE

Departments have discretion to pay compensation in cases of dismissal on grounds of inefficiency due to unsatisfactory attendance. Departments will consider whether compensation should be paid and, if so, how much.

Although it is not practical to lay down strict criteria against which individual culpability may be assessed, particularly given that it is in the best interests of the individual for there to be flexibility to consider each case on its merits, the following paragraphs give some general guidelines relevant to the decision whether or not compensation should be awarded. Staff whose attendance is irregular may fall into two categories, those whose sickness absence is:

(i) Long-term - staff who have been absent for a long period whose absence cannot continue to be covered or tolerated, but whose condition is not judged appropriate for medical retirement. Most such cases would normally qualify for full compensation where medical evidence exists or can be obtained to show that the inability to attend is beyond the control of the individual.

(ii) Short-Term, frequent - those who have frequent sickness absences for short periods, due either to a specific illness or to an apparently poor level of general health. Staff in this category might qualify for compensation where Departmental HR is satisfied, firstly, after the necessary investigations (including advice from medical advisers where appropriate), as to the nature and severity of the illness concerned, and, secondly, that the member of staff has done everything within his or her power to alleviate the problem.

Where investigation establishes that the sick absence provisions are being abused, compensation will not be appropriate.