

## **1.10 SECURITY VETTING POLICY AND RELATED APPEALS PROCEDURES**

This policy applies to all staff and sets out the procedure to be followed by Departments in determining whether to refuse or withdraw national security clearance and the rights of appeal for serving members of staff employed in NI Departments and their Executive agencies. It also describes the role of the Security Vetting Appeal Panel that comes into play once the internal appeals mechanism has been exhausted. This replaces CSC11/93.

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## **1.10 SECURITY VETTING POLICY AND RELATED APPEALS PROCEDURES**

### **1. Introduction**

- 1.1 This policy sets out the procedure to be followed by Departments in determining whether to refuse or withdraw national security clearance and the rights of appeal for serving members of staff employed in NI Departments and their Executive agencies. It also describes the role of the Security Vetting Appeal Panel that comes into play once the internal appeals mechanism has been exhausted. This replaces CSC11/93.
- 1.2 The government policy on security vetting is in place to protect the interests of national security, safeguarding Parliamentary democracy and maintaining proper security of the Government's essential activities, no-one should be employed in connection with work which is vital to the interests of the state who:
- is, or has been, involved in, or associated with any of the following activities;
    - Espionage
    - Terrorism
    - Sabotage
    - Actions, intended to overthrow or undermine Parliamentary democracy by political, industrial or violent means: or
  - is, or has recently been:
    - A member of any organisation which has advocated such activities; or
    - Associated with any such organisations, or any of its members in such a way as to raise reasonable doubts about his or her reliability;

### **2. Vetting Policy**

- 2.1 Baseline Personnel Security Standard (BPSS) is sufficient for the majority of posts in the Northern Ireland Civil Service (NICS) and forms the basis of any further national security vetting checks
- 2.2 All vetting within the NICS falls within the overall aim of ensuring that checks are carried out only to the extent necessary to safeguard national security and for the purposes of countering terrorism.
- 2.3 There are 4 levels as follows: -

1. BPSS - This is a check of a candidate's identity, employment history, nationality and immigration status and Criminal Record Check (CRC).

There are three levels of criminal record checks:-

a. Basic Check – This disclosure certificate will show details of all unspent convictions, or state that no such convictions were found;

b. Standard Check– A standard check discloses an individual's criminal record, giving:

- spent and unspent convictions
- informed warnings and other non-court disposals from the Police National Computer

Some old and minor convictions and non-court disposals on a criminal record may not be disclosed. Fixed penalty tickets and parking fines will not be included in a standard check.

Standard checks are only available where the position or role in question is exempt from the Rehabilitation of Offenders (NI) Order 1978. They are not suitable for roles working with children and./ or vulnerable adults

c. Enhanced Check – There are certain activities with children and vulnerable adults that are fall under the 'regulated activity' as defined by the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007. An enhanced check discloses an individual's full criminal record, giving:

- spent and unspent convictions from the Police National Computer
- cautions, informed warnings and other non-court disposals from the Police National Computer
- information held by the Disclosure and Barring Service (for positions in regulated activity)
- information held by the police that is relevant to the role applied for

Some old and minor convictions and non-court disposals on a criminal record may be filtered. Fixed penalty tickets or parking fines will not be included in an enhanced check.

The following levels of National Security Vetting (NSV) are available for sensitive posts.

2. Counter Terrorist Check (CTC): as level 1 above plus check of Security Service records.
3. Security Check (SC): as level 2 above plus credit reference check.

4. Developed Vetting (DV): as level 3 above plus subject interview and field investigation.

### **3. National Security Vetting Reviews**

- 31 All NICS civil servants are subject to a BPSS, as a minimum recruitment check, before they are employed and most will require no further security clearance. There are, however, within Departments sensitive posts which require individuals to have NSV clearance, i.e. CTC, SC and DV. Those subject to NSV checks are required to complete an online security questionnaire and enquiries may include checks against criminal records, PSNI and Security Service records and credit reference checks. Staff who occupy sensitive posts which require NSV security clearance are subject to ongoing review for any change in circumstances which may have an impact on their National Security Vetting status. Security clearances are time limited and upon expiry re-clearance becomes necessary if staff continue to occupy a post which requires NSV level clearance. Staff working in sensitive posts will have their security clearance reviewed regularly, 10 years for CTC and SC, 7 years for DV or earlier if a material change takes place in domestic circumstances.
- 32 Staff must report to their employing Department as soon as possible if they have been arrested, charged or convicted by a court of any criminal offence (except a traffic offence with a private vehicle for which a penalty has not included imprisonment or disqualification from driving). Failure to do so may be considered to be a disciplinary matter.
- 33 Full details of the Disciplinary Procedures are available at link below;  
[https://nics.service-now.com/kb?id=kb\\_article\\_view&sysparm\\_article=KB0010470](https://nics.service-now.com/kb?id=kb_article_view&sysparm_article=KB0010470)
- 34 Appeals against cases where clearance is refused or withdrawn on the following grounds are not dealt with under this procedure.

Where an individual:-

- is susceptible to pressure or improper influence, for example because of current or past conduct; or
- has shown dishonesty or lack of integrity which throws doubt upon their reliability; or
- has demonstrated behaviour, or is subject to circumstances which may otherwise indicate unreliability.

These will be dealt with by the appropriate Departmental HR (DHR) under the normal grievance procedure available on the HRConnect portal (Section 6.04).

- 35 Should the available information be relevant to National Security (as described in paragraph 2 above) and the DSO is minded to refuse or withdraw security clearance he/she will give the individual a statement in writing, which should be as factual as possible regarding the reasons for the potentially adverse decision and proposed action to be taken by the employer. If reasons of security or confidentiality prohibit this, the individual will be provided with as much relevant information as is possible and shall where necessary be sent on special leave with pay, care being taken as far as possible not to disclose the reasons for the individual's absence to his or her colleagues.
- 36 The individual shall be invited to make written or oral representation, to the DSO, within 10 days or such other period as is agreed, to show cause why his or her security clearance should not be regarded as being in doubt and comment on the action which the employer proposes to take. The individual may be accompanied at the meeting by a Trade Union representative or work colleague. If the individual has any special requirements, these should be advised to the appropriate person before the meeting to enable all necessary arrangements to be made. If oral representations are made, the employer's DSO may either take a written record for the consideration of the DHR Business Partner or may arrange for them to be present at the meeting, if it is envisaged that DHR may be required to take action.
- 37 Proposed action may include posting to, or retention in, a Branch of the Departments' organisation where NSV clearance is not required, if this is not practical then action may include posting to such a Branch in another NICS Department. If the employee belongs to a category which it is impossible to employ in other than a security sensitive Branch, or if his or her qualifications or experience are such that no alternative employment in the employer's organisation or where applicable, any other NICS Department, can be found, the employee will be dismissed unless they accept the option of resignation, which will always be afforded in such cases.
- 38 The individual may request the DSO to consult his or her trade union to afford them an opportunity of suggesting any alternative reposting that it may think more suitable, or of suggesting a possible reposting as an alternative to dismissal. In such circumstances the individual will have access to the internal appeal procedures as set out below.

#### **4. Internal NICS Appeals Process (where clearance is refused/withdrawn on National Security grounds)**

- 4.1 If the decision to refuse or withdraw security clearance has been taken by the DSO of the employing Department, based upon adverse information in respect of National Security, the individual may appeal. Any request for appeal should be received within 10 working days from the date of the letter advising of that decision. Appeals received after 10 working days will only be considered in exceptional circumstances if the appellant provides an acceptable reason for the delay. The appellant should set out fully the grounds for appeal. A suggested template is attached (see Annex 1).
- 4.2 The appeal under these procedures will consist of a review of the decision reached and the basis for that decision. The appeal will be given proper consideration and dealt with within a reasonable timescale, as set out below.
- 4.3 The appeal will normally be heard by an officer who is at least one grade higher than the person who took the original decision, and not involved in the original decision. The appeal meeting should normally take place without unreasonable delay and normally no more than 10 working days after receipt of appeal. This can be extended in exceptional circumstances. The date and time of the meeting should, where possible be agreed and all reasonable steps taken to attend. The individual may be accompanied at the appeal meeting by a Trade Union representative or work colleague. If the individual has any special requirements, these should be advised to the appropriate person before the meeting to enable all necessary arrangements to be made. 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.
- 4.4 If no representations are made within the specified period, the Department may implement the proposed actions of which the employee has been advised.

#### **5. Security Vetting Appeals Panel**

- 5.1 Following consideration by the appeal officer, of any representations made, the individual shall be given notice of the decision of the Department and if the decision is being upheld, of his or her right to appeal against that decision to the Security Vetting Appeals Panel within 10 days of the notice (process outlined in Annex 2).
- 5.2 The Panel is only available to existing members of staff employed in NI departments and their Executive Agencies who are subject to security vetting at CTC, SC and DV levels, have exhausted existing internal appeal mechanisms within their own organisations and remain dissatisfied with the result.

Dated 22 February 2016

## **Annex 1**

TO: Grade 3 or Grade 4

### APPEAL AGAINST REFUSAL/RENEWAL OF SECURITY CLEARANCE

I wish to appeal against the decision of the Departmental Security Officer on (insert date) to refuse/remove my security clearance.

My reasons for appeal are as follows:

## **Annex 2**

### **Appeals to Security Vetting Appeals Panel**

An independent Security Vetting Appeals Panel exists to hear appeals against refusal or withdrawal of clearance at Counter Terrorist Check (CTC), Security Check (SC) or Developed Vetting (DV) levels and to advise the head of the organisation concerned. The Panel is only available to existing members of staff employed in NI departments and their Executive Agencies who are subject to security vetting at these levels, and have exhausted existing internal appeal mechanisms within their own organisations and remain dissatisfied with the result. The Panel can recommend that;

- the decision to refuse or withdraw security clearance should stand or,
- security clearance should be approved or restored.

The Panel may also comment on the vetting procedures and the adequacy of the internal appeals process and make recommendations.

The head of the organisation takes the final decision on whether to accept a recommendation from the Security Vetting Appeal Panel to grant or restore security clearance.

Guidance on appeals to the Panel will be made available to an individual by the DSO, if a decision to withdraw or refuse CTC, SC or DV clearance is upheld.

### **Access to the Security Vetting Appeals Panel**

Cabinet Office Government Security Secretariat provides the Secretariat for the Security Vetting Appeals Panel and handles the mechanics of the appeals process. The Panel will be convened to hear cases as they arise.

Contact details:      Government Security Secretariat Directorate  
Security and Intelligence  
National Security Secretariat  
Cabinet Office  
Room 335  
70 Whitehall  
London  
SW1A 2AS

Departments and other organisations are responsible for drawing the attention of individuals to the existence of the Panel when informing them of the arrangements for the internal appeals process. It is the responsibility of the Secretariat to explain

the Panel's procedures to these individuals. Individuals must register their intention to appeal with the Secretariat, in writing, within 28 days of receiving the result of their internal appeal.

## **How the panel operates**

An appellant will be allowed to put their case to the Panel in person, accompanied, if they so wish, by a 'friend'. The role of the 'friend' is confined to helping the appellant to present their case. A member of the Panel will not hear a case where there is a possible conflict of interest. As the issues to be considered by the Panel are not matters of law, formal legal representation is not permitted.

The defending department or organisation can also present their case in person to the Panel. Appellants should be provided, as far as possible and in advance of the hearing, with the reasons for the decision to refuse or withdraw security clearance, unless considerations of security or confidentiality prohibit this. When it is not possible to provide the appellant with the full reasons, the defending department or organisation should submit them to the Panel in the normal way.

The Panel will follow an informal procedure. The hearing will be confidential to the parties concerned. A party to an appeal may submit information or make representations to the panel in the absence of the other party.

The department or organisation must disclose or give to the Panel such documents or information as they may require to carry out their functions.

The Panel is required to carry out their functions in such a way as to ensure that no document or information given to them by any individual is disclosed, without the originator's consent, to any other individual.