
CIVIL SERVICE APPEAL BOARD

GUIDANCE FOR PANEL MEMBERS

October 2025

ROLE AND REMIT OF THE CIVIL SERVICE APPEAL BOARD

The Northern Ireland Civil Service Appeal Board (CSAB) was established in 1974, under a Central Whitley Council agreement (following the establishment of the Civil Service Appeal Board in the Home Civil Service in 1971). While the Appeal Board is sponsored by the Department of Finance, it acts independently when discharging its responsibilities.

The Appeal Board's functions are:

- to decide whether or not a departmental or agency decision to retire an individual early, or to dismiss, was fair and whether the proper procedures were followed;
- to consider appeals against a departmental decision not to pay compensation in cases of dismissal on grounds of inefficiency;
- to consider appeals from civil servants who have been refused permission by their department to undertake political activities; and
- to consider appeals against reduction or forfeiture of pension awards.

If the Board upholds an appeal, it may:

- recommend that the appellant be reinstated, or re-employed; or if the Board considers that some other action is more appropriate, it will recommend accordingly.
- specify compensation to be paid by the department/agency
- recommend the granting of permission to take part in political activities; or
- specify the payment of pension.

THE HEARING REPORT: COMPLETION AND ISSUE

COMPLETION

Sections 1 to 3.1 of the Hearing Report (see Annex 1) will be populated by the CSAB secretary prior to the hearing using the information provided by the department and the appellant. Sections 3.2 to 3.5 will be populated by the CSAB secretary as dictated by the panel after the hearing and taking into account:

- NICS Procedures (HR Handbook)
- Current minimum statutory and disciplinary procedures
- Consistency of treatment
- Fairness of the decision based on the balance of the evidence provided
- Other issues pertinent to the case

The factual accuracy of the Hearing Report must be approved by the Chair and both Management Side and Trade Union Side Representatives on the CSAB panel before the final version issues. The Panel is required to ensure that the specific issues key to the case are addressed and reflected in the final Hearing Report with the reasoning behind its decision set out clearly and in sufficient detail. This must also be applied to Compensation Reports (inefficiency and gross misconduct).

ISSUE

The Hearing Report incorporating the decision and where appropriate the recommendation(s) will issue simultaneously to the department and the appellant normally within 21 calendar days. The decision will no longer issue independently of the Hearing Report.

DOCUMENTS TO INFORM THE DECISION MAKING PROCESS

PROCEDURES

The Board has to be satisfied that relevant procedures, laid down in the NICS HR Handbook, have been followed satisfactorily.

The Employment Act 2002 (Dispute Resolution) Regulations 2004 brought into effect, from 1 October 2004, the provisions in the Employment Act 2002 which sets out minimum statutory dismissal and disciplinary procedures. These apply where the employer first contemplates dismissing or taking such action against an employee on or after that date. Failure to follow the statutory procedures, which apply to all dismissals, will mean that under these Regulations the Board or an Employment Tribunal must find the decision automatically unfair. The procedure involves three stages:

Stage 1

The employer must set out in writing the employee's alleged conduct or characteristics or other circumstances which led them to contemplate dismissing or taking action against the employee.

The employer must send a copy of the above statement to the employee and invite him or her to attend a meeting to discuss the matter.

Stage 2

The meeting must take place before the action is taken and must not take place unless:

- the employer has informed the employee about the reasons for the meeting; and
- the employee has had a reasonable opportunity to consider his/her response to that information.

On his/her part, the employee must take all reasonable steps to attend the meeting at which he/she may be accompanied. After the meeting, the employer must inform the employee of his decision and notify him or her of the right to appeal against the decision if he or she is not satisfied with it.

Stage 3

If the employee wishes to appeal, he/she must inform the employer.

The appeal meeting need not take place before the dismissal takes effect.

If the employee informs the employer of his/her wish to appeal, the employer must extend an invitation to attend a further meeting at which the employee may be accompanied. The employee must take all reasonable steps to attend the meeting. When reasonably practicable, the appeal should be dealt with by a more senior official than the one who dealt with the disciplinary hearing.

After the appeal meeting, the employer must inform the employee of the final decision.

There is a modified two stage procedure for use in special circumstances involving gross misconduct, when summary dismissal has taken place. It is possible that, even if the new statutory dismissal and disciplinary procedures have been followed, other procedural shortcomings could justify the dismissal being found procedurally unfair, in accordance with the principles established in the case of *Polkey vs A E Dayton Services Ltd*.

In cases of discipline/ misconduct:

- has the individual(s) been informed, in writing, of the specific charges being laid against them?
- have they been advised of their representational rights at fact finding and disciplinary interviews (work colleague, trade union representative)?
- have they been provided with copies of notes/minutes taken at fact finding and disciplinary interviews and given an opportunity to comment?
- have they been told of their right of internal appeal, following a decision to dismiss?
- have they been advised that dismissal could be a consequence of disciplinary action?
- are the rules and regulations clear enough and is there a process in place to ensure the effective communication of relevant policies and procedures?

CONSISTENCY OF TREATMENT

In a number of cases the appellant (or representative) has argued that the dismissal is unfair because other members of staff in similar positions have not been dismissed. This sets out some of the considerations which the CSAB can reasonably take into account.

Employees have a right to know what kind of treatment they can expect in given circumstances, however the CSAB and of course departmental management have to look at each case on its own merits. It would only be possible to expect exact consistency of treatment where cases were truly identical; this is most unlikely to occur – there will almost always be variations in circumstances, either of the nature of the offence, or the nature of the employment, or the record of the individuals concerned.

Where an appellant argues inconsistency of treatment, the following points seem to be relevant:

- if a specific case is referred to in the written grounds of appeal, the department/agency should deal with the argument in presenting its case either in writing or at a hearing.
- If the argument is raised on specific cases but only at the hearing, the appellant will need to be told that it is not reasonable to expect the department/agency to deal with such points without notice. Obviously, if the department/agency representatives can deal with them, and wish to do so, that would be helpful. However there must also come a point where, if they profess ignorance of too many similar local cases, there will be some doubt about whether they have adequately considered the case before the Board. In general though, the Board will probably have to ignore such arguments.
- If the cases quoted are several years old then they cannot be wholly relevant. Departments/agencies are entitled to change the way in which their management policies are operated – provided that staff and unions are properly informed. Background circumstances can also change, e.g. the pressure for a more commercial approach.

- Even where cases are current and apparently relevant, the Board will only have full details of the dismissal case or cases which they are considering, so that it may not be possible to be certain how directly comparable the cases are. Nevertheless, the effort to make a comparison should always be made.
- The problem is complicated by the size and dispersion of departments/agencies. It is obviously impossible to have total consistency throughout the NICS particularly given the delegation of authority; but the Board can expect some regard to be paid to consistency by those with authority to dismiss. On the other hand, it may be reasonable for a department/agency to argue that the treatment of like cases in particular areas may be different, according to the jobs and grades of the staff concerned.
- Therefore the Board can expect departmental management to have taken account of other similar cases in the same geographical or managerial area and at the same time. It would be difficult to argue that proper consideration had been given to the case before the Board if that had not been done. Therefore, the Board is entitled to answers from the departments/agency's representatives about policy, the considerations that led to dismissal in the case in question, the efforts they made and procedures they followed, to ensure as far as is possible, consistency of treatment.
- It is likely to be exceptional for fairness or unfairness to turn solely on the argument of inconsistency.

COMPENSATION DOCUMENTS

(GROSS MISCONDUCT/INEFFICIENCY)

CALCULATION OF COMPENSATION IN CASES OF

UNFAIR DISMISSAL

Basic Award

Compensation for unfair dismissal is normally built up from two component parts, basic award and compensatory award. The basic award part is not related to loss suffered. It is simply a multiple of a week's pay (as defined) according to a formula which takes into account years of service and age of the claimant. The practical application of the formula is:

- ½ a week's pay for each year worked before 22nd birthday;
- 1 week's pay for each year worked between 22nd and 41st birthday;
- 1½ week's pay for each year worked after 41st birthday.

The most recent 20 years (only) are taken into account for the purposes of this calculation if a long service employee is being dismissed (ERA 1996 s.162[3]). Wages above £475 per week are disregarded (ERA 1996 s.227 and see Employment Rights (Increase of Limits) Order and notes at Maximum and Minimum Tribunal Awards/Statutory Limits).

The basic award formula is the same as that used for calculating statutory redundancy pay.

In certain specified cases basic award must be not less than a statutory minimum.

Many awards, including basic award, are now indexed linked – see Employment Relations Act 1999 s.34[1] and Indexation of Awards.

Tribunals can reduce basic award, even to nil, if the employee's conduct merits a reduction. However, once he has been dismissed an employee is not obliged to mitigate his loss so far as basic award is concerned, which is different from the compensatory award position (Lock v Connell Estate Agents 1994 ICR 983, EAT).

Compensatory Award

Compensatory award is the name given to the award which an employment tribunal must make to a successful claimant in an unfair dismissal case to compensate him for financial loss suffered as a result of his dismissal. The tribunal will also make a basic award but this is calculated according to a fixed statutory formula according to age and length of service of the claimant and does not vary in relation to loss actually suffered.

Compensatory award is made only in cases in which tribunals decide that reinstatement and re-engagement orders would be inappropriate.

Compensatory award is compensation for financial loss only. This had always been thought to mean financial loss (see Norton Tool Co Ltd v Tewson NIRC [1972] ICR 501 and [1973] ICR 45) but there was much debate in 2003 and 2004 over whether compensation could also be awarded in unfair dismissal cases for non-economic loss such as injury to feelings. The question was finally resolved in July 2004 when the House of Lords conclusively ruled that when assessing compensatory award the loss suffered by an employee for which compensation can be awarded by an employment tribunal is indeed financial loss only. In particular the House of Lords confirmed that there is no power in unfair dismissal cases for a tribunal to award compensation for non-economic "loss" such as injury to feelings, just as there is no power for a tribunal to award aggravated or exemplary compensation by way of penalisation of the conduct of the employer (see Dunnachie v Kingston upon Hull City Council HL [2004] UKHL 36, House of Lords on 15th July 2004).

Tribunals have wide discretion over the amount of compensatory award, subject to a maximum limit or cap. Subject to that limit, it must be such amount as the Tribunal considers to be just and equitable compensation for loss sustained by the complainant in consequence of his unfair dismissal “in so far as that loss is attributable to action taken by the employer” (ERA 1996 s.123[1]).

An employer’s failure to follow the statutory disciplinary and dismissal procedures required since October 2004 will lead to an increase of between 10% and 50% in the amount of compensatory award which would otherwise be payable.

Compensatory award maximum limit or “cap” can be changed by order. There were no increases in 1996 or 1997 from the then current £11,000 limit but the cap was increased to £12,000 as from 1st April 1998 and was then massively increased in October 1999 to £50,000 (Employment Relations Act 1999 s.34[4]). Since then the maximum limit on compensatory award has been inflation linked, adjusted annually. The cap was increased to £78,335 from 1st February 2015 (see Employment Rights (Increase of Limits) Order 2007, SI 2007/3570 and see Compensation limit increases and notes at Maximum and Minimum Tribunal Awards/Statutory Limits).

Given the statutory cap noted above, it can sometimes be advantageous for an employee deliberately to refrain from claiming compensatory award on unfair dismissal so that he can instead make a wrongful dismissal claim for loss of earnings in the Courts where there is no statutory limit on the amount which can be awarded – although this can be a risky course of action which should therefore only be considered after taking expert legal advice, (for an example see *Airbus UK Ltd. v Wilson*, EAT on 25th April 2006).

Special rules ensure that the statutory limit or cap can be exceeded if an employer refuses to comply with a reinstatement or re-engagement orders made by a tribunal in favour of an unfairly dismissed employee. Without such rules it could sometimes be cheaper for an employer to ignore the order than to comply with it.

The compensatory award limit applies, of course, only to awards in unfair dismissal cases – there is no statutory limit to damages which can be awarded in wrongful dismissal cases by a court.

When calculating compensatory award, a tribunal must never base it on less than the national minimum hourly wage current at the relevant time because to do otherwise would be to disregard the National Minimum Wage Act 1988 (see *Paggetti v Cobb* 2002 IRLR 861, EAT and notes at Minimum Wage).

In practice, assessment of compensatory award on unfair dismissal will generally follow the same common law principles used in assessing damages in wrongful dismissal cases, subject of course to the statutory cap.

Reduction due to Contributory Factor

Basic award

In making an award of compensation in an unfair dismissal case an Employment Tribunal has power to reduce basic award on account of “any conduct of the complainant before the dismissal” (ERA 1996 s.122[2]).

Compensatory award

In making an award of compensation in an unfair dismissal case an Employment Tribunal may reduce the compensatory award if it finds a claimant’s conduct contributed to his unfair dismissal. However the tribunal has a discretion as to the amount of the reduction (ERA 1996 s.123[6]) and in extreme cases the reduction can even be 100%.

Polkey Factor

Polkey v A.E. Dayton Services Ltd is an important House of Lords decision. The main points it establishes is so fundamental that it merits its own Main Heading in this programme.

The case itself firmly establishes the absolute right of an employee, save in exceptional circumstances, to be consulted before being dismissed notwithstanding that consultation would make no difference to the decision to dismiss him.

By extension, the rule in *Polkey* means that compensation for unfair dismissal should be reduced if the dismissal was unfair on procedural grounds (ie because the employer adopted faulty dismissal procedures) but the employment tribunal is satisfied that the employee's conduct was such that he or she would have been dismissed anyway if proper procedures had been followed (for a straightforward example see *Mofunanya v Richmond Fellowship*, EAT 2003 on 15th December 2003). Similarly, if a dismissal was unfair but it was likely that the employee would have been made redundant shortly thereafter, a *Polkey* reduction to compensation may be appropriate as redundancy is a potentially fair reason for dismissal and compensatory award is intended as compensation for loss and is not meant to enable an employee to, in effect, make a profit (see for example *Compass Group UK & Ireland Ltd t/a ESS Support Services Worldwide v Baldwin*, EAT 2006 on 5th January 2006).

It is unnecessary and unproductive, in unfair dismissal cases, to debate whether a particular piece of conduct on the part of the employer fits into the "substantive" as opposed to the "procedural" category (see *Lambe v 186 Ltd* CA 2005 ICR 307, Court of Appeal on 29th July 2004 and notes at *Unfair Dismissal/Procedural Defects*). Older cases in which emphasis was placed on whether a matter was one of substance rather than procedure are therefore generally no longer relevant (see for example *Dunning AJ & Sons v Jacomb* NIRC 1973 ICR 448).

Even before *Polkey* it was accepted that a dismissal could be "unfair dismissal" if unfair procedures were followed and that this is so even if the fundamental reason for the dismissal was a fair reason (see *Earl v. Slater & Wheeler (Airlyne) Ltd* NIRC 1972 ICR 508). In addition to establishing the important point that an employer's ability to show that dismissal would have taken place anyway even if proper procedures had been followed will not prevent a procedurally unfair dismissal from being unfair. *Polkey* also reconfirms this even more basic point that potentially fair dismissal can be "turned into" unfair dismissal if an employer fails to follow proper procedures.

The compensatory award which an employer might be ordered to pay in a "*Polkey-type*" unfair dismissal case will normally be calculated either:

1. by reducing the award a percentage to take into account the degree of likelihood that the employee would have been dismissed anyway if fair procedures had been followed (on the whole this approach may be more likely to benefit of the employee); or
2. by “the length of deferral” approach, under which the tribunal will consider how long the dismissal would have been put off if a fair procedure had been followed, say four weeks, and then award an amount equal to net pay for that period (on the whole this approach may be more likely to benefit of the employer).

Although tribunals can use two weeks’ pay as a “conventional” rule of thumb award for lack of consultation where dismissal would have happened anyway, this is not a rigid rule and compensation should be calculated on a “just and equitable” basis as required by ERA 1996 s.123. Thus in *Elkouil v Coney Island Ltd* EAT 2002 IRLR 174 the EAT increased the two weeks’ pay awarded by a tribunal to ten weeks’ pay whereas in *Sagoo v Weatherseal Holdings Ltd*, EAT case 0742/01 on 25th July 2002, the EAT upheld a tribunal’s decision to limit an award to just one week’s pay.

CALCULATION OF PENSION LOSS COMPENSATION

The method described below calculates pension loss according to a formula constructed by a committee of Industrial Tribunal Chairmen on the basis of advice offered by the Government Actuary.

The calculation is made under two Heads.

Head 1

This measures the pension loss during the period when the employee is unemployed following dismissal. This will count up to the date of hearing if the employee is still unemployed at that date but, if alternative employment has been found prior to date of hearing, will count up to the date that alternative employment commenced.

The loss amounts to the equivalent of the employer's contribution to the pension scheme which is taken to be 18% (see table below) of gross weekly pay multiplied by the number of weeks of unemployment.

SALARY BAND	ANNUAL FULL TIME EQUIVALENT PENSIONABLE SALARY 2014/15	EMPLOYERS' ACCRUING SUPERANNUATION LIABILITY CHARGE (ASLC)
	£ PA	% OF SALARY
1	Up to 25,499	18
2	25,500 to 51,499	20
3	51,500 to 95,699	23.5
4	95,700	25

Head 2

If, at the date of hearing the employee is still unemployed, the calculation will be as under Head 1 and the number of weeks to be taken into account will be the same as the number of weeks that the Board has allowed, for the purposes of the Compensatory Award, for the employee to find alternative employment.

If, at the date of hearing, the employee has found alternative employment which does not include a pension scheme, a calculation should be made as under Head 1, commencing from the date that the alternative employment started and the number of weeks to be taken into account should be as many as the Board considers to be fair and equitable but not normally more than 26 weeks. The resulting sum should then be reduced by 3% of gross weekly pay multiplied by the same number of weeks to reflect the fact that an employee in contracted-in employment benefits from the employer's contributions to State Second Pension.

If, at the date of hearing, the employee has found alternative employment which does include a pension scheme, no calculation is necessary under this Head.

Below are the methods of calculation for each of the different circumstances we are likely to meet, taking account of the considerations explored above.

A. Appellant still unemployed at date of hearing

Head 1

Identify pensionable pay per week.

18% of this amount represents pension loss per week. Multiply this amount by the number of weeks from date of termination to date of hearing.

Head 2

Calculate pension loss per week as in Head 1 and multiply by the number of weeks that the Board has allowed for the appellant to find alternative employment.

B. Appellant finds employment before date of hearing but without an occupational pension scheme.

Head 1

Calculate as in A above, the multiplier being the number of weeks from date of termination to date of commencing new employment.

Head 2

Calculate pensionable loss per week as in Head 1 and multiply by the number of weeks deemed by the Board to be fair and equitable in all the circumstances.

Reduce this amount by 3% of gross pay multiplied by the same number of weeks.

C. Appellant finds alternative employment prior to date of hearing, with an occupational pension scheme.

Head 1

Calculate as in B above.

Head 2

As the appellant has entered an occupational pension scheme, there is no compensation due under this heading.

D. Appellant finds alternative employment prior to date of hearing with an occupational pension scheme but which requires a qualifying period of service before being admitted.

Head 1

Calculate as in B above.

Head 2

Calculate pension loss per week. Multiply this amount by the number of weeks of qualifying service but not normally exceeding 26 weeks. Reduce by 3% of gross weekly pay multiplied by the same number of weeks.

Compensation on Dismissal for Inefficiency Sickness Absence and Inefficiency Performance

Departmental Guidance (DRAFT)

Reference Guide for CSAB)

Overview

1. In accordance with the Inefficiency Sickness Absence and Inefficiency Performance policies, Departments have discretion to pay compensation in cases of dismissal. However, when considering an award of compensation this does not necessarily mean that the award will be made or made up to the maximum amount permissible. As a general guiding principle, a payment may be justified in cases where the inefficiency was beyond the employee's control and they have done all they reasonably can to improve.
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). A payment would be made only if:
 - (a) the case comes within the scope of the Inefficiency Sickness Absence and Inefficiency Performance policies;
 - (b) there is a compelling case to make an award;
 - (c) there is clear evidence to justify the level of the award; and
 - (d) the employee has at least 1 year's reckonable service.
3. Compensation will not usually be appropriate where, taking all the relevant facts into account, the employee's approach to work has been unsatisfactory. Examples of this might include:
 - (a) laziness;
 - (b) failure to attend Occupational Health Service appointments;

- (c) non-compliance with the sickness absence procedures;
- (d) negligence or carelessness;
- (e) attitude problems;
- (f) difficulties in working relationships;
- (g) insufficient effort to improve the situation.

Making an Award

4. Decisions to award compensation upon dismissal must be
 - (a) evidence based;
 - (b) recorded on the decision record form (appendix 1).
5. In determining the level of any compensation, Departmental HR will take into account a number of factors including:
 - (a) the nature of the problem and /or severity of the illness;
 - (b) the efforts made by the employee to overcome their difficulties;
 - (c) the individual's employment record and attitude to work; and
 - (d) level of compliance with policies and procedures.

In considering these factors Departmental HR must also be mindful of the fact that the nature of some illnesses can alter short-term perceptions and behaviour. For example, a serious mental health condition might have adversely affected more recent behaviour following years of good service. Therefore, a longer-term view should be taken where this could be the case.

Determining the Level of Award

6. It is important to emphasise that, whilst employees dismissed for inefficiency are eligible to be considered for compensation, there is no guarantee that a compensation payment will be made. Where an employee is dismissed because they have failed to deliver satisfactory performance or attendance and there are few, or no, extenuating

circumstances then it is an unjustifiable use of public money to make any form of compensation payment.

7. If there is compelling evidence to support a compensation payment, Departmental HR, in consultation with Line Management must decide on the percentage of the award. Departmental HR has discretion in deciding on the amount of payment between zero (0%) and the maximum (100%) permitted under the Scheme. The following descriptions are designed to help Departments decide on the percentage to be awarded.

Percentage Awarded	Example Evidence Required
0%	<ul style="list-style-type: none"> ○ The nature of the problem may or may not be beyond the employee's control and may or may not be severe ○ The employee has not complied with the relevant policies and procedures and has generally been uncooperative and uncommunicative ○ The employee has a poor attitude or little commitment to work (for example, laziness, carelessness and/or negligence, requiring a lot of management attention)
25% - 50%	<ul style="list-style-type: none"> ○ The nature of the problem may or may not be beyond the employee's control and may or may not be sufficiently severe to prevent the employee returning to work / satisfactory performance in the foreseeable future ○ The employee has generally complied with policies and procedures, though not on all occasions. ○ Limited cooperation with any suggested measures to improve their difficulties ○ The employee has not been proactive in seeking out solutions for themselves ○ The employee's attitude to work and commitment has been less than positive, with only limited communication with line

	management / DHR.
50% - 75%	<ul style="list-style-type: none"> ○ The nature of the problem is beyond the employee's control and is sufficiently severe to prevent the employee returning to work / satisfactory performance in the foreseeable future ○ The employee has complied with policies and procedures ○ The employee has generally cooperated in measures to improve their difficulties, but may not have been proactive in seeking solutions for themselves ○ The employee has a reasonably positive attitude and commitment towards work and has communicated with line management / DHR as required.
100%	<ul style="list-style-type: none"> ○ The nature of the problem is beyond the employee's control and the difficulties are sufficiently severe to prevent the employee returning to work / satisfactory performance in the foreseeable future ○ The employee has cooperated fully with Departmental policies and procedures at all times ○ The employee has been proactive in seeking measures to improve their difficulties ○ The employee has communicated freely with line management and DHR ○ The employee has a very positive attitude to work

COMPENSATION FOR INEFFICIENCY DISMISSAL

DECISION RECORD FORM – Completed by the Department

1. Decisions to award compensation and on the level of any compensation related to dismissal for inefficiency must come within scope of the Inefficiency Sickness Absence and Inefficiency Performance policies and must be evidence based.

2. This form should be used to outline the basis for the proposed award. Record in detail the evidence taken into account under each of the four factors (i.e. nature of problem, efforts to overcome the problem, employment record and level of compliance) listed. At the end of the form, record the percentage of the award and summarise the justification for setting the award at that level.

Employee's Name:	
Employee's Staff No:	
Decision Maker's name:	
Decision Maker's telephone number:	
Factors	Evidence Taken into Account
<p>1. Nature of the Problem – including, for example:</p> <ul style="list-style-type: none"> ➤ To what extent the attendance /performance problems are beyond the employee's control ➤ Severity of the illness and the subsequent effect on 	

<p>attendance /performance</p> <ul style="list-style-type: none"> ➤ Medical/Occupational Health reports on the nature, cause and future outlook of the illness 	
<p>2. Efforts to Overcome Difficulties</p> <ul style="list-style-type: none"> ➤ To what extent the employee has done everything they reasonably can to overcome their problem ➤ Cooperation with the Occupational Health Service ➤ Cooperation with re-training and the efforts made to learn new skills and duties, where appropriate ➤ To what extent the employee has cooperated with the Department throughout their absence ➤ 	
<p>3. Employment Record</p> <ul style="list-style-type: none"> ➤ Their general attitude to work and commitment ➤ Working relationships ➤ Length of Service 	

<p>4. Level of Compliance</p> <ul style="list-style-type: none"> ➤ To what extent the employee has complied with sickness / performance policies ➤ Attendance at OHS appointments/ Review meetings ➤ Contact and Communication with line management / DHR 	
Proposed level of award:	%
Justification for proposed award:	<i>Use this box to explain how you arrived at the % award proposed and to summarise the key justifications for this.</i>

Annex 1

CIVIL SERVICE APPEAL BOARD – HEARING REPORT

APPEAL OF X – (CASE REF. ABC X)

GRADE, DEPARTMENT OF X

DATE OF HEARING:

LOCATION OF HEARING:

1. Attendees

1.1 Members of the Board

1.2 Appellant

1.3 Appellant's Representative (if any)

1.4 Departmental Representatives

1.5 Observers (if any)

1.6 Secretary to the Board

Background

2.1 Appellant's Claim

To include a brief summary of the Appellants appeal

2.2 Papers Provided/Circulated Prior to Hearing

To include a list of all papers available to the Panel, Department, Appellant and Representative

2.3 Career History

To include date of appointment, Department, grade, postings, locations and last day of service

2.4 Background to the Departments Decision

To include brief summary of the relevant facts/sequence of events leading to the decision

3. Hearing

3.1 Chairman's Welcome & Introductions

To include welcome, introductions, mobile phones, no recording/transmitting devices permitted, evacuation procedures and brief overview of how the hearing would proceed

3.2 Remit of the CSAB Panel

To explain the remit of the CSAB panel as appropriate to each case

3.3 Desired outcome of Appellant

To record the desired outcome of the Appellant

3.4 The Board's Decision

To include:

- Upheld/Not Upheld

- Unanimous/majority
- Reasoning behind its decision to be set out clearly and in sufficient detail taking into account –
 - NICS procedures (HR Handbook)
 - Current minimum statutory and disciplinary procedures
 - Consistency of treatment
 - Fairness of the decision based on the balance of the evidence provided
 - Other issues pertinent to the individual case

3.5 Recommendations (where appropriate)

To support the Department going forward

(Redacted recommendations will be compiled quarterly and where appropriate made available to Departments through Establishment Officer meetings. They will also become part of the CSAB Annual Report)

COMPENSATION REPORT WORKED EXAMPLE

BASIC AWARD:

Date of birth: 19/01/1972

Date of entry into service: 12/08/1991

Date of termination of service: 19/06/2014

(The employee's years of continuous employment are counted backwards from the effective date of termination).

Effective date of termination Awarded	Age	Full Years	Weeks
19/06/2014	42		
19/06/2013	41	1	11/2
19/06/2012	40	1	1
19/06/2011	39	1	1
19/06/2010	38	1	1
19/06/2009	37	1	1
19/06/2008	36	1	1
19/06/2007	35	1	1
19/06/2006	34	1	1
19/06/2005	33	1	1
19/06/2004	32	1	1
19/06/2003	31	1	1
19/06/2002	30	1	1
19/06/2001	29	1	1

19/06/2000	28	1	1
19/06/1999	27	1	1
19/06/1998	26	1	1
19/06/1997	25	1	1
19/06/1996	24	1	1
19/06/1995	23	1	1
19/06/1994	22	1	1

Awarded:

- 19 full years @ 1 weeks gross pay at time of dismissal.
- 1 full year @ 1.5 weeks gross pay at time of dismissal.

However:

- ceiling of £475 per week – gross earnings = £387.72 per week (20239.08 ÷ 52.2) **Use weekly gross pay**

Therefore:	19 x 1 x £387.72	=	£7366.68
	1 x 1.5 x £387.72	=	£ 581.58
	TOTAL		£ 7948.26

Earnings and benefits (Signed Declaration by Appellant)

BENEFITS - ESA £3984.68 DLA £1470.15

EARNINGS - NIL

TOTAL EARNINGS £5454.83

CALCULATION OF COMPENSATION

The following are the data taken into account by the Board in calculating compensation:

<u>Date of birth:</u>	19/01/1972
<u>Date of entry into service:</u>	12/08/1991
<u>Date of termination of service:</u>	19/06/2014
<u>Date of hearing:</u>	02/12/2014
<u>Gross pay:</u>	£20239.08 per annum / 52.2 = £387.72 per week (Divisor of 52.2 as advised by Pay and Grading Unit)
<u>Net pay:</u>	£16709.64 per annum / 52.2 = £320.11 per week
<u>Loss of future earnings:</u>	The board decided to award £7362.53
<u>Pension loss:</u>	Calculated in accordance with guidance from the Government Actuary's Department and a committee of IT Chairmen.

Additional award:

The Board awarded an additional
£8917.56

The resulting calculations are as follows:-

1. BASIC AWARD

Calculated according to the appellant's age and length of service. The calculations are based on gross pay at the time of dismissal, up to the maximum of £490.00 per week for each full year of service:

19 x 1 x £387.72	£7366.68
1 x 1.5 x £387.72	+£ 581.58

A deduction has to be made to take account
of the 60% contributory fault:

-£4768.96

Basic award:

(A) £ 3179.30

2. COMPENSATORY AWARD

Loss of earnings (net pay) from the date of termination to the hearing date:

23 (weeks) x £320.11 = £7362.53	£7362.53
less benefits received = £5454.83	-£5454.83
less earnings = NIL	
	£1907.70

a. Future loss of earnings (net pay):

23 weeks x £320.11	=	£ 7362.53	+£7362.53
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At the Appeal Board hearing held 14 January 2015 the Board decided that the Appellant's appeal should be upheld. The Appellant's representative had stated at the beginning of the hearing that his desired outcome was to be reinstated. The Department did not reinstate the Appellant.

After the hearing, both parties were consulted as to the level of contributory fault.

The Department's view:

The Appellants View:

The Appeal Boards View:

The CSAB was not satisfied that the appropriate procedures for dismissal on disciplinary grounds had been followed by the Department.

It is the Panels view that in considering options for sanctions and penalties, the Department did not clearly demonstrate and document their consideration of the range of relevant penalties or possible sanctions including reasons for the rejection or application of any of these sanctions or penalties.

The panel noted the acceptance by the appellant and his representative of the contributory fault with regard to the offence.

This together with the Departments failure to apply appropriate procedures was considered and a reduction for contributory fault was therefore set at 60%.

The Panel decided to make an additional award of 23 weeks @ gross pay in recognition of the Departments decision not to reinstate.

The 'Polkey' factor takes its name from the House of Lords' seminal decision in *Polkey v Dayton Services Ltd*. It is a percentage reduction which may be made from any compensatory award for unfair dismissal, reflecting the chance that the employee would still have been dismissed even if the employer had carried out a fair procedure. The Appeal Board were of the view that the Polkey Factor was not relevant in this case.

2.07 Civil Service Appeal Board Policy

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1. Background

1.1 The Civil Service Appeal Board (Appeal Board) is an independent body that deals mainly with appeals from you if you have been dismissed or retired early. (Note: Here, and elsewhere in paragraphs 1.1- 5.4.10, 'early retirement' also covers 'early severance'). Evidence from you and from your employing Department is obtained before appeals are heard and decisions reached. The Appeal Board is a lay body and does not follow legal procedures.

Policy and Organisation

2.1 The Appeal Board has four functions:

- a. to decide whether a Departmental decision to retire an individual early or to dismiss is fair and that the proper procedures had been followed (the procedure to be followed in such cases is set out in paragraphs 2.2, 4.1 - 5.4.10 and 8.1 – 8.2 below);
- b. to act as the Appeal Board for Civil Servants who have been refused permission by their Departments to participate in political activities (the procedure to be followed in such cases is set out in the 'General Employment Issues' part of the Handbook paragraphs 1.14.17 to 1.14.22);
- c. to consider appeals against a proposal to withhold superannuation benefits under rule 8.2 of the Principal Civil Service Pension Scheme (NI) and regulation 169(5) of the Public Service (Civil Servants and Others) Pensions Regulations (NI) (see paragraphs 8565 and 8566 in the NICS Pay and Conditions of Service Code); and
- d. to consider appeals against a Departmental decision not to pay compensation or to pay less than the maximum in cases of dismissal on grounds of inefficiency (the procedure to be followed in such cases is set out in paragraphs 5.2 - 5.4 and 6.1 - 8.2below).

2.2 The Appeal Board hearing each case will consist of three members sitting together; either the appointed Chairman or Deputy Chairman of the Appeal Board, together with two others, one drawn from a panel nominated by

Management Side and one from a panel nominated by Trade Union Side. The Appeal Board, not being a legal forum, will operate in an informal manner.

Statutory Right of Appeal Against Unfair Dismissal

3.1 The entitlement to appeal to the Appeal Board does not prejudice your statutory rights, under the provisions of the Employment Rights (NI) Order 1996, to complain against unfair dismissal to an Industrial Tribunal.

Eligibility to Appeal to the Appeal Board Against Dismissal or Early Retirement

4.1 If you are under notice of dismissal or early retirement you may lodge an appeal with the Appeal Board, provided that:

- a. the notice is not for retirement on medical grounds (see policy 2.04, Early Retirement on Medical Grounds).
- b. you have been continuously employed in the Civil Service for at least one year ending with the effective date of termination, as defined according to paragraph 4.2;
- c. you are not dismissed whilst participating in a strike or other industrial action, unless:
 - i. the dismissal was for taking part in protected industrial action; or ii. the Department has not dismissed all employees who were taking part in the industrial action at the same establishment at the date of dismissal or another of those dismissed at the time has been offered reinstatement within three months of the date of dismissal; and
- d. at the time of dismissal you were not taking part in an unofficial strike or other unofficial industrial action.

4.2 For the purpose of calculating your length of service, in order to establish eligibility to lodge an appeal with the Appeal Board, the period of one year's continuous employment is determined in accordance with the relevant provisions of the Employment Rights (NI) Order 1996 (as amended by the Unfair Dismissal and Statement of Reasons for Dismissal (Variation of Qualifying Period) Order (Northern Ireland) 1999). The period of

continuous employment ends with the effective date of termination, in other words the day on which notice of termination expires.

4.3 Where your employment is terminated without notice, with compensation in lieu of notice or with less than the statutory minimum period of notice your effective date of termination will be calculated as if the statutory minimum period of notice had been given.

Submission and Consideration of Appeal

General

The following procedure has been established so that appeals can be heard with the minimum of delay

Giving notice of appeal

5.2.1 You should send a notice of your intention to appeal to the Secretary to the Appeal Board so that it is received before the expiry of three months from the effective date of termination. The onus to ensure the notice of appeal is lodged before the expiry of the three months rests with you. The notice may be sent either before the date on which employment is due to be terminated or after employment has actually been terminated. It must be sent to the Secretary, Civil Service Appeal Board, NICS HR, Ground Floor, 2-4 Bruce Street, Belfast, BT42 7JD

5.2.2 The Secretary to the Appeal Board will inform the employing Department of the appeal as soon as the notice of intention to appeal has been received.

Submitting the appeal

5.3.1 On receipt of confirmation from the Appeal Board Secretary you must submit your full case in writing within 21 calendar days.

5.3.2 The Appeal Board Secretary will send a copy of your full statement of case to the employing Department and invite it to explain the reasons for its action and to comment, as appropriate, on the points you have made.

5.3.3 The Department's response, or statement of case, will be with the Appeal Board Secretary within 21 calendar days from the date on which the copy of your case was issued to it.

5.3.4 The Secretary to the Appeal Board will send a copy of the Department's statement to you.

5.3.5 Having seen the Department's statement, you may make a further written submission that must be received by the Secretary to the Appeal Board not later than 14 calendar days prior to the date of the hearing.

5.3.6 Any further comments that you make will be copied to the Department.

Procedure

5.4.1 The Appeal Board will invite both parties to submit further evidence, either orally, (see paragraph 5.4.3 below) or in writing. You may ask a friend, a colleague or a Trade Union representative, to assist with the case. They may raise issues, make arguments and submissions, and point out matters of mitigation, but cannot give evidence, such as answering questions on the Appellant's behalf.

You may opt to engage a solicitor or barrister to assist with your case instead of a friend, colleague or Trade Union representative. While the former can act in a professional capacity at Appeal Board hearings, the discharge of their duties should be undertaken within the context, that the proceedings of the Appeal Board are conducted on an informal basis, and it is not a legal forum, or a court of law. They may raise issues, make arguments and submissions, and point out matters of mitigation, but cannot give evidence, such as answering questions on the Appellant's behalf.

Any cost of engaging a solicitor or barrister, is for you to bear, and will not be reimbursed by the Appeal Board or NICS, regardless of the outcome. Should you decide to engage a solicitor or barrister, the Department reserves the right to also engage similar representation, but as above, this will be within the context of the CSAB procedures.

5.4.2 The hearing of an appeal may not take place within a prison and you may not be assisted at a hearing or be represented in your absence by a friend who is in prison.

5.4.3 The Secretary to the Appeal Board will write to you and your representative (if there is one) to notify you of the date on which the appeal is to be heard and to invite you to appear before the Appeal Board. You will be strongly urged to accept the invitation. If you decide to appear before the Appeal Board, the Department will be invited to be represented. If you choose not to appear, or to be represented at the hearing, the Appeal Board will decide the case on the basis of the written submissions. A written statement based appeal has equal standing with a personal hearing and the appellant is free to choose this option. If a written submission from either party is not clear, the Appeal Board will ask the person who submitted it to provide clarification.

5.4.4 You are entitled to receive a copy of the Department's statement.

Departments are advised to make sure that their statements contain all the relevant facts and also explain the reasons for their decisions. You will also be given a copy of any communication between a Medical Adviser or a Welfare Officer and the Department that has been taken into account in reaching a decision, unless the Appeal Board agrees there are special circumstances which would render such disclosure undesirable. The Appeal Board will, if you wish and subject to considerations of security, require the Department to give you access to other papers which the Appeal Board considers should be seen for the purpose of presenting your case.

5.4.5 The Appeal Board, having regard to all of the written and oral evidence provided, will decide whether the decision to retire early or to dismiss is fair. If the Appeal Board decides that the decision is unfair, it may recommend to the Head of the Department either that you should be reinstated or re-employed or specify what compensation (or additional compensation in a case of early retirement) you should be paid. If the Appeal Board considers that some other action is more appropriate, it will recommend accordingly.

5.4.6 When the Appeal Board cannot reach a unanimous decision, there will be a majority conclusion. If the majority conclusion is that the Department's decision is fair, and was made correctly, both you and the Head of the Department will be notified. You will have 14 calendar days from the date of receiving a copy of the Hearing Report during which to make representations (or your representative may make representations on your behalf) to the Head of the Department or to an officer at a level determined by the Permanent Head of Department (see policy 6.01, Standards of Conduct) before a final decision is made. If the majority conclusion is that the Department's decision is unfair, the procedures as set out in paragraph 5.4.5 above will apply.

5.4.7 If the Appeal Board makes a recommendation to reinstate or re-employ you, the Head of the Department or an officer at a level determined by the Permanent Head of Department (see policy 6.01, Standards of Conduct) will decide whether to accept the Appeal Board's recommendation and this decision will be final. In cases of early retirement on the grounds of limited efficiency or structure, the Department will normally be expected to accept the recommendation of the Appeal Board unless there are overriding reasons to the contrary and, before such a recommendation is rejected, NICSHR of the Department of Finance must be consulted about the possibility of your transfer to another Department. If a recommendation to reinstate or re-employ you is rejected by the Department, the Appeal Board will consider whether to award compensation, or additional compensation in the case of early retirement.

5.4.8 To assist the Appeal Board in determining the amount of compensation to be paid, you and the Department will be invited to make written representations to the Board concerning the extent to which you may have contributed to your dismissal. Any such representations should relate solely to this issue and not to any other aspects of the case.

5.4.9 The Secretary to the Appeal Board will send a copy of the Appeal Board's subsequent decision on compensation (if any) to the Department who

will have up to 7 calendar days to confirm factual accuracy of the compensation calculation only, before the Secretary issues it to the Appellant.

5.4.10 The Department must pay any compensation awarded by the Appeal Board within 42 calendar days of the initial date of issue of the Appeal Board's decision to the Department.

Inefficiency Dismissals: Non-Payment of Compensation

6.1 If you have been dismissed on grounds of inefficiency and have not been paid compensation under the Civil Service Compensation Scheme (NI) or have been paid less than the maximum at the Department's discretion, you may appeal to the Appeal Board against that decision. This is in addition to the right to appeal against dismissal.

6.2 If you are dismissed on the grounds of inefficiency you may appeal against dismissal in accordance with the procedures in paragraphs 2.2, 4.1 - 5.4.10 and 8.1 - 8.2

6.3 If unsuccessful, you may appeal against a Department's decision not to pay compensation or to pay less than the maximum under the Civil Service Compensation Scheme (NI); notification of intention to appeal should be made to the Secretary to the Appeal Board within 21 calendar days of the date of the Board's finding that the dismissal was fair. In cases where you do not wish to contest the dismissal, but wish to appeal against the non-payment of compensation or payment of less than the maximum, the Secretary should be notified of the intention to appeal within 21 calendar days of the effective date of termination, or, if your appointment has been terminated without notice, the date on which your employment ceased. Should you appeal against the decision not to pay compensation or to pay less than the maximum under the Civil Service Compensation Scheme (NI) you may not subsequently appeal to the Appeal Board against dismissal.

6.4 Where you appeal against the non-payment of compensation or payment of less than the maximum, the procedures followed will be those laid down in

paragraphs 2.2, 5.2 - 5.4.6. The time-limits for such appeals are, however, specified in paragraph 6.3 above. The Appeal Board will consider only whether or not compensation under the Civil Service Compensation Scheme (NI) should be awarded in cases of non-payment of compensation, or the level of compensation in cases where less than the maximum has been paid; the decision to dismiss you will not be considered. The Secretary to the Appeal Board will notify you of the Board's decision. If the Appeal Board decides that payment of compensation or an increased level of compensation is appropriate, the employing Department will arrange for compensation under the Civil Service Compensation Scheme (NI) to be paid.

6.5 Where the Appeal Board decides that the decision to dismiss is unfair and recommends the payment of compensation under paragraphs 5.4.5 or 5.4.7, it does not necessarily follow that the payment of compensation under the Civil Service Compensation Scheme (NI) would also be appropriate. If you seek compensation under the Principal Civil Service Pension Scheme (NI), it is still necessary for you to appeal against the Department's decision not to pay compensation or to pay less than the maximum.

Arrangements for the Hearing

7.1 If you are disabled, and require any adjustments to the arrangements or additional support for the hearing, please discuss this with the Appeal Board Secretary as soon as possible.

Travelling and Subsistence Expenses

8.1 Departments must meet your travelling and subsistence expenses when you are appearing before the Appeal Board and also of any Civil Servants attending to assist you. They must also meet the travelling and subsistence expenses (at the same rates applicable to you) and loss of earnings, if appropriate, incurred by any non-Civil Servant (other than a fulltime Trade Union representative, a Solicitor or a Barrister) who with the Appeal Board's agreement, attends with you.

8.2 Payment of such expenses must be met in accordance with the rules set out in the Travel and Subsistence Allowances section of this Handbook

**NORTHERN IRELAND CIVIL SERVICE APPEAL BOARD (CSAB)
GUIDANCE TO APPELLANTS (REPRESENTATIVES TO NOTE)**

Please read carefully

This note sets out the procedures to be followed as a result of an appeal against dismissal or premature retirement from the NI Civil Service. Please read the whole of this note now, and then look at the appropriate sections again as your appeal proceeds. If you feel that you need additional help, you should contact NICS HR ER, your representative, or the Secretary to the Civil Service Appeal Board (Tel: 028 9057 2364). This note supplements the provisions of Chapter 2.07 (Civil Service Appeal Board (CSAB) NI) of the Leaving the Service Part of the NICS HR Handbook.

1. The Appeal Board and what it does

- 1.1 The Appeal Board is an independent body that deals mainly with appeals from Civil Servants who have been retired or dismissed early. Its role is to decide whether the Department's decision to end your employment was fair and whether the proper procedures have been followed. The Board hearing each case will consist of 3 Members sitting together – either the appointed Chairman or Deputy Chairman of the Appeal Board, together with 2 others, one drawn from a panel nominated by Management Side, the other from a panel nominated by Trade Union Side. The Appeal Board operates as informally as possible. The Appeal Board cannot make any recommendation concerning an appellant's suitability for medical retirement - this is decided by the Occupational Health Service.

2. Eligibility

- 2.1 To be eligible to appeal to the Appeal Board you must have served continuously in the Civil Service for a period of not less than 1 year ending with the effective date of termination.
- 2.2 Notice of your appeal must be received by the **Secretary to the Civil Service Appeal Board (NI), Ground Floor, 2-4 Bruce Street, Belfast, BT2 7JD** within 3 months from the effective date of termination,
- 2.3 Initially all you need do is to notify the Appeal Board that you may wish to appeal and to indicate the broad grounds on which your appeal is based. This will then be forwarded to the relevant Department to check the eligibility of the appeal.

3. **Acknowledgement of Initial Appeal**

3.1 Once the Secretary to the Board has established that you are eligible to appeal he/she will notify you that your appeal has been received and give you a date by which your main statement of appeal should be submitted. A copy of your appeal will be sent to your Department.

4. **Preparing your Main Statement of Appeal**

- 4.1 What you should do: - write out your statement fully, setting out clearly why you think your Department was unfair or unreasonable in dismissing you. Your statement should contain only relevant information and supporting documentation set out clearly in chronological order.
- 4.2 Where inconsistency of treatment is alleged, you should provide supporting evidence. Equally, it is the responsibility of the Department to provide whatever evidence it considers appropriate to convince the Board that it has not acted inconsistently.
- 4.3 When your full statement is ready you should send it to the Secretary of the Appeal Board who will acknowledge receipt. It must not arrive at the Appeal Board later than the date stated in the letter that you receive with this note. **Getting your statement in on time is very important otherwise your case could be struck out**
- 4.4 You should keep a copy of your main statement, or if you do not have access to a photocopier, the Secretary to the Appeal Board will send you a copy of it.
- 4.5 Do not worry if you forget something when you write out your statement. You will be invited to an oral hearing when you will be able to say anything that you feel is important. You may also submit further written documents up to 14 calendar days before the date of the hearing.
- 4.6 You do not have to prepare a main statement if you feel that you have said all that you wanted to say in your first letter to the Appeal Board. If you have nothing to add to your first letter, you should let the Secretary to the Appeal Board know as soon as possible, so that the Appeal Board can proceed to hearing more quickly.

5. The Department's Statement

- 5.1 When the Secretary to the Appeal Board has received your main statement, a copy will be sent to your Department. The Department then will be asked to submit a statement within 21 calendar days.
- 5.2 The Department's statement will contain all the facts which it thinks are relevant and explain the reason for dismissing you. It will also contain copies of relevant documents.
- 5.3 If your Department sends in documents such as Annual Staff Reports or Probation Reports, you will be able to examine them and to show them to your representative.
- 5.4 If you want the Department to provide any other documents, you should apply to the Secretary to the Appeal Board. The Secretary will consult the Appeal Board, who will consider if they are relevant. If it is considered that they are, the Secretary will ask the Department to produce them and they will be copied to you and the Board Members.

6. The Hearing

6.1 You may ask a friend, a colleague or a Trade Union

representative to assist with the case. They may raise issues, make arguments and submissions, and point out matters of mitigation, but cannot give evidence, such as answering questions on the Appellant's behalf. You may opt to engage a solicitor or barrister to assist with your case, instead of a friend, colleague or Trade Union representative. While the former can act in a professional capacity at Appeal Board hearings, the discharge of their duties should be undertaken within the context, that the proceedings of the Board are conducted on an informal basis, and it is not a legal forum, or a court of law. They may raise issues, make arguments and submissions, and point out matters of mitigation, but cannot give evidence, such as answering questions on the Appellant's behalf. Any cost of engaging a solicitor or barrister, is for you to bear, and will not be reimbursed by the Appeal Board or NICS, regardless of the outcome. Should you decide to engage a solicitor or barrister, the Department reserves the right to also engage similar representation, but as above, this will be within the context of the CSAB procedures.

You and your representative, if you have one, will be invited by letter to appear before the Board. You are strongly advised to attend the hearing and to have the assistance of a representative. **Other than in exceptional circumstances, no more than 2 representatives from each side will be permitted at hearings.** On the appellant's side, this is normally the appellant and one representative. The Board discourages the attendance of witnesses, but is prepared to consider written statements, which should be submitted at least 14 calendar days in advance of the hearing. You will be asked to reply as quickly as possible whether or not you and your representative will attend on the date fixed

- 6.2 If you wish to attend the hearing, but cannot attend on the appointed date, the Appeal Board may agree to change it. However, there must be a special reason for this. If you want the date to be changed, you must ask the Appeal Board Secretary about this as soon as possible.
- 6.3 If you cannot attend the hearing, and have no representative, the Appeal Board may consider your case on the written statements sent in by you and your Department. A written statement based appeal has equal standing with a personal hearing and the appellant is free to choose this option. If you tell the Appeal Board that you will attend the hearing, the Department will be invited to send one or two people to represent it.
- 6.4 The hearing will be confidential. First, the Chairman will explain the Board's procedures to you. It will be made clear that the Members of the Board have already read the written statements. It should be noted that no recording or transmitting devices are permitted at hearings and the Chairman will point this out at the beginning of the hearing.
- 6.5 Next, the Chairman will invite you (your representative) to present your statement.
- 6.6 The Chairman and Board Members may ask questions of you (your representative) about your statement. The Department will then be asked to make its statement and may also be asked questions. Following this, both sides are offered the opportunity to have a short adjournment before making closing statements. Finally the Chairman will ask both sides to make closing statements.

6.7 If you are disabled, and require any adjustments to the arrangements or additional support for the hearing, please discuss this with the CSAB Secretariat, as soon as possible.

7. The Board's Decision

7.1 The hearing report incorporating the Board's decision and where appropriate the recommendation will issue simultaneously to the Head of Department and the appellant (representative) normally within 21 calendar days

7.2 If the Board decides that the Department's decision was unfair, it may recommend:-

- that you should be re-employed or reinstated; or
- that compensation, or additional compensation if you have been prematurely retired, should be paid; or
- that some other course of action, which it considers to be appropriate, should be taken.

7.3 The Head of your Department takes the final decision on whether to accept a recommendation to re-employ or reinstate. Therefore, if your appeal is upheld, and a recommendation to re-employ or reinstate is made, the Department will tell you and the Secretary to the Appeal Board of its decision. The Department is expected to notify the Secretary to the Appeal Board of its decision within 28 calendar days of the hearing report being issued. If the Head of the Department decides not to accept the Board's recommendation, the Board Members will meet again to discuss compensation.

7.4 When the Board cannot reach a unanimous decision, there will be a majority conclusion. If the majority conclusion is that the Department's decision is fair, both the Department and the appellant will be notified. The appellant will have 14 calendar days during which to make representations personally (or the appropriate Trade Union may make representations on the appellant's behalf) to the Head of the Department or to an officer at a level determined by the Head of Department before a final decision is made. If the majority conclusion is that the Department's decision is unfair, the procedures as set out at paragraph 7.2 above apply.

8. Travelling and Subsistence Expenses to Attend the Hearing

8.1 Your Department will meet your travelling and subsistence expenses. Also, if appropriate, it will meet the loss of earnings by you and your representative, unless he or she is a full time Trade Union official, solicitor, or barrister.

9. Security of Information and Personal Data

During the course of the appeal process to the CSAB, personal/ sensitive information relating to individuals can be included in documents. Personal/sensitive data includes information about living identifiable individuals that allows you to distinguish one person from another. Examples include: name, address, ID codes, bank details, race/ethnic origin, political opinions, religious beliefs, health (physical or mental), criminal records, Trade Union membership. (This is not an exhaustive list).

Personal data must not be collected for one purpose and then used for another. If it becomes necessary to change the purpose for which the data is processed, the data subject must be informed of the new purpose before any processing occurs.

The Data Protection Act (DPA) 1998 places obligations on everyone who process 'personal/sensitive data' to do so in accordance with the DPA principles of good practice. It is therefore incumbent upon all those handling such material that it is protected to the greatest extent possible. This involves physical security measures such as locking away documents, both in official premises and in the home situation. Also involved is taking adequate IT security measures with personal e-mail accounts on personal computers or laptops to protect against unauthorised access to the information. Care should be taken with the appeal papers when in transit to or from meetings or appeals to guard against loss or theft. They should never be left unattended on public transport or in an unattended vehicle and where possible they should be transported in a locked briefcase, (or suitable equivalent).

**NORTHERN IRELAND CIVIL SERVICE APPEAL BOARD (CSAB)
GUIDANCE TO DEPARTMENTS**

Please read carefully

The administrative arrangements and procedures the Board has adopted as they affect Departments are outlined in the following paragraphs. A copy of these notes is normally sent to the Department with notification of the receipt of a particular appeal. The Department should keep the notes for reference as the case develops. It may be necessary to have further correspondence or telephone contact with the Secretary to the Board to clarify certain aspects of the appeal.

1. Notification of an appeal and Appeal Board Form

1.1 Normally the officer will write directly to the Secretary to the Appeal Board saying that he/she wishes to appeal against the dismissal or premature retirement of which he/she has received formal notice. On receipt of this application from the appellant, which should indicate the broad grounds of his/her appeal, a copy will be sent to the appellant's Department. It will be accompanied by a form (CSAB 4) for completion, which seeks some routine factual information about the appellant for the Board's information. The Department should return this form as soon as possible. It should confirm any details already entered on the form by the Secretary.

2. Appellant's full case and the Department's written reply

2.1 When the appellant's full statement of case is received, (this will be requested on return of the CSAB 4 from the Department and the appellant will be allowed 21 calendar days from the date the request issues to provide the documentation to the CSAB Secretary) and provided it appears to fall within the Board's term of reference, the Secretary to the Board will copy it to the Department and invite it to submit a full case in support of the decision to terminate the appellant's employment. Six copies of this full case, which should contain all the relevant facts leading to the decision to terminate, must be submitted by the Department within 21 calendar days of issue of the appellant's full case to the **Secretary, Civil Service Appeal Board (NI), Ground Floor, 2 – 4 Bruce Street, Belfast BT2 7JD.**

2.2 The Department's submission should explain the reasons for its decision to dismiss and may contain comments on the officer's submission. What the Appeal Board needs is a brief history of the officer's career in the Department, and the events that led up to the decision to dismiss. Warnings given to the officer either orally or in writing should be considered. A copy of all relevant documents, eg

letter of appointment; written warnings; annual appraisal reports (in inefficiency cases); reports of disciplinary hearings or retirement boards; staff instructions; departmental directives; signed/agreed minutes, certificate of conviction and a report of what happened at the trial, if there has been one, in criminal conviction cases; letter of dismissal etc should accompany the submission. These should appear in chronological order, and be clearly marked 'Appendix A, B, C' etc. or 'Document 1, 2, 3' etc. For ease of reference, paragraphs of the submission should be numbered. It is important that copies of documents should be clear and easy to read. If it is difficult to make clear photocopies, typed copies should be forwarded. Illegible material will be sent back to Departments for clarification

- 2.3 A copy of any communication between a medical adviser or a welfare officer and the employing Department, which has been taken into account in reaching a decision appealed against, should accompany the Department's statement and this will be given to the appellant. Medical and welfare notes and personal records that have been kept exclusively for medical or welfare purposes, and have not been communicated to management, should not be sent to the Board.
- 2.4 The Department should not include any allegation or comment in its submission that has not been formally put to the officer concerned. In general, Departments' statements should not go beyond the grounds for dismissal as set out in the letter terminating an appointment.
- 2.5 Where inconsistency of treatment is alleged, it is the appellant's responsibility to provide supporting evidence. Equally, it is the responsibility of the Department to provide whatever evidence it considers appropriate to convince the Board that it has not acted inconsistently or unfairly.
- 2.6 All documents included in the Department's submission will normally be made available to the officer and/or representative. The Department should consult the Secretary to the Appeal Board if there are doubts about the release of certain documents to the appellant.

3. Further correspondence before the Board's consideration or hearing

- 3.1 The Secretary to the Board will copy the Department's full case to the appellant and ask if he/she wishes to submit any further written comments. Should the appellant have a representative all documents submitted to the Board will be copied, on request, to them.

- 3.2 The appellant's further comments (if any) will be copied to the Department, which may either submit further written evidence to the Board or, alternatively, reserve further comment until the hearing of the appeal. It should be remembered that if the Department does decide to submit further written evidence this will be copied to the appellant, who will be able to comment on it if so desired.
- 3.3 After consulting the Chairman of the Board, the Secretary will notify the appellant and the Department of the date when the Board will meet to consider the appeal. The Secretary will ask the appellant if he/she intends to appear in person before the Board and whether he/she will be accompanied by a representative. The representative may be a friend, a colleague or a Trade Union representative who may raise issues, make arguments and submissions and point out matters of mitigation but cannot give evidence, such as answering questions on the appellant's behalf. The appellant may opt to engage a solicitor or barrister to assist with their case. While the former can act in a professional capacity at Appeal Board hearings, the discharge of their duties should be undertaken within the context that the proceedings of the Board are conducted on an informal basis and it is not a legal forum or a court of law. They may raise issues, make arguments and submissions and point out matters of mitigation but cannot give evidence such as answering questions on the appellant's behalf. The Department reserves the right to also engage similar representation but as above this will be within the context of the CSAB procedures.
- 3.4 The Secretary will ask the Department and/or the appellant for any further information the Board may require. The Board may also call for further papers on the appellant's behalf.
- 3.5 The Secretary will confirm with the Chairman of the Board the date for the hearing and the names of the Board Members. This information will be passed to the appellant (representative) and to the Department with an invitation to attend. The Department will be asked for the name of its representative(s), who will normally be the Establishment Officer or someone else from Departmental HR accompanied by any other Departmental officer whom the Department considers can contribute to the full understanding of the case. **Other than in very exceptional circumstances, no more than two representatives from each side will be permitted at the hearings.** The Board discourages the attendance of witnesses. However it is prepared to consider written statements, which should be submitted at least 14 calendar days in advance of the date of the hearing.
- 3.6 If the appellant wishes the case to be heard in his/her absence, Departmental representatives will not be needed at the hearing. However, someone will be required to be available by telephone at the time of the hearing in case the Board Members need more

information or explanation of any point contained in the written submissions. A written statement based appeal has equal standing with a personal hearing and the appellant is free to choose this option.

4. The Hearing

4.1 This will take place as soon as possible after the receipt of all the written evidence in the case. As much notice as possible will be given. The Secretary will be responsible for notifying the Department and the appellant (representative) of the date, time and location of the hearing.

4.2 The hearing will be informal. The Departmental representatives should bring with them all of the officer's personal papers, including any held locally, as well as at headquarters. Usually only one hearing is held on any one day. The Chairman will commence by outlining the Board's status and the hearing procedures. Normally, the appellant (representative) will be invited to present his/her case and this is followed by the presentation of the Department's case. The Board Members may question either side before the Chairman invites each side to make a closing statement. It should be noted that no recording or transmitting devices are permitted at hearings and the Chairman will point this out at the beginning of each hearing.

5. After the Hearing

5.1 If the Board decides that the Department's decision was unfair, it may recommend:-

- that the appellant should be re-employed or reinstated; or:
- that compensation, or additional compensation if the appellant has been prematurely retired, should be paid; or
- that some other course of action, which it considers to be appropriate, should be taken.

5.2 The hearing report incorporating the decision and where appropriate the recommendation will issue simultaneously to the Head of Department and the appellant normally within 21 calendar days. Sections 1-3.1 of the Hearing Report will be populated by the CSAB Secretary prior to the hearing using the factual information provided by the Department and the appellant and it will be the responsibility of the CSAB Panel to ensure that this is factually

correct. The Panel are required to ensure that the specific issues key to the case are addressed and reflected in the final report.

- 5.3 The Department will be responsible for notifying the appellant and the Secretary to the Appeal Board of its decision on the Board's recommendation.
- 5.4 The Head of the Department takes the final decision on whether to accept a recommendation to re-employ or reinstate. If an appeal is upheld, and a recommendation to re-employ or reinstate is made, the Department is expected to notify the Secretary to the Appeal Board and the appellant of its decision within 28 calendar days of the hearing report being issued. If the Head of the Department decides not to accept the Board's recommendation, the Board Members will meet again to discuss compensation. The CSAB Secretary will provide guidance on compensation on request.
- 5.5 The Secretary will send a copy of the Board's subsequent decision on compensation (if any) to the Department who will have up to 7 calendar days to confirm factual accuracy of the compensation calculation only before the Secretary issues it to the appellant. This will not impact on the existing time frame for payment of compensation. The Department must pay any compensation awarded by the Board within 42 calendar days.
- 5.6 When the Board cannot reach a unanimous decision, there will be a majority conclusion. If the majority conclusion is that the Department's decision is fair, both the Head of the Department and the appellant will be notified. The appellant will have 14 calendar days during which to make representations personally (or the appropriate Trade Union may make representation on the appellant's behalf) to the Head of the Department or to an officer at a level determined by the Head of Department (see 6.01, Standards of Conduct Policy) before a final decision is made. If the majority conclusion is that the Department's decision is unfair, the procedures as set out in paragraph 5.4.5 of the Civil Service Appeal Board Chapter of the Leaving the Service Part of the NICS HR Handbook apply.
- 5.7 In the case of compulsory early retirement on grounds of redundancy (or on limited efficiency or structural grounds) if the Head of Department disagrees with a recommendation by the Board not to dismiss or retire, the Department should refer the case to the Department of Finance and seek its advice about the possibility of transfer to another Department. If such a transfer is arranged, it is expected that the original Department will notify the appellant. If such a transfer is not possible, the Department should notify the appellant and the CSAB secretary as soon as possible and the Board may then recommend the payment of compensation.

6 Security of Information and Personal Data

During the course of the appeal process to the CSAB, personal information relating to individuals will be processed.

The Data Protection Act (DPA) 2018 places obligations on everyone who processes personal data to do so in accordance with the data protection principles. All employees, contractors, agents, consultants and other third parties who have access to personal information held by or on behalf of DoF must be fully aware of and abide by their duties and responsibilities under the legislation, and departmental policy. All staff managing and processing personal data are responsible for following good data protection and records management practice. They should take steps to ensure that personal data is kept secure at all times against unauthorised or unlawful loss, disclosure or destruction.

This involves physical security measures such as locking away documents, both in official premises and in the home situation. Also involved is taking adequate IT security measures with personal e-mail accounts on personal computers or laptops to protect against unauthorised access to the information. Care should be taken with the appeal papers when in transit to or from meetings or appeals to guard against loss or theft. They should never be left unattended on public transport or in an unattended vehicle and where possible they should be transported in a locked briefcase (or suitable equivalent).

Personal data must not be collected for one purpose and then used for another. If it becomes necessary to change the purpose for which the data is processed, the DoF Data Protection Officer must be consulted before any processing occurs. For more information on how NICSHR processes personal data click [here](#).

NOTES FOR CHAIRMAN FOR INTRODUCTION OF CSAB HEARING

- Introduce Chairman, Board Members and Secretary
- Please switch off mobile phones
- No transmitting or recording devices permitted
- Remit of Board:

To decide whether a Departments decision to retire an individual early or to dismiss is fair and that the proper procedures have been followed

To act as the Appeal Board for Civil Servants who have been refused permission by their departments to undertake political activities

To consider appeals against a proposal to withhold superannuation benefits

To consider appeals against a Departmental decision not to pay compensation in cases of dismissal on grounds of inefficiency

- Informal and no cross-examination – only the Board can ask questions
- Structure of hearing – Appellant's side to present case first then the Department. A short break followed by summing up from both parties
- The Board's decision will issue in the Hearing report normally within 21 calendar days
- Appellants Desired outcome to be noted ie compensation or reinstatement

POST HEARING DISCUSSION

- Procedures (HR Handbook)
- Current minimum statutory and disciplinary procedures
- Consistency of treatment
- Fairness of the decision based on the balance of the evidence provided
- Other issues pertinent to the individual case
- Decision ie upheld/not upheld and unanimous/majority
- Recommendations (where appropriate)

FIRE EVACUATION

Fire Evacuation Procedures for 2-4 Bruce Street Belfast BT1 7JD February 2023

The purpose of this memo is to inform you of the fire evacuation procedures in 2-4 Bruce Street, Belfast, BT2 7JD. These supersede all procedures issued previously.

1. RAISING THE ALARM

If you discover a fire - shout "Fire" and operate the nearest Fire Alarm 'Break Glass' Manual Call Point. The fire alarm signal will operate within a few seconds.

The fire alarm signal is a continuous siren.

Call the Fire and Rescue Service by dialling (9) 999. Call from a place of safety, preferably outside the building. If you are not certain the Fire and Rescue Service is on its way, call again.

2. ACTION TO BE TAKEN ON ACTIVATION OF THE FIRE ALARM

When the fire alarm is activated, you must leave the building immediately in an orderly manner. Use the **nearest** available exit, closing doors, as necessary. Assist visitors if required and report to your assembly point.

The assembly point is outside **Bankmore Square, Dublin Road, Belfast, BT2 7HN**.
During an evacuation you must not: -

- * stop to collect personal belongings;
- * run within the building;
- * re-enter the building until advised it is safe; or
- * use the lifts.

Some drills may require you to use an alternative route to that usually taken to familiarise yourself with the layout of building. Learn how to operate push-bar door mechanisms etc.

3. TEMPORARY OR PERMANENT DISABILITIES

At present any member of staff or visitor requiring assistance should not be above the ground floor.

Inform your line manager or Premises Officer if you have any condition that affects your ability to leave the building without assistance. A Personal Emergency Evacuation Plan (PEEP) will be developed for your individual needs.

4. FIRE WARDENS, FIRE PRECAUTIONS OFFICER

The most senior member of staff in a Zone will hold the responsibility of Fire Warden for the Zone which they occupy on a given day. To carry out the role of Fire Warden, fire warden training must be completed on Links.

Fire Wardens will check to ensure all areas have been vacated; if they ask you to leave you must do so, **without question**. Having left the building, they will report to the Fire Precautions Officer or deputy stationed opposite the main entrance to Bruce Street premises and provide details of the progress of the evacuation including details of any people who have not responded appropriately. In the event of a fire, the Fire Precautions Officer will report to the Senior Fire and Rescue Service Officer.

5. TEST PROCEDURES

The fire alarm will be tested each week on varying days and times, using a different manual call point (break glass). Familiarise yourself with the alarm signal and confirm to the Fire Warden that you can hear/see it. Fire Wardens will advise the Fire Precautions Officer immediately after the test to report on the quality of the alarm signal.

**If you require further information, please contact Michael Mooney on 51834)
02890251834**