

CIVIL SERVICE MANAGEMENT CODE

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INTRODUCTION

- 1.** This Code is issued under the authority of Part 1 of the Constitutional Reform and Governance Act 2010 under which the Minister for the Civil Service has the power to make regulations and give instructions for the management of the Civil Service, including the power to prescribe the conditions of service of civil servants.
- 2.** This Code, on which the recognised trade unions have been consulted, sets out regulations and instructions to departments and agencies regarding the terms and conditions of service of civil servants and the delegations which have been made by the Minister for the Civil Service under the Civil Service (Management Functions) Act 1992 to Ministers and office holders in charge of departments, the First Minister in the Scottish Executive and the Welsh Assembly Government, together with conditions attaching to those delegations. For convenience, the term “departments and agencies” has been used in the context of delegation throughout the Code. It includes the Scottish Administration and the Welsh Assembly Government. Where departments and agencies are given discretion to determine terms and conditions, the Code sets out the rules and principles which must be adhered to in the exercise of those discretions. It does not of itself set out terms and conditions of service. In the case of agencies, the presumption is that functions delegated to Ministers and office holders will, in respect of agencies, be exercised by Agency Chief Executives, but the precise extent to which Ministers and office holders may wish to allow the exercise of their powers by Chief Executives is a matter for them to determine.
- 3.** Ministers and office holders in charge of departments, the First Minister of the Scottish Executive and the Welsh Assembly Government have been given the authority:

 - a.** to prescribe the qualifications (so far as they relate to age, knowledge, ability, professional attainment, aptitude and potential, health and coping with the demands of the job) for the appointment of home civil servants (with the exception of the Fast Stream Development Programme) in their respective departments; and
 - b.** to determine the number and grading of posts outside the Senior Civil Service in their respective departments and the terms and conditions of employment of civil servants in so far as they relate to the following:

 - i. classification of staff, with the exception of the Senior Civil Service;
 - ii. remuneration, with the exception of the Senior Civil Service;
 - iii. allowances;
 - iv. expenses;
 - v. holidays, hours of work and attendance;
 - vi. part-time and other working arrangements;
 - vii. performance and promotion;
 - viii. retirement age, with the exception of the Senior Civil Service;
 - ix. redundancy;
 - x. re-deployment and lateral transfer of staff within the Civil Service.
- 4.** This delegation (which revokes all previous delegations) is made subject to the condition that recipients of delegation comply with the provisions of this Code as amended from time to time. However, it does not remove the obligation on departments and agencies to submit to the Cabinet Office proposals or arrangements which are contentious, or raise questions of propriety. Departments and agencies are reminded that the Government is committed to maintaining the reputation of the Civil Service as a good employer. The terms and conditions of civil servants must be determined with regard to:

the general practice of large employers; value for money; and the provisions of “Government Accounting”.

5. Departments and agencies must comply fully with legislation which binds the Crown or which Ministers¹ have undertaken to apply as if it were binding on the Crown. They must define clearly the terms and conditions of service of their staff and make these available to staff, for example in departmental or agency handbooks. Where departments and agencies have delegated powers or discretion, they must make clear to their staff how these will be applied by setting out the relevant rules and procedures in their handbooks.

6. When exercising the delegated powers permitted by this Code, departments and agencies should remember that existing rights cannot be altered arbitrarily. They must observe any legal constraints upon them as employers, consulting as necessary with their staff and the recognised trade unions. Any questions of possible detriment occasioned by the application of their delegated powers should be resolved locally. If uncertainty over entitlement is an issue, managers should consult their legal advisers and, if necessary, the Cabinet Office.

7. The Cabinet Office retains the right to inspect and monitor observance of this Code in departments and agencies, but the aim is to keep such inspection and monitoring to the minimum level consistent with central responsibilities.

8. Subsequent changes to the central regulations and instructions (including any future delegations) will be issued electronically as amendments to this Code, and will need to be reflected promptly in departments’ or agencies’ regulations for their own staff. In all cases, the Cabinet Office will make clear the effective date of any change affecting staff Service-wide.

¹The reference to Ministers used throughout the code include Scottish Ministers and the First Secretary and Assembly Secretaries of the National Assembly for Wales.

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1. TAKING UP APPOINTMENT

1.1 Recruitment

1.1.1 Within the framework laid down by the Constitutional Reform and Governance Act 2010 and the Recruitment Principles issued by the Civil Service Commission (www.civilservicecommission.org.uk), departments and agencies have authority to:

- a. determine their practices and procedures for the recruitment of staff to the Civil Service; and
- b. prescribe qualifications for appointment to positions in their organisation relating to age, knowledge, ability, professional attainment, aptitude, potential, health and coping with the demands of the job.

These delegations are subject to the following conditions.

Conditions

1.1.2 Departments and agencies must:

- a. ensure that their recruitment systems deliver recruits who are appropriate to their needs and who are able to do the work required subject to reasonable adjustments under the terms of the Disability Discrimination Act 1995; and
- b. retain for at least 12 months records of the recruitment criteria in use and of the performance of successful candidates.

Senior Civil Service

1.1.3 Top 200 posts are defined as SCS Payband 3 and above. For appointments to the Top 200 (see section 5.2), departments and agencies must follow the Top 200 protocols published by the Cabinet Office.

Fast Stream Development Programme

1.1.4 Qualifications for appointment to the Fast Stream Development Programme are set out in Section 1.5.

Checks before appointment

1.1.5 Before an unconditional offer of appointment is made, checks must be satisfactorily completed to ensure that a candidate does meet the qualifications for appointment.

Character

1.1.6 Departments and agencies must be satisfied that recruits are able to show that they will be able to give satisfactory service in the future and that nothing in their more recent past is likely to bring discredit upon the department or agency or the Civil Service in general. This is separate from any security clearance that may be necessary. Account must be taken of the Rehabilitation of Offenders Act 1974 and the Exceptions Order 1975 (amended in 1986) as appropriate.

Nationality

1.1.7 The Civil Service nationality rules are statutorily based and must therefore be followed in recruiting and appointing. They are available, together with guidance on checking eligibility, at <http://www.civilservice.gov.uk/about/resources/nationality.aspx>

Serving staff and open competitions

1.1.8 Serving civil servants who meet the specified qualifications for appointment must be allowed to apply for open competitions in any department or agency, including their own. Common standards of selection must apply to both in-service and external candidates. Departments and agencies may exempt serving staff who were recruited through fair and open competition and have completed their initial probation from any requirements for educational or vocational qualifications which are required of non-Civil Service candidates; their relevant experience inside the Civil Service may be taken into account instead.

1.1.9 Management may reject applications from staff already serving elsewhere in the same department (or any of its agencies) where the candidate's level transfer from the existing post would conflict with wider departmental/agency interests or objectives.

1.1.10 If a serving civil servant receives and accepts an offer of appointment following open competition, the parent department or agency must release him or her within three months of being notified of the accepted offer.

1.1.11 Former civil servants serving on Government committees but doing no other Civil Service work must be treated as office holders and not as re-appointments to the Civil Service.

Guidance

1.1.12 Departments and agencies will wish to be aware of the following Cabinet Office guidance at <http://www.civilservice.gov.uk/about/resources/pins/index.aspx>

- a. Personnel Information Note (PIN) 7 about the various ways to establish candidates' suitability for recruitment to a particular post or grade;
- b. PIN 39 (Revised) on health standards for recruitment and access to the full risk benefits of the Principal Civil Service Pension Scheme; and
- c. PIN 44 which draws attention to the possible risk of legal challenge if departments and agencies specify a requirement for a particular qualification in English Language (such as a GCSE or equivalent).

1.2 Working Arrangements

1.2.1 Departments and agencies have authority to determine for their own staff part-time or other working arrangements, as alternatives to full-time permanent appointments, subject to the following conditions.

Conditions

1.2.2 Departments and agencies must ensure that:

- a. recruitment is in accordance with Section 1.1;

- b. they consult Civil Service Pensions Division, Cabinet Office to determine whether and how the Principal Civil Service Pensions Scheme applies;
- c. they take legal advice about such matters as letters of appointment and whether continuity of service is likely to be established; and
- d. terms and conditions (including pay) for part-time staff are in proportion to those for full-time staff.

Fixed-Term Appointments

1.2.3 Fixed-term appointments are temporary appointments to meet short term needs. Such appointments may be made only where there is a genuine need to employ people for a short period, and must be compliant with the Recruitment Principles (www.civilservicecommission.org.uk)

1.3 Probation

1.3.1 Departments and agencies have authority to determine whether staff should be required to serve a period of probation and the terms of that probation. Any period of probation should not usually exceed two years.

1.4 Letters of Appointment and Information on Pensions

Letters of Appointment

1.4.1 Sections 1 to 7 of the Employment Rights Act 1996 give most employees, including civil servants, the right to receive a written statement of their main terms and conditions within two months of starting work. Departments and agencies must therefore provide such a statement to staff covered by the Act. The contract fulfils this need for members of the Senior Civil Service. (<http://www.civilservice.gov.uk/about/resources/employment/conditions.aspx>)

1.4.2 Personnel Information Note (PIN) 14 (Revised) provides guidance on the drawing up of letters of appointment (<http://www.civilservice.gov.uk/about/resources/pins/index.aspx>).

Information on Pensions

1.4.3 Employers should request starter packs for new entrants from St Ives Direct using the DRF1 form or bulk order spreadsheet. Both forms are available to download from the Civil Service pensions website at <http://www.civilservice-pensions.gov.uk>. St Ives Direct can be contacted at –

St Ives Direct
St Ives Westerham
Westerham House
Kent TN8 6EL

Tel: 0870 013 1693
Fax: 0870 013 1694
e-mail: cspdorders@stivesdirect.com

1.4.4 The pack contains a range of material to enable the new entrant to make an informed choice, including information about the time limits governing transfers of their existing pension. There is also a new entrants' page giving a step-by-step guide to pension choices on the Civil Service pensions website at http://www.civilservice-pensions.gov.uk/new_entrants.aspx.

1.5 Fast Stream Development Programme

1.5.1 The Fast Stream provides training and development for people with the potential to achieve rapid promotion off the programme (in accordance with departments' own grading procedures) and to progress to the Senior Civil Service. It comprises:

- Central Departments (formerly referred to as the Home Civil Service)
- Diplomatic Service
- Science and Engineering Fast Stream
- Clerkships in Parliament
- DfID Technical Development Officers

All the above are known collectively as the Graduate Fast Stream. Within the Diplomatic Service there is a separate option for economists. The Science and Engineering Fast Stream has two branches: one is exclusive to the Ministry of Defence, and the other is open to other departments. There are also separate Fast Stream competitions for Economists, Statisticians and GCHQ Graduate Management Trainees and IT specialists through the Technology in Business scheme.

Methods of entry

1.5.2 Entry to the Graduate Fast Stream is by open competition. Applicants may express preferences for more than one of the above options on the same application form. A higher pass mark may be applied to some options. There is a separate In-Service Fast Stream competition for serving civil servants which gives access to the Central Departments or the Ministry of Defence branch of the Science and Engineering Fast Stream.

The selection process

1.5.3 The application process is begun on-line. Candidates are first asked to complete an online self-assessment of suitability. The first stage of the actual selection process consists of on-line tests of Verbal and Numerical Reasoning and a Competency Questionnaire. This stage of the selection process can be completed on any PC with internet access. If candidates reach the required level, they progress to an electronic in-tray test (the e-Tray) held in centres throughout the United Kingdom. The best performers in the e-Tray exercise are invited to the Fast Stream Assessment Centre (FSAC), a day-long process at which their potential in a range of key competencies is assessed. Success at FSAC guarantees a place in the Central Departments option, but candidates for the Diplomatic Service, DfID TDO and the Parliamentary Clerkships go on to attend a Final Selection Board.

1.5.4 Candidates with a disability may request exemption from the on-line tests, and go straight to the e-Tray exercise. If successful, they are invited to attend a pre-FSAC familiarisation session. Reasonable adjustments are made for them as necessary.

1.5.5 In-Service candidates are shortlisted by their departments or agencies, and are also exempt from the on-line tests. They attend the e-Tray exercise, but progress to the FSAC regardless of their performance in it. At FSAC, they are assessed to the same standard, and using the same procedure, as for external candidates.

Eligibility

1.5.6 Applicants for the open competition must usually have at least a Second Class Honours Degree or equivalent qualification. For the Statistician and Science and Engineering Fast Streams, the degree must be in a relevant subject. Applicants for the Economist Fast Stream require a 2:1 degree in economics or a joint or mixed degree of which at least half the courses are core economics. Applicants for Technology in Business must have a 2:1 degree in a specified discipline.

1.5.7 For serving civil servants wishing to enter the In-Service competition, no academic qualifications of any kind are required. In-Service applicants must usually have completed at least twelve months' continuous service in their departments or agencies. The In-Service competition is open only to serving civil servants who were recruited by a process of fair and open competition. There is an In-Service Fast Stream finance option which is also open to some serving Fast Streamers. Those candidates who wish to apply must undergo financial aptitude tests.

1.5.8 There is an In-Service Fast Stream option for Government Social Researchers (GSR). Applicants to this option are drawn from within the GSR and undergo testing of their social research skills before going through the rest of the Fast Stream process.

1.5.9 Most posts in the Fast Stream are open to EU and Commonwealth citizens. It is for departments and agencies to determine whether (or how many of) their Fast Stream posts are open to non-UK nationals.

Age limits

1.5.10 There are no age limits for applicants to the Fast Stream, although it is generally expected that successful candidates will be able to contribute several years' service before retirement.

Appointment

1.5.11 New Fast Streamers are assigned to departments by the Civil Service Selection Board (CSSB), taking account of departments' requirements, of the Fast Streamer's own background, experience and preferences, and of the need to ensure a fair distribution of the candidates by FSAC score.

1.5.12 Departments and agencies are responsible for determining the pay and conditions of their Fast Stream recruits.

1.5.13 Fixed term and conditional appointments are not normally appropriate for members of the Fast Stream.

Probation

1.5.14 Depending on the policy of the department or agency concerned, recruits to the Fast Stream, like recruits to other grades, can be required to serve a period of probation. The length of any such probation is determined by the department or agency.

Failure to reach the standard for promotion

1.5.15 Departments and agencies should reserve some kind of sanction whereby membership of the Fast Stream may be terminated, even after the period of formal probation has expired, should Fast Streamers cease to demonstrate the potential for promotion off the programme. In such cases, the individual concerned may be offered an appointment at another level, provided that the normal requirements for entry to that level are met. In-Service appointees who cease to demonstrate the potential for promotion off the Fast Stream will revert to their former status or, if appropriate, be employed at any other level for which the normal entry requirements are met, in line with the relevant pay and grading arrangements. Departments and agencies are free to determine their own arrangements for this, but must ensure that recruits are made aware of them on appointment.

1.5.16 It is envisaged that Fast Streamers should normally have been promoted off the programme within about five years after entry, but departments and agencies may prolong membership of the Fast Stream beyond this point at their discretion.

Training and Development

1.5.17 All departments which employ Fast Streamers must provide them with the training and development opportunities which are promised at recruitment and induction and which are designed to offer them the best opportunity to achieve rapid promotion off the programme and progression to the Senior Civil Service.

1.5.18 The key elements of the training and development programme are:

- the Fast Stream Induction Course;
- provision of feedback based on the individual's FSAC report for developmental purposes;
- a Personal Development Plan based on immediate and predicted development needs including Professional Skills for Government requirements and the SCS competencies;
- ensuring that line managers of Fast Streamers have appropriate guidance on managing a Fast Streamer and are committed to the individual's development;
- a minimum of 15 days' off-the-job training per year;
- postings with an average length of twelve months and which include operational experience/customer interface, project management and people management (not merely policy or ministerial work);
- the opportunity to work in another department or sector for a minimum of three months;
- the opportunity to complete the full training and development package, even if this needs to happen after promotion.

Direct Appointment Scheme (DAS)

1.5.19 A very small number of candidates who narrowly miss the required standard at FSAC, but who have nevertheless attained a high enough score to indicate that they have the potential to make a worthwhile contribution to the Civil Service, may be offered a place on the Direct Appointment Scheme (DAS). Those suitable for the DAS will be those attaining a score within a certain range, which will be determined in relation to the Fast Stream pass mark. Departments may request Direct Appointees from CSSB if they have a post which cannot be filled through advertising internally or through Jobcentre Plus. Such posts should be specially identified by departments for their challenging and developmental content, and tend to be graded at EO level. The intention is not necessarily to prepare Direct Appointees for another attempt at the Fast Stream competition, though it is quite likely that time spent as a Direct Appointee will enhance chances of success in subsequent applications, perhaps through the In-Service Fast Stream Competition.

1.6 Appointment and Management of Specialists

1.6.1 In some areas, Heads of Profession, supported by central management units, have been appointed by the Head of the Civil Service to supervise the well-being of their respective services, to provide central management of the individuals within them, and to ensure that the Civil Service obtains maximum benefit from its employment of specialists. Departments and agencies may choose to participate in these arrangements when

appointing relevant professional staff. If they do, they must agree with the appropriate central management unit how the recruitment and career development of such staff will be handled.

1.7 Re-appointment: Reinstatement and Re-employment

1.7.1 Departments and agencies have authority to determine arrangements for the re-appointment of staff following an earlier period of employment in the Civil Service which satisfy Part 1 of the Constitutional Reform and Governance Act 2010 (www.opsi.gov.uk) the Recruitment Principles (www.civilservicecommission.org.uk) subject to the following conditions.

Conditions

12.1.18 Unless specified at the date of resignation, there is no entitlement to re-appointment. Specific arrangements apply to staff who return:

after service with the European Institutions (Section 10.4);

after service with HM Forces. In this case arrangements would be based on the Reserve Forces (Safeguard of Employment) Act 1985; or

following Parliamentary candidature (Section 4.4).

12.1.19 Departments and agencies must ensure that:

applicants were originally recruited by fair and open competition;

where an applicant was previously retired on medical grounds, the approval of the medical services adviser appointed by the Cabinet Office for pensions relating to the PCSPS is obtained; and

the Paymaster is notified when a Civil Service pensioner is re-appointed.

12.1.20 Former civil servants serving on Government committees but doing no other Civil Service work must be treated as office holders and not as re-appointments to the Civil Service.

2. EQUAL OPPORTUNITIES IN THE CIVIL SERVICE

2.1 Policy

2.1.1 Civil Service equal opportunities policy provides that all eligible people must have equality of opportunity for employment and advancement on the basis of their suitability for the work. There must be no unfair discrimination on the basis of age, disability, gender, marital status, sexual orientation, religion or belief, race, colour, nationality, ethnic or national origin, or (in Northern Ireland) community background, working pattern, employment status, gender identity (transgender), caring responsibility, trade union membership.

2.1.2 Departments and agencies must comply with equal opportunities legislation and with Codes of Practice issued under such legislation. They must also have regard to the provisions of the Civil Service programmes for action to achieve equality of opportunity for people of ethnic minority origin, for women and for disabled people, to the Department for Work and Pensions guidance on age discrimination, and (in Northern Ireland) to the guidance on the website of the Equality Commission for Northern Ireland at <http://www.equalityni.org>.

Departmental responsibilities

2.1.3 Each department and agency is responsible for implementing Civil Service equal opportunities policy in its own organisation. Departments and agencies must develop their own strategies, based on Civil Service policy, and draw up action plans to implement these strategies.

2.1.4 Departments and agencies must make their equal opportunities policy known to all staff and potential applicants for employment. They must make clear to all staff their rights and responsibilities in relation to the implementation of this policy, and provide for their staff a working environment which is free from unfair discrimination and harassment.

Complaints

2.1.5 Departments and agencies must have in place procedures for handling complaints of unfair discrimination and harassment, and must make these procedures known to all staff. All such complaints must be handled promptly and appropriately. In drawing up procedures and guidance for their staff, departments and agencies must be aware of the Cabinet Office guide "Good Practice for Equal Opportunities Staff: Complaints Procedures". This is available at

<http://www.civilservice.gov.uk/iam/diversity>

Monitoring

2.1.6 To enable them to monitor the effectiveness of their policies and action plans, departments and agencies must collect data on the age, gender, ethnic origin, disability, and (in Northern Ireland) community background of staff and applicants. They must use these data to monitor and analyse staff in post and the effects on each group of key personnel procedures, including recruitment, career development, promotion, job

allocation, resignations, personal review, salary, performance pay, and access to opportunities for training and personal development.

2.1.7 To record the ethnic origin of staff and to permit analysis of ethnic minority representation Service-wide, departments and agencies must use the standard Civil Service ethnic origin categories or those relating to the 2001 Census, as specified in Cabinet Office guidance (<http://www.civilservice.gov.uk/iam/diversity>). They must also take appropriate steps, as described in the Model Code of Practice on Ethnic Monitoring issued by the Cabinet Office, to safeguard the confidentiality of ethnic origin data on individuals, consistent with the conduct of effective monitoring for equal opportunities purposes.

2.1.8 The Cabinet Office will also monitor the overall effectiveness of Civil Service equal opportunities policy. Where possible, this will draw on data held and collected centrally, but departments and agencies may be required to provide additional information.

Equal Opportunities officers

2.1.9 Departments and agencies must identify one or more equal opportunities officer(s) to have overall responsibility for the implementation of their equal opportunities policy and action plan and for monitoring and reviewing progress as specified in Cabinet Office guidance. This is in addition to the responsibility of individual line managers for achieving progress within their own commands.

3. HEALTH AND SAFETY AT WORK

3.1 Health and Safety

Health and Safety at Work etc Act 1974

Management of Health and Safety at Work Regulations 1992

3.1.1 Employers are required by law to maintain a safe and healthy working environment for their staff. The Health and Safety at Work Act 1974 and subsidiary regulations apply to Great Britain, but not to Northern Ireland which has similar but separate provisions in the Health and Safety at Work (Northern Ireland) Order 1978. Departments and agencies are bound by the Act and any other health and safety legislation. It should be noted that legislation also covers employers' responsibilities for the health, safety and welfare of its employees at all sites where the work is undertaken, including the home.

Policy and organisation statements

3.1.2 Departments and agencies are required by the Act to set out written statements covering:

- a. the general policy for their employees' health and safety at work; and
- b. the organisation and arrangements for carrying out that policy including arrangement for risk assessment.

Both the policy statement and the organisation and arrangements statement must be communicated to staff.

3.1.3 The Health and Safety Executive has issued guidance on the Act: "A guide to the Health and Safety at Work etc Act 1974" (<http://www.hse.gov.uk/pubns/regindex.htm>).

Safety representatives

3.1.4 Safety representatives have functions under the Safety Representatives and Safety Committee Regulations 1977 (SI 1977/500). For this purpose, safety representatives are those appointed by recognised trade unions.

3.1.5 The Health and Safety Commission has issued an approved Code of Practice and Guidance Notes for safety representatives (ISBN 071 7604195).

3.1.6 Arrangements for implementing the regulations have been agreed with the relevant trade unions. The unions have agreed:

- a. to appoint safety representatives in departments and agencies. Appointments may be made jointly or by the trade union side where there is an agreement amongst the trade unions; and

b. to arrange or improve basic training. The courses organised by the TUC are recognised for this purpose. Direct costs, including travel and subsistence, will be met by the unions.

3.1.7 Departments and agencies are responsible for agreeing guidance on the nature and duration of training for safety representatives with unions at local level. This guidance must be compatible with any guidance published by the Health and Safety Commission. Departments and agencies are also responsible for providing specialised training for safety representatives where this is necessary for the safe and effective functioning of particular establishments or premises.

3.1.8 Time off with pay as necessary, and with the prior agreement of management, must be granted to safety representatives to enable them to perform their functions properly to attend training courses that are approved by the appropriate trade union and as necessary for attendance at meetings or safety committees. Time off for non-industrial staff will not be set against the facility time allowed under existing arrangements unless the period of time also discharges a liability under Section 168 of the Trade Union and Labour Relations (Consolidation) Act 1992.

Safety committees

3.1.9 The role of a safety committee is advisory. It forms a focus of employee participation and co-operation between employers and employees in health and safety. A department or agency is required to set up a safety committee when this is requested by at least two safety representatives.

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (SI 1995/3163)

3.1.10 Departments and agencies must investigate and keep a written record of all reportable injuries, diseases and dangerous occurrences; and notify HSE within seven days on HSE forms 2508A and 2508B. For fatal accidents and major injuries, the report must be made by the quickest possible means (i.e. by telephone).

3.1.11 Records (a copy of the form) must be kept for at least three years from the last date of entry. Extracts should be sent to HSE on request. Departments and agencies must notify the HSE in writing if an employee dies within one year as a result of a reportable injury or dangerous occurrence.

3.1.12 Full details are contained in the Health and Safety Executive Guide L73.

First Aid

3.1.13 Employers are legally required by the Health and Safety (First Aid) Regulations 1981 (SI 1981/917) and the Approved Code of Practice 1990 (COP 42 - ISBN 071 7604268) to make arrangements to deal with accidents and health emergencies at work.

Guidance

3.1.14 Personnel Information Note (PIN) 45 describes the:

- a. system of health and safety enforcement notices for Crown bodies;
- b. system of censure hearings for Crown bodies; and
- c. provision for High Court declarations on Crown bodies under the Working Time Regulations 1998.

It can be accessed at <http://www.civilservice.gov.uk/about/resources/pins/index.aspx>

4. CONDUCT AND DISCIPLINE

4.1 Conduct: General Principles and Rules

4.1.1 Civil servants are servants of the Crown and owe a duty of loyal service to the Crown as their employer. Since constitutionally the Crown acts on the advice of Ministers who are answerable for their departments and agencies in Parliament, that duty is, subject to the provisions of the Civil Service Code (<https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code>) owed to the duly constituted Government.

Authority

4.1.2 The Minister for the Civil Service is responsible for the central framework, outlined in Sections 4.2 to 4.4, which governs the conduct of civil servants. Departments and agencies are responsible for defining the standards of conduct they require of their staff and for ensuring that these fully reflect the Civil Service Code and central framework.

Principles

4.1.3 The central framework derives from the need for civil servants to be, and to be seen to be, honest and impartial in the exercise of their duties. They must not allow their judgement or integrity to be compromised in fact or by reasonable implication. In particular:

- a.** civil servants must not misuse information which they acquire in the course of their official duties, nor without authority disclose official information which has been communicated in confidence within Government, or received in confidence from others. They must not seek to frustrate the policies, decisions or actions of Government either by declining to take, or abstaining from, action which flows from ministerial decisions or by unauthorised, improper or premature disclosure outside the Government of any information to which they have had access as civil servants;
- b.** civil servants must not take part in any political or public activity which compromises, or might be seen to compromise, their impartial service to the Government of the day or any future Government;
- c.** civil servants must not misuse their official position or information acquired in the course of their official duties to further their private interests or those of others. Conflicts of interest may arise from financial interests and more broadly from official dealings with, or decisions in respect of, individuals who share a civil servant's private interests (for example freemasonry, membership of societies, clubs and other organisations, and family). Where a conflict of interest arises, civil servants must declare their interest to senior management so that senior management can determine how best to proceed; and
- d.** civil servants must not receive gifts, hospitality or benefits of any kind from a third party which might be seen to compromise their personal judgement or integrity.

4.1.4 Neither the Civil Service Code (<https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code>) nor this central framework is comprehensive. It does not deal for example with such issues as isolated neglect of duty, failure to obey a

reasonable instruction or other forms of misconduct which may properly be dealt with under disciplinary arrangements.

Rules

4.1.5 Departments and agencies must incorporate in the conditions of service of their staff the Civil Service Code (<http://www.civilservice.gov.uk/iam/codes/cscodex/index.asp>).

4.1.6 Departments and agencies must define the standards of conduct they require of their staff. They must:

- a. make clear to staff their duties and obligations and the penalties they may incur if they fall short of them;
- b. comply with the rules in Sections 4.2 to 4.4; and
- c. ensure that the rules they lay down for their staff fully reflect the Civil Service Code and the standards of conduct described in Sections 4.2 to 4.4, and incorporate any additional rules necessary to reflect local needs and circumstances.

4.2 Conduct: Confidentiality and Official Information

4.2.1 Departments and agencies must remind staff on appointment, retirement or resignation that they are bound by the provisions of the criminal law, including the Official Secrets Acts, which protect certain categories of official information, and by their duty of confidentiality owed to the Crown as their former employer.

Standards of conduct to be reflected in local staff regulations

4.2.2 Civil servants are expected to be prepared to make available official information which is not held in confidence within Government, in accordance with Government policy and departmental or agency instructions. They must not, without relevant authorisation, disclose official information which has been communicated in confidence within Government or received in confidence from others. Government policy in this area is available via the website of the Department for Constitutional Affairs at <http://www.foi.gov.uk/index.htm>.

4.2.3 Civil servants must continue to observe this duty of confidentiality after they have left Crown employment.

4.2.4 Civil servants must not take part in any activities or make any public statement which might involve the disclosure of official information or draw upon experience gained in their official capacity without the prior approval of their department or agency. They must clear in advance material for publication, broadcasts or other public discussion which draws on official information or experience. All contacts with the media should be authorised in advance by the relevant Minister unless a specific delegation or dispensation has been agreed which may be for blocks of posts or areas of activities. The Civil Service Code (<https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code>) applies to all such contacts. Civil Servants must at all times observe discretion and express comment with moderation, avoiding personal attacks.

4.2.5 Civil servants must not publish or broadcast personal memoirs reflecting their

experience in Government, or enter into commitments to do so, whilst in Crown employment. The permission of the Head of their Department and the Head of the Home Civil Service must be sought before entering into commitments to publish such memoirs after leaving the service.

4.2.6 Civil servants must not seek to frustrate the policies or decisions of Ministers by the use or disclosure outside the Government of any information to which they have had access as civil servants.

4.2.7 In discharging their duties under the Civil Service Code (<http://www.civilservice.gov.uk/iam/codes/cscode/index.asp>), civil servants must maintain the long-standing conventions that new Administrations do not normally have access to papers of a previous Administration of a different political complexion. The conventions cover, in particular, Ministers' own deliberations and the advice given to them by officials, other than written advice from the Law Officers and those papers which were published or put in the public domain by the predecessor Administration. In applying the conventions to the devolved Administrations in Scotland and Wales, any information contained in the administrative and departmental records belonging to a Minister of the Crown or a UK Government department should be treated as if it were contained in papers of a previous Administration of a different political complexion.

4.2.8 Civil servants must not take part in their official capacities in surveys or research projects, even unattributably, if they deal with attitudes or opinions on political matters or matters of policy.

4.2.9 Civil servants who are elected national, departmental or branch representatives or officers of a recognised trade union need not seek permission before publicising union views on an official matter which, because it directly affects the conditions of service of members of the union as employees, is of legitimate concern to their members, unless their official duties are directly concerned with the matter in question. In all other circumstances they must conform to the standards set out above.

Leaked Select Committee Reports

4.2.10 Civil servants in receipt of a leaked Select Committee report must not make any use of it nor circulate it further. They must return the report without delay to the Clerk of the relevant Committee, and only then may they inform their Ministers or Assembly Secretaries. Leaked reports from Committees of the devolved legislatures must be handled in the same way.

Crown copyright

4.2.11 By virtue of the Copyright, Designs and Patents Act 1988, works made by civil servants in the course of their official duties are subject to Crown copyright protection. The responsibility for the management and licensing of Crown copyright rests with the Controller of Her Majesty's Stationery Office (HMSO) in her capacity as Queen's Printer for works produced by UK Government departments, Northern Ireland departments and the National Assembly for Wales. For works produced by the Scottish Administration, the responsibility for management and licensing rests with the Queen's Printer for Scotland in accordance with the Scotland Act 1998. The Controller of HMSO, in her roles as Queen's Printer, and the Queen's Printer for Scotland, authorises the Copyright Unit of HMSO to administer the respective Crown copyrights on her behalf.

4.2.12 Civil servants must obtain the prior approval of their Head of Department or Agency Chief Executive before entering into any arrangements regarding the publication or dissemination of any Crown copyright protected material by private sector publishers or information providers. Such arrangements would usually be the subject of specific licensing, to be handled by HMSO's Copyright Unit. This would not apply in the following circumstances:

- a.** where material is to be published in learned journals or in the proceedings of conferences or seminars;
- b.** where the material in question is to be published in an official, authorised work specifically on behalf of the originating department or agency; or
- c.** where the department or agency is authorised to license the material under specific delegated authority issued by the Controller of HMSO or the Queen's Printer for Scotland.

4.2.13 Where departments and agencies are authorised to license the reproduction of Crown copyright protected material which they originate, under the cases specified in paragraph 4.2.11 above, they must ensure that:

- a.** there is an obligation placed on the publisher to acknowledge the Crown copyright source material;
- b.** Crown copyright is not assigned to the publisher; and
- c.** that the material is licensed on non-exclusive terms.

4.2.14 Crown copyright is not an issue if a civil servant produces a copyright work unconnected with their official duties and entirely in their own time. If, however, the work in question is linked to their official duties, they should in the first instance consult their Director of Personnel or the Head of their Department or Agency, who in turn may need to consult HMSO's Copyright Unit. Under these circumstances, the following factors need to be taken into account:

- a.** whether the civil servant produced the work during official time;
- b.** whether the work is based on existing Crown copyright source documents; and
- c.** whether there are security considerations.

4.2.15 If a civil servant writes a book in their own time, which is unrelated to their official duties, but wishes to incorporate extracts of Crown copyright protected material within the work, permission to reproduce the material should be obtained from HMSO's Copyright Unit. It is customary in such cases for the licence to be granted in favour of the publisher rather than the author, as it is the publisher which is reproducing the material. It is permissible for the author to submit the application on the publisher's behalf. Where an individual is on secondment outside the Civil Service, copyright in any work which they produce during the term of their secondment will rest with their host organisation unless otherwise agreed.

4.2.16 A series of Guidance Notes on various aspects relating to copyright and official publishing can be obtained from the Office of Public Sector Information in the Cabinet Office via its website at

<http://www.opsi.gov.uk/advice/crown-copyright/copyright-guidance/index.htm>.

4.3 Conduct: Standards of Propriety

Rules

4.3.1 Departments and agencies must not, unless the civil servant has fully disclosed the measure of his/her interest in the contract and senior management has given permission, let contracts to:

- a. any civil servant in the department or agency;
- b. any partnership of which a civil servant in the department or agency is a member; or
- c. any company where a civil servant in the department or agency is a director (except as a nominee of the department or agency).

To enforce this rule, departments and agencies must require their staff to report relevant business interests.

4.3.2 Departments and agencies must ensure that civil servants who are bankrupt or insolvent are not employed on duties which might permit the misappropriation of public funds.

4.3.3 Departments and agencies must not sell surplus Government property to civil servants who have been able to get special knowledge about the condition of the goods because of their official duties; or have been officially associated with the disposal arrangements; or at a discount that would not be available to a member of the public.

4.3.4 Departments and agencies must require staff to seek permission before accepting any outside employment which might affect their work either directly or indirectly, and must make appropriate arrangements, which reflect the Business Appointments Rules for Civil Servants at annex A and any local needs, for the handling of such requests.

4.3.5 Departments and agencies must inform staff, taking into account the principle in paragraph 4.1.3(d), of the circumstances in which they need to report offers of gifts, hospitality, awards, decorations and other benefits and of the circumstances in which they need to seek permission before accepting them. In drawing up such rules departments and agencies must draw the attention of staff to the provisions of the Bribery Act 2010.

4.3.6 Departments and agencies must consult the Foreign and Commonwealth Office if a civil servant is offered a decoration or medal by a foreign government.

Standards of conduct to be reflected in staff handbooks

4.3.7 Civil servants must familiarise themselves with, and as appropriate abide by, the Business Appointment Rules for Civil Servants at 4.3 annex A. The Rules apply to civil servants who intend to take up an outside appointment or employment after leaving the Civil Service. The approval process for applications under the Rules differs depending on the applicant's seniority. For members of the Senior Civil Service and equivalents, including special advisers of equivalent standing, the Rules continue to apply for two years after the last day of paid Civil Service employment. For those below the Senior Civil

Service and equivalents, including special advisers of equivalent standing, the Rules continue to apply for one year after leaving the Civil Service, unless, exceptionally, the role has been designated as one where a longer period of up to two years will apply.

4.3.8 Civil servants may freely invest in shareholdings and other securities unless the nature of their work is such as to require constraints on this. They must not be involved in taking any decision which could affect the value of their private investments, or the value of those on which they give advice to others; or use information acquired in the course of their work to advance their private financial interests or those of others¹.

4.3.9 Civil servants must therefore declare to their department or agency any business interests (including directorships) or holdings of shares or other securities which they or members of their immediate family (spouse, including partner where relevant, and children) hold, to the extent which they are aware of them, which they would be able to further as a result of their official position. They must comply with any subsequent instructions from their department or agency regarding the retention, disposal or management of such interests.

4.3.10 Civil servants who become bankrupt or insolvent must report the fact to their department or agency. Civil servants must let their department or agency know if they are arrested and refused bail, or if they are convicted of any criminal offence. This does not apply to a traffic offence unless an official car was involved, or the penalty included imprisonment or disqualification from driving.

¹ This is not intended to prevent civil servants from taking an equity stake in companies which exploit their research subject to appropriate safeguards in accordance with the Cabinet Office guidance on this subject (Personnel Information Note (PIN) 43 (<http://ukresilience/iam/codes/PINS/index.asp>)).

4.3 ANNEX A: THE BUSINESS APPOINTMENT RULES FOR CIVIL SERVANTS

The following Rules cover the Civil Service. Equivalent versions of the Rules are in place for the Diplomatic Service/Intelligence Agencies/Armed Forces. The Rules apply to civil servants who intend to take up an appointment or employment after leaving the Civil Service.

The approval process for applications under the Rules differs depending on the applicant's seniority.

For members of the Senior Civil Service and equivalents, including special advisers of equivalent standing, the Rules continue to apply for two years after the last day of paid Civil Service employment.

For those below the Senior Civil Service and equivalents, including special advisers of equivalent standing, the Rules continue to apply for one year after leaving the Civil Service, unless, exceptionally, the role has been designated as one where a longer period of up to two years will apply.

Key Principles

1. These Rules are designed to uphold the core values in the *Civil Service Code*:

Integrity

- You must not misuse your official position, for example by using information acquired in the course of your official duties, to further your private interests or those of others.*

Honesty

- You must not be influenced by improper pressures from others or the prospect of personal gain.*

Objectivity

- You must take decisions on the merits of the case.*

Impartiality

- You must not act in a way that unjustifiably favours or discriminates against particular individuals or interests.*

2. It is in the public interest that people with experience of public administration should be able to move into other sectors, and that such movement should not be frustrated by unjustified public concern over a particular appointment. It is equally

important that when a former civil servant takes up an outside appointment or employment there should be no cause for justified public concern, criticism or misinterpretation.

3. The aim of the Rules is to avoid any reasonable concerns that:
 - a. a civil servant might be influenced in carrying out his or her official duties by the hope or expectation of future employment with a particular firm or organisation, or in a specific sector; or
 - b. on leaving the Civil Service, a former civil servant might improperly exploit privileged access to contacts in Government or sensitive information; or
 - c. a particular firm or organisation might gain an improper advantage by employing someone who, in the course of their official duties, has had access to:
 - i. information relating to unannounced or proposed developments in Government policy, knowledge of which may affect the prospective employer or any competitors; or
 - ii. commercially valuable or sensitive information about any competitors.

Who must apply, when and how

4. **The Rules apply to all civil servants.** This includes:
 - Permanent civil servants;
 - Civil servants employed on fixed term contracts;
 - Civil servants on secondment to other organisations; and
 - Special advisers.
5. For those at SCS1 level and above (and equivalents), the Rules apply for two years after leaving the Civil Service. For those below SCS1 level (and equivalents), they normally apply for one year after leaving the Civil Service¹. In circumstances where an individual is undertaking a role on temporary promotion immediately prior to leaving the Civil Service, it will be the temporary grade that will determine how the Rules are to be applied.
6. **Before accepting any new appointment or employment, whether in the UK or overseas, which they intend to take up after they have left the Civil Service, individuals must consider whether an application under the Rules is required.** If it is required, they should not accept or announce a new appointment or offer of employment before it has been approved. The model application form for this purpose is available at: <http://acoba.independent.gov.uk/media/21242/model-business-appointments-application-form-civil-servants.rtf> and on departmental

¹Departments have discretion to apply the Rules for up to two years for specific roles below SCS1 level (and equivalents) where there is an exceptional case for doing so.

intranets. This form should be used for all applications under the Rules.

Retrospective applications will not normally be accepted.

7. The process for giving approval differs depending on the applicant's seniority.

Permanent Secretaries and SCS3 (and equivalents, including special advisers of equivalent standing)

8. An application is required for any new appointment or employment that individuals wish to take up during the **two** year period after leaving office. All applications at this level must be referred by the Department to the Advisory Committee on Business Appointments (the Advisory Committee). The Advisory Committee provides advice to the Prime Minister, who makes the final decision²³.

9. Because of their role at the highest level of Government, and their access to a wide range of sensitive information, all Permanent Secretaries, including Second Permanent Secretaries, will be subject to a minimum waiting period of three months between leaving paid Civil Service employment and taking up an outside appointment or employment. The Advisory Committee may advise that this minimum waiting period should be waived if, in its judgement, no questions of propriety or public concern arise from the appointment or employment being taken up earlier. Equally, the Advisory Committee may consider that public concern about a particular appointment or employment could be of such a degree or character that a longer waiting period is appropriate. Taking account of the maximum waiting period of two years that may be applied, the Advisory Committee may, exceptionally, add a rider to their advice to the Prime Minister stating that they view the appointment or employment to be unsuitable.

10. As a general principle, there will be a two year ban on all Permanent Secretaries and SCS3 (and equivalents, including special advisers of equivalent standing) lobbying Government on behalf of their new employer after they leave the Civil Service. The two year lobbying ban may be reduced and/or modified by the Advisory Committee if they consider this to be justified by the particular circumstances of an individual application. Lobbying in the context of these Rules means that the former civil servant should not engage in communication with Government (including Ministers, special advisers and officials) with a view to influencing a Government decision or policy in relation to their own interests, or the interests of the organisation by which they are employed, or to whom they are contracted. In certain cases, due to the nature of the proposed appointment or employment, the Advisory Committee may, at its discretion, recommend that the lobbying ban need not prevent communications with Government on matters that are an integral part of the normal course of business for the organisation concerned. The model application form prompts applicants to provide the relevant

²Where applications are from civil servants who serve/formerly served in the Devolved Administrations in Scotland and Wales, the Advisory Committee will provide advice to the relevant First Minister who will make the final decision.

³ Final decisions on applications from special advisers are made by the relevant Permanent Secretary.

details about the proposed employment or appointment that will assist with the formulation of an appropriate lobbying condition.

SCS2 and SCS1 (and equivalents, including special advisers of equivalent standing)

11. For those at this level, the Rules apply for **two** years after the last day of paid service. An application for a new appointment or employment during this two year period is only required if the individual's circumstances match one or more of the triggers set out at paragraph 13 below. Decisions on applications from those at this level are made by the relevant Department⁴.

Below SCS1 (and equivalents, including special advisers of equivalent standing)

12. For these grades, the Rules normally⁵ apply for **one** year after the individual's last day of paid service. An application for a new outside appointment or employment during this one year period is only required if an individual's circumstances match one or more of the triggers set out at paragraph 13 below. Decisions on applications from staff in this category are made within the Department. Further details are set out in departmental staff handbooks/on departmental intranets.

13. As set out at paragraphs 11 and 12 above, an application under the Rules is only required from those at SCS2 and below (and equivalents) if the individual's circumstances match one or more of the following:

- i. They have been involved in developing policy affecting their prospective employer, or have had access to unannounced Government policy or other privileged information affecting their prospective employer, at any time in their last two years in the Civil Service.
- ii. They have been responsible for regulatory or any other decisions affecting their prospective employer, at any time in their last two years in the Civil Service.
- iii. They have had any official dealings with their prospective employer at any time in their last two years in the Civil Service.
- iv. They have had official dealings of a continued or repeated nature with their prospective employer at any time during their Civil Service career.

⁴ Decisions on applications are delegated to departmental officials who should consult the Secretary of State on the most sensitive applications.

⁵ Departments have discretion to apply for the Rules for up to two years for specific roles below SCS1 level (and equivalents) where there is an exceptional case for doing so.

- v. They have had access to commercially sensitive information of competitors of their prospective employer in the course of their official duties.
- vi. The proposed appointment or employment would involve making representations to, or lobbying the Government on behalf of a new employer.
- vii. The proposed appointment or employment is consultancy work, either self-employed or as a member of a firm, and they have had official dealings with outside bodies or organisations in their last two years in the Civil Service that are involved in their proposed area of consultancy work.

In cases of doubt, departmental Human Resources functions are able to advise individuals on whether or not an application is required.

Special Advisers

14. Under the terms of their contract, special advisers are required to submit an application to the head of their former Department for a new appointment or employment they wish to take up after leaving the Civil Service. This requirement applies to special advisers of equivalent standing to the Senior Civil Service for **two** years after leaving the Civil Service, and to other special advisers for **one** year⁶.

15. Applications from special advisers of equivalent standing to Director General and above are referred to the Advisory Committee on Business Appointments (the Advisory Committee). The Advisory Committee provides its advice to the relevant departmental Permanent Secretary, who makes the final decision based on that advice. Applications from other special advisers are handled within the relevant Department, and the Permanent Secretary makes the decision on the application. A special adviser who is unhappy with the decision may appeal to the Lead Non-Executive Director of their former Department.

How to apply for approval

16. Applicants must approach their departmental Human Resources function as early as possible, and before any announcements or commitments are made. Human Resources will have a process in place for handling business appointment applications. This involves completion of the application form which will need to be countersigned by an appropriate person, normally someone within the line management chain.

⁶ No application is required under the Rules when a special adviser takes up a role with the Party when they leave the Civil Service. If, during the two years after leaving the Civil Service (one year in the case of more junior special advisers), they take up an appointment in a different organisation, approval under the Rules is required.

17. Notification of decisions on applications will be made through the Department.

18. Applications may be approved unconditionally, or approved subject to conditions applying for a maximum of two years from the individual's last day of paid service. Such conditions may include a waiting period and/or a prohibition on the individual being involved in lobbying Government on behalf of their new employer. When a lobbying prohibition or other restriction is applied to an individual at any level, this information will be made available to key staff within a department. Other restrictions could include a condition that for a specified period, the former civil servant should stand aside from involvement in certain activities, for example, commercial dealings with his or her former Department, or involvement in particular areas of the new employer's business.

19. Where it is proposed that an application be approved with conditions or a waiting period, the applicant will be offered an opportunity to discuss any concerns he or she may have with an appropriate departmental officer, or for applicants at SCS3 level and above (and equivalents, including special advisers of equivalent standing) with the Advisory Committee on Business Appointments (the Advisory Committee), before a final decision is made.

20. For those cases considered by the Advisory Committee, in addition to the maximum two-year waiting period, the Advisory Committee may, if they judge the propriety concerns to be substantial, add a rider to their advice saying that they also view the appointment to be unsuitable. It is for the Prime Minister (or relevant Permanent Secretary in the case of special advisers) to take the final decision on the application based on the advice received from the Advisory Committee.

Payment for Waiting Periods

21. It may be appropriate to continue to pay former civil servants, including special advisers, who are required to observe a waiting period before taking up an external role. Such a payment would be subject to the particular circumstances of the individual case, and it would be important to ensure that decisions take account of all relevant factors including, for example, whether there was a reasonable expectation of a waiting period under the Rules. Where a waiting period is required, departments should seek to redeploy individuals for the duration of the period. Where there is no alternative suitable employment available, the department can consider whether there is a case for the individual to be compensated for serving a waiting period. The Cabinet Office must be consulted when payment is proposed either by the Department or the individual.

Transparency

22. In addition to notifying the applicant of the outcome of their application, the Department must also inform prospective employers of any conditions which have been attached to the approval of the appointment or employment. For those applications considered by the Advisory Committee, their advice, alongside

summary details of the applicant's last Civil Service post, will usually be made public once the appointment or employment has been taken up by the applicant or announced, and Departments will make public on their departmental websites summary information in respect of individuals at SCS2 and SCS1 level (and equivalents, including special advisers of equivalent standing), setting out the advice given to their former civil servants, and the restrictions (if any) imposed upon them. In all other respects, the business appointment process is a confidential one⁷.

Where to find out more

23. Departmental guidance and advice on the Rules is available from local Human Resources functions, and, where applicable, on local intranets. More about the operation of the Rules, including details of appointments approved and taken up by the most senior members of the Civil Service, can be found on the website of the Advisory Committee on Business Appointments (the Advisory Committee): <http://acoba.independent.gov.uk>

24. The Advisory Committee's Secretariat is available to provide advice and support to Departments on the application of the Business Appointment Rules and the handling of individual cases at any level. Contact details are:

Office of the Advisory Committee on Business Appointments
G/08
Ground Floor
1 Horse Guards Road
London
SW1A 2HQ

Tel: (020) 7271 0839

e-mail to: acoba@acoba.gsi.gov.uk

Website: <http://acoba.independent.gov.uk>

⁷The Advisory Committee handles personal information provided to it in accordance with the Data Protection Act 1998. Such information may on limited occasions be published, for example, if the Committee is required to publish information in accordance with the Freedom of Information Act 2000.

4.4 Conduct: Political Activities

Rules

4.4.1 Departments and agencies must make clear to staff any restrictions on their taking part in political activities. Political activities that may be subject to restriction are defined as follows:

a. at national level: holding, in a party political organisation, office which impinges wholly or mainly on party politics in the field of Parliament or the European Parliament; speaking in public on matters of national political controversy; expressing views on such matters in letters to the Press, or in books, articles or leaflets; being announced publicly as a candidate for Parliament or the European Parliament; and canvassing on behalf of a candidate for Parliament or the European Parliament or on behalf of a political party; and

b. at local level: candidature for, or co-option to, local authorities; holding in a party political organisation, office impinging wholly or mainly on party politics in the local field; speaking in public on matters of local political controversy; expressing views on such matters in letters to the Press, or in books, articles or leaflets; and canvassing on behalf of candidates for election to local authorities or a local political organisation.

4.4.2 Departments and agencies must allow civil servants in industrial and non-office grades the freedom to take part in all political activities. These staff are known as the “politically free” category. The groups of staff to be included in this category are subject to the approval of the Minister for the Civil Service (Servants of the Crown (Parliamentary, European Parliamentary and Northern Ireland Assembly Candidature) Order 1987).

4.4.3 Departments and agencies have discretion to permit other staff to take part in local or national political activities in accordance with paragraphs 4.4.9 and 4.4.10 below. In exercising their discretion, departments and agencies must pay due regard to the guidelines and principles in Annex A.

4.4.4 In giving permission to participate in political activities to groups of staff or individuals, departments and agencies must make clear to them that the permission can be withdrawn at any time and without prior notice if there is a change in relevant circumstances.

4.4.5 Departments and agencies must give civil servants who are refused permission to take part in political activities, or who have permission to do so withdrawn, a full explanation of the reasons for the decision, and inform them of their right of appeal to the Civil Service Appeal Board (see Section 12.1).

4.4.6 Departments and agencies must reinstate civil servants in the politically free group who resign to stand for election (see paragraph 4.4.20 below) provided they apply within a week of declaration day if they are not elected. If they are elected, they must still be subsequently reinstated if:

- a.** they cease to be a Member after an absence from the Civil Service of not more than five years; and
- b.** they apply for reinstatement within three months of ceasing to be a Member.

If the first of these two conditions is not met, reinstatement is at the discretion of the

department or agency, but departments and agencies are encouraged to treat applications sympathetically.

4.4.7 Departments and agencies have discretion to reinstate civil servants who are not in the politically free category following resignation to stand for election to Parliament or the European Parliament. Discretion to reinstate should normally be exercised only where it is possible to post staff, at least initially, to non-sensitive areas.

4.4.8 Where a civil servant is reinstated, the period of the break will not count for pay or superannuation purposes. Salary will not be payable during the break.

Standards of conduct to be reflected in staff handbooks

4.4.9 Civil servants in “the politically restricted” category i.e. members of the Senior Civil Service and civil servants at levels immediately below the Senior Civil Service, plus members of the Fast Stream Development Programme (Administrative and European), must not take part in national political activities (paragraph 4.4.1a). They must seek permission to take part in local political activities (paragraph 4.4.1b) and must comply with any conditions laid down by their department or agency.

4.4.10 Civil servants outside the “politically restricted” category (paragraph 4.4.9) and the “politically free” category (paragraph 4.4.2) must seek permission to take part in national or local political activities (paragraph 4.4.1) unless they are in a grade or area that has already been given permission to do so by means of a specific mandate from the department or agency. Where they already have permission under such a mandate, they must notify the department or agency of intended political activities prior to taking them up. They must comply with any conditions laid down by their department or agency.

4.4.11 Civil servants must not take part in any political activity when on duty, or in uniform, or on official premises.

4.4.12 Civil servants must not attend in their official capacity outside conferences or functions convened by or under the aegis of a party political organisation.

4.4.13 Civil servants not in the politically free category must not allow the expression of their personal political views to constitute so strong and so comprehensive a commitment to one political party as to inhibit or appear to inhibit loyal and effective service to Ministers of another party. They must take particular care to express comment with moderation, particularly about matters for which their own Ministers are responsible; to avoid comment altogether about matters of controversy affecting the responsibility of their own Ministers, and to avoid personal attacks.

4.4.14 They must also take every care to avoid any embarrassment to Ministers or to their department or agency which could result, inadvertently or not, from bringing themselves prominently to public notice, as civil servants, in party political controversy.

4.4.15 Civil servants who are not in the politically free category and who have not been given permission to engage in political activities must retain at all times a proper reticence in matters of political controversy so that their impartiality is beyond question.

4.4.16 Civil servants do not need permission to take part in activities organised by their trade unions. Elected trade union representatives may comment on Government policy when representing the legitimate interests of their members, but in doing so they must

make it clear that they are expressing views as representatives of the union and not as civil servants.

4.4.17 Civil servants given permission to take part in local political activities must tell their department or agency if they are elected to a local authority.

4.4.18 Civil servants given permission to take part in political activities must give up those activities if they are moved to a post where permission cannot be granted.

4.4.19 Civil servants are disqualified from election to Parliament (House of Commons Disqualification Act 1975) and from election to the European Parliament (European Parliamentary Elections Act 1978). They must therefore resign from the Civil Service before standing for election in accordance with paragraphs 4.4.20 and 4.4.21.

4.4.20 Civil servants in the politically free group are not required to resign on adoption as a prospective candidate. But to prevent their election being held to be void they must submit their resignation before they give their consent to nomination in accordance with the Parliamentary Election Rules.

4.4.21 All other civil servants, including civil servants on secondment to outside organisations, must comply with the provisions of the Servants of the Crown (Parliamentary, European Parliamentary and Northern Ireland Assembly Candidature) Order 1987. They must not issue an address to electors or in any other manner publicly announce themselves or allow themselves to be publicly announced as candidates or prospective candidates for election to Parliament or the European Parliament; and they must resign from the Civil Service on their formal adoption as a Parliamentary candidate or prospective candidate in accordance with the procedures of the political party concerned. Civil servants not in the politically free group who are candidates for election must complete their last day of service before their adoption papers are completed.

4.4 ANNEX A: GUIDELINES AND PRINCIPLES ON PARTICIPATION IN POLITICAL ACTIVITIES

1. In exercising discretion over participation by civil servants in the political activities described in paragraph 4.4.3, departments and agencies must pay regard to the following principles:

a. permission should normally only be refused where civil servants are employed in sensitive areas in which the impartiality of the Civil Service is most at risk. Permission may be granted to individuals or groups to undertake either only national or only local political activities;

b. permission should normally be granted in all other circumstances, provided departments and agencies are satisfied that the civil servants concerned are aware of the need to observe the principles set out in paragraphs 4.4.10 and 4.4.11 and the other rules governing the conduct of civil servants, including those relating to the use of official information.

2. In applying these principles, departments and agencies should regard posts as being “sensitive” if:

a. they are closely engaged in policy assistance to Ministers (or to non-departmental Crown bodies) such as tendering advice or executing immediate Ministerial directives;

b. they are in the private offices of Ministers or senior officials or in areas which are politically sensitive or subject to national security;

c. they require the postholder regularly to speak for the Government or their department or agency in dealings with commercial undertakings, pressure groups, local government, public authorities or any other bodies;

d. the postholder represents the Government in dealing with overseas governments; or

e. the postholder is involved in a significant amount of face to face contact with members of the public who may be expected to know of the postholder’s political activities and makes, or may appear to make, decisions directly affecting them personally.

3. Departments and agencies are advised to apply as helpful a postings policy as possible to staff who wish to become or remain politically active, provided the staff concerned understand that this may have the effect of limiting their range of experience; and to identify blocks of posts in which staff may be granted advance permission to take part in the political activities described in paragraph 4.4.1.

4. Where a civil servant is adopted as a parliamentary candidate and is therefore required to resign, departments and agencies may, at their discretion, make an ex-gratia payment equivalent to the period of notice to be given to the individual if the adoption process does not reasonably allow for the individual to give full notice.

4.5 Dismissal, Discipline and Grievance: Rules and Code of Practice

4.5.1 Departments and agencies are responsible for their own dismissal, disciplinary and grievance arrangements. Additionally, the Minister for the Civil Service requires that departments and agencies must act within the central framework set out below. They must:

- a. ensure that staff are aware of the procedures which will apply to them for dismissals, disciplinary decisions short of dismissal, and grievances, and of the circumstances in which they may be invoked; and
- b. reflect the rules at paragraphs 4.5.2 to 4.5.16 and Annex A in their own disciplinary procedures.

The attention of departments and agencies is drawn to the following as guides to the drawing up of their own procedures:

- i. the ACAS Code of Practice on Disciplinary and Grievance Procedures (<http://www.acas.org.uk/index.aspx?articleid=2174>)
- ii. the good practice guide which complements the Code of Practice, Discipline and grievance – the Acas guide <http://www.acas.org.uk/CHttpHandler.ashx?id=1043>

The ACAS Code of Practice is given significant weight in Employment Tribunal cases and will be taken into account when considering relevant cases.

Discipline and dismissal

4.5.2 Disciplinary procedures may be invoked in certain circumstances in addition to, or instead of, criminal investigations or legal proceedings. Departments and agencies should consult their legal advisers before taking disciplinary action in parallel with criminal proceedings and comply with the section below on suspension from duty.

4.5.3 It is for departments and agencies to define the circumstances in which initiation of disciplinary procedures may be appropriate. It is not necessary to attempt to define every circumstance. However departments' and agencies' rules for staff must make clear the circumstances in which the application of the disciplinary procedures may be considered, and these must include:

- a. breaches of the organisation's standards of conduct or other forms of misconduct (see paragraph 4.1.4); and
- b. any other circumstances in which the behaviour, action or inaction of individuals significantly disrupts or damages the performance or reputation of the organisation;

as well as other circumstances covered by the statutory dispute resolution procedures.

4.5.4 The central rules on the limited efficiency and inefficiency procedures are given in Section 6.3.

4.5.5 It is for departments and agencies to decide the level at which decisions are made, whether or not to proceed with disciplinary action, the disciplinary procedures to be

followed, and the arrangements for appeals. However, departments and agencies must comply with these rules. The Cabinet Office recommends setting up simple, clear procedures which closely follow the ACAS Code of Practice and guidance rather than adding additional steps.

Disciplinary hearings and decision-making

4.5.6 Disciplinary decisions must be taken by someone at least one level higher than the individual concerned and appeals on disciplinary matters must be heard, where this is possible, by someone at least one level higher than the person making the decision being appealed. Wherever possible, appeal decisions should be taken by someone independent of the original disciplinary decision.

4.5.7 Decisions concerning Permanent Secretaries, Heads of Department and their direct equivalents and any other Heads of Department must be taken by the Head of the Home Civil Service after consultation with the Minister of the Department concerned and, as appropriate, the Prime Minister. Below that level, decisions concerning postholders in Senior Civil Service salary band 4 and above with a minimum JESP score of 13 must be taken by the Permanent Head of the Department or Chief Executive of the Agency. Decisions concerning Chief Executives below that level must be taken by the Permanent Head of Department. Individuals in these cases have a right of appeal to the Head of the Home Civil Service.

4.5.8 Decisions not to proceed with disciplinary action in cases of serious fraud, other than where the individual is being prosecuted, must be taken by the Head of Department or Chief Executive of the agency after consultation with the responsible Minister.

4.5.9 The sanctions applied as a result of disciplinary proceedings are a matter for the department or agency concerned in the light of the circumstances of each case.

Suspension from duty

4.5.10 Individuals under criminal investigation or disciplinary procedures may be suspended from duty if necessary to protect the public interest. Pay may not be withheld or reduced to basic pay during suspension unless the appropriate steps under the department's or agency's dispute resolution procedures have been completed.

Dismissal

4.5.11 Departments and agencies must follow the statutory dispute resolution procedures whenever a member of staff is, or may be, dismissed unless the dismissal, such as retirement which has its own separate procedure, is clearly outside the statutory dispute resolution procedures,

Grievance

4.5.12 The level at which grievances are determined is a matter for the Permanent Head of Department, subject to compliance with the following good practice guidance.

- Where a grievance is raised on an issue attributable to an identifiable management decision, the decision on the grievance should be taken, where this is practicable, by an officer at least one management level higher than the officer who was responsible for the decision or action which is the subject of the grievance.
- Appeals on grievance matters must be heard, where this is possible, by someone at least one level higher than the person making the decision being appealed.
- Appeal decisions should be taken by someone independent of the original decision if this is practicable.

Collective Grievances

4.5.13 Recognised trade unions have the right to make representations on procedural matters and on general principles underlying disciplinary action. Such representations may be made centrally and at departmental and agency level. Additionally, trade union representatives or another employee representative may raise a collective grievance on behalf of more than one employee. In line with the statutory procedures, these would normally be dealt with through the ordinary channels of trade union/departmental communications rather than through the grievance procedure, and departments and agencies will then be considered as having complied with the statutory grievance procedure.

Rules common to disciplinary and grievance procedures

Assistance at a hearing

4.5.14 Staff must be given the right to the assistance of a trade union official or a colleague throughout formal disciplinary or grievance proceedings.

Appeals

4.5.15 Departments and agencies must make clear to individuals their rights of appeal against disciplinary or grievance decisions. Staff must have a route of appeal within the department or agency. In addition, departments and agencies must allow staff who are dismissed to appeal to the Civil Service Appeal Board if they are eligible to do so (see paragraph 12.1.7).

Rules on recovery of losses

4.5.16 Departments and agencies must apply, where appropriate, the rules which apply to the recovery of losses to public funds on dismissal and to the forfeiture of superannuation benefits in respect of dismissal for certain criminal offences. These rules are set out in Annex A.

4.5 ANNEX A: RECOVERY OF LOSSES TO PUBLIC FUNDS

1. On dismissal for an offence involving loss to public funds, any sums unpaid, for example in respect of salary or wages up to the last day of duty, or of income tax overpaid on salary may be withheld as a set-off against the loss. Similar set-offs should be made if someone who would have been dismissed for an offence resigns before the dismissal can be put into effect. The Inland Revenue should be notified of any sums so withheld in respect of income tax refund, and at the same time be requested themselves to withhold the refund of overpayment of tax. If the amount of tax from these sources is less than the loss to public funds, it may be possible to recover the balance from any superannuation benefits payable. Civil Service Pensions Division, Cabinet Office should be consulted at an early stage and their authority obtained for the deduction to be made.

Forfeiture of Superannuation Benefits (see also Section 12.1)

2. Automatic loss of pension rights applies only where a civil servant is convicted of treason.

3. The Cabinet Office exercises the power under rule 8.2 of the Principal Civil Service Pension Scheme to withhold superannuation benefits in whole or in part if a civil servant or former civil servant is convicted of:

- a. one or more offences under the Official Secrets Act 1989 for which the person concerned has been sentenced to a term of imprisonment of at least ten years or has been sentenced on the same occasion to two or more consecutive terms amounting in the aggregate to at least 10 years; or
- b. an offence in connection with any employment to which the PCSPS applies, being an offence which is certified by a Minister of the Crown either to have been gravely injurious to the State or to be liable to lead to serious loss of confidence in the public service.

4. The guaranteed minimum pension payable under the provisions of the Social Security Pensions Act 1975, as amended, must be paid in the case of paragraph 3b, but that element of a pension can be withheld if forfeiture is applied under paragraph 3a or as a result of a conviction for treason. Before the Cabinet Office exercises this power to withhold superannuation benefits, the case will be discussed on a “without prejudice” basis with the trade union side.

5. The Cabinet Office will normally advise Ministers on the certification of offences in accordance with paragraph 3b. Employment Conditions and Statistics Division, Cabinet Office should therefore be consulted at an early stage in any case in which criminal proceedings are pending and the charges are such that a withholding of superannuation benefits under either paragraph 3a or b will need to be considered. The decision on forfeiture is however a matter for the Civil Service Pensions Division, Cabinet Office which should be kept informed of discussions. Departments and agencies should subsequently notify both Divisions of the outcome of the trial and of the possibility of an appeal. If there is a conviction, the department or agency concerned may make recommendations about the forfeiture of superannuation benefits but these recommendations should not be made known to the individual(s) concerned. They should, however, be supplied with a copy of rule 8.2 of the PCSPS and advised that representations in writing about any matters

relevant to the question of forfeiture may be submitted. Such representations may be made on their behalf by a colleague or trade union representative.

6. The department or agency concerned will be told whether or not it is proposed to withhold superannuation benefits and, if forfeiture is intended, what benefits will be withheld. The department or agency will be told also the period (normally 21 days) within which notice of intent to appeal must be made by the person concerned. It will be for the employing department or agency to pass that information to the person. Attention should be specifically drawn to the right of appeal and a further copy of rule 8.2 of the PCSPS should be provided. The individual should be advised that in the event of lodging an appeal full written representations may be made, prior to the hearing, to the Civil Service Appeal Board, whose judgement on whether or not, or to what extent, superannuation benefits should be forfeited will be accepted by the Cabinet Office. No action, therefore, should be taken either to pay superannuation benefits to a serving member of staff or to withhold them from somebody who is already retired until a final decision is promulgated by the Cabinet Office.

5. THE SENIOR CIVIL SERVICE

5.1 General

5.1.1 The Senior Civil Service comprises the most senior staff in departments and agencies. Departments and agencies may determine which posts are included in the Senior Civil Service, provided that they have a job weight (JESP) score of at least 7, and which staff will fill them.

5.1.2 Responsibility for management of the Senior Civil Service is principally a matter for departments and agencies. However, some terms and conditions are determined centrally. These are summarised below, with cross references to other parts of the Management Code where appropriate.

5.1.3 The Cabinet Office assists departments and agencies to develop expertise and promote cohesion across the Senior Civil Service, through a common broad management framework and by encouraging mobility between departments and agencies. Much of this is achieved through provision of central programmes, support and co-operation rather than by applying central rules or requirements.

5.2 Top 200 Appointments

5.2.1 The Senior Leadership Committee (SLC) advises the Head of the Home Civil Service on the senior staffing position across the service as well as on individual appointments. The "Top 200" posts are listed by the Secretary of SLC and made available to departments and agencies. In general they meet all the following criteria:

- the post has a job weight (JESP) score of 19 or more;
- the pay of the present incumbent of the proposed pay range is in the top three pay bands; and
- the post reports directly to the Head of Department (or Second Permanent Secretary as appropriate) or is Head of Department or Agency.

5.2.1 (a) The Prime Minister appoints Permanent Secretaries (on the recommendation of the Head of the Home Civil Service) . Other appointments to the Top 200 group must be approved by the Prime Minister on the recommendation of the Head of the Home Civil Service.

5.2.1. (b) Under the Civil Service (Management Functions) Act 1992, the Prime Minister has delegated the authority to appoint Permanent Secretaries and other Top 200 appointments in the devolved administrations to the Head of the Home Civil Service.

5.2.2 Departments and agencies must obtain written approval from the Head of the Home Civil Service before retaining staff in Top 200 posts for longer than three months beyond the normal retirement age. (see section 11.3) . Departments and agencies should also consult the Cabinet Office before making moves affecting any members of this group, before appointing or temporarily appointing anyone within or into these posts, and before retiring anyone from the Top 200 early on any grounds.

5.3 Senior Civil Service Terms and Conditions

5.3.1 The terms and conditions laid down centrally for the Senior Civil Service are summarised below.

Contracts

5.3.2 Departments and agencies must require individuals to sign a personal contract before taking up:

- a. a first appointment in the Senior Civil Service;
- b. any post which involves both a step change in responsibilities and an automatic pay increase payable under departmental or agency rules in recognition of those responsibilities; or
- c. a first post in the Top 200.

5.3.3 Departments and agencies must consult the Cabinet Office in advance if they wish to offer an appointment on terms significantly at variance with those set out in the model contract available from the Cabinet Office at –

<http://www.civilservice.gov.uk/about/resources/employment/conditions.aspx>

Selection and Succession Planning

5.3.4 Departments and agencies should manage the most senior staff in accordance with the SCS guidance published by the Cabinet Office.

Appraisal

5.3.5 Section 6.2 sets out arrangements for appraisal of members of the Senior Civil Service.

Pay and Grading

5.3.6 Sections 7.1 and 6.1 set out the arrangements for Senior Civil Service pay and grading.

Hours

5.3.7 Section 9.1 sets out the hours of work for full-time members of the Senior Civil Service.

Holidays and Leave

5.3.8 The annual leave allowance for members of the Senior Civil Service is set out in Section 9.2.

Leaving the Civil Service

5.3.9 Section 11.1 sets out the notice period to be given by members of the Senior Civil Service on resignation. Section 11.3 sets out the retirement age and the rules on extension.

Mobility

5.3.10 Section 10.1 sets out the mobility obligation for members of the Senior Civil Service.

6. MANAGEMENT AND DEVELOPMENT

6.1 Grading and Classification of Staff

6.1.1 Departments and agencies have authority to determine the number and grading of posts and the classification of their own staff outside the Senior Civil Service, subject to the following conditions.

Conditions

6.1.2 Departments and agencies must develop arrangements for the grading of posts which are appropriate to their business needs, are consistent with the Government's policies on the Civil Service and public sector pay, and observe public spending controls. The exceptions to this condition are the Scottish Administration and the National Assembly of Wales who must develop arrangements for the grading of posts which are appropriate to their business needs and are consistent with the Government's policies on the Civil Service and take account of the Government's policies on public sector pay. The arrangements for the grading of posts must be developed in conjunction with the arrangements for the remuneration of staff, taking account of the conditions set out in Section 7.1.

Senior Civil Service

6.1.3 Apart from Permanent Secretary, there are no central grades in the Senior Civil Service. Departments and agencies have discretion to place staff into pay bands within the broad framework laid down by the Cabinet Office and to classify them as they wish (see Section 7.1).

6.2 Personal Review

6.2.1 Departments and agencies have authority to determine personal review arrangements for their own staff outside the Senior Civil Service, subject to the following conditions. The term "personal review" covers both the appraisal of performance and the assessment of individual potential.

Conditions

6.2.2 The means of rating overall performance must be capable of contributing to the organisation's arrangements for making decisions on performance-related pay.

6.2.3 Performance review systems and reporting arrangements must be capable of clearly identifying performance which is unsatisfactory or unacceptable.

6.2.4 The design and development of departmental and agency systems for personal review must take account of any principles of good practice issued by Cabinet Office in consultation with departments and agencies.

Senior Civil Service

6.2.5 The performance of all members of the Senior Civil Service is managed by departments and agencies, within a central framework determined by, and available from, the Cabinet Office. Guidance is available from the Employment Practice Division, Cabinet Office.

6.3 Poor Performance: Efficiency Departures and Limited Efficiency

Efficiency Departures

6.3.1 Departments and agencies must have procedures in place for dealing with dismissals in the interests of the continued efficiency of the service and the wellbeing of the individual, that is:

- a. poor performance - where the work of a member of staff has deteriorated to an unacceptable standard; and
- b. poor attendance - where the frequent absence of a member of staff adversely affects the efficient running of the office.

6.3.2 In determining their procedures, departments and agencies must:

- a. have regard to the ACAS guidance on discipline and grievances at work and the ACAS Code - Discipline and Grievance Procedures (<http://www.acas.org.uk/index.aspx?articleid=2174>);
- b. provide for staff to have the right to the assistance of a trade union representative or colleague during a hearing under formal proceedings about poor performance;
- c. refer cases to the medical services adviser appointed by the Cabinet Office for provisions relating to the PCSPS or CSOPS when either management or the person concerned consider that the causes of poor performance or poor attendance may make retirement on medical grounds appropriate without prejudice to any decision made by the medical services adviser (see Section 11.10); and
- d. inform staff of their right to:
 - have their case referred to the medical services adviser appointed by the Cabinet Office for provisions relating to the PCSPS or CSOPS; and
 - apply for medical retirement.

6.3.3 Where performance or attendance does not improve and medical retirement is inappropriate, staff may be dismissed on efficiency grounds (see Section 11.4).

Limited efficiency

6.3.4 Departments and agencies must have procedures in place for dealing with limited efficiency. This denotes performance which is not sufficiently poor to be considered inefficient, but:

- a. no longer measures up to the requirements of the post; or
- b. where the individual fails to carry out his or her full duties satisfactorily.

6.3.5 In determining their procedures, departments and agencies must:

a. have regard to the ACAS guide on discipline and grievances at work at -

<http://www.acas.org.uk/CHttpHandler.ashx?id=1043>

and the ACAS Code - Discipline and Grievance Procedures

<http://www.acas.org.uk/index.aspx?articleid=2174>;

b. provide for staff to have the right to the assistance of a trade union representative or colleague during a hearing under formal proceedings about poor performance.

6.3.6 Where performance does not improve, staff may retire or be retired early on grounds of limited efficiency (see Sections 11.7 and 11.6).

6.4 Promotion and Lateral Transfers

6.4.1 Departments and agencies have authority to determine promotion and lateral transfer arrangements for their own staff, subject to the following conditions.

Conditions

6.4.2 Departments and agencies must ensure that:

- a. all promotions and lateral transfers follow from a considered decision as to the fitness of individuals, on merit, to undertake the duties concerned;
- b. the design and development of their promotion and lateral transfer systems reflect any guidance and principles of good practice issued by the Cabinet Office in consultation with departments and agencies;
- c. their own promotion and lateral transfer procedures are clearly set out in departmental and agency staff handbooks;
- d. promotion of staff on fixed term appointments is in accordance with the Civil Service Commission's Recruitment Principles (<http://www.civilservicecommission.org.uk>); and
- e. they obtain approval from the Senior Leadership Committee (see Section 5.2) before promoting staff into a Top 200 post or moving staff from one post to another within the group.

Responsibilities of Ministers, Heads of Departments and Agency Chief Executives

6.4.3 Ministers and office holders in charge of departments, the First Minister of the Scottish Executive and the Welsh Assembly Government have a responsibility to ensure that the conditions in paragraph 6.4.2 above are met. Subject to this, Heads of

Departments and Agency Chief Executives are responsible for the promotion and lateral transfer arrangements for their staff. Ministers (which includes Scottish Ministers and the First Secretary and Assembly Secretaries of the Welsh Assembly Government) will have a legitimate interest in a small number of posts, outside the Top 200, for example because the postholder will work directly to them. In filling such posts by promotion or lateral transfer, the Head of Department or Agency Chief Executive is responsible for recommending to the Minister suitable individuals for consideration, selected in accordance with the conditions set out in paragraph 6.4.2 above.

7. PAY AND ALLOWANCES

7.1 Remuneration of Staff

7.1.1 Departments and agencies have authority to determine the terms and conditions relating to the remuneration (excluding pensions) of their own staff outside the Senior Civil Service and the payment of allowances to all staff, subject to the following conditions.

Conditions

7.1.2 Departments and agencies must develop arrangements for the remuneration of their staff which are appropriate to their business needs, are consistent with the Government's policies on the Civil Service and public sector pay, and observe public spending controls. The exceptions to this condition are the Scottish Administration and the Welsh Assembly Government who must develop arrangements for the remuneration of staff which are appropriate to their business needs and are consistent with the Government's policies on the Civil Service and take account of the Government's policies on public sector pay. The arrangements for the remuneration of staff must be developed in conjunction with the arrangements for organisational change (including grading – see Section 6.1) and reward systems, and must reflect the following key principles:

- a. value for money from the pay bill;
- b. financial control of the pay bill;
- c. flexibility in pay systems; and
- d. a close and effective link between pay and performance;

taking account of the inter-relationship between pay, pension provision, leave, and other terms and conditions.

7.1.3 A department or agency proposing major changes to its pay and grading arrangements must submit a restructuring business case to the Cabinet Office.

Evaluation

7.1.4 New pay and grading arrangements must be evaluated three years after they have been brought into effect, and subsequently at three yearly intervals, against both the principles set out above and other objectives set by the organisation, except where a longer period is agreed by the Cabinet Office. Each evaluation should include equality proofing following the principles of the Equal Opportunities Commission's "Code of Practice on Equal Pay" (http://www.eoc.org.uk/PDF/law_code_of_practice.pdf). A copy of the evaluation must be sent to the Cabinet Office.

Reporting requirements

7.1.5 Departments and agencies must observe the reporting requirements which the Cabinet Office may issue from time to time.

Pension implications

7.1.6 Changes in pay structures (including the use of consolidated or non-consolidated bonuses) and in pay related terms and conditions of service may have implications for pension entitlement. Departments and agencies must consult Civil Service Pensions Division, Cabinet Office as necessary. CSP Division must also be consulted about the reckonability of any allowance for pension purposes. The cost of pensionability must be taken into account in setting the level of any pensionable payment.

Benefits in kind

7.1.7 Departments and agencies may provide their staff with benefits-in-kind where they encourage and reward good performance, promote team building, or recognise outstanding contribution. However, these must:

- a. be reasonable and commensurate with the level of success;
- b. not raise issues of potential controversy or propriety (such as private medical insurance and free private use of official vehicles); and
- c. avoid the suggestion of endorsing particular goods or services.

Advances, voluntary deductions from pay, and rent for Government-owned properties

7.1.8 Departments and agencies must comply with the additional conditions on advances of pay, voluntary deductions from pay, and rent for Government-owned properties set out in sections 7.2 to 7.4.

Pay for certain senior staff

7.1.9 Pay arrangements for certain senior staff, as determined by the Minister for the Civil Service, must fall within the parameters of the Senior Civil Service pay framework set out below. Any proposals which go beyond these parameters must be approved by Cabinet Office.

Senior Civil Service

7.1.10 Responsibility for Senior Civil Service pay is not delegated to departments and agencies, although they have discretion within the broad framework laid down by the Cabinet Office.

Permanent Secretaries

7.1.11 Permanent Secretaries and certain other senior staff are paid within the Permanent Secretaries pay range (see Annex A). The exact position on the pay range is set

individually for each Permanent Secretary by the Government on the recommendation of the Permanent Secretaries Remuneration Committee (which the Government normally expects to accept). The Committee comprises members of the SSRB, the Head of the Home Civil Service and the Permanent Secretary of the Treasury. (These last two withdraw when their own pay is being considered.)

Other members of the Senior Civil Service

7.1.12 The overall pay framework is laid down by the Cabinet Office. There are 3 core pay bands, broadly reflecting the main responsibility levels in most departments and agencies. Departments and agencies have the option of using a fourth band (Pay Band 1A) where there is a business need (see Annex A). Departments and agencies must have regard to the job-weight (JESP) ranges appropriate to each band when allocating staff to pay bands.

7.1.13 The minimum and maximum levels for each pay band are set each year by the Government, taking into account the recommendations of the SSRB. The current values are set out in Annex A. These minima and maxima apply both to full-time staff and to part-time staff when their pay and allowances are expressed on a full-time basis. Senior civil servants are eligible for performance bonuses, subject to a minimum award recommended by the SSRB.

7.1.14 Departments and agencies have discretion to determine the detailed operation of their pay schemes, subject to the principles in paragraphs 7.1.2 and 7.1.6 and the additional rules and principles set out in Annex A, and taking into account guidance issued by the Cabinet Office from time to time.

Allowances for members of the Senior Civil Service

7.1.15 Allowances should normally be taken into account in determining whether an individual's pay meets the requirements of paragraph 7.1.13. Departments and agencies must ensure that their use of allowances represents value for money, bearing in mind that the Senior Civil Service pay framework allows them to take account of other factors formerly recognised by the payment of allowances.

External Appointments

7.1.16 Where external appointments are made, departments and agencies must seek approval from the Cabinet Office in advance for remuneration and allowances which would not be in accordance with paragraphs 7.1.10 to 7.1.15, and as required in Cabinet Office guidance.

7.1 ANNEX A: SENIOR CIVIL SERVICE PAY FRAMEWORK 2002/2003

Pay Band	Range Minimum £	Range Maximum (Recruitment & Performance Ceiling) £
1	51,250	107,625
1A	59,450	117,875
2	70,725	148,625
3	87,125	184,500
Permanent Secretaries	115,000	245,000

The range minima for staff, while they are based in London, in Band 1 and Band 1A can be increased by £3,500 for departments and agencies using London Target Rates.

Rules and Principles

The following rules and principles apply to pay awards for 2002/2003:

1. Individual pay awards must lie within the range 0 to 10% as set out in the guidance issued by Performance and Reward Division, Cabinet Office (<http://www.cabinet-office.gov.uk/civilservice/scs/training.htm>) which provides information to support the pay system.
2. The distribution of pay awards in departments should be determined on the basis of relative contribution and position in pay band. Relative contribution will be considered as follows:

Top Tranche 25% of staff

Middle Tranche 65-70% of staff

Bottom Tranche 5-10% of staff

Departments have the flexibility to vary the size of the top and middle tranches as set out in Cabinet Office guidance. Special arrangements apply to departments with small numbers of staff. The Cabinet Office will ensure, in consultation with departments, that the aggregate distribution is achieved.

3. Top tranche performers will receive a non-consolidated performance bonus, and middle tranche performers will also be eligible for a performance bonus. Departments may decide the amounts of these bonuses, subject to a minimum amount payable.

7.1 ANNEX B: ALLOWANCES FOR MEMBERS OF THE SENIOR CIVIL SERVICE

The allowances set out below, if in payment on 31 March 1997 to staff who were members of the Senior Civil Service on that date, need not be taken into account in determining whether an individual's pay meets the requirements of paragraph 7.1.13. This flexibility also applies in respect of any members of the Senior Civil Service on 31 March 1997 who would have been in receipt of one of the allowances below had they not been on loan, secondment or unpaid special leave.

1. Recruitment and Retention Allowance

An amount not exceeding the sum in payment on 31 March 1997.

2. London Weighting and London Allowance

Where rights to retain these allowances (referred to as "reserved rights") have been granted as follows:

- a.** to staff receiving London Weighting on 30 September 1994, on the terms and conditions applying on that date, as set out in Section 8.1 (issue 1: January 1994) and Section 8.1 Annex A (issue 2: January 1994) of the Pay Chapter of the Civil Service Management Code.
- b.** to staff receiving the London Allowance on 31 March 1995, on the terms and conditions applying on that date, as set out in Section 8.2 (issue 1, January 1994) of the Pay Chapter of the Civil Service Management Code.

3. Private Secretary Allowance

An amount not exceeding £5,129 for as long as the individual remains a Private Secretary.

7.2 Advances of Pay

7.2.1 Where departments and agencies have arrangements for making advances of pay to individual members of staff, they must ensure that their rules contain provisions on the payment and recovery of these advances.

7.3 Voluntary Deductions from Pay

7.3.1 Where departments and agencies have arrangements for voluntary deductions from pay to be offered to staff, the following conditions apply.

Conditions

7.3.2 Departments and agencies must ensure that:

- a.** no liability is to be attached to the department, agency or pension-paying authority in the event of default by a member of staff or recipient organisation. Legal advice should be taken if necessary; and
- b.** in providing such facilities, they offer no assurance of the soundness or integrity of recipient organisations.

Trade Union subscriptions

7.3.3 Where departments and agencies offer arrangements for deducting subscriptions to trade unions, they must ensure that:

- a.** they comply with the relevant statutory provisions (including those concerned with political levies, where appropriate);
- b.** they recover the costs of the provision of the facility from the trade unions concerned; and
- c.** subscriptions deducted during the quarter in which an officer ceases to be a subscriber will be paid to the relevant trade union.

In the event of official industrial action by non-industrial civil servants, departments and agencies may withdraw the facility, in whole or in part, in respect of deductions payable to any union with members officially involved in the industrial action for the duration of that action. Withdrawal is subject to approval by the Cabinet Office.

7.3.4 For those trade unions whose subscriptions include a political levy, arrangements must be made to ensure that the department or agency concerned shall not at any time have information about the numbers or identities of members contributing to the levy.

7.4 Rent for Government-Owned Properties

7.4.1 Where departments and agencies determine tenancy and rent agreements for their own staff who occupy Government-owned residences in the UK, the following conditions apply.

Conditions

7.4.2 Departments and agencies must:

- a.** take account of the relevant market rates when setting rents;
- b.** apply those provisions of the legislation covering tenancies, rents and rent rebates, which do not bind the Crown as if they were binding;
- c.** not contribute towards any income tax liability arising from the benefit of accommodation or services provided with the accommodation; and
- d.** ensure occupants are made responsible for payment of their personal liability for the Council Tax.

8. EXPENSES

8.1 Reimbursement of Expenses

8.1.1 Departments and agencies have authority to reimburse the expenses incurred by their own staff in connection with their employment, subject to the following conditions.

Conditions

8.1.2 Departments and agencies must:

- a.** reimburse staff only for expenses which they actually and necessarily incur in the course of official business, except where otherwise provided in this chapter;
- b.** comply with the additional conditions and rules on Travel, Relocation Expenses, Compensation for Loss or Damage to Property, and Overseas Expenses set out in Sections 8.2 to 8.6; and
- c.** ensure that their rules provide for claiming recompense, including verification and authorisation.

Compensation for tax liability

8.1.3 Departments and agencies must compensate staff for any tax liability, and any direct adverse consequence of such compensation (e.g. where the parental contribution to student grant is increased), arising where staff move frequently between workplaces, or have a temporary posting which is expected to last for a year or more.

8.1.4 Departments and agencies must not meet any tax liability in respect of:

- a.** an incentive element included in motor mileage rates to encourage staff or essential users to use their own vehicles;
- b.** beneficial loans; and
- c.** grant for house purchase.

8.1.5 In all other circumstances, it is for departments and agencies to decide whether, and the extent to which, any such liability is met.

Compensation for National Insurance Contributions liability

8.1.6 Departments and agencies must not meet any liability to employee's National Insurance Contributions arising on payments covered in paragraph 8.1.4 above. In all other circumstances, it is for departments and agencies to decide whether, and the extent to which, any such liability is met.

8.2 Travel

8.2.1 Departments and agencies must ensure that staff use the most efficient and

economic means of travel in the circumstances, taking into account any management benefit or the needs of staff with disabilities. They must not reimburse the costs of home to office travel, except as otherwise provided in this Code.

Travel by private vehicle on official business

8.2.2 Where departments and agencies reimburse costs incurred by staff using their own vehicles, they must ensure that the staff concerned hold insurance policies which cover:

- a. bodily injury to or death of third parties or any passenger;
- b. damage to the property of third parties; and
- c. the use of the car either in connection with the claimant's business or the business of the employing department or agency.

Official cars

8.2.3 Departments and agencies may provide cars or motor cycles (whether purchased, hired or leased) for official use where it is cost-effective to do so. The rules of a department or agency must:

- a. ensure that individuals are charged for any private use of such vehicles which the department or agency allows;
- b. cover insurance requirements, parking and garaging arrangements, the liability of passengers and any claims made by them; and
- c. ensure that statutory insurance requirements are met where the vehicle is used privately.

Compensation for death or injury when driving or travelling in an official vehicle

8.2.4 Departments and agencies must make arrangements for considering ex-gratia payments for staff (or their dependents) who are killed or injured in an accident when driving or travelling in an official vehicle on an officially approved journey where the Civil Service Injury Benefit Scheme (CSIBS) does not provide cover. These arrangements must include staff who, although not serving in employment in the Civil Service, are employed in a civil capacity, whether temporarily or permanently, and whether for reward or not. Such payments may be made subject to the following conditions:

- a. members of staff, or dependents, were not at the time of the injury payment in receipt of injury compensation under the CSIBS as a result of the accident; and
- b. the driver of the official vehicle involved in the accident did not, at the date of the accident, hold a valid comprehensive motor insurance policy which provided for personal injury benefit to the person killed or injured in the circumstances of the accident.

8.2.5 Departments and agencies must consult Civil Service Pensions Division, Cabinet Office in case of doubt over the coverage of particular individuals or groups of staff.

Concessionary travel: home to office travel

8.2.6 Departments and agencies may meet part or all of the cost of home to office travel for their staff in the following circumstances:

- a.** to relieve financial hardship for young civil servants on first appointment, or to keep them in touch with their parental homes;
- b.** to enable staff serving away from home, on permanent transfer, or attending training courses to visit their home at the weekend; or
- c.** where additional costs are incurred when additional journeys outside normal working hours are made, where additional costs are incurred when staff are required to work early or late, or as specified below.

Home to office travel in official cars

8.2.7 Permanent Secretaries may:

- a.** use official cars for journeys which are not regarded as official travel, including home to office travel, on the understanding that they would normally be carrying classified papers on which they would be working, or to which they might need to refer during the journey; and
- b.** determine whether, exceptionally, other senior staff are allowed to use official cars on the same conditions.

8.2.8 Departments and agencies may also allow the use of official cars:

- a.** when staff, not engaged on a regular tour of duty ending at a late hour, are detained by official duties until after public transport services have ceased to run; or
- b.** in special circumstances, including illness.

Home to office travel in taxis or hire cars

8.2.9 Where it is cost effective, departments and agencies may allow the use of taxis or hire cars in the circumstances described in 8.2.6c and 8.2.8 above.

8.3 Relocation Expenses

8.3.1 Where departments and agencies pay expenses to their own staff who permanently transfer to another office or to new recruits who move on appointment and, as a result, move their homes or incur additional travelling expenses, the following conditions apply.

Conditions

8.3.2 Departments and agencies must provide for the reimbursement of relocation expenses of staff who are subject to permanent and compulsory moves. There must be a benefit to the department or agency to justify contributions towards relocation expenses in other circumstances.

8.3.3 Relocation terms must be cost effective compared with the alternatives, and the level of reimbursement must reflect the reasonable additional costs necessarily incurred. Incentives to move must not be paid.

8.3.4 The financial assistance given must not enable individuals to purchase or rent a better type of property than that enjoyed prior to the move, nor to increase their stake in the housing market by maintaining two properties at the department's or agency's expense. (Two properties may be maintained for a temporary period provided the individual concerned is making every effort to dispose of his or her old property.)

Second homes

8.3.5 The following conditions apply to offers of financial assistance with the purchase of a second home:

- a.** financial assistance may be offered only when it is clear that otherwise serious domestic hardship would be created and that the transfer of the individual is essential, and that it is cost effective to do so;
- b.** any financial contribution must be recovered in whole, or in part:
 - when the individual ceases to be a civil servant;
 - following a further permanent and compulsory move; or
 - when the property becomes the family home;
- c.** departments and agencies must take an equity stake of not less than 10% of the open market value (net of mortgage, outstanding advance of salary, capital gains tax and increases in the value of property due to improvements carried out at the individual's own expense);
- d.** the size of the equity share should be commensurate with the financial assistance given with the capital costs; and
- e.** when the property is sold and there is negative equity, departments and agencies must pay the individual an amount commensurate with the financial assistance given with the capital costs.

Housing Equity

8.3.6 Departments and agencies must only compensate staff for equity losses arising from a permanent move where either:

- a.** a relocation company offering a guaranteed sale price is used (or a department or agency is able to offer such a guarantee), when the individual may be paid the difference between the sale price of the old property guaranteed to the individual and the eventual disposal price; or
- b.** there is demonstrable financial hardship.

8.3.7 Where there is demonstrable financial hardship, departments and agencies may offer financial assistance with the shortfall between a mortgage and bridging loan (or both) and the disposal price of the property (or a guaranteed sales price). Any such assistance:

- a. must take account of the individual's ability to contribute and (for bridging loan shortfalls) the alternative cost; and
- b. should normally be a loan - interest free for bridging loan shortfalls and either interest bearing or interest free for mortgage shortfalls.

Interest-free loans for house purchase

8.3.8 Where departments and agencies offer interest-free loans for house purchase, these must not exceed twelve months' salary, and must be offered only where staff:

- a. move to areas where housing costs are higher; or
- b. are first time purchasers; or
- c. have bridging loan and mortgage shortfalls (see paragraph 8.3.7).

Repayment period must not exceed 20 years, and staff must agree to repay the loan on demand when they cease to be civil servants. Where financial hardship arises following redundancy, death or early retirement, departments and agencies may allow staff to repay the loan over the original period and/or waive repayment on outstanding interest-free loans.

Grants for house purchase

8.3.9 Departments and agencies may pay grants for house purchase where they would otherwise offer an interest-free loan. The maximum grant must be the value of interest foregone on a loan of up to twelve months' salary repaid over 20 years; and staff must agree to repay the grant, in whole, or in part, upon demand, when they cease to be a civil servant.

8.4 Compensation for Loss or Damage to Personal Property

8.4.1 Where departments and agencies compensate their own staff for loss or damage to personal property arising in the course of employment, the following conditions must be satisfied:

- a. the loss is verifiable;
- b. the loss or damage is not covered by insurance or any provision for free replacement;
- c. for cash losses only, there was an official need for money to be carried on duty; and
- d. there has been no negligence on the part of the officer.

8.5 Concessionary Arrangements for Staff Working in Northern Ireland

8.5.1 Where departments and agencies compensate their staff working in Northern Ireland

for any additional expenses that arise as a result of the security situation, the following rules apply.

Concessionary travel and relocation

8.5.2 Departments and agencies may reimburse:

- a.** the reasonable costs of additional travel between home and office to avoid dangerous areas; and
- b.** for staff with roots in the mainland who have been posted to Northern Ireland, the reasonable cost of:
 - return trips to the mainland;
 - removing furniture and travel to the mainland by the partner, widow or widower and any dependent children of a member of staff following the retirement of that member of staff; and
 - moving the partner, widow or widower and any dependent children of a member of staff back to the mainland following the death of that member of staff, up to the limit of what would be paid if returning to the previous mainland station.

Compensation of Housing Equity Loss

8.5.3 Departments and agencies may meet the loss of housing value attributable to the security situation in Northern Ireland when staff sell their homes in Northern Ireland and purchase a new home in the mainland. This does not apply to properties purchased after 1 August 1972.

Education Costs

8.5.4 Where departments and agencies are satisfied that it will be detrimental to any dependant children of accompanied staff permanently transferred to Northern Ireland to receive their primary or secondary education in Northern Ireland, they may meet the reasonable costs of having them educated on the mainland.

8.5.5 Departments and agencies must review these special arrangements from time to time in the light of the security situation to decide whether they are still appropriate.

8.6 Overseas Expenses

Reimbursement and Compensation

8.6.1 Where departments and agencies reimburse and compensate staff for the essential extra cost of having to live outside the UK in order to perform their duties, the following conditions apply.

Conditions

8.6.2 Departments and agencies must ensure that:

- a. the amounts paid or refunded are based on the principle of reimbursement and do not exceed reasonable levels of compensation; or
- b. the level of reimbursement and compensation must not exceed the reasonable extra costs necessarily incurred when living and working outside the United Kingdom.

Residential accommodation overseas

8.6.3 Departments and agencies must, wherever possible, provide their staff overseas with rent-free accommodation. Where this is not available, departments and agencies must reimburse the reasonable actual costs of renting private accommodation, taking account of the level of rents near the workplace, the duties of the officer and his or her family responsibilities.

Death of a member of staff or dependant stationed overseas

8.6.4 Departments and agencies may determine the arrangements, including the level of any financial assistance given, in connection with the death overseas of one of their own staff or dependant.

Compensation for dependants of officers injured as a result of terrorist or criminal activity overseas

8.6.5 Departments and agencies may compensate dependants of their own staff serving overseas for personal injuries sustained as a result of terrorist or criminal activity overseas. Compensation may be paid only to:

- a. members of an officer's household whose travel costs to the country where the incident occurred were met by the department; and
- b. dependent children who make privately financed visits to their parent(s).

Compensation must not be paid to persons who sustain injuries as a result of their own negligence or misconduct, or to those who disregard official advice or instruction.

8.6.6 Compensation must be analogous with that which would have been payable under the Criminal Injuries Compensation Scheme had the injury occurred in the United Kingdom.

Claims against overseas governments

8.6.7 Where departments and agencies assist their own staff to make claims for riot compensation against an overseas government, they must ensure that:

- a. claims are presented through the Foreign and Commonwealth Office; and
- b. staff agree to repay any advance of salary from compensation received from the overseas government or any other source.

9. HOURS, HOLIDAYS AND ATTENDANCE

9.1 Hours of Work

9.1.1 Departments and agencies have authority to determine the terms and conditions relating to hours of work of their own staff, subject to the following conditions.

Conditions

9.1.2 The rules of a department or agency must:

- a.** describe the hours that staff are contracted to work and the circumstances in which they may be expected to work outside their normal arrangements;
- b.** determine how staff are compensated for working outside their normal arrangements or for unsocial pattern of attendance, where appropriate;
- c.** determine arrangements for recompensing staff for time spent on official travel outside their normal working hours, where appropriate. Travel between home and office qualifies only if additional attendance at work is required outside normal working hours. The attendance must be additional to the normal pattern of duty or any pre-arranged programme of work; and
- d.** make provision for claiming recompense, including verification and authorisation.

Reckonability for superannuation

9.1.3 As a general rule, payments for excess hours are not pensionable. Civil Service Pensions Division, Cabinet Office must be consulted on the pensionable status of payments made under variations to existing schemes.

Senior Civil Service

9.1.4 The hours of work for full-time members of the Senior Civil Service are a minimum of 42 hours per week, including daily meal breaks of one hour.

9.1.5 However, for staff who were members of the Senior Civil Service on the day before 01 July 2013, the full-time hours of work are a minimum of 41 hours per week in London or 42 hours elsewhere, including daily meal breaks of one hour. When staff are promoted into or within the Senior Civil Service on or after 01 July 2013 as a result of an advertisement or notice placed on or after that date, departments must ensure that their full-time hours of work are a minimum of 42 hours per week irrespective of location.

9.1.6 Senior civil servants may be required to work such additional extra hours as may from time to time be reasonable and necessary for the efficient performance of their duties. Departments and agencies must not recompense members of the Senior Civil Service for additional hours worked.

9.1.7 Departments and agencies have discretion to determine the hours to be worked by part-time staff in the Senior Civil Service.

9.2 Holidays and Attendance

9.2.1 Departments and agencies have authority to determine in respect of their own staff arrangements for holidays and terms and conditions related to attendance and time off work, subject to the following conditions.

Conditions

9.2.2 Departments and agencies must:

- a.** have regard to the effect of granting holidays and time off work on the discharge of public business; and
- b.** keep records of holidays taken.

9.2.3 The rules of a department or agency must prescribe:

- a.** any qualifying conditions;
- b.** the number of days holiday (or equivalent in hours) which staff may be granted; and
- c.** the arrangements for carrying forward or compensating for holidays not taken.

9.2.4 Unless separate arrangements have been authorised, departments and agencies must grant staff a holiday in recognition of the Queen's Official Birthday on either the Friday preceding or the Tuesday after the Spring Bank Holiday.

9.2.5 Departments and agencies must:

- a.** allow time off work to members of the Reserve Forces, Territorial Army and Cadet Forces;
- b.** allow time off for attendance required by:
 - the Safety Representatives and Safety Committee Regulations 1977;
 - Sections 168-170 of the Trade Union and Labour Relations (Consolidation) Act 1992 for trade union activities; and
 - Section 50 of the Employment Rights Act 1996 for certain public duties;
- c.** give young people the opportunity to attend suitable day classes for one day a week at a college of further education or similar institution until the end of the term in which they are 18. This opportunity may be:
 - deferred by agreement between the department or agency and the individual; and

- extended beyond the formal entitlement until the end of the session or course of study, including any examinations;

d. make it clear to staff who are granted time off work with pay that they must not claim or accept attendance fees or any compensation other than for travel and subsistence. For any period of approved absence due to public service, the total of any fees provided by the department, agency, or public body in question must compensate only up to the extent of the officer's actual loss of earnings from his or her department or agency; and

e. regard staff as being on official duty when they are called upon in their official capacity:

- to give evidence in criminal and civil proceedings and in coroners' courts; or
- to attend other official bodies as witnesses or in other capacities.

9.2.6 Departments and agencies must allow members of the Reserve Forces, Territorial Army and Cadet Forces to accept payments which result from such service. They are not subject to the restrictions imposed by paragraph 9.2.5d.

Guidance

9.2.7 Personnel Information Note (PIN) 27

(<http://www.civilservice.gov.uk/about/resources/pins/index.aspx>)

reminds department and agencies of the assistance that can be provided to staff who have a caring responsibility for dependants who are elderly, infirm or disabled. It also discusses support for staff who participate in voluntary public service.

Senior Civil Service

9.2.8 The annual leave allowance for members of the Senior Civil Service is based on the member's period of continuous employment in the Civil Service, as shown in the table below, subject to any variation granted in accordance with paragraph 9.2.9:

Length of Service	Annual leave entitlement
Up to 1 year	25 days
1 year - up to 2 years	26 days
2 years - up to 3 years	27 days
3 years - up to 4 years	28 days
4 years - up to 5 years	29 days
5 years or more	30 days

9.2.9 Departments may grant more annual leave than is shown in the table in paragraph 9.2.8 to staff recruited from outside the Civil Service, up to a maximum of 30 days. This will be on an exceptional basis based on a robust business case, and each exception must be specifically determined in accordance with the department's relevant internal process.

9.2.10 Members of the Senior Civil Service are also entitled to all public holidays and one privilege day a year for the Queen's official birthday (see paragraph 9.2.4) and must be offered time off in lieu if they are required to work on public holidays or on the privilege day. Departments must not grant any additional privilege leave days to members of the Senior Civil Service, beyond one day for the Queen's official birthday.

9.2.11 Staff who are members of the Senior Civil Service on the day before 01 July 2013 will retain their existing contractual annual leave. However, when staff are promoted into or within the Senior Civil Service on or after 01 July 2013 as a result of an advertisement or notice placed on or after that date their annual leave allowance will be as set out in the table in paragraph 9.2.8 above.

9.3 Maternity, Paternity and Shared Parental Leave Arrangements

9.3.1 Departments and agencies have authority to determine their own arrangements for maternity leave and payment related to such absence subject to the following conditions.

Conditions

9.3.2 Departments and agencies must:

- a.** allow a woman member of staff paid maternity leave of at least three months and one week for monthly-paid staff or 14 weeks for weekly-paid staff for the period of continuous absence before and after confinement provided that she:
 - states that she intends to return to work in the Civil Service after her confinement, and agrees to repay any payment made during that period if she fails to return (such payment will exclude any Statutory Maternity Pay to which she is entitled); and
 - is in paid service at the time her maternity leave begins and has rendered at least one year's such service.
- b.** ensure that Statutory Maternity Pay is offset against paid maternity leave, and that any maternity allowance in payment is deducted from paid maternity leave.
- c.** allow a woman who qualifies for paid maternity leave to have unpaid maternity leave which cannot be terminated earlier than 41 weeks from the date of actual confinement, except with the woman's consent.

Ordinary Paternity leave

9.3.3 Departments and agencies must allow qualifying staff at least two weeks' paid paternity leave on each relevant occasion.

Additional Paternity Leave

- 9.3.4** The terms and conditions for additional paternity leave are set down centrally.
- a.** Departments and agencies may only grant additional paternity leave, and provide payment for it, in accordance with the statutory requirements governing this category of leave. Departments and agencies may not alter any of the eligibility criteria nor pay additional paternity leave above the statutory minimum rate.
 - b.** Eligible fathers or partners are entitled to take additional paternity leave if their baby is due to be born on or before 4 April 2015, or a child is placed for adoption with them on or before the same date. Additional paternity leave will no longer be available for fathers or partners whose baby is due to be born on or after 5 April 2015 or where a child is placed for adoption with them on or after the same date.

Shared Parental Leave and Pay

- 9.3.5** Departments and agencies have authority to determine their own arrangements for shared parental leave subject to the following condition:
- Departments and agencies may only grant shared parental leave in accordance with the statutory requirements governing eligibility for this category of leave.
- 9.3.6** Departments and agencies have authority to determine their own arrangements for payment related to shared parental pay, subject to the following conditions:

Conditions

- 9.3.7** Departments and agencies must:
- a.** only provide payment for shared parental leave in accordance with the statutory eligibility criteria;
 - b.** pay shared parental pay at the same occupational rate as they pay occupational maternity pay provided that the eligible employee:
 - is claiming statutory shared parental pay;
 - is in paid service at the time their shared parental leave begins and has rendered at least one year's such service; and
 - states that they intend to return to work in the Civil Service after their period of shared parental leave and agrees to repay any payment made during the period if they fail to return (such payment will exclude any statutory shared parental pay to which they are entitled)
 - c.** ensure that statutory shared parental pay is offset against paid shared parental leave

- d. ensure that the number of weeks in respect of which an employee is entitled to receive such payment as is set out at 9.3.7 b above, is reduced by the number of weeks in which statutory maternity pay, maternity allowance or statutory adoption pay has been claimed and (where the other parent is also a Civil Servant) the number of weeks statutory shared parental pay they have notified of their intention to claim.

9.4 Attendance During National Emergencies

9.4.1 Special provisions, operative only on Cabinet Office notification, apply to civil servants called to serve in the Reserve Forces during national emergencies. Copies may be obtained from Employment Practice Division, Cabinet Office.

9.5 Sick Absence

9.5.1 In determining for their own staff the terms and conditions for absence due to incapacity because of illness (i.e. sick absence) and for payments related to such absence, departments and agencies must abide by the following conditions.

Conditions

9.5.2 The rules of a department or agency must prescribe:

- a. that staff who are sick are allowed to be absent from their place of work;
- b. the time limits within which sick pay and absence are allowed; and
- c. that satisfactory evidence of incapacity is provided before sick absence is allowed.

9.5.3 Departments and agencies must ensure that:

- a. sick absence is managed effectively and kept to a minimum, using monitoring arrangements which trigger management action when a sick absence record could be cause for concern;
- b. sick absence is granted only if there is a reasonable prospect of a return to work;
- c. annual leave is not taken instead of sick absence;
- d. sick absence is recorded and made available to the contractor to the Cabinet Office for the collation and analysis of sick absence statistics;
- e. any Social Security benefits that are payable during sickness or injury are subsumed within the limit of full pay. A notional amount representing a Social Security benefit must be deducted from full pay if the member of staff decides not to cash the benefit;

- f. where arrangements are made for sick pay at pension rate, they obtain a calculation of the amount of sick pay at pension rate from their pension awarding authority; and
- g. the minimum level of sick pay for re-employed pensioners plus any pension is no lower than the amount they would have received from a reassessment of their pension awards had they ceased work on the first day of sick absence. The pensions paying department or agency must continue to pay any pension at the rate already in issue.

9.5.4 Sick Pay at pension rate must be increased in line with pensions increase legislation.

9.6 Absence due to Injury, Disease or Assault at Work

9.6.1 Departments and agencies must operate the following rules and procedures where absence is due to:

- a. injury sustained or disease contracted in the course of duty;
- b. injury resulting from an assault in the course of duty or clearly connected with duty.

Injury or disease

Absence

9.6.2 If a member of staff is absent due to an injury sustained or a disease contracted in circumstances that satisfy the qualifying conditions for injury benefit under the Principal Civil Service Pension Scheme, departments and agencies must:

- a. provide six months' injury absence on full pay before normal departmental or agency sick pay arrangements are applied;
- b. where delegated authority has not been granted, make application to Civil Service Pensions Division, Cabinet Office for the payment of injury benefit and any additional injury absence;
- c. not make deductions from either sick pay or ordinary pay, on return to duty for:
 - disability benefit awarded under the Social Security Acts in respect of an injury sustained at work; or
 - for an increase in disability benefit or disability pension during approved hospital treatment;
- d. ensure that where any injury is due wholly or in part to the negligence of the Crown, the whole of such period of absence, or proportionate part thereof, does not reckon towards the time limits of the department's or agency's sick absence scheme; and
- e. ensure that any proportion of any contributory negligence by the injured officer reckons towards the time limits of the department's or agency's sick absence scheme.

Claims for damages

9.6.3 Where a claim for damages lies against a third party, departments and agencies must:

- a. require staff to include in the claim a specific amount for loss of earnings;
- b. provide an advance of salary in place of any pay due for injury absence under paragraph 9.6.2a and/or any sick pay due under the departmental or agency sick pay arrangements;
- c. require staff to repay proportionately any advance of salary where the claim for damages is wholly or partly successful; and
- d. ensure that where all or part of the advance is repaid, a period representing the repaid advance does not reckon towards the limits of the department's or agency's sick absence scheme.

9.6.4 Where a claim for damages is against a third party who is a servant of the Crown acting during the course of duty, or where it is alleged that a breach of duty on the part of the Crown has caused the accident, departments and agencies must:

- a. ensure that a civil servant in receipt of full sick pay does not include in the claim any amount for loss of earnings;
- b. allow staff on less than full pay to claim damages for the amount that would bring their remuneration up to full pay;
- c. allow staff to claim damages for any gross salary or wages that would have exceeded full sick pay had they not been absent due to injury; and
- d. where necessary, apply the conditions at paragraph 9.6.3c and d above.

Assault

Absence

9.6.5 Any sick absence due to an assault in the course of duty, or when not on duty but clearly connected with duty, must not reckon towards the maximum period of sick absence allowed under a department's or agency's sick absence schemes.

9.6.6 Where an absence is due to such an assault, and no claim for damages is made, staff must:

- a. receive full pay, less any Social Security sick or injury benefits; plus
- b. any additions for excess hours, shift and night working payments, calculated on average hours worked over the immediately preceding calendar quarter.

Claims for damages

9.6.7 Where a member of staff makes a claim for damages following such an assault departments and agencies must:

- a.** provide an advance of salary that represents the amount provided by paragraph 9.6.6a and b above;
- b.** ensure that the claim includes a specific amount for loss of earnings; and
- c.** require staff to repay proportionately any advance of salary where the claim for damages is wholly or partly successful.

10. STAFF MOVEMENT AND REDEPLOYMENT

10.1 Mobility

10.1.1 Departments and agencies have authority to determine the extent to which their own staff have a mobility obligation and the circumstances in which the obligation should be extended to include service overseas subject to the following conditions.

Conditions

10.1.2 Departments and agencies must ensure that:

- a. details of the mobility requirement are given to all staff, and made clear to new staff in their letter of appointment; and
- b. changes to mobility requirements have no implications for staff with reserved rights to the pre-1 April 1987 early retirement terms set out in Section 7 of the Civil Service Compensation Scheme.

10.1.3 The minimum mobility obligation for all staff must be a liability to:

- a. move between posts which are within reasonable daily travelling distance of their home; and
- b. serve away from home for periods of detached duty.

10.1.4 Mobility requirements must be capable of being justified by departments and agencies if challenged.

Senior Civil Service

10.1.5 Full-time staff in the Senior Civil Service may be required to transfer to any post in the Senior Civil Service in the UK. Departments and agencies have authority to decide whether to extend this mobility requirement to include service overseas. The mobility obligation for part-time staff is the minimum obligation defined in paragraph 10.1.3 above.

10.2 Transfer of Staff between Departments and Agencies

10.2.1 Departments and agencies have authority to determine the circumstances (other than for machinery of government changes) in which staff may be transferred between departments and agencies, including the filling of vacancies in one department or agency with staff from another and the movement of staff between departments and agencies to promote career development or on compassionate grounds, subject to the following conditions.

Conditions

10.2.2 Departments and agencies must:

- a. take into account the interests of the Civil Service at large and in particular the needs of small departments, and of staff whose security clearance has been withdrawn;
- b. take into account the interests and needs of staff, particularly surplus staff, where other departments and agencies have given notice of surpluses;
- c. release successful candidates for posts which have been trawled (advertised inter departmentally) within eight weeks of notification of success (four weeks for members of the Information Group) unless a later date for release is agreed;
- d. ensure that the redeployment of staff does not conflict with the Civil Service Commission's Recruitment Principles;
- e. in respect of posts in the Top 200 (see Section 5.2), follow the procedures described in the SCS guidance published by the Cabinet Office; and
- f. where transfers are compulsory, have regard to the principles set out in paragraph 7 of the Introduction to this Code.

Machinery of government changes

10.2.3 The general rule when functions are transferred from one department to another is that staff are transferred with the work. Paragraph 10.2.2f applies where transfers are compulsory. More detailed advice may be sought from the Private Offices Group, Cabinet Office.

Departmental contacts

10.2.4 The Cabinet Office maintains a list of contact points (which is revised and circulated regularly) to enable departments and agencies to distribute details of vacancies which they are seeking to fill from within the Service and give notification of surplus staff.

10.3 Secondment

General

10.3.1 Secondment is the term used to describe the voluntary movement of individuals into or out of the Civil Service on a temporary basis, in a way which does not affect their employment status.

10.3.2 Departments and agencies are encouraged to arrange for the interchange of staff between the Civil Service and outside organisations where they are satisfied that it would benefit their wider interests and the individuals concerned. There are no limits on age or grade.

10.3.3 Secondment into the Civil Service must not conflict with the Civil Service Commission's Recruitment Principles (<http://www.civilservicecommission.org.uk>). The terms of attachment of any foreign nationals must not conflict with the Civil Service nationality rules (<http://www.civilservice.gov.uk/about/resources/nationality.aspx>).

10.3.4 Subject to paragraph 10.3.5, the terms of secondment are a matter for negotiation between the receiving organisation, the sending employer, and the secondee.

10.3.5 Officers seconded outside the Civil Service do not cease to be civil servants and the provisions of Chapter 4, Conduct and Discipline continue to apply to them, including those relating to disclosure of information, conduct and discipline. Where a member of the Senior Civil Service continues to receive a civil service salary during a secondment, departments and agencies may agree to any proposal by the host organisation for an additional modest payment, usually in the form of a one-off non-pensionable terminal bonus, provided that total remuneration and allowances from all sources do not exceed the limits set out in paragraph 7.1.13.

Pension arrangements

10.3.6 A civil servant who accepts an outward secondment must be given a written statement of the effect upon his or her pension arrangements.

10.3.7 Pension arrangements for the secondment of civil servants are set out in section 5 of the Employer's Pension Guide which is available at <http://www.civilservice-pensions.gov.uk/Menu.asp>. Departments and agencies wishing to offer alternative secondment terms must obtain the prior written authority of Civil Service Pensions (CSP) Division, Cabinet Office.

Injury benefits

10.3.8 Departments and agencies must agree the arrangements for injury benefit cover before any secondment (inward or outward) commences, and must give the secondee a written statement explaining who is providing it, and if it is being provided by the PCSPS, what it comprises. (If a department or agency wishes to provide injury benefit cover to an inward secondee, the prior authority of CSP Division must be obtained.)

10.3.9 The arrangements referred to in paragraph 10.3.8 must ensure that a secondee who remains in the pension scheme of the sending employer will receive cover from that employer. In other cases, the receiving organisation must provide the cover. CSP Division will advise departments and agencies where there is any doubt about liability. Information about the provision of cover for injury benefit to seconded civil servants is set out in section 5 of the Employer's Pension Guide which is available at <http://www.civilservice-pensions.gov.uk>.

The Celtec judgement

10.3.10 The House of Lords judgement in *Celtec Ltd v. Astley & others* (the 'Celtec judgement') impacts directly upon all departments and agencies considering the secondment of employees to a non-Civil Service organisation to which the function in which those employees are engaged is being transferred. The Celtec judgement concluded that a group of individuals seconded in the above circumstances legally became employees of the non-Civil Service organisation from the date on which the function was transferred to that organisation, notwithstanding the secondment agreement which had been entered into.

10.3.11 The judgement affects, inter alia, the individual's right to continued active membership of the PCSPS as only people employed in the Civil Service (or a body listed in Schedule 1 of the Superannuation Act 1972) are eligible for membership of the PCSPS. It may also affect the individual's entitlement to compensation if subsequently made redundant. Consequently, it is essential that specific legal advice is obtained by all departments and agencies considering a secondment arrangement as outlined in paragraph 10.3.10 above to clarify whether the arrangement would be invalidated by the Celtec judgement.

10.4 Service with the European Institutions

10.4.1 Departments and agencies should encourage staff with potential to consider service with the European institutions as part of their developmental training. Work in the institutions should normally be regarded as experience which will be valuable to the department or agency on the officer's return. Opportunities exist for both temporary and permanent employment within the European institutions.

Temporary appointments

10.4.2 The following schemes offer temporary service:

- a. the Stagiaire schemes provide short-term (five months) secondment giving staff the opportunity to gain first-hand experience of the working and interaction of the European institutions;
- b. the Detached National Expert scheme provides the opportunity for secondment to the European Commission for up to three years to fill a specific post; and
- c. the Agent Temporaire and Auxiliaire schemes offer temporary contracts for a period of up to three years. However, staff need not resign from their employing department or agency and should be offered unpaid time off work if departments and agencies are satisfied they will be able to re-absorb the officer. Where such offers are made, departments and agencies should ensure that those on temporary contracts are treated in accordance with the appropriate terms and conditions of service applying to their UK based staff, including promotion and future pay.

Pay and living allowances

10.4.3 Staff seconded to the European Commission continue to receive their salary from their employing department or agency which is also responsible for paying ERNIC and accruing superannuation liability charge (ASLC). Stagiaires also receive a cost of living allowance. Detached National Experts are paid a living allowance by the Commission but, where this is less than would have been paid under departmental or agency overseas conditions of service rules, the department or agency must in addition pay the difference between the two amounts.

Permanent appointments

10.4.4 Staff who take up permanent appointments are required by the rules of the European institutions to resign from their previous employment.

Re-appointment

10.4.5 Departments and agencies should consider giving a guarantee of re-appointment to staff who return within five years of accepting a permanent appointment with a European institution provided they are satisfied they will be able to reabsorb the officer.

10.4.6 Where an absolute guarantee is given and no post is available when the officer returns then, provided the officer has completed at least one year's qualifying service, compulsory early retirement or compulsory early severance on redundancy grounds must be awarded (see Pensions Manual: Early Retirement Volume - Section 4) (<http://www.civilservice-pensions.gov.uk/Menu.asp>).

Pension arrangements

10.4.7 Departments and agencies must ensure that, before departure, staff taking up either a permanent or Agent Temporaire appointment receive specialist advice from their superannuation section in respect of the pension implications of their change of employment.

Further information

10.4.8 The European Staffing Branch, Cabinet Office can provide further advice relating to secondment and employment in the European Institutions, visit <http://www.eu-careers-gateway.gov.uk>.

11. LEAVING THE CIVIL SERVICE

11.1 Notice and References

Notice

11.1.1 Because of the constitutional position of the Crown and the prerogative power to dismiss at will, civil servants cannot demand a period of notice as of right. But in practice departments and agencies will normally apply the periods of notice set out below, unless: employment is terminated by agreement; or, if exceptionally, the civil servant is employed on a fixed -term or rolling contract which does not expressly provide that in practice such notice will be given if the employment is terminated prior to the maximum period of employment fixed by such a contract. On the expiration of such period of notice, the employment of the civil servant will terminate.

Minimum periods of notice

11.1.2 In accordance with paragraph 11.1.1, the minimum periods of notice in the table below will be given to staff:

- a. who are retired on age grounds (subject to 11.3.1);
- b. who are dismissed on efficiency grounds;
- c. whose dismissal is the result of disciplinary proceedings in circumstances where summary dismissal is not justified; or
- d. whose probationary appointments are terminated.

Continuous service for:	weekly paid staff	monthly paid staff
Up to 4 weeks	up to 2 weeks	} 5 weeks
4 weeks to 2 years	2 weeks	
2 to 3 years	3 weeks	
3 to 4 year	4 weeks	
over 4 years	1 week plus 1 week for every year of continuous service to a maximum of 13 weeks.	

Medical early retirement

11.1.3 In accordance with paragraph 11.1.1, staff who are retired on medical grounds (see Section 11.10) will be given the period of notice set out in paragraph 11.1.2 subject to the following minimum periods:

- a. five weeks during probationary service. This may be extended by up to a further three weeks if the officer (or the appropriate trade union) is considering an appeal; or
- b. nine weeks in other cases, unless a shorter period is agreed.

Compulsory termination of appointment

11.1.4 In accordance with paragraph 11.1.1, staff will be given six months' notice (or a period equal to the unexpired part of their fixed period of employment specified in their contract, where this is less) if their appointment is terminated compulsorily on grounds other than those covered by paragraphs 11.1.2 and 11.1.3. This does not apply to:

- a. flexible and approved early retirement and voluntary redundancy, where the date of termination is agreed; or
- b. summary dismissal which is the result of disciplinary proceedings or which is otherwise justified at common law; or
- c. certain staff over age 60 who, if made compulsorily redundant, will be given 12 months notice if they have less than 10 years service or 9 months notice if they have 10-25 years service, provided that this notice does not extend beyond their 65th birthday.
- d. Staff recruited to the Civil Service on or after 9 November 2016. These staff will receive three months' notice in the event of the Compulsory termination of their appointment.

Compensation in lieu of unexpired notice

11.1.6 Where, exceptionally, departments and agencies do not give the relevant period of notice set out above, in full or in part, they must compensate their staff in accordance with Section 9 of the Civil Service Compensation Scheme. This therefore does not apply:

- a. to flexible and approved early retirements and voluntary redundancy, where the date of termination is agreed;
- b. where the person leaves voluntarily before the end of the period of notice;
- c. where the person is summarily dismissed as the result of disciplinary proceedings or otherwise justifiably at common law; or
- d. to staff on those fixed-term or rolling contracts mentioned in paragraph 11.1.1, compensation for whom may be available under Section 8 of the Civil Service Compensation Scheme.

Resignation

11.1.7 Departments and agencies may determine the minimum periods of notice to be given by their own staff when they resign. Staff do not have the right to withdraw their notice, but may do so with the agreement of the department or agency.

Senior Civil Service

11.1.8 Members of the Senior Civil Service must give a minimum of 3 months' notice in writing when they resign. Staff with rights to a one-month notice period on 2 April 1990 may give the shorter period of notice provided they have not been promoted since that date. Such rights will lapse in the circumstances described in paragraph 5.3.2.

References

11.1.9 Departments and agencies must provide references for former employees on request.

11.2 Action Before Leaving the Civil Service

11.2.1 Departments and agencies must remind staff who are leaving:

- a. that the Official Secrets Acts and the duty of confidentiality continue to apply (see Section 4.2);
- b. that permission is needed before publishing memoirs (see Section 4.2);
- c. of the business appointment rules (see Section 4.3 Annex A);
- d. that, provided they comply with the relevant time limits, it may be possible to have a transfer value in respect of pensionable service in the Civil Service paid to their new pension scheme instead of preservation for payment at retiring age or, for those with non-pensionable benefits, instead of being brought back into the State Earnings-Related Pension Scheme (SERPS). A copy of the booklet "Leaving or Opting Out of the Principal Civil Service Pension Scheme" must be given to each leaver, and a note recording the issue put on their personal file.

11.3 Retirement Age

11.3.1 Departments should not have a mandatory retirement age for their staff, except where they have a sound business reason, supported by legal advice, to retain an upper age limit for certain groups.

Staff on loan

11.3.2 Where a member of staff on loan is to retire, the parent department or agency must arrange for their pension to be paid.

11.4 Dismissal on Efficiency grounds

11.4.1 Departments and agencies must provide staff with an internal right of appeal against a decision to dismiss on efficiency grounds (see Section 6.3).

11.4.2 Once a decision has been taken to dismiss a member of staff on efficiency grounds, departments and agencies must determine whether compensation should be paid and, if so, how much. The maximum amount of compensation that may be paid is set out in Section 11 of the Civil Service Compensation Scheme (CSCS). If departments and agencies consider that compensation should be paid, they must assess in percentage terms the extent to which, if at all, they consider the inefficiency to have been beyond the individual's control. The compensation payable should then be calculated by applying that percentage to the maximum that could be paid under the CSCS in that case.

Guidelines for assessing compensation are published by the Cabinet Office.

11.4.3 Staff have further rights of appeal to the CSAB against decisions:

- a. not to pay compensation or the extent to which compensation should be paid.

Provided the relevant conditions in Section 12.1 are satisfied.

11.5 Early Retirement or Severance

11.5.1 Staff can retire or be retired early under the following categories:

- Compulsory Early Retirement or Severance;
- Flexible Early Retirement or Severance;
- Approved Early Retirement;
- Actuarially Reduced Retirement; and
- Medical Retirement.

Early retirement applies to staff aged 50 or over, whereas early severance applies to staff aged under 50. The following sections deal with these categories in greater detail.

11.5.2 The Cabinet Office must be consulted about any proposals to retire staff in the Top 200 group (see section 5.2) early on any grounds.

Benefits Payable on Early Retirement or Severance

11.5.3 Full details of the benefits payable under the various categories may be found in the Civil Service Compensation Scheme (CSCS) and the Rules of the Principal Civil Service Pension Scheme (PCSPS) as appropriate.

11.6 Compulsory Early Retirement or Severance

Compulsory redundancy

11.6.1 The definition of redundancy is set out in Section 139 of the Employment Rights Act 1996. Departments and agencies have authority to determine the redundancy procedures which apply to their staff, subject to the following conditions.

Conditions

11.6.2 Departments and agencies must:

- a.** act consistently with the statutory provisions relating to redundancy, apart from those relating to compensation (which is provided for in the Civil Service Compensation Scheme);
- b.** have regard to good industrial relations practice and take into account the guidance available in the ACAS booklet “Redundancy Handling” (http://www.acas.org.uk/media/pdf/a/3/B08_1.pdf); and
- c.** consider all measures which might avoid or minimise the need for compulsory redundancy.

Voluntary redundancy

11.6.3 As a pre-redundancy measure, departments and agencies may call for volunteers to leave on compulsory terms in order to avoid compulsory redundancy procedures.

Structure

11.6.4 Departments and agencies may retire staff early on grounds of structure. This denotes severe management problems, for example caused by serious promotion blockages or other situations causing serious managerial or organisational difficulties which impair the efficient working of the department. Compulsory early retirement or severance on grounds of structure applies principally to members of the Senior Civil Service. Personnel Information Note (PIN) 25 (revision 1) (<http://www.civilservice.gov.uk/about/resources/pins/index.aspx>) provides guidance on some of the circumstances in which it might, or might not, be reasonable to dismiss a member of staff on grounds of structure.

Limited efficiency

11.6.5 Departments and agencies may retire staff early on grounds of limited efficiency where performance is deemed to fall within the definition in Section 6.3, this has been reflected on at least two occasions in the normal reporting cycle, and no improvement is likely. Compulsory retirement of staff on grounds of limited efficiency applies principally to members of the Senior Civil Service. In all cases downgrading may be considered as an alternative to early retirement.

Appeal to Civil Service Appeal Board

11.6.6 Staff compulsorily retired early (see 11.3.1 and reference to the general retirement policy) (with the exception of those who leave on voluntary redundancy) have a right of appeal to the Civil Service Appeal Board (CSAB) provided they satisfy the relevant conditions (see Section 12.1).

11.7 Flexible Early Retirement or Severance

11.7.1 Departments and agencies may invite staff to leave in the wider interests of efficiency and effectiveness of the Civil Service. The possible grounds are:

- a. Structure** - to help with management problems, for example caused by promotion blockages, succession planning, or organisational changes;
- b. Limited efficiency** - where performance is deemed to fall within the definition in Section 6.3, this has been reflected on at least one occasion in an overall performance assessment and no improvement is likely. Only non-industrial staff are eligible; or
- c. Limited postability** - where staff have to be moved and their background and experience is extremely limited or specialised and/or they are close to retirement age. Only non-industrial staff are eligible.

11.8 Approved Early Retirement

Scheme (a)

11.8.1 Departments and agencies may invite volunteers where retirement would help solve management problems and improve overall efficiency. Only staff aged 50 and over with at least five years' qualifying service are eligible. The criteria for selection must be discussed in advance with the recognised trade unions and made known to staff. Individuals must be informed why their application has been refused.

Scheme (b)

11.8.2 Staff may apply to retire subject to management's approval. Only staff aged 55 and over with at least 25 years' qualifying service are eligible.

11.9 Actuarially Reduced Retirement

11.9.1 Certain staff have a right to retire early and receive immediate payment of actuarially reduced pension at no extra cost to the Exchequer. To be eligible, staff must be aged 50 or over, have two or more years' qualifying service, and be entitled to an actuarially reduced pension which is not less than the guaranteed minimum pension.

11.10 Medical Retirement

11.10.1 Departments and agencies may retire staff early on medical grounds. Staff may also apply for medical retirement. A medical certificate must be issued in each case by the medical services adviser appointed by the Cabinet Office for provisions relating to the PCSPS, before retirement can go ahead. The benefits payable on medical retirement are a charge on the Civil Superannuation Vote. The criteria for medical retirement, that the breakdown in health is such that it prevents the person from carrying out his or her duties and that the ill- health is likely to be permanent, are therefore set by Civil Service Pensions Division, Cabinet Office on the advice of their medical advisers. The last day of service must be within four months and ten days of the issue of the certificate.

11.10.2 These rules do not apply to staff over 65, or who have formally retired on or after reaching the minimum retiring age and who have been re-employed.

Disclosure

11.10.3 Departments and agencies may disclose the medical reasons recorded on retiring certificates. In certain circumstances it may be appropriate for this information to be disclosed by the person's own doctor. Where this seems to be the case, departments and agencies should consult the medical services adviser appointed by the Cabinet Office for provisions relating to the PCSPS. Staff may be given details of their sick record.

Appeals

11.10.4 Staff who have additional medical evidence supporting their case have a right of appeal first to the medical services adviser appointed by the Cabinet Office for provisions relating to the PCSPS and then to an independent Medical Board convened by the adviser against:

- a. a decision to retire them on medical grounds; or
- b. a refusal to retire them on medical grounds.

Appeals are usually made before the person leaves the Service, but late appeals may be submitted up to two months after the date of retirement. All appeals must be supported by documented medical evidence and referred to the medical services adviser appointed by the Cabinet Office for provisions relating to the PCSPS. Where the person concerned is unfit to make the appeal personally, a close relative, friend or trade union may appeal on their behalf during the allowed period. Medical information and the sickness record may be released provided that the person concerned agrees.

11.10.5 Staff have the right to be accompanied by a relative, friend or trade union official at the Medical Appeal Board.

11.10.6 The decision of the board is final.

11.10.7 If an appeal against retirement on medical grounds is successful, the person is regarded as having remained on their normal conditions of service. This means that any superannuation award will be cancelled, and any payment will have to be adjusted retrospectively to give the person the salary to which they would have been entitled during the period. If the appeal fails, the person is regarded as having been medically retired at the date originally set by the department or agency.

12. APPEALS AND LEGAL REPRESENTATION **AT PUBLIC EXPENSE**

12.1 Appeals

Appeals under the Civil Service Code

12.1.1 The Civil Service Code provides for internal review of crises of conscience and other matters: paragraphs 16, 17 and 18 refer (www.civilservicecommission.org.uk).

12.1.2 A civil servant should not be required to do anything unlawful. In the very unlikely event of a civil servant being asked to do something which he or she believes would put him or her in clear breach of the law, the matter should be reported to a senior officer or to the Personnel Director or to an official nominated by the department or agency, who should if necessary seek the advice of the Legal Adviser to the department.

12.1.3 Departments and agencies must establish clearly defined formal procedures for handling complaints. While many complaints will be raised through the management line, there should also be a nominated official or officials who can be approached in confidence in the first instance. The internal resolution procedures will normally involve the Permanent Head of Department or Agency Chief Executive. Departments and agencies should ensure that staff feel confident to voice complaints, and are not penalised for raising concerns in accordance with the procedures. Clear guidance on the procedures should be available to all staff.

12.1.4 Reference to the Civil Service Commission is provided for in paragraph 19 of the Civil Service Code: "If you have raised a matter covered in paragraphs 16 to 18, in accordance with the relevant procedures, and do not receive what you consider to be a reasonable response, you may report the matter to the Civil Service Commission."

12.1.5 The Civil Service Code leaves it open to civil servants to make complaints directly to the Commission, and therefore to judge for themselves whether the Department's internal response, when it is complete, is reasonable. Where a civil servant chooses to refer a concern through the Permanent Head of Department or Agency Chief Executive, or, if that is impractical or inappropriate, through the Personnel Director or equivalent, comments may be added in a covering note but the appeal itself should not be amended. Where a civil servant has gone to the Civil Service Commission directly, the Commission will wish to confirm whether the facts as stated in the complaint fairly reflect the department or agency's position. The Commission should be given full co-operation in establishing the facts.

12.1.6 It will sometimes occur that the instruction which is subject to complaint under paragraph 16 of the Civil Service Code is urgent, and the full process for internal review cannot be completed within the timescale for the action in question. Events may develop so quickly that there is insufficient time to complete the steps described, or senior staff may not be immediately available. In such cases, the civil servant wishing to raise a concern, if satisfied that there is no alternative action available under the procedure, and provided it would not put him or her in clear breach of the law, should carry out the request or instruction in question and immediately afterwards formally record in writing their dissent and the reasons for it. That minute should be sent to the Head of Department, or Chief Executive of the agency, who should advise the departmental Minister, if appropriate. Procedures for internal review and complaint to the Commission may still be followed after the event if the individual has a continuing concern about the action they were required to take.

Civil Service Appeal Board

12.1.7 Departments and agencies must, in appropriate circumstances, inform staff of their rights of appeal to the Civil Service Appeal Board (CSAB). This is an independent appeals body comprising three people sitting together; either the appointed Chairman or Deputy Chairman and two members, one from the Management Side panel and one from the Trade Union panel. It operates without undue formality.

12.1.8 The Board hears appeals against:

- a. refusal to allow participation in political activities (see paragraphs 12.1.15 to 12.1.23);
- b. forfeiture of superannuation (see paragraphs 12.1.24 to 12.1.26);
- c. dismissal and early retirement (see paragraphs 12.1.27 to 12.1.35); and
- d. non-payment of compensation or the amount of compensation paid to civil servants dismissed on efficiency grounds (see paragraphs 12.1.36 to 12.1.40).

Political activities

12.1.9 Civil servants must be given the opportunity to appeal to the CSAB against a department's or agency's refusal to allow participation in political activities (see Section 4.4, Conduct: Political Activities).

12.1.10 Appellants must ensure that the Board receives:

- a. notification of the appellant's intention to appeal within 8 weeks of him or her being told of the department's or agency's final decision following any appeal under internal grievance procedures; and
- b. a full written case within 4 weeks of the date of lodging the appeal.

12.1.11 The Board will forward the appellant's full written case to the department or agency which should, within 4 weeks of receiving it, explain the reasons for its decision and comment if it wishes on points made by the appellant. The Board will send a copy of the department's or agency's submission to the appellant.

12.1.12 The Board will tell the appellant when it will consider the case and ask if the appellant wishes to appear in person and to be assisted. If the appellant appears before the Board, the department or agency will be invited to attend.

12.1.13 The Board may seek relevant evidence from the department or agency or from any other person it considers qualified. Departments and agencies must, if required by the Board, give the appellant access to other papers which he or she wishes to see, if the Board considers they are necessary for the presentation of the appellant's case. In such circumstances the Board will consider carefully any security considerations before requiring departments and agencies to release any papers to the appellant.

12.1.14 Appellants have the right to:

- a. give further evidence either orally or in writing; and
- b. ask a trade union representative or a colleague to assist them with their case and to submit evidence on their behalf.

12.1.15 Departments and agencies may give further evidence orally or in writing.

12.1.16 The Board will consider the appeal in the light of the rules set out in Section 4.4, Conduct: Political Activities. It may recommend to the department or agency that permission to undertake the activity in question should or should not be granted or that there should be specific conditions applied to the granting of permission. The Board will tell the appellant and the department or agency of the Board's recommendation.

12.1.17 If the Head of department or agency does not accept a recommendation of the Board that permission to undertake a political activity should be granted, the department or agency must submit the case for final decision to the Minister responsible for that department or agency and must tell the appellant and the Board of the final decision.

Forfeiture of superannuation

12.1.21 Civil servants may appeal to the CSAB against the withholding of superannuation benefits under rule 8.2 of the Principal Civil Service Pension Scheme (see Annex A to Section 4.5).

12.1.22 Departments and agencies must give the individual a copy of rule 8.2 if superannuation benefits are to be withheld. The appellant may submit written representations about any relevant matters. Such representations may be made on their behalf by a trade union representative or colleague.

12.1.23 The Board's judgement will be accepted by the Cabinet Office.

Dismissal and early retirement

12.1.21 Civil servants must be given the opportunity to appeal to the CSAB if they are dismissed or retired early if, at the date of termination of their employment:

- a. they are UK based;
- b. the dismissal is not on medical grounds;
- c. they have been continuously employed in the Civil Service for at least one year;
- d. their employment is not being terminated at the expiry of a fixed-term appointment in respect of which they have already agreed in writing before 25 October 1999 that they have no right of appeal;
- e. they were not taking part in industrial action, unless:
 - the dismissal was for taking part in protected industrial action; or

– the department or agency 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 re-engagement within 3 months of the date of dismissal; and

f. they were not taking part in unofficial industrial action at the time of dismissal.

12.1.22 Appellants must:

- a. send notice to the Board of their intention to appeal either before their effective date of termination or so that it is received within 3 months of that date; and
- b. send their full written case to the Board within 21 days of giving notice of their intention to appeal.

12.1.23 The Board will:

- a. tell the employing department or agency of the intention to appeal as soon as it is received;
- b. send the department or agency a copy of the appellant's full case and invite them to explain the reasons for their action and to comment, if they wish, on any points made by the appellant; and
- c. send a copy of the department's or agency's statement to the appellant.

12.1.24 The department or agency should reply to the Board's invitation to comment within 21 days.

12.1.25 Appellants have a right to:

- a. receive a copy of the department's or agency's statement;
- b. respond to evidence sought by the Board;
- c. submit representations about any relevant matters;
- d. give further evidence either orally or in writing;
- e. ask a friend, trade union representative or a colleague to assist them with their case and to submit evidence on their behalf;
- f. a copy of any relevant communication between the department or agency and a medical advisor or Welfare Officer, unless the Board considers that there are special circumstances which would make such disclosure undesirable;
- g. access to other papers which they wish to see, as long as the Board considers they are necessary for the presentation of the appellant's case and there are no security considerations; and
- h. a hearing before the Board.

12.1.26 If the Board comes to a majority conclusion that the department's or agency's decision was fair, it will tell the appellant this. The appellant (or his or her representative) has two weeks from the date of the Board's notification of its conclusions to make representations to the Head of Department or to an officer at a level determined by the Head of Department before a final decision is made.

12.1.27 If the Board decides that the decision to dismiss was unfair, it may:

- a. recommend that the appellant be reinstated or re-employed (if the recommendation is rejected, it may award compensation or additional compensation in the case of early retirement); or
- b. specify what compensation (or additional compensation in the case of early retirement) should be paid; or
- c. recommend the appropriate action.

12.1.28 In cases of early retirement on grounds of limited efficiency or structure, the Head of Department or Agency Chief Executive will normally be expected to accept the recommendations of the Board unless there are overriding reasons to the contrary and, before such a recommendation is rejected, other departments and agencies must be consulted about the possibility of a transfer to them.

12.1.29 Departments and agencies must pay compensation awarded by the Board.

Efficiency dismissals: compensation

12.1.30 Departments and agencies must give civil servants the opportunity to appeal to the Board against the department's or agency's decision on compensation.

12.1.31 Appellants must tell the Board of their intention to appeal

- within 21 days of the effective date of termination; or
- if the appointment was terminated without notice, the date on which employment ceased.

12.1.32 Appellants must send their full written case to the Board within 21 days of giving notice of their intention to appeal.

12.1.33 Appellants have the rights described in paragraph 12.1.31.

12.1.34 If the Board decides that the decision not to pay compensation was unjustified or the amount of compensation inappropriate, the department or agency must pay compensation awarded by the Board.

Expenses

12.1.35 Departments and agencies must pay for the following in connection with attendance at a Board hearing:

- a. the travelling and subsistence expenses of:
 - the appellant;
 - any civil servant assisting the appellant;
 - any non-civil servant (other than a full time trade union representative or solicitor or barrister) who, with the Board's agreement, attends with the appellant; and
- b. loss of earnings, if appropriate, incurred by:
 - the appellant;
 - any non-civil servant (other than a full-time trade union representative or solicitor or barrister) who, with the Board's agreement, attends with the appellant.

Communications with the Civil Service Appeal Board

12.1.36 All communications with the Board must be sent to the Secretary, Civil Service Appeal Board, Level 7, Caxton House, Tothill Street, London SW1H 9NA

Email: ccas.civilserviceappealboard@dwp.gsi.gov.uk

It is the sender's responsibility to ensure delivery.

12.2 Legal Representation at Public Expense

12.2.1 Civil servants may be involved in legal proceedings or formal enquiries as a consequence of their employment. Unless the circumstances are covered by the rules set out in paragraphs 12.2.2 to 12.2.5 below, departments and agencies have discretion to grant civil servants so involved some or all of their legal representation or pay for some or all of their legal costs. In deciding whether to exercise this discretion, departments and agencies must take into account the following considerations:

- a. whether or not it is in their interest to grant assistance;
- b. whether the act in question was committed or suffered within the scope of the civil servant's employment.

Rules for departments and agencies

12.2.2 Departments and agencies must provide legal representation for civil servants who are sued for damages as a result of actions carried out in the course of their employment. This representation will be by the solicitor acting for the Crown. Any damages and/or liability for the other sides' costs must also be met from public funds. This right does not apply if:

- a. the department or agency consider that the civil servant was acting outside the scope of his or her employment; or
- b. the civil servant refuses to instruct the solicitor in terms required by the solicitor.

12.2.3 Departments and agencies must also:

- a. provide legal advice to civil servants assaulted in the course of their official duty. Departments and agencies have discretion to give assistance with any subsequent proceedings; and
- b. permit civil servants involved in an inquest or fatal accident enquiry as a result of their official duty to be represented by the legal representatives of the department or agency, provided there is no conflict of interest. Otherwise assistance with legal representation is at the discretion of the department or agency; and
- c. when a formal enquiry might lead to a civil servant being blamed, consider with their legal adviser whether the individual concerned should be given legal representation at public expense; tell the relevant trade union of their provisional decision and give sympathetic consideration to their views; and
- d. provide legal representation for civil servants sued as a result of the findings of the enquiry for actions carried out in the course of their official duty, unless the civil servant appears to have been guilty of wilful or gross negligence.

Right of appeal

12.2.4 Civil servants who are refused legal representation or assistance with legal expenses may appeal to the Head of Department or his delegated representative.

Liability of directors

12.2.5 Subject to paragraph 12.2.6 the Crown will accept responsibility for the civil liabilities, including costs, of a civil servant incurred in connection with his or her performance of the functions of a director (or any similar position, however described) or other officer of a company, provided that the department or agency has given written confirmation that the appointment is one to which this paragraph applies.

12.2.6 Paragraph 12.2.5 will not apply if:

- a.** the liability arises from any wilful default or bad faith on the part of the civil servant; or
- b.** the civil servant is otherwise indemnified against the liability.