

NICS CODE OF ETHICS 2006

GUIDANCE FOR APPELLANTS

Introduction

1. The Civil Service Commissioners for Northern Ireland have a statutory duty to consider and determine appeals to them by a civil servant under the NICS Code of Ethics.
2. Previously, the Commissioners could accept an appeal only after the appellant had exhausted all internal procedures. However, under the new Code of Ethics launched on 10 November 2006, Commissioners may now consider taking direct an appeal alleging breach of the Code without the internal process having been exhausted.
3. The Commissioners have decided that, while it would be our preference that an applicant first uses the internal procedures, we recognise there may be instances where we would accept an appeal without this having occurred. We will examine each case on its merits.

Submission of appeal to the Commissioners

4. If you as a civil servant wish to appeal to the Civil Service Commissioners, you should write to us at the address below explaining why you consider the actions you have been asked to take (or the actions taken by others) are wrong and in breach of the Code of Ethics.
5. You should indicate whether the appeal is being made directly to the Commissioners or as a result of a response from your department or agency or, where appropriate, the Head of the Northern Ireland Civil Service, which you consider is not reasonable.
6. You should forward the correspondence with your department or agency about the matter. You should not submit any department/agency papers which do not form part of this correspondence although your submission may draw the Commissioners' attention to relevant papers. We will obtain the relevant papers from your department or agency directly.
7. You can contact the Commissioners directly or through the person in your department or agency who considered the matter you raised. He or she can add comments with regard to the facts or the substance of the appeal in a covering note, but cannot amend your submission.
8. Where you are contacting the Commissioners directly, it would be helpful if you provided a short explanation as to why you have not raised the matter in your department or agency in the first instance.

Time limit for submitting appeals

9. Your appeal should reach Commissioners within 3 months of the date of the action complained of or, if you have raised the issue through the internal procedures, within 3 months of the date on which you received a final written response from your department to the matter you had raised. In certain circumstances the Commissioners may agree to accept the appeal outside the time limit.

Commissioners' consideration of your appeal

10. The starting point of the process will be to ensure that your appeal is a matter the Commissioners are entitled to investigate.
11. The basis of our consideration will comprise:
 - (i) confirmation that your appeal arises from the fact that you are a civil servant;
 - (ii) confirmation from your department or agency that all the necessary internal procedures set in place for handling matters of concern under the Code of Ethics have been properly exhausted or, alternatively, consideration of your explanation for appealing directly to the Commissioners;
 - (iii) confirmation that the appeal has been received within the specified time limits including consideration of circumstances if the appeal is received outside the time limits; and
 - (iv) an evaluation of the nature of the appeal to confirm that it is a matter which falls within the parameters of paragraphs 15-17 of the Code of Ethics. Further information may be sought from you if necessary.
12. If your appeal passes this initial screening, it will be considered by at least two, but usually three, Commissioners who do not have a vested interest in the issues within the scope of the appeal. The aim will be to respond to appeals as quickly as possible, consistent with a thorough investigation of the case.
13. We will be assisted in consideration of your appeal by our Secretariat, who will act throughout under our direction and will report to us at appropriate stages of the investigation.
14. The Commissioners will ask your department or agency to comment on the facts as stated in your appeal and to submit a report on its consideration of the matter you have raised, including any relevant papers.

Departments and agencies have a duty to co-operate with the Commissioners' investigations.

15. The Commissioners may wish to inspect official papers and files or to talk to you and to people in your department or agency. We may do this directly or via our Secretariat. Interviews will be as informal as possible. With the agreement of the Commissioners, you may be accompanied at interview by a representative of your professional organisation or trade union, or by a colleague.
16. Depending on the nature of your case, we or our Secretariat may seek assistance from an outside expert or independent legal adviser. In cases involving a professional code, we may consult the appropriate professional body. All this may take some time, especially if the case is complex.
17. Upon completion of enquiries into the case, the secretariat will submit a written report to the Commissioners outlining all aspects of the case. The decision whether or not to uphold your appeal will be a matter for the appeal Commissioners.
18. You and your department or agency will be given an opportunity to see the Commissioners' finding in draft and to comment on its factual accuracy. A copy of the final response (including any recommendations) will be sent to you and to your department or agency.
19. Where the investigation produces evidence of criminal activity, this will be passed on to the appropriate authorities including, where appropriate, the PSNI.
20. If the Commissioners considering your case uphold your appeal, they will make recommendations to your department or agency.

Publication of Reports on Appeals

21. The Commissioners will include in Annual Reports an account of the number of appeals we have considered that year together with summary information on those appeals. We may decide to report separately on a particular case, for example, to convey best practice lessons or if a department or agency was to decline to accept a recommendation arising from our findings. Wherever possible, we will do this in a way that does not disclose the identity of those involved in the case.

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