



**CIVIL SERVICE COMMISSIONERS
FOR NORTHERN IRELAND**

**NORTHERN IRELAND CIVIL SERVICE
CODE OF ETHICS**

**CIVIL SERVICE COMMISSIONERS'
GUIDANCE FOR APPELLANTS**

MAY 2013

Finalised May 2013

Contents

Page

1	Introduction	1
2	Who are the Civil Service Commissioners for Northern Ireland?	2
3	What do the Commissioners do?	3
4	What is the NICS Code of Ethics?	4
5	What is a valid appeal under the NICS Code of Ethics?	5
6	Why are human resource issues not covered by the NICS Code of Ethics?	6
7	Example case studies	7
8	Who can make an appeal under the NICS Code of Ethics?	10
9	Do I have to raise my concern with my department first?	11
10	In what circumstances would the Commissioners take an appeal direct (without it having been raised within the department first)?	12
11	How do I raise a concern within my own department?	13
12	What is the objective of the appeal process?	14
13	What if I have a concern and I am not sure if I want to bring it to the Commissioners?	15
14	How can I make an appeal?	16
15	What is the time limit for submitting an appeal?	17
16	What information do I need to provide?	18
17	Can I make an appeal without revealing my identity?	19
18	What happens if my concern is accepted as an appeal for investigation?	20
19	How will my appeal be investigated?	21
20	What can I expect of the Commissioners?	22
21	What will the Commissioners expect of me?	23
22	How long will the investigation take?	24
23	What if my appeal is urgent?	25
24	Can I withdraw my appeal?	26
25	What are the possible outcomes of bringing an appeal?	27
26	What will happen if my department ignores the Commissioners' recommendations?	28
27	How will the result of my appeal be reported?	29
28	What if I am still not satisfied?	30
29	What will happen to me if I bring a appeal?	31
30	Flowchart setting out the appeal process	33

Finalised May 2013

1. Introduction

This Guide will help you to decide whether you can bring an appeal to the Civil Service Commissioners for Northern Ireland (the Commissioners) under the Northern Ireland Civil Service (NICS) Code of Ethics. It explains the appeals process and the possible outcomes.

The Commissioners aim to investigate appeals in an efficient and responsive manner. They will seek to be sensitive to the circumstances of all the participants particularly as it can sometimes be difficult for existing civil servants to say that they believe that things are going wrong in their department. Accordingly, the Commissioners' investigation of an appeal will be fair and objective and governed by an independent, honest, confidential and impartial approach.

Please see section 23 of this Guide for an indication of the possible outcomes of a successful appeal.

We also publish a Guide for Departments, *NICS Code of Ethics - Guidance for Departments*. In addition we publish our *NICS Code of Ethics – Core Guidance* which sets out the position in relation to a number of matters including the legal basis for the Commissioners' role, delegated responsibilities and the service standards that the Commissioners work to.

2. Who are the Civil Service Commissioners for Northern Ireland?

The Commissioners are independent of Government and of the Northern Ireland Civil Service and consists of the Commissioners and our Secretariat.

Commissioners are recruited on merit following public advertisement and a fair and open selection competition. From our different careers and interests we bring experience of the public, private and voluntary sectors and a clear and independent perspective.

You can find out more about us and our work on the Commissioners' Website www.nicscommissioners.org

3. What do the Commissioners do?

The Commissioners' primary functions, as detailed in the Civil Service Commissioners (Northern Ireland) Order 1999 are to:

- (a) act as guardians of the principle of selection on merit on the basis of fair and open competition;
- (b) make General Regulations which prescribe the circumstances in which the Merit Principle shall not apply;
- (c) publish and maintain a Recruitment Code on the interpretation and application of the Merit Principle;
- (d) audit recruitment policies and practices followed in making appointments to the Civil Service to establish whether the Recruitment Code is being observed; and
- (e) require the publication of specified information relating to recruitment and to the use of permitted exceptions to the Merit Principle.

We also have a role in hearing appeals made by existing civil servants under the **Code of Ethics** which is the subject matter of this Guidance. In exceptional circumstances, Commissioners may consider taking an appeal directly from an existing civil servant.

4. What is the NICS Code of Ethics?

The NICS Code of Ethics is issued by the Department of Finance and Personnel and sets out certain core values, including the requirement for existing civil servants to serve a duly constituted administration, whatever its political complexion, with integrity, honesty, objectivity and impartiality.

The NICS Code of Ethics outlines these core values of the Civil Service and gives illustrations of the standards of behaviour expected from existing civil servants.

It also explains the duties of departments to make existing civil servants aware of the Code and its values. Departments must consider concerns raised by existing civil servants under the NICS Code of Ethics and must ensure that existing civil servants are not penalised for raising such concerns.

The NICS Code of Ethics is part of the contractual relationship between an existing civil servant and their employer.

Every organisation faces the risk that something will go badly wrong and ought to welcome the opportunity to address it as early as possible. Whenever such a situation arises, the first people to know of the risk will usually be those who work in or for the organisation. Yet while these are the people best placed to raise the concern before damage is done, they often fear that they have most to lose if they speak up.

**British Standards Institute: Whistleblowing Arrangements Code of Practice PAS 1998:2008
0.2**

5. What is a valid appeal under the NICS Code of Ethics?

The NICS Code of Ethics outlines the core values of the Civil Service: Integrity; Honesty; Objectivity; Impartiality. It describes the standards of behaviour expected of existing civil servants against each of these four values.

If you are asked to do something which conflicts with the values in the NICS Code of Ethics or you are aware that another existing civil servant is acting in conflict with the values, you should raise a concern within your own department.

If you have raised your concern within your own department and do not receive what you consider to be a satisfactory response you may bring an appeal to the Commissioners. The Commissioners may also take an appeal directly from an existing civil servant. In section 10 of this Guide we outline situations where we might decide to take an appeal directly (without it being first investigated by your department).

You must be an existing civil servant to bring a complaint under the NICS Code of Ethics.

The Code does not cover 'human resources management issues'.

6. Why are human resources issues not covered by the NICS Code of Ethics?

The NICS Code of Ethics states that the Civil Service core values:

support good government and ensure the highest possible standards in all that the Civil Service does. This in turn helps the Civil Service to gain and retain the respect of Ministers, the Assembly, the public and its customers.

Thus the NICS Code of Ethics is concerned with the out-ward-facing roles of existing civil servants rather than their internal relations. There will therefore be a public interest dimension to a concern raised under the Code.

It will be noted that Departments will usually have their own mission and values statements that explain the standards expected in relations between existing civil servants. In addition, the relationship between an existing civil servant and their employing department will be subject to employment legislation and Departments will usually have a grievance procedure in place to deal with such matters. These are inward facing relationships and in the ordinary course of events do not have a public interest dimension.

Nevertheless, the Commissioners recognise that it is not always easy to make this clear cut distinction between a human resources management issue and a concern under the NICS Code of Ethics. Situations which touch primarily on an individual's employment may in certain circumstances also have a public interest aspect. However, we will require to be satisfied that there is a demonstrable and significant public interest relating to any individual human resources grievance before we consider an appeal under the NICS Code of Ethics.

7. Example case studies

The following case studies are intended to illustrate the possible application of NICS Code of Ethics to a range of different circumstances.

Scenario 1

A senior manager takes no action when made aware of possible mechanical problems with equipment that could put staff in danger.

Has the Code of Ethics been breached in this scenario?

NO – this is not a breach of the Code of Ethics. The manager has failed to follow departmental procedures, ignored obligations under health and safety legislation and failed in the duty of care to staff. This complaint should be addressed via internal departmental procedures and considered by line management in terms of the performance management system.

Scenario 2

A senior existing civil servant asks a member of staff to prepare a submission to Ministers. The member of staff is instructed to suppress any counter arguments and risks in the submission so as to present the Department's preferred option in the best possible light.

Has the Code of Ethics been breached in this scenario?

YES – the member of staff has been instructed to knowingly provide incomplete and misleading advice to Ministers. This is inconsistent with the NICS core values of integrity, honesty, objectivity and impartiality and is a breach of the Code of Ethics. Complainants should raise their concerns through the internal Code of Ethics complaints procedures in the first instance however there may be circumstances where an appeal is accepted directly. Each case will be examined on its merits. Depending on the particular circumstances surrounding this case, the member of staff may also wish to consider a complaint in line with departmental procedures intended to deal with bullying.

Scenario 3

A member of staff is instructed by a manager to ensure that a contract is awarded to a particular company that has bid for work with the Department under a competitive tendering process.

Has the Code of Ethics been breached in this scenario?

YES – the member of staff has been instructed to ignore departmental procedures established to ensure that all such bids are examined fairly and without bias and all contracts awarded accordingly. Complying with this

instruction would result in the member of staff acting in a manner which is inconsistent with the NICS core values of integrity, honesty, objectivity and impartiality and is a breach of the Code of Ethics.

Scenario 4

A member of staff is unhappy with their annual performance assessment. This has been raised with the reporting and countersigning officers but the assessment remained unchanged. The member of staff feels victimised by line management and considers that the facts of their performance during the year have not been fairly and truthfully recorded in the assessment.

Has the Code of Ethics been breached in this scenario?

UNLIKELY – this type of complaint should properly be pursued under internal personnel complaints procedures. Departments have systems in place specifically to deal with complaints relating to performance management and this would be the most appropriate mechanism for examining these concerns in the first instance. The member of staff may also wish to consider Departmental procedures intended to deal with discrimination. If, after exhausting the other complaint processes, there are particular circumstances which demonstrate that line managers did not act in line with the core values, the complainant may wish to consider a complaint under the Code of Ethics. Complainants should raise their concerns through the internal Code of Ethics complaints procedures in the first instance. There may be circumstances where an appeal is accepted directly. Each case will be examined on its merits.

Scenario 5

A member of staff is openly critical of decisions taken by line management and is subsequently overlooked for opportunities for training, temporary promotion and/or involvement in special projects. The member of staff feels that their input at meetings is not taken seriously and they are belittled in front of colleagues.

Has the Code of Ethics been breached in this scenario?

UNLIKELY – Similar to the circumstances in Scenario 4, this type of complaint should properly be pursued under internal personnel complaints procedures. If the member of staff wishes to make a complaint, this should, in the first instance, be made in line with departmental procedures for dealing with harassment / bullying.

Depending on the particular circumstances surrounding this case, the complainant may also wish to raise the complaint externally under equality legislation.

Scenario 6

A member of staff is aware that a colleague is using information obtained in their capacity as a Planning Officer to assist a planning appeal being pursued by a relative.

Has the Code of Ethics been breached in this scenario?

YES – if the allegation is true then there is misuse of an officer's official position to further the private interests of others. This is inconsistent with the NICS core values of integrity, honesty, objectivity and impartiality and is a breach of the Code of Ethics. This type of complaint should be raised under the internal Code of Ethics complaints procedure however there may be instances where an appeal is accepted direct. Each case will be examined on its merits.

Scenario 7

A member of staff who applied for the position of DP Accountant through open competition alleges that the Chairperson allowed their personal opinion of the member of staff to influence the panel's decision not to appoint them to the position.

Has the Code of Ethics been breached in this scenario?

NO – this type of complaint should properly be pursued through the established recruitment appeals mechanisms and/or if appropriate pursued through external employment tribunal.

Scenario 8

A member of staff is aggrieved about the way in which the Department handled an investigation of a complaint which was made against them under the Department's Harassment and Bullying Policy. They were also dissatisfied with the decision by the Department to bring a disciplinary charge against them.

Has the Code of Ethics been breached in this scenario?

NO – this type of complaint should properly be pursued through the established harassment and bullying appeal mechanisms and/or if appropriate pursued through the external maladministration process.

8. Who can make an appeal under the NICS Code of Ethics?

As an existing civil servant you may bring a concern to the Commissioners if you believe that you have been asked to behave in a way that runs contrary to the values set out in the NICS Code of Ethics or have witnessed such behaviour from another existing civil servant.

We will normally expect that you have raised your concern within your own department before you bring it to the Commissioners. We can take an appeal directly without the issue being raised with your department if we judge it right to do so. We explain later in this Guide the circumstances that might lead us to accept an appeal directly from an existing civil servant.

In this Guide 'concern' means any issue raised by an existing civil servant relating to the values and standards described in the NICS Code of Ethics. If a concern is brought to the Commissioners and it is one that they should consider be investigated, then it is termed an 'appeal'.

The Commissioners have no power to hear appeals from members of the public about the behaviour of existing civil servants.

Most appeals of this nature can be dealt with by the Northern Ireland Ombudsman and any member of the public can access their web site which explains more about their role at www.ni-ombudsman.org.uk

9. Do I have to raise my concern with my department first?

In most cases it is better that concerns are dealt with within the department in which they arise. If a department can address and resolve concerns itself then it can learn from the process.

The Commissioners would expect you, in the ordinary course of events, to raise your concern within your own department and to allow the department time to carry out a full investigation.

If you do not wish to raise your concern with your line manager or within your line management chain, you should approach one of your department's Nominated Officers. Nominated Officers are appointed within each department to advise staff on the NICS Code of Ethics. Details of your department's Nominated Officers should be available on your internal website or from your Human Resources department. If you cannot discover who your department's Nominated Officers are, we may be able to help put you in touch with them.

However there may be circumstances in which the Commissioners would take an appeal for investigation directly, without internal departmental processes having been fully followed.

10. In what circumstances would the Commissioners take an appeal directly?

There may be a number of reasons why it would be appropriate for the Commissioners to take an appeal directly without it having been raised within the department in the first instance.

This will depend upon the particular facts of an individual case but these might include:

- where the managers immediately above the existing civil servant are involved in the matter of concern;
- where the Permanent Secretary or Chief Executive are involved in the matter of concern;
- where the issue of concern is time-limited, urgent and serious;
- where the Commissioners consider that the existing civil servant may have suffered a detriment as a result of raising a concern or is likely to suffer a detriment in future.

11. How do I raise a concern within my own department?

You should normally raise a concern by talking to your line manager or someone else in the line management chain.

If for any reason this would be difficult, you can raise the matter with one of your department's Nominated Officers. Nominated Officers are appointed within each department to advise staff on the NICS Code of Ethics.

If you have raised a concern within your department but do not receive what you consider to be a reasonable response, you may bring an appeal to the Commissioners.

12. What is the objective of the appeals process?

The objective of the appeals process is to allow Commissioners to investigate and determine whether there has been a breach of the NICS Code of Ethics.

If your department has already investigated your concern we will consider the outcome of that investigation. We are not principally concerned with process. Our focus is on upholding the Northern Ireland Civil Service values and the right of existing civil servants to bring an appeal. We may however make recommendations to your department on how it might improve its processes in future.

If we conclude that there has been a breach of the Code of Ethics we will make recommendations to address the situation and to ensure that it is not repeated.

Ultimately the Commissioners are upholding the effectiveness of the Northern Ireland Civil Service by providing an independent and objective element to the investigation of appeals. We also provide a strong independent voice with a view to ensuring that those who raise concerns are not penalised for doing so.

13. What if I have a concern but I am not sure if I want to bring an appeal to the Commissioners?

Your department should encourage you to raise what you consider amounts to a concern about an issue that touches on the core Northern Ireland Civil Service values outlined in the NICS Code of Ethics.

If you do not feel comfortable raising an issue with your line manager or someone else in the line management chain, then you can contact one of your department's Nominated Officers.

You may also contact one of the staff of the Commissioners to talk the matter through. Please see our website for details on how to contact our office. Our staff will be happy to talk to you, but we would urge you to raise the matter internally if that is possible.

14. How can I make an appeal?

The Commissioners consider that there should be a range of straightforward and easily accessible routes available for existing civil servants to bring requests for appeal investigations under the Code. The Commissioners do not prescribe any particular mode of access.

There are clear details of how to contact us on our website which provides a variety of routes of access.

Website: www.nicscommissioners.org

General e-mail address: info@nicscommissioners.org

**Postal address: Stormont House, Room 105, Stormont Estate,
Belfast, BT4 3SH**

General telephone number: 028 90523599

The staff in our office will be happy to assist you on the telephone. In order that your concerns can be formally considered by the Commissioners you will then have to put them in writing, either by e-mail or post.

If you have difficulty using any of these routes of access, please contact our office to discuss what other arrangement may suit your needs.

We will liaise with your representative, for example a trade union representative, if that is what you wish. However it must be clear that it is you who is bringing the complaint and that you are an existing civil servant.

15. What is the time limit for submitting an appeal?

Your wish to appeal should be communicated to Commissioners within 3 months of the date of the matter of concern taking place, or, if you have raised the concern through the internal procedures, within 3 months of the date on which you received a final written response from your department to the concern raised. Upon request, the Commissioners will consider whether there are any extenuating circumstances which would warrant Commissioners agreeing to accept your concern outside the time limit.

16. What information do I need to provide?

To help us with our initial consideration of your concern it would be very helpful if you could provide a clear and concise summary of the concern together with details of how we may contact you. You should include the following:

- Your name
- The department or agency you work for
- Confirmation that you are an existing civil servant
- Your preferred method of communication - e-mail, letter etc
- An address for communication (post or e-mail)
- A telephone number
- A brief summary of actions taken to ensure that the relevant procedures have been followed in accordance with the NICS Code of Ethics
- An explanation of why you think the values in the NICS Code of Ethics have been breached
- Details of how your department has handled your concern: has there been an investigation; what was the outcome?
- An indication, if you can, of how you would like the issue to be resolved

Please provide the supporting documentation which you think would be useful for the Commissioners to have at this stage. If you have a letter or report from your department which outlines their investigation of the issue, it would be helpful to send a copy of that.

We will aim to acknowledge the receipt of your concern within 3 working days of receipt.

We will be trying to form an initial understanding of your concern. If you have a substantial volume of information it may not be necessary to send all of it at this stage.

17. Can I make an appeal without revealing my identity?

We do not encourage anonymous approaches. Anonymity puts enormous barriers in the way of any successful investigation. It does not allow us to establish that the approach has come from an existing civil servant. It is also difficult to exclude the possibility that an anonymous approach is motivated by malice.

We believe a good organisational culture is one where staff who have concerns are confident that it is safe, acceptable and indeed encouraged to raise them openly. If you have concerns about raising an issue within your department you may discuss these concerns with our staff.

18. What happens if my concern is accepted as an appeal for investigation?

The information that you provide will be carefully studied by Commissioners. If we cannot decide on the basis of the information you have furnished that we consider you have a valid concern for investigation we will contact you for further information or clarification.

If we decide to accept your concern as an appeal for investigation we will contact you to inform you and to explain how we will go about conducting our investigation.

We will aim to write to you within 20 working days of receiving your request to let you know whether or not we have accepted your concern for investigation. If we decide that your concern cannot be accepted we will explain why. If you have not provided us with enough information to decide either way, we will ask you for more information to allow us to decide. We will aim to let you know within 20 days of receipt of the additional information.

19. How will my appeal be investigated?

We do not have a rigid approach to the conduct of our investigations. We tailor our approach to the particular circumstances of each case.

Generally, the initial investigation and testing of the evidence will be carried out by the Secretariat. We will then decide whether a Commissioner or group of Commissioners should consider the concern and that Commissioner(s) will be presented with an analysis of the facts of the case produced as a result of the initial investigation carried out by the Secretariat.

As part of the Commissioner(s)' consideration of an appeal, you may be asked to meet Commissioner(s) who will question you in relation to their concern. This is not a formal process and you may, with the agreement of Commissioners, be accompanied by a representative of your professional organisation or trade union representative or by a work colleague. The Commissioner(s) will usually be seeking to gain a greater understanding of your concern and to ask questions that have arisen from the Commissioner(s) consideration of the information supplied. The Commissioner(s) may also want to talk to representatives of the department. This will be done at a separate session. Commissioners will make a preliminary determination of the facts at which stage you as the appellant and the Department will be invited to comment. Upon consideration of such comments, if any, the appointed Commissioner(s) will decide whether on the evidence presented to them there has been a breach of the values and standards in the NICS Code of Ethics. Commissioners may call upon the services of outside experts to help them.

The method of investigation will vary according to the facts of the case. Some cases may be decided on an examination of written evidence alone.

It should be noted that where the investigation produces evidence of criminal activity, this will be passed on to the relevant authorities, including, where appropriate, the PSNI.

20. What can I expect of the Commissioners?

We strive to treat all existing civil servants and members of the public according to the highest standards of behaviour, which will include:

- Politeness
- Efficiency - adhering to the standards established by the Commissioners
- Openness - being pro-active in providing relevant information
- Fairness – providing the same high standards to all without favour or discrimination
- Honesty – stating the facts of a situation clearly
- Clarity – communicating in ways that are easy to understand

We will provide you with an explanation of the decision we make in your appeal and the factors we have taken into consideration in reaching our decision. This will be provided in confidence.

We recognise that we have a responsibility to all existing civil servants who may wish to bring an appeal to the Commissioners under the NICS Code of Ethics.

Vexatious and unreasonable requests can have the effect of reducing our ability to provide an appropriate standard of service to all by commanding a disproportionate share of resources. The Commissioners will not accept an appeal which we consider, in all the circumstances of the case, to be vexatious or unreasonable.

21. What will the Commissioners expect of me?

The Commissioners will be investigating whether there has been a breach of the NICS Code of Ethics. However we also see the appeals process as one which allows departments to continuously improve, acknowledging where things may have gone wrong and learning lessons for the future. It is not an adversarial process and should not be pursued or responded to in a spirit of conflict.

The appeal process works best when there is open, responsive dialogue between our office and you. We may need to clarify points with you and seek further information. It will be helpful if you could attend to these requests as soon as you can. If an early response is not possible, it would be helpful if you could provide an estimated date for reply.

If you are away, or likely to be out of contact for a while, it would be very helpful if you could notify us of this in advance.

In addition to our responsibilities to existing civil servants who may want to bring an appeal, we also have responsibilities to our staff. These include the responsibility to provide a workplace free of harassment of any kind. Accordingly, discourteous or aggressive behaviour will not be tolerated. If such behaviour persists we will discontinue our investigation.

22. How long will the investigation take?

The length of the appeals procedure will depend on the nature of the matter under appeal, its complexity and the volume of documentation under consideration. We aim to deal with all enquiries in a timely manner.

Given the wide variety of circumstances capable of giving rise to an appeal it is not possible to give a precise timetable for our investigation. However, we will seek to establish good and regular communications with all parties and to keep you informed of progress.

As a guide, it is our intention is that any individual step of our investigation should be accomplished within 20 working days.

When contacting you, or your department to seek information, we will usually provide target dates by which we wish to receive a response.

When you are awaiting a response from us, you will receive a target date for the response. If we are not able to meet the target date we will contact you before the target date with a revised timetable.

23. What if my appeal is urgent?

The Commissioners' usual approach to appeals is to deal with them as they are received, essentially on a 'first-come, first-served' basis.

However we may decide that it appropriate to give urgent consideration to a particular appeal, in effect to let it 'jump the queue'.

While each case will be judged on its merits, factors which may be taken into account in deciding whether an appeal should be fast-tracked include:

- where the issue involved in the appeal is time-limited, urgent and serious;
- where Commissioners consider that an existing civil servant may have suffered a detriment as a result of raising a concern or may suffer a detriment in future;
- where there is evidence that serious and irrevocable action is about to be undertaken that might be prevented by the early intervention of the Commissioners;
- where there is evidence that the health of an existing civil servant is being affected by the subject or circumstances of their concern;
- where the appeal raises issues of significant wider public interest; and
- where early investigation of the appeal might prevent disproportionate expenditure of resources that could be incurred if the investigation was delayed.

24. Can I withdraw my appeal?

We consider that it is preferable that concerns relating to the Civil Service values are dealt with within the department in which they arise, where that is possible.

The Commissioners will be investigating whether there has been a breach of the NICS Code of Ethics. However we also see the appeals process as one which allows departments to continuously improve, acknowledging where things may have gone wrong and learning lessons for the future. The Commissioners will therefore support a mutually agreed conclusion to an appeal at any stage of the investigation. Neither you, nor your department should feel that you are locked into an adversarial process from which there is no escape.

However, the Commissioners would be anxious to ensure that you do not feel at any stage that you are being pressured not to bring an appeal or to withdraw one. If you seek to withdraw your appeal we will wish to satisfy ourselves that you are doing so of your own volition and that it is not being done as a result of any kind of pressure.

25. What are the possible outcomes of bringing an appeal?

Paragraph 5 (2) (c) of the Civil Service Commissioners (Northern Ireland) Order 1999 provides that Commissioners may make recommendations arising out of an appeal. There is no restriction on the recommendations that the Commissioners may make.

The nature of the recommendations that the Commissioners might make in upholding an appeal will very much depend upon the particular circumstances of the appeal. If an appeal is upheld the Commissioners will in effect be agreeing with you that in some way and to some degree the values in the NICS Code of Ethics have not been upheld.

It should be understood that the Commissioners do not have any powers to award compensation.

Our focus will be to ensure that the department has taken effective steps to ensure that such a breach of the values is unlikely to reoccur. Where the reason for the breach was to do with systems and processes, we will recommend that changes be made to those systems and processes. If the breach was due to human error then our recommendations are more likely to focus on management and training issues. It might be that one of our recommendations is a simple apology. It will depend upon the facts of the case.

There may be situations where we have accepted an appeal directly due to the urgency and seriousness of the alleged breach of the NICS Code of Ethics and our investigation will prevent the breach occurring. However in most situations the breach will have occurred some time in the past. In these circumstances we see the primary outcome of our investigation as preventing a future reoccurrence. This can occur in two ways. Firstly, because the department will recognise where the breach occurred and will learn from that and secondly, because we may make practical recommendations to ensure that it does not happen again.

In some cases our recommendation might be that another body should look at the issue. It may be that another regulator would be more experienced and better equipped to investigate the matter. Alternatively we might conclude that, where appropriate, the concerns should be the subject matter of an independent Enquiry.

26. What will happen if my department ignores the Commissioners' recommendations?

There is no provision in the Civil Service Commissioners (Northern Ireland) Order 1999 requiring a department to follow the Commissioners' recommendations. However in practice we consider that there are significant levers of powers available to us in the event that our recommendations are not followed.

The most obvious of these is to draw the attention of the public and the Assembly to the fact that our recommendations have not been actioned. It is not our usual practice to 'name and shame'. Experience indicates that departments will take action when an independent, outside regulator concludes that their actions have fallen short of the required standard.

When we uphold an appeal we return to the department later to ensure that our recommendations have been implemented. If we were not satisfied that our recommendations had been followed we would initially raise the matter with the Permanent Secretary or Agency Chief Executive concerned. Where this did not produce the required action we would then draw the matter to the attention of other appropriate bodies such as the Select Committee of the Northern Ireland Assembly or the Northern Ireland Assembly Commissioner for Standards.

27. How will the result of my appeal be reported?

You and your department or Agency will be given an opportunity to see the Commissioners' preliminary determination of facts in draft and to comment on their accuracy. We will then send the final report of our investigation and its conclusions to you and to your department in confidence.

The outcomes of all finalised appeals are included in the Commissioners' Annual Report. The name of the department and the name of the existing civil servant who brought the appeal are not given in the Annual Report. Only a summary is given of the nature of the appeal.

We consider that the appeals process works best when existing civil servants and departments understand that it is intended to be confidential. All parties can share information and, where appropriate, admit to errors.

The Commissioners are mindful of the legal constraints that preclude an absolute assurance of confidentiality including, for example, the Freedom of Information Act 2000. We do however believe that confidentiality is important to this process and we will seek to portray this viewpoint to the Information Commissioners and other relevant authorities.

28. What if I am still not satisfied?

There is no appeal against the decision of the Commissioners in a NICS Code of Ethics appeals case. In those circumstances Commissioners will decline to enter into a protracted correspondence with you or your department about the decision, particularly where the parties have been given an opportunity to comment of the factual accuracy of the preliminary determination of facts.

29. What will happen to me if I bring an appeal?

It is recognised that some existing civil servants may feel nervous about raising a concern or bringing an appeal to the Commissioners. You may be worried that you will be seen as a trouble maker and that your career may suffer.

The NICS Code of Ethics is clear that you should not suffer a detriment as a consequence of raising a concern:

'If you believe that you are being required to act in a way which conflicts with the NICS Code of Ethics, your department or agency must consider your concern, and make sure that you are not penalised for raising it' (paragraph 15 of the NICS Code of Ethics).

The Commissioners consider that departments should encourage their staff to raise concerns and should actively support them in doing so.

Commissioners will take very seriously any suggestion that you have been penalised for raising a concern. We would want you to approach us at any time if you believe this is the case and we would be prepared to use all the remedies available to us to prevent such a situation arising.

30. Flowchart setting out the appeal process

