



**CIVIL SERVICE COMMISSIONERS  
FOR NORTHERN IRELAND**

**NORTHERN IRELAND CIVIL SERVICE  
CODE OF ETHICS**

**CIVIL SERVICE COMMISSIONERS'  
GUIDANCE FOR DEPARTMENTS**

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## 1. Introduction

This Guide is intended to be of assistance to departments when a member of their staff brings 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.

Departments may also wish to refer to *NICS Code of Ethics: Guidance for Appellants* which is written to assist existing civil servants who are considering bringing an appeal to the Commissioners. The Commissioners also publish *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, service standards that the Commissioners work to and the Commissioners' policy on vexatious and unreasonable appeals.

The Commissioners aim to investigate appeals in an efficient and responsive manner which is sensitive to the circumstances of all participants. The investigation of an appeal will be fair and objective and governed by an independent, honest, confidential and impartial approach.

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

The Commissioners are independent of Government and of the 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](http://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 work 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 Code and must ensure that existing civil servants are not penalised for raising such concerns.

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

An existing civil servant may bring an appeal to the Commissioners where he/she considers that they 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 an existing civil servant to have raised their concern within their own department before bringing it to the Commissioners. The Commissioners can however take an appeal directly without the issue being raised within the 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 in these circumstances.

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](http://www.ni-ombudsman.org.uk)

## **6. 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 an existing civil servant is asked to do something which conflicts with the values in the NICS Code of Ethics or is aware that another existing civil servant is acting in conflict with the values, he or she should raise a concern within their own department.

If they have raised their concern within their own department and do not receive what they consider to be a satisfactory response they 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 direct (without it being first investigated by the department).

**The NICS Code of Ethics does not cover 'human resources management issues'.**

## **7. 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 outward-facing roles of existing civil servants rather than their internal relations. Accordingly, a public interest dimension is required in relation 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 concerns. These are inward facing relationships and in the ordinary course of events they 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 convinced that there is a demonstrable and significant public interest relating to any individual human resources grievance before we consider it under the NICS Code of Ethics.

## **8. 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 intending 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 directly. 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.

## **9. Does a concern have to be raised within the department first?**

The Commissioners consider that in most instances 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 usually expect an existing civil servant, in the ordinary course of events, to raise their concern within their own department and to allow the department time to carry out a full investigation.

However there may be circumstances in which the Commissioners would take an appeal 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 consider an appeal directly without it having been raised with 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 should departments deal with concerns that are raised under the NICS Code of Ethics?**

It is for departments to determine what processes they put in place to permit staff to raise concerns under the NICS Code of Ethics and how such processes are publicised. They must however be compliant with the Code which was agreed with the Assembly following devolution in 2007.

Departments should have clear routes for raising concerns and these should be regularly and effectively promoted to staff.

Departments will wish to consider how they will distinguish between concerns under the NICS Code of Ethics and human resources grievances. Staff may not always quote the NICS Code of Ethics when raising an issue of concern and will often not be clear themselves whether they are raising a grievance or an ethical concern. But managers, HR professionals and Nominated Officers should be in a position to determine whether a concern relates to HR issues (a grievance) or to the Civil Service values as set out in the NICS Code of Ethics.

An existing civil servant should normally raise a concern by talking to their line manager or someone else in the line management chain.

If for any reason this would be difficult, they can raise the matter with one of their department's Nominated Officers. Nominated Officers are appointed within each department to advise staff on the NICS Code of Ethics. If your department is not sure how to select and support your Nominated Officers you should contact, in the first instance, the Department of Finance and Personnel, Corporate HR, Policy Division.

If an existing civil servant has raised a concern within their department but do not receive what they consider to be a reasonable response, they may bring that concern to the Civil Service Commissioners.

Departments may be asked to report to the Commissioners the number and nature of concerns that have been raised and dealt with within the department each year. These are concerns that have been resolved within the department and where it has therefore not been necessary to bring the concerns to the Commissioners as appeals. This will allow Commissioners to provide an aggregate report of these concerns in their Annual Report.

## **12. What is the objective of the appeals process?**

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

If a department has already investigated an existing civil servant's 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 a department on how it might improve its processes in future.

If we conclude that there has been a breach of the NICS 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 will happen if the Commissioners accept a concern as an appeal from an existing civil servant in my department?**

When the Commissioners accept an appeal from an existing civil servant they will normally write to the Permanent Secretary or Chief Executive of the department or agency to inform them.

The letter will briefly outline the nature of the existing civil servant's concern.

The letter will probably indicate in general terms how the Commissioners intend to go about the investigation.

Usually the initial letter will ask the department for information in response to the information that which has been presented to the Commissioners by the existing civil servant. In most cases this will include information relating to the department's own consideration of the existing civil servant's concern.

## **14. How will an 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 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, the existing civil servant may be asked to meet Commissioner(s) who will question them in relation to their concern. This is not a formal process and the existing civil servant may, with the agreement of Commissioners, be accompanied by a representative of their professional organisation or trade union representative or by a work colleague. The Commissioner(s) will usually be seeking to gain a greater understanding of the existing civil servant's 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 existing civil servant's department. This will be done at a separate session. Commissioners will make a preliminary determination of the facts at which stage 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. The Commissioner(s) 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.

## **15. What do the Commissioners expect of departments?**

A healthy organisational culture, coupled with good management, should allow a department to resolve most concerns that arise. If this is done within an open and trusting working environment then the department will also be able to learn from the experience of resolving the issue.

However, there will be times when a department has failed to appreciate that a breach of the NICS Code of Ethics has taken place or that its actions in investigating a concern have been deficient. In these circumstances it may take the intervention of the Civil Service Commissioners to bring the matter to a conclusion.

The Commissioners expect departments to engage fully with the process of an appeal investigation. An NICS Code of Ethics appeal investigation is not a legal process and should not be approached from a defensive or over legalistic mind-frame.

Some of the behaviours that the Commissioners would expect to see demonstrated by departments include:

- responses to requests for information and other communications within the timeframe indicated by the Commissioners for response. If this is not possible an early notification with a realistic estimate of when a response can be expected.
- an attitude that recognises that whatever the history of a particular concern or individual, the process of investigating appeals under the NICS Code of Ethics is a healthy one and one that the department may learn from.
- an open engagement in the process, seeking ways to expand the Commissioners' understanding of the area of concern rather than a narrow approach that provides what is asked for and no more.
- sustained engagement in the appeals process from senior figures within the department and access to a senior designated contact.

## **16. What can my department expect from the Commissioners?**

The Commissioners aim to operate an appeals investigation regime that is efficient, open, fair, honest and clear.

The behaviours that departments can expect to see from the Commissioners include:

- timely confirmation that the Commissioners have accepted an appeal request. (The Commissioners will not inform departments that a concern has been raised if it is not accepted as an appeal by the Commissioners.)
- timely and clear information in relation to an appeal that has been accepted by the Commissioners directly (without going through the department's internal procedures). The Commissioners will provide as much information to the department as it can, within the limits of its responsibility to the existing civil servant bringing the appeal, in relation to the reasons why it has agreed to take an appeal directly.
- an investigation that is concluded as quickly as possible consistent with a fair and thorough examination of the case.
- where recommendations are made as result of investigating an appeal, clear expression of what the recommendations are and a timetable that the Commissioners would expect to be followed for implementation.

If the Commissioners uphold an appeal it will provide the department with the reasons for its findings and details of any recommendations it will make.

There will also be situations where the Commissioners do not uphold an appeal but nevertheless believe that the investigation has produced evidence that the department should consider further. It may be that there has been no breach of the Code but the policies and procedure in place in the department are in some way short of good practice. In these circumstances the Commissioners will feed back their observations to the department to allow the department to learn and revisit its approach in light of this experience.

## **17. 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 appeals it is not possible to give a precise timetable for an investigation. However, we will seek to establish good and regular communications with all parties and to keep you informed of progress.

The service standards the Commissioners aim to work to are described in the Commissioners' *NICS Code of Ethics: Core Guidance*.

## **18. Can an existing civil servant withdraw an 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 process at any stage of the investigation. Neither the existing civil servant nor the department should feel that they are locked into an adversarial contest from which there is no escape.

However, the Commissioners would be anxious to ensure that the existing civil servant does not feel at any stage that they are being pressured not to bring an appeal or to withdraw one. If an existing civil servant seeks to withdraw their appeal we will wish to satisfy ourselves that they are doing so of their own volition and not as a result of any kind of pressure.

## **19. 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 depend upon the individual circumstances of the appeal. If an appeal is upheld the Commissioners will in effect be agreeing that in some way and to some degree the values in the NICS Code of Ethics have been compromised.

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

The Commissioners' focus will be to ensure that the department has taken effective steps to ensure that a breach of the values is unlikely to reoccur. Where the reason for the breach was to do with systems and processes, the Commissioners will recommend 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 on the factors 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 seeking to prevent 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 be better equipped to investigate the matter. Alternatively, we might conclude that, where appropriate, the concern should be the subject matter of an independent Enquiry.

## **20. How are the results of appeals reported?**

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

The outcome of all finalised appeals are included in the Commissioners' Annual Report which is usually published in July. 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 the appeals process works best when existing civil servants and departments understand that it is intended to be confidential. All sides 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 portray this viewpoint to the Information Commissioners and other relevant authorities.

## **21. What if the department does not agree with the Commissioners' conclusions or recommendations?**

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 the department or the existing civil servant about the decision, particularly where the parties have been given an opportunity to comment on the factual accuracy of the preliminary determination of fact.

## **22. What happens to existing civil servants who bring an appeal?**

The Commissioners recognise that some existing civil servants may feel nervous about raising a concern and bringing an appeal to the Commissioners. An existing civil servant may be worried that they will be seen as a trouble maker and that their career may suffer.

The NICS Code of Ethics is clear that existing civil servants 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 this 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 Code)

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

The Commissioners will take very seriously any suggestion that an existing civil servant has been penalised for raising a concern. We would want any existing civil servant to approach us if they believe this is the case at any time. We would be prepared to use all the remedies available to us to prevent and rectify any penalisation.

## 23. Flowchart setting out the appeal process

