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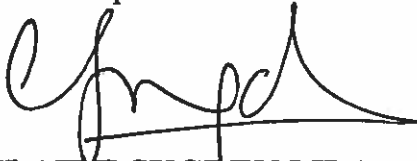
**7 July 2016  
AQW/1606/16-21**

**Lord Morrow (Fermanagh and South Tyrone) has asked:**

To ask the Minister of Justice to provide, or place in the Assembly library, a copy of the NI Civil Service Code of Conduct as applied to the Prison Service.

**ANSWER**

A copy of the Northern Ireland Prison Service Professional Code of Conduct has been placed in the Assembly Library.



**CLAIRE SUGDEN MLA**

# **Professional Code of Conduct**

**(Revised September 2013)**



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# Sections



# SECTION 1

## SCOPE

- 1.1 This Code of Conduct (herein after referred to as “The Code”) applies to all prison grade managers and staff in the Northern Ireland Prison Service. It does not apply to general service grade staff.
- 1.2 As an integral part of the Northern Ireland Civil Service, the Northern Ireland Prison Service sets certain standards of conduct for its employees. The standards that Northern Ireland Prison Service grade managers and staff are required to meet are detailed in this Code and the following documents:
  - (i) The NIPS Professional Code of Ethics and Values
  - (ii) The Prison and Young Offenders Centre Rules (NI) 1995
  - (iii) The NIPS Dignity at Work Policy
  - (iv) The NICS Standards of Conduct
  - (v) The NICS Standards of Ethics
- 1.3 This revised Code supersedes the previous Code of Conduct and Discipline, which was introduced in 1995 and it shall come into force with effect from 9 September 2013. It shall have effect in relation to any conduct that amounts to Misconduct/ Gross Misconduct, where the incident occurs, or is alleged to have occurred, on or after 9 September 2013.
- 1.4 Except as specified in paragraph **1.5** below, the previous Code of Conduct and Discipline shall cease to apply.
- 1.5 The 1995 Code of Conduct and Discipline continues to apply retrospectively in relation to any offence against discipline committed or alleged to have been committed before 9 September 2013.
- 1.6 Those specialist staff employed within the Northern Ireland Prison Service who are members of professional bodies are additionally bound by the provisions contained within this Code.

## PURPOSE

- 1.7 The primary purpose of the Code is to ensure that the high standards of conduct demanded of prison grade managers and staff of the Northern Ireland Prison Service are achieved and maintained.
- 1.8 The Code provides an effective framework within which consistent application of procedures will provide for fair and equitable treatment for all and will ensure that the rights and responsibilities of prison grade management and staff are protected. All prison grade managers and staff must comply with the standards of behaviour and timelines etc as set out in this Code and follow the mandatory requirements of the disciplinary process.



## SECTION 2

### PRINCIPLES

- 2.1 This Code is based on the principles of and meets the requirements of natural justice.
- 2.2 The key aim of the Code is to enable managers to resolve misconduct issues at an appropriate level and as speedily as possible whilst upholding the commitment to deal with allegations of misconduct in a fair and open manner.
- 2.3 The code seeks to encourage improvement in an individual rather than impose a disciplinary sanction and informal action will normally precede the formal procedure in appropriate cases.
- 2.4 The Code will be applied fairly and consistently to all prison grade staff in the Northern Ireland Prison Service irrespective of sex, marital status, racial group, sexual orientation, disability, religion, rank, seniority, age or any other characteristic. The Professional Standards Unit will monitor the use of the Code in each case to ensure that a consistent approach is applied across the Service.
- 2.5 Advice and guidance on the application of the Code can be obtained from Human Resources at Headquarters.
- 2.6 Where the behaviour complained of concerns an apparent failure of performance rather than conduct, different procedures may be appropriate
- 2.7 It is a principle of the Code that in the interests of justness and fairness all matters relating to conduct issues must be handled as quickly as possible. Investigations which may lead to disciplinary action against a member of staff must commence as soon as possible or within 7 working days after any misconduct is alleged unless there are acceptable and justifiable reasons for delay. Commissioning Managers must ensure that investigations are conducted within a 28 working day timeframe unless there are acceptable and justifiable reasons for delay. Any extension to the time limit must be justified and fully documented by the Investigating Officer and agreed in writing by the Commissioning Manager. The member(s) of staff under investigation must be informed in writing of the extension and the reason for it by the Investigating Officer.
- 2.8 If the Professional Standards Unit is asked to investigate the facts of a case it shall have access to any employee or document in connection with the exercise.
- 2.9 The Code incorporates an appeals mechanism and employees will have the right to appeal against any level of formal disciplinary decision.

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- 2.10 At all stages of the formal procedure an employee will have the right to be accompanied by a Trade Union representative or by a work colleague of their choice. The employee does not have the right to be accompanied by a person acting in a legal capacity at any stage of the disciplinary process.
- 2.11 Although normal disciplinary standards apply to officers who are Trade Union representatives, no disciplinary penalty should be imposed on a Trade Union representative until the circumstances of the case have been discussed with a senior Trade Union representative or full-time official. Consultation is not necessary over informal disciplinary action. Care should be taken that a disciplinary penalty is not seen as an attack on the union's functions.
- 2.12 Generally, no disciplinary penalty or finding of fault against an employee will be considered until all the available information in the case has been fully investigated. As part of that process the employee will be advised in writing of the complaint against them, by whom, the available evidence, and be given the opportunity to respond. The exception to this is the fast-track procedure where the employee has agreed that a fast-track hearing will replace the full disciplinary hearing process (see paragraphs **5.57 to 5.60**).
- 2.13 No employee will be dismissed for a single breach of discipline except when an offence is found to be Gross Misconduct, and it would be likely to result in dismissal or summary dismissal (i.e. dismissal without notice or payment in lieu of notice).
- 2.14 The stage at which action is initiated will depend on the seriousness of the alleged misconduct. However, in most circumstances, it will be appropriate for the stages to be followed on a progressive basis. **Section 7** details procedures for dealing with alleged Gross Misconduct.
- 2.15 The standard of proof in all disciplinary matters raised under the Code will be on the basis of the balance of probabilities. The over-arching test of fairness in employment law is that of reasonableness.
- 2.16 The Professional Standards Unit at Prison Service Headquarters will monitor and maintain oversight of all possible breaches of discipline, including those where informal warnings have been given.
- 2.17 All disciplinary matters must be treated in the strictest confidence.

## SECTION 3

### TYPES OF OFFENCES THAT MAY LEAD TO DISCIPLINARY PROCEDURES

3.1 It is in the best interests of the Northern Ireland Prison Service and of its employees that acceptable standards of conduct at work are clearly understood. In order to indicate the general standards required of employees, the list below sets out some examples of unacceptable conduct which may lead to disciplinary action. **The list is not exhaustive nor is it in any order of perceived gravity of offence.**

3.2 Some examples of conduct, which could lead to disciplinary action under the formal misconduct or gross misconduct procedures, are:

- a breach of the Code of Ethics and Values;
- failure to obey a direct order;
- failure to report bankruptcy or insolvency;
- any secondary employment which has not received authorisation;
- arrest, criminal charge or criminal conviction;
- persistent lateness;
- unauthorised absence by failure to notify the Establishment;
- neglect of duty;
- assault;
- trafficking (supplying, procuring or receiving any unauthorised item (eg food, money, illegal substances etc));
- breach of Confidentiality (e.g. Official Secrets Acts)
- being under the influence of/or unauthorised consumption of alcohol and/or illegal substances whilst on duty or on call for duty;
- victimisation, harassment, discrimination or bullying;
- abuse of a position of trust with prisoners or young offenders (this includes, amongst others, any inappropriate relationship with a prisoner and any form of abuse physical, mental or sexual);
- embezzlement;
- theft;
- fraud.

## SECTION 4

### MINOR DISCIPLINARY OFFENCES - INFORMAL ACTION

- 4.1 As a first step in dealing with unsatisfactory behaviour or in the event of a minor breach of NIPS procedures, the line manager may attempt to resolve the matter by informal discussions with the member of staff. The aim of these discussions will be to ensure that the member of staff understands why their conduct is unacceptable and to help ensure that the behaviour does not continue or recur. If the breach is the first occasion of a minor nature, the line manager may offer words of advice and guidance. However if there is no improvement other steps described in this section may have to be taken.
- 4.2 The Unit Manager, or the Functional Head or senior manager in PECCS (for PECCS staff) if the member of staff is a Unit Manager, should interview the member of staff not complying with the expected standards, set out any evidence that has come to light, and give the member of staff the opportunity to explain their actions or clarify the facts of the case.
- 4.3 Following the discussion and dependent on the outcome, the manager should continue to monitor the member of staff's behaviour and provide advice and support as appropriate.
- 4.4 The manager should also make it clear to the member of staff that any further misconduct or failure to improve could lead to the formal procedure being implemented.
- 4.5 Following a satisfactory outcome to the use of the informal procedure, the matter will be considered resolved.
- 4.6 However, where:
  - (a) the problem has not been resolved and the problem persists and/or;
  - (b) the required improvements in conduct are not achieved and/or;
  - (c) further information becomes available during discussions which makes the matter sufficiently serious, the formal procedures as set out in **Section 5** should be invoked.

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### FORMAL ACTION

#### Preliminary Steps (Enquiries)

- 5.1 If a possible conduct issue arises which cannot be dealt with informally under **Section 4** the Northern Ireland Prison Service must commence preliminary enquiries within 7 working days after any misconduct is alleged, unless there are acceptable and justifiable reasons for delay, before considering referring the matter to the Professional Standards Unit for investigation. This is usually a local level of fact finding conducted by the member of staff's line manager to establish what may have happened and why, unless the line manager is also involved in the issue in which case another manager should be appointed to do the preliminary enquiry. Any extension to the time limit must be justified and acceptable and fully documented by the manager doing the preliminary enquiry and agreed in writing by the Commissioning Manager. The member(s) of staff who is/are the subject of the fact finding enquiry must be informed in writing of the extension and the reason for it by the manager doing the preliminary enquiry.
- 5.2 The employee will be informed via **Appendix 1** that they are the subject of a fact finding process. **Appendix 1** also sets out that, if called for interview, they will have the right to be accompanied by a Trade Union representative or other work colleague of their choice, but not anyone acting in a legal capacity. Other relevant employees will also be informed via **Appendix 1** that they are part of the fact finding process.
- 5.3 Acting in any way so as to undermine the process is unacceptable. Whilst members of staff under investigation or giving evidence cannot be forced to reply to questions, they must be reminded that if they refuse to answer reasonable conclusions may be drawn by the Investigating Officer.
- 5.4 The fact finding exercise will be completed within 14 working days, unless there are acceptable and justifiable reasons for delay, and the findings must be presented to the Unit Manager, or to the Functional Head, or the senior manager in PECCS (for PECCS staff), if it is a Unit Manager being investigated. Again, any extension to the time limit must be justified and fully documented by the line manager and agreed in writing by the Commissioning Manager. The member(s) of staff who is/are the subject of the fact finding enquiry must be informed in writing of the extension and the reason for it by the line manager.
- 5.5 If, following the preliminary enquiry, no further action is deemed necessary, the member of staff will be advised accordingly using the **Appendix 2** form. The form should also be copied to the Professional Standards Unit for information.

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### Professional Standards Unit Investigation

- 5.6 Following a fact finding exercise, where there is a suspicion that one or more persons may be involved in misconduct, a Functional Head or the senior manager in PECCS (usually the one with management responsibility for the Manager who initiated the fact-finding exercise) should refer the case to the PSU for investigation. All members of staff to be investigated will receive notification of the investigation using **Appendix 3**. They will also receive a copy of the Terms of Reference for the investigation.
- 5.7 The Governing Governor or senior manager in PECCS must consider whether it is appropriate for a member of staff to remain at their place of work or on their normal duties whilst an incident is being investigated. Where detached duty or suspension is being considered, the Governing Governor or senior manager in PECCS must consult with Headquarters before taking any action (see also **Section 9**, which sets out in more detail when these actions should be considered and how they should be applied).
- 5.8 Even where there is clear evidence that a member of staff is guilty of misconduct or gross misconduct a formal investigation by the Professional Standards Unit will still be required.
- 5.9 A follow up letter from the Professional Standards Unit will inform the member of staff of the date of their interview at least 72 hours before the interview is scheduled to take place, and of their right to be accompanied by a Trade Union representative or a work colleague of their choice. It will further explain that the representative cannot be someone who may be approached and interviewed as part of the investigative procedures or someone acting in a legal capacity. A similar letter will also issue to any other person that needs to be interviewed as part of the process. Again, this should be at least 72 hours before the interview is scheduled to take place.
- 5.10 If a member of staff fails to attend an interview through circumstances outside their control, the interviewer should re-arrange the meeting for a suitable time.
- 5.11 If a member of staff fails to attend an interview and no clear reason is given, the interviewer should contact the member of staff to re-arrange the interview so that it can take place within the 28 working day timeframe of the investigation. If at the end of the 28 working day timeframe a member of staff has not made themselves available, despite reasonable attempts by the investigator, the investigation should be completed without that person's evidence and should be presented to the Commissioning Manager. It is for the Professional Standards Unit to decide on the most appropriate course of action in relation to the member of staff concerned.

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- 5.12 An investigation must not be unreasonably delayed to enable a member of staff to be accompanied by a specific individual. If the chosen companion is not available on the proposed interview date the staff member should agree to an alternative date not more than 10 days after the original date. If the chosen companion is not available on the reconvened date, the member of staff must choose an alternative companion for the reconvened date. The Professional Standards Unit investigation will then proceed on that date.
- 5.13 An investigation must not automatically be delayed because a member of staff is on sick absence. The Professional Standards Unit must consider the nature and possible duration of the illness or injury and may consult with the member of staff in deciding whether an interview can take place. If a member of staff is unable to attend for interview through illness, the Professional Standards Unit should set an alternative date or venue, normally not more than 10 days after the original date of the interview. If the member of staff is unable to attend on the reconvened date, they should be offered the option of submitting a detailed written reply to the allegation or, if called as a witness, a written account of the relevant evidence;
- 5.14 In cases of long term sick absence, or when the member of staff's evidence is considered critical, the Professional Standards Unit will seek a medical opinion from OHS on the ability of the officer to attend for interview only. The Investigating Officer should then consider all the circumstances and, where possible, complete the investigation on the basis of the evidence available.
- 5.15 The Professional Standards Unit investigator is required to establish the circumstances, facts, available information and evidence surrounding the allegation or complaint made. This may require the investigator to interview and possibly re-interview individuals to fully explore, corroborate and double check facts and information.
- 5.16 Evidence collected will include:
- A full explanation of what, where and when the alleged behaviour or incident(s) occurred and who was involved;
  - Original copies of all related, relevant documentation;
  - Interview notes from all relevant parties, including the person subject to the investigation.
  - CCTV footage (where available); and
  - Audio recordings (where available).



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### Other Allegations

- 5.17 During the investigation process other allegations may come to light related to the current case that the Investigating Officer feels should be investigated. However, this new information may be outside the specific terms of reference for the current investigation. In such cases, the Investigating Officer should report to the Commissioning Manager who will decide whether these allegations should be included in the current investigation (i.e. extend the terms of reference) or whether they require a separate process.

### Standard of Proof

- 5.18 There is a clear and separate distinction in the standard of proof between civil and criminal law. The Professional Standards Unit requires proof of any misconduct to be demonstrated on the balance of probability, i.e. whether it is more probable rather than less probable that the alleged misconduct occurred. The Professional Standards Unit must also show in coming to this decision that it can demonstrate weight and relative reliability of evidence.

### Completion of Investigation

- 5.19 On completion of the investigation the Professional Standards Unit will submit a report to the person who commissioned the investigation. The report will recommend whether a misconduct charge, gross misconduct charge or a training/development need should be considered, and will back this up with relevant evidence. In addition to the final report, all original documentation will be passed to the initiator of the investigation.

### Disciplinary Hearing

- 5.20 If the Professional Standards Unit determines that there is no case to answer the member(s) of staff will be notified of this by the initiator of the investigation within 2 weeks of this notification using **Appendix 4**. A member of staff's disciplinary hearing must be held within 4 weeks of their receipt of a notification of disciplinary action letter, unless there are acceptable and justifiable reasons for delay. Any extension to the time limit must be justified and fully documented by the Officer conducting the hearing and agreed in writing with the Professional Standards Unit. The member(s) of staff under investigation must be informed in writing of the extension and the reason for it by the Officer conducting the disciplinary hearing.



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- 5.21 If the Professional Standards Unit recommends that there is a misconduct case to be answered the Commissioning Manager will assign another manager to conduct the disciplinary hearing. If the senior manager of PECCS is the Commissioning Manager they must assign a Functional Head from one of the prisons to conduct the disciplinary hearing. If it is a gross misconduct case the disciplinary hearing will be heard by the Governing Governor. If it is a gross misconduct case at Headquarters a Governing Governor from one of the other Prison Establishments will conduct the disciplinary hearing.
- 5.22 The member of staff will be notified of the disciplinary hearing using **Appendix 6**. This will set out the charge(s) against the person being investigated and the details of any relevant supporting facts. Simultaneously, copies of the investigation report and all written evidence, including witness statements, will be provided to the member of staff concerned. Only in exceptional circumstances can parts of the report be redacted by the Hearing Authority. Justification must be given if parts are omitted (see paragraph **5.41** below). The member of staff will be informed that they are entitled to be accompanied by a Trade Union representative or by a work colleague of their choice.
- 5.23 The member of staff is required to respond via **Appendix 7** as to whether they will be attending the disciplinary hearing and/or contesting the charges made against them. They will be allowed to submit within a reasonable period of time (normally 10 days, but a shorter or longer period may be agreed depending on the circumstances of a particular case), a written reply to the charge if they wish. This will also be used for their defence if they decide not to attend the disciplinary hearing. They will also be able to present evidence, ask and respond to questions, answer any allegations, call **relevant** witnesses (see paragraphs **5.30** and **5.31** below) and discuss any information provided by witnesses. They can also ask questions of witnesses through the manager hearing the case.
- 5.24 The disciplinary hearing is the member of staff's opportunity to respond to the charges as well as highlighting any potential points of mitigation to the facts and information that have arisen from the Professional Standards Unit investigation. The member of staff will be entitled to submit written documentation/evidence in addition to making oral representations.

### Unable to Attend Hearing

- 5.25 If the member of staff is unable to attend at the arranged time they must inform the manager hearing the case immediately stating the reason for this. If their reason for

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being unable to attend is accepted, another meeting will be arranged to take place soon after the original date.

- 5.26 Failure to attend a rearranged meeting without an acceptable and justifiable reason (such as illness) will result in the case being decided based on the evidence that is available on the day to the manager hearing the case. If the member of staff provides an acceptable and justifiable reason for not attending, one further meeting may be arranged. However, this must not cause an unreasonable delay in the process.
- 5.27 Where a trade union representative or work colleague cannot attend on the date proposed, the member of staff can offer an alternative time and date so long as it is reasonable and mutually acceptable and falls before the end of the period of 10 working days beginning with the first working day after the day proposed by the manager conducting the hearing.
- 5.28 A disciplinary hearing must not automatically be delayed because a member of staff is on sick absence. The manager hearing the case must consider the nature and possible duration of the illness or injury and may consult with the member of staff in deciding whether the disciplinary hearing can take place. If a member of staff is unable to attend the hearing through illness, the manager hearing the case should set an alternative date or venue, normally not more than 10 days after the original date of the hearing. If the member of staff is unable to attend on the reconvened date, they should be offered the option of:
- submitting a detailed written reply to the charge or, if called as a witness, a written account of the relevant evidence; and /or
  - briefing a work colleague or a Trade Union representative to attend the adjudication on their behalf.
- 5.29 In cases of long term sick absence, or when the member of staff's evidence is considered critical, the manager hearing the case may seek a medical opinion from OHS on the ability of the officer to attend for interview only. The manager hearing the case should then consider all the circumstances and, where possible, complete the interview process on the basis of the evidence available.

### Witnesses

- 5.30 The member of staff will also be entitled to call relevant witnesses in support of their case, i.e. someone who can give a firsthand account of something they have seen, heard, or experienced in relation to the case. In mitigation, they will also be

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entitled to call character witnesses in moderation. All such requests should be notified to the manager hearing the case within a reasonable period of time via the **Appendix 7** form (normally 10 days before the hearing, but a shorter or longer period may be agreed depending on the circumstances of a particular case). The names of witnesses may be given at shorter notice at the discretion of the manager hearing the case and subject to the provisions of paragraph **5.31** below. Witnesses who are employees of the NIPS will be required to attend.

- 5.31 No reasonable request for the attendance of a **relevant** witness should be refused. The final decision as to whether or not any particular witness is called will be for the manager conducting the hearing, who will cite his/her reason in writing for any refusal on one or more of the following grounds:
- Irrelevance;
  - Because it is clearly impracticable (for example, when the witness is a prisoner who has since been discharged and cannot be traced);
  - Because the witness cannot be available within an acceptable timescale;
  - Because there is no dispute over facts; or
  - Because their presence would clearly not add to the information already available (e.g. from others attending).
- 5.32 The manager hearing the case will be entitled to call witnesses. These will be notified to the member of staff as soon as possible, but no later than 10 days prior to the disciplinary hearing.
- 5.33 Once agreed it will be the responsibility of management to notify witnesses of the date and time of the hearing.
- 5.34 During the disciplinary hearing the manager considering the case may ask questions of the investigating officer or member of staff to seek further information and/or clarification of any aspect of the information gathered during the Professional Standards Unit investigation or as provided by the member of staff in oral or written submissions. He/she must also consider any mitigating factors.
- 5.35 The interview will be taped and a copy of the transcript will be made available to all relevant parties as soon as it is ready.

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### Request for a Recess

- 5.36 During the course of the disciplinary hearing a short recess can be requested at any time, e.g. for a comfort break. A longer recess should only be granted if the manager hearing the case believes it is reasonable to do so for a fair consideration of the case to be achieved.

### Conclusion of Disciplinary Hearing

- 5.37 At the conclusion of the hearing the manager hearing the case will decide (i) whether he is satisfied on the balance of probabilities that the member of staff has committed the offences with which he is charged and (ii) what disciplinary penalty, if any, should be given.
- 5.38 Following final adjournment of the interview, a decision will be issued in writing to the member of staff (and at the member of staff's request to their representative).
- 5.39 If a decision is taken to impose a penalty, the member of staff will be informed in writing of their rights of appeal and representation at appeal. The appeal process is set out at **Section 8**.
- 5.40 Apart from gross misconduct, it is important to note that there are no specific penalties assigned for particular offences. The Professional Standards Unit recommendation, any mitigating factors and the member of staff's previous record of service should be taken into account when coming to a final decision on what penalty should be imposed for a disciplinary offence.

### Provision of Information

- 5.41 The member of staff and/or their representative must be given a copy of the investigation report, including all supporting documentation. Only matters, which if released would lead to a breach of medical confidence should be excluded by the Commissioning Manager:

### Oversight Investigations

- 5.42 Under Prison Rule 116(4) The Governing Governor has authority over all officers and employees on the staff of the establishment in which they are in charge. However, this authority is subject to any direction from the Department of Justice. The Northern Ireland Prison Service, as an agency of the Department of Justice, can therefore direct that an investigation be carried out in a prison independently of the

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Governor or his managers, if it is deemed to be necessary. Such an investigation would be initiated at Director level, who would also write the Investigator's terms of reference.

- 5.43 If such an investigation is initiated the Professional Standards Unit will write to all individuals to be investigated advising them accordingly. The letter will also caution them that any information gleaned from the investigation may be used in disciplinary proceedings. The procedures as set out in paragraphs **5.9 to 5.19** will then apply.
- 5.44 On completion of the oversight investigation if the Professional Standards Unit determines that there is no case to answer the member(s) of staff will be notified of this by the Director who sponsored the investigation within 2 weeks using **Appendix 4**.
- 5.45 If the Professional Standards Unit determines there is a misconduct case to be answered the sponsoring Director will assign an appropriate Manager to conduct the disciplinary interview. If it is a gross misconduct case the disciplinary interview will be heard by the Governing Governor of another prison. The procedures as set out in paragraphs **5.20 to 5.41** will then apply.

### Investigation of Unit Managers, Functional Heads and Governing Governors

#### Unit Manager

- 5.46 Following a fact finding enquiry by a Functional Head or senior manager in PECCS, where there is a suspicion that a Unit Manager may be involved in misconduct, the Functional Head or senior manager in PECCS (for PECCS staff) will appoint the Professional Standards Unit to carry out an investigation. In doing so the Functional Head or senior manager in PECCS must clearly set out the terms of reference to the Professional Standards Unit. All members of staff to be investigated will receive notification of the investigation using **Appendix 3**. The procedures as set out in paragraphs **5.6 to 5.19** will then apply
- 5.47 If the Professional Standards Unit determines that there is a case to answer the member of staff will be notified of this by the Functional Head or senior manager in PECCS using **Appendix 6**. A Functional Head from one of the other prison establishments will then be nominated to conduct the disciplinary hearing.
- 5.48 The procedures as set out in paragraphs **5.20 to 5.41** will then apply.
- 5.49 If the nominated Functional Head decides to impose a penalty, the member of staff will be informed in writing of their rights of appeal to the Governing Governor and their rights of representation at that appeal. The appeal process is set out at **Section 8** below.

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### Functional Head

- 5.50 Following a fact finding enquiry by the Governing Governor (as per the process set out in paragraphs **5.1 to 5.5**), where there is a suspicion that a Functional Manager may be involved in misconduct, he/she will appoint the Professional Standards Unit to carry out an investigation. In doing so the Governing Governor must clearly set out the terms of reference to the Professional Standards Unit. All individuals to be investigated will receive notification of the investigation using **Appendix 3**. The procedures as set out in paragraphs **5.6 to 5.19** will then apply.
- 5.51 If the Professional Standards Unit determines that there is a case to answer the member of staff will be notified of this by the Governing Governor using **Appendix 6**. A Governing Governor from one of the other prison establishments will then be nominated by the Director of Human Resources to conduct the disciplinary hearing.
- 5.52 The procedures as set out in paragraphs **5.20 to 5.41** will then apply.
- 5.53 If the nominated Governing Governor decides to impose a penalty, the member of staff will be informed in writing of their rights of appeal to the Director of Human Resources and their rights of representation at that appeal. The appeal process is set out at **Section 8** below.

### Governing Governor

- 5.54 Following a fact finding enquiry initiated by the Director of Human Resources (as per the process set out in paragraphs **5.1 to 5.5**), where there is a suspicion that a Governing Governor may be involved in misconduct, the Director of Human Resources will ask an outside Prison Service to come in and carry out a full investigation on behalf of the Northern Ireland Prison Service. The covering letter to the outside Service will include the Terms of Reference for the investigation. The procedures as set out paragraphs **5.8 to 5.19** must then be followed with the following caveats:
- the outside investigator(s) will replace the role of the Professional Standards Unit as set out in paragraphs **5.8 to 5.19**; and
  - in a case of long term sick absence the outside investigator will ask the NI Prison Service to seek a medical opinion from the OHS on the ability of the member of staff to attend for interview only;
- 5.55 The Director of Human Resources must consider whether it is appropriate for the Governing Governor to remain at their place of work on their normal duties whilst the incident is being investigated. If it is not appropriate for them to remain at their place of work on their normal duties possible alternatives include detached duty or suspension.

## SECTION 5

- 5.56 On completion of the investigation the procedures as set out in paragraphs **5.20 to 5.41** must then be followed with the following caveats:
- If there is no case to answer the Governing Governor will be notified of this by the Director of Human Resources;
  - If the investigator determines there is a misconduct case to be answered the Director of Human Resources will nominate another Director to conduct the disciplinary hearing and on completion of that issue a disciplinary penalty, if required;
  - If the Director of Human Resources decides to impose a penalty, the Governor will be informed in writing of their rights of appeal as per **Section 8**. If it is a misconduct penalty the appeal will be to the Director General. If it is a gross misconduct penalty the appeal will be to the Internal Appeal Board, which will be chaired by the Director General.

### Fast-track Process (all staff)

- 5.57 In cases of alleged misconduct where dismissal is not an option and where a member of staff accepts the findings of the investigation and does not wish to contest the charge, they can opt to have their case dealt with by way of the **fast-track** process.
- 5.58 The fast-track process is not applicable in cases of gross misconduct. Nor can it be used for any charges contested by the member of staff.
- 5.59 Cases can only be fast-tracked with the relevant member of staff's agreement that they do not wish to proceed with a full disciplinary hearing.
- 5.60 If the member of staff chooses to use the fast-track process, the formal disciplinary hearing will be replaced with a 'fast-track hearing'. Under the fast-track process, no witnesses can be called and the Investigating Officer will not be called to give additional evidence in support of, or against an allegation. Bypassing this stage means that such cases can be resolved more quickly. Staff must not suffer any detriment if they choose to proceed with their right to a full disciplinary hearing.

### Timing

- 5.61 It is important to progress an investigation and disciplinary process in accordance with the required timeframes. The set timeframes should only be extended in exceptional circumstances and after consultation with all key stakeholders including the manager who commissioned the investigation, the member of staff being investigated, and the union representative.



## SECTION 6

### FORMAL DISCIPLINARY PENALTIES FOR MISCONDUCT

#### Written and Final Written Warnings

- 6.1 Where the informal process has not led to improved conduct, or where the alleged misconduct could be of such seriousness that informal action may not be appropriate, the formal procedures as set out in **Section 5** should be considered.
- 6.2 If at the end of the formal procedure it is decided to award a Written or Final Written Warning the record of the Warning, **Appendix 8**, will be copied to the member of staff within 5 working days of the disciplinary hearing. At this stage the manager who heard the case should discuss with the employee any improvements required and identify the standards of conduct and behaviour expected of them. **Appendix 8** also advises of the right of appeal and the right to be accompanied at appeal by a work colleague or Trade Union representative of the employee's choice.
- 6.3 This Warning will remain live for a period of up to 24 months from the date of issue after which time it will cease to be valid. The Warning should be marked as "expired" after the appropriate date. It must not be destroyed as it will be taken into account at some point in the future whenever consideration is being given for the awarding of the Long Service and Good Conduct medal.
- 6.4 The member of staff will be informed in writing, through the issue of the Warning letter, of their right of appeal (see **Section 8**).
- 6.5 A member of staff will be considered for a Final Written Warning if:
- (a) there is a further or new instance of misconduct or unacceptable behaviour whilst a formal Written Warning remains live; or
  - (b) the nature of a single instance of misconduct or unacceptable behaviour is considered to merit a Final Written Warning – whether or not a first formal written warning was previously issued.

#### Other Disciplinary Penalties

- 6.6 In certain circumstances, the manager who heard the case may decide it is appropriate to award a further penalty or penalties **in addition** to issuing a warning **or instead** of a warning, depending on the type of misconduct committed. Additional disciplinary penalties which are available to persons exercising formal disciplinary powers are:



## SECTION 6

- (i) restriction in carrying out certain duties relating to the offence. This sanction would be for up to a period of 24 months;
- (ii) transfer to other duties;
- (iii) withdrawal of official facilities relating to the offence, e.g. withdrawal of work laptop or mobile phone;
- (iv) demotion by one rank and a ban on promotion, which may be for a specific period up to two years, after which the member of staff will be eligible for consideration for promotion to their former grade. Downgrading also includes removal from a post attracting additional pay or allowances. This penalty would only apply in cases of gross misconduct;
- (v) a ban of up to 24 months on promotion or consideration for promotion including deputising, temporary promotion or any other NIPS competitions which involve moving up a grade;
- (vi) Forfeiture of an annual pay increment for one year.

# SECTION 7

## GROSS MISCONDUCT

### Definition

7.1 Gross Misconduct is regarded by the NIPS as any misconduct, unacceptable behaviour or breach of the rules, which, if substantiated, is so serious it would be likely to result in dismissal.

### Types of Offences

7.2 In general, acts, which constitute Gross Misconduct, are for the Northern Ireland Prison Service to decide. The list below, which is not exhaustive, includes some of the acts that might be considered as gross misconduct:

- theft, fraud and deliberate falsification of records;
- physical violence;
- deliberate damage to property;
- serious incapability brought on by alcohol or substance abuse;
- serious negligence which causes unacceptable loss, damage or injury;
- criminal offence or conviction.

### Investigation Process

7.3 If, following the investigation process the Professional Standards Unit decides there is a gross misconduct case to answer the procedures as set out in paragraphs **5.20 to 5.41** will apply.

7.4 The Governing Governor will be entitled to:

- a. issue a Final Written Warning; or
- b. demote the member of staff; or
- c. demote the member of staff and issue a Final Written Warning; or
- d. recommend to Headquarters that the member of staff be dismissed.

## SECTION 7

### Dismissal

- 7.5 If the recommendation is made to dismiss the member of staff the case will be referred immediately to Headquarters for consideration. HR at Headquarters will then have 10 working days to make a final decision on the case.
- 7.6 During that 10 working day period the member of staff recommended for dismissal will be entitled to make **written representations** to Headquarters about their case and these representations should be taken into consideration before a final decision is made on the case. Any representations received after this period of time will not be considered. The person at Headquarters considering the case may also invite the member of staff in to discuss the representations made, however this is not a requirement and each case will be considered on its own merits.
- 7.7 A letter indicating the intention to retain or dismiss will be prepared by Headquarters and issued at the end of the 10 working days (or sooner, if possible), which will state:
- A summing up of the conclusions reached at the dismissal interview and consideration stage;
  - The reason for retention or dismissal;
  - Disciplinary measure(s) to be awarded if not dismissed; or
  - If dismissed, the right of appeal and the right to be accompanied by a trade union representative or work colleague.
- 7.8 If the decision is made to dismiss the member of staff has a right of appeal. The appeal procedure is set out in **Section 8**.

### Summary Dismissal

- 7.9 Summary dismissal can be used for a member of staff who has received a **criminal conviction**. In practice this means that the member of staff will already have been suspended in the lead up to the court hearing. Dismissal in these circumstances will depend on variables such as the nature of the offence, the impact it has on the member of staff's role, and/or the impact on the organisation.
- 7.10 Under this procedure, the member of staff must be invited to a meeting to discuss their dismissal (unless they are in prison custody), at which they have the right to be accompanied by a trade union representative or work colleague. Following the meeting, the member of staff must be informed of:

## SECTION 7

- the decision to dismiss them and the reasons for this; and
- their right to appeal.

7.11 Only the Director General or the Director of Human Resources has the authority to summarily dismiss a member of staff.

7.12 In all dismissal cases pay will stop immediately from the date of the dismissal letter.

## SECTION 8

### APPEAL PROCESS

- 8.1 Members of staff have the right of appeal against any formal disciplinary action. The **Appendix 8** form that sets out the disciplinary penalty/penalties against the employee also explains the right of appeal including the right to be accompanied at the appeal either by a trade union representative or another work colleague.

### Timelines

- 8.2 The member of staff must notify the Appeal Authority of their intention to appeal within 5 working days of receipt of the outcome of the disciplinary hearing letter.
- 8.3 The member of staff then has a further 10 working days to state in writing to the appropriate manager via the **Appendix 9** form the grounds for their appeal. Appeals received after 10 working days will only be considered in exceptional circumstances, if an acceptable reason is provided for the delay.
- 8.4 Appeal hearings must be held within 2 weeks of receipt of the grounds of appeal letter, unless there are acceptable and justifiable reasons for delay.

### Appeal Hearing

- 8.5 The appeal hearing provides a forum for review of the process and consideration of specific factors including the following:
- Fairness of application of procedure;
  - To rectify something that has gone wrong at the initial disciplinary hearing;
  - New evidence, which the Northern Ireland Prison Service was not previously aware of;
  - The reasonableness of the decision;
  - The appropriateness of the penalty; and
  - the member of staff's disciplinary record, general record, position and length of service
- 8.6 The outcome of the appeal could be to:
- Uphold the original decision in which case any disciplinary sanction will be confirmed;

## SECTION 8

- Over-rule the original decision in which case any disciplinary sanction will be rescinded;
- Confirm the original decision, but substitute a less severe sanction than that originally imposed; or
- Order a re-hearing of the disciplinary hearing

8.7 No person involved in the original disciplinary decision should participate in the appeal hearing. Appeals should be to at least one level of management above that at which the disciplinary action was taken.

8.8 At each stage of the appeal, the member of staff has the right to make oral representations in addition to written submissions.

8.9 In addition to the internal appeal process, in the majority of cases of dismissal members of staff also have the right of appeal to the Civil Service Appeal Board within 3 months of their dismissal.

### Appeal against Written and Final Written Warnings

8.10 Appeals against Written Warnings and Final Written Warnings will be to the Functional Head or the Governing Governor of the prison, or if they have previously been involved in the decision to charge or the decision on the level of penalty, a Functional Head or Governing Governor from another establishment. If the member of staff is based at Headquarters the Director of Human Resources or his nominee will assign a Functional Head or Governing Governor to hear the appeal. The appeal will be considered and a written decision (including full substantiated reasons for the decision reached based on each point of appeal) given to the member of staff via **Appendix 10** within 10 working days after the close of the appeal proceedings. The appeal decision is final.

### Appeal against Demotion or Dismissal

8.11 Appeals against **Demotion** or **Dismissal**, are to the Internal Appeal Board (IAB) composed of:

- The Director of Human Resources, who will act as Chairperson;
- A Governing Governor from another prison; and
- A non-executive Director of the Prison Service Management Board.

## SECTION 8

- 8.12 The appeal will be considered and a written decision (including full substantiated reasons for the decision reached based on each point of appeal) as soon as possible after the close of the appeal proceedings. The IAB shall be entitled to:
- a. confirm the demotion or dismissal decision;
  - b. overturn the demotion or dismissal decision;
  - c. substitute a lesser penalty (i.e. an appropriate level of warning); or
  - d. order a re-hearing of the disciplinary hearing.

### **Civil Service Appeal Board**

- 8.13 In cases where employment has been terminated the member of staff can, following exhaustion of the NIPS internal appeals procedure, appeal thereafter to The Civil Service Appeal Board. Appeal to the Civil Service Appeal Board must be lodged within 3 months of the date of termination of employment.
- 8.14 The Director of Human Resources will issue letters of termination of employment. This letter will detail the date of termination of employment, reasons for dismissal and how an application to the CSAB can be made.

## SECTION 9

### SUSPENSIONS AND TRANSFERS

#### Suspension

- 9.1 Suspension must only be used where necessary, for example where there is a particular business risk or risk to an individual that cannot be mitigated through alternative duty or detached duty arrangements. It must be kept under review throughout the disciplinary process. It is not always necessary for a suspension to last for the entirety of an investigation or disciplinary process.
- 9.2 If a Governing Governor wishes to suspend a member of staff, they must first consult with the Head of Human Resources at Headquarters. In so doing they must be able to demonstrate why alternative or detached duties would not be appropriate in the circumstances.
- 9.3 Suspension is not an assumption of guilt or a disciplinary penalty in itself and is normally on full basic pay. Suspension without pay is only likely to be appropriate where the member of staff is in prison custody, has been convicted of a serious criminal offence (as defined in Part 2 of the Serious Crime Act 2007) or has admitted to a serious offence under police caution (again, as defined in Part 2 of the Serious Crime Act 2007).
- 9.4 A member of staff on suspension must follow any reporting requirements as set out in their notification of suspension.
- 9.5 The member of staff will be notified of the suspension via **Appendix 5**.
- 9.6 A member of staff who has been suspended may appeal in writing against their suspension to Headquarters and a Director, other than the Director of Human Resources, will be appointed to hear the appeal.

#### Unfit for Duty Whilst Suspended, on Detached Duty or Alternative Duties

- 9.7 Where a member of staff reports unfit for duty before a decision has been made to send them on detached duty, alternative duties or suspend them, the normal sick absence procedures take precedence and any decision to move them away from current duties must be deferred until they report that they are fit to return

#### Transfer

- 9.8 Where the nature of the disciplinary offence makes it inappropriate for the Northern Ireland Prison Service to continue to employ the member of staff in the same work area, he/she may be required to move to another part of the complex or, in exceptional circumstances, and only with the prior approval of the Director of Human Resources, to another prison establishment. This should not be used as a disciplinary sanction and if an member of staff is sent on detached duty pending the outcome of an investigation the normal rules on detached duty allowances will apply for the duration of the transfer.



## SECTION 10

### CRIMINAL OFFENCES

- 10.1 Members of staff must report to their manager as soon as possible if they have been arrested, charged or convicted by a court of any criminal offence. Failure to do so may be considered to be a disciplinary matter.
- 10.2 A criminal conviction, whether related to work or otherwise, may lead to disciplinary action up to and including dismissal. The main considerations which the Manager will take into account in deciding what action is appropriate are whether the offence impairs the business of the Northern Ireland Prison Service, brings the Northern Ireland Prison Service or the staff member into disrepute, or makes the individual unsuitable for their type of work.
- 10.3 Where a member of staff is convicted of an offence and receives a custodial or suspended sentence, or a Community Service Order as a result of a criminal conviction, their employment will automatically be terminated. In such circumstances the disciplinary process must be followed as far as is practicable. If the conviction is overturned the Northern Ireland Prison Service will review the case if a request is received to do so from the employee or a representative acting on their behalf.
- 10.4 The Northern Ireland Prison Service Code of Conduct procedures may run in tandem with any criminal proceedings and may conclude prior to the criminal investigation. Each case should be considered on its own merits after consultation with Headquarters. An objective of this policy is that disciplinary processes are conducted in a timely fashion and without unreasonable delay. The only general exceptions to this presumption are that internal disciplinary action should be postponed in circumstances where:
- An alleged or suspected criminal offence took place away from the workplace and the investigation has been initiated by the police;
  - The Investigating Officer is unable to obtain evidence relating to any possible disciplinary charge, pending the outcome of criminal investigations;
  - The principal evidence comes from a prisoner and the nature of any possible disciplinary charge is identical to the criminal charge;

### Other external investigations

- 10.5 In cases where there is a live external investigation (e.g. outstanding Coroner's inquest or Ombudsman investigation), the Investigating Officer should liaise with the lead external investigator and ensure that any Northern Ireland Prison Service

## SECTION 10

proceedings do not prejudice the external investigation. It may be advisable to postpone the investigation or any disciplinary action until the completion of an external investigation.

### **Recovery of Losses of Public Funds**

- 10.6 If a member of staff is dismissed for an offence involving loss to public funds, any sums due to the individual by Northern Ireland Prison Service 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 may be made if someone who would have been dismissed for an offence resigns before the dismissal can be put into effect. HMRC should be notified of any sums so withheld in respect of income tax refund and, at the same time, be requested to initiate proceedings for the withholding of refunds for over payment of tax.

# SECTION 11

## WARNINGS

### Management levels Authorised to Issue Formal Warnings

Type of Disciplinary Penalty	Level of Authority
Formal Written Warning	Manager who heard the case or Head of Personnel if employee works at HQ
Final written warning and/or demotion	Governing Governor.
Other disciplinary penalties	Manager who heard the case or Head of Personnel if employee works at HQ
Dismissal	<b>Head of Personnel, Director of Human Resources or Director General</b>

### Duration of Warnings

Stage	Duration
Formal Written Warning	Up to a maximum of 24 months at discretion of Governor making the penalty
Final Written Warning	Up to a maximum of 24 months at discretion of Governing Governor making the penalty
Other disciplinary penalties	As per paragraph 6.6

## **SECTION 12**

### **STAFF WHO REPORT MISCONDUCT – WHISTLE-BLOWING**

- 12.1 Staff who report misconduct, including those who make corruption prevention reports, must be aware that the information they provide may be required to support disciplinary proceedings and/or a criminal investigation. This means that their reports, and/or the information they provide, may be disclosed and they may be required to give evidence both internally and to external bodies such as criminal courts or inquiries. If this is likely to arise, the situation must be discussed with that member of staff and arrangements put in place to manage the process prior to disclosure.
- 12.2 It is important to ensure that the appropriate support is available to staff. Any member of staff who comes forward to report their concerns or who makes an allegation of misconduct must not be victimised, harassed or bullied as a result of doing so. Such behaviours are totally unacceptable and may lead to disciplinary action.
- 12.3 The Public Interest Disclosure (NI) Order 1998 is the relevant piece of legislation relating to whistle-blowing.

## **SECTION 13**

### **FRAUD**

- 13.1 Whilst all investigations involving staff misconduct issues should follow the basic principles and guidance set out in the Code of Conduct, some types of incidents, allegations or complaints will fall under the procedures for dealing with fraud.
- 13.2 With cases of suspected fraud managers should refer to the procedures set out in the Northern Ireland Prison Service Fraud Policy and Response Plan. This includes definitions of fraud and reporting mechanisms.

# Appendices



# Appendix 1

**Personal in Confidence**

## **NORTHERN IRELAND PRISON SERVICE NOTIFICATION OF PRELIMINARY ENQUIRY INTO ALLEGATION OF MISCONDUCT/GROSS MISCONDUCT**

**TO: NAME OF EMPLOYEE AND STAFF NUMBER:** .....

**HM PRISON/YOC** .....

MEMBER OF STAFF UNDER POSSIBLE INVESTIGATION/WITNESS\*

1. In accordance with the procedure set out in the Code of Conduct this note informs you that on behalf of the Governor/Head of PECCS, I am enquiring into -

in order to find out what happened and to consider whether formal disciplinary proceedings should be initiated.

2. Any information which emerges from an investigation may be used in disciplinary proceedings. Staff are expected to co-operate in their own interest and in that of the Prison Service.
3. You may wish to be accompanied at the interview by a work colleague who may be a Trade Union representative
4. You do not have the right to be accompanied by a person acting in a legal capacity.
5. If a decision is made to initiate formal disciplinary proceedings against you, you will be advised via form **Appendix 3** within 14 days of the completion of these enquiries.

Signed ..... Date .....

SIGNED ..... (Member of Staff under possible investigation/Witness\*)

Date .....

\*Delete as appropriate



# Appendix 2

**Personal in Confidence**

## **NORTHERN IRELAND PRISON SERVICE**

### **NOTIFICATION OF DECISION TO TAKE NO FURTHER ACTION**

**(TO BE ISSUED TO EMPLOYEE AS SOON AS POSSIBLE UPON THE COMPLETION OF A PRELIMINARY ENQUIRY)**

**TO: NAME OF EMPLOYEE AND STAFF NUMBER: .....**

**HM PRISON/YOC .....**

You are advised that following a preliminary enquiry into:

.....  
.....  
.....  
.....

I have decided to take no further action on this matter for the following reasons:

.....  
.....  
.....  
.....  
.....

SIGNED: ..... DATE: .....

(Appropriate Manager)

cc: Professional Standards Unit

# Appendix 3

**Personal in Confidence**

## **NORTHERN IRELAND PRISON SERVICE**

### **NOTIFICATION OF DECISION TO REFER CASE TO PROFESSIONAL STANDARDS UNIT**

**(TO BE ISSUED TO EMPLOYEE AS SOON AS POSSIBLE UPON THE COMPLETION OF A PRELIMINARY ENQUIRY)**

**TO: NAME OF EMPLOYEE AND STAFF NUMBER:** .....

**HM PRISON/YOC** .....

You are advised that following a preliminary enquiry into:

.....  
.....  
.....  
.....

I have decided to refer this matter to the Professional Standards Unit for a formal investigation on the grounds that:

.....  
.....  
.....  
.....  
.....

The Professional Standards Unit will write to you shortly regarding the commencement of the investigation.

SIGNED: ..... DATE: .....

(Appropriate Manager)

cc: Professional Standards Unit

# Appendix 4

**Personal in Confidence**

## **NORTHERN IRELAND PRISON SERVICE**

### **NOTIFICATION OF DECISION NOT TO TAKE ANY FURTHER ACTION FOLLOWING PROFESSIONAL STANDARDS UNIT INVESTIGATION**

**TO: NAME OF EMPLOYEE AND STAFF NUMBER:** .....

**HM PRISON/YOC** .....

You are advised that following the Professional Standards Unit Investigation into:

.....  
.....  
.....  
.....

It has been decided that no further action will be taken for the following reasons.:

.....  
.....  
.....  
.....  
.....

SIGNED: ..... DATE: .....

(Appropriate Manager)

cc: Professional Standards Unit

# Appendix 5

**Personal in Confidence**

## **NORTHERN IRELAND PRISON SERVICE**

### **NOTIFICATION OF SUSPENSION**

**TO: NAME OF EMPLOYEE AND STAFF NUMBER:** .....

**HM PRISON/YOC** .....

1. In accordance with the procedures set out in the Professional Code of Conduct this note informs you that you are suspended from duty with pay and allowances with effect from .....
2. The reason for the suspension is:
3. During your period of suspension the following conditions shall apply:
  - (i) You will report in person to the Unit Manager or other person, if appropriate, once every one week, commencing from today's date.
  - (ii) You will inform the Unit manager/senior manager immediately of any change of circumstances pertaining to the matter in respect of which you are currently being suspended.
  - (iii) You may appeal in writing against your suspension to the Director of Human Resources.

COMPLETED BY .....(GOVERNOR)      DATE .....

SIGNED .....(EMPLOYEE)      DATE .....

DELETE AS APPROPRIATE

TO BE COMPLETED BY THE GOVERNOR

- CC
1. Manager
  2. Personnel file
  3. Professional Standards Unit

# Appendix 6

**Personal in Confidence**

**Northern Ireland Prison Service**

## **NOTIFICATION OF DISCIPLINARY HEARING FOLLOWING PROFESSIONAL STANDARDS UNIT INVESTIGATION**

**TO: NAME OF EMPLOYEE AND STAFF NUMBER:** .....

**HM PRISON/YOC** .....

You are asked to attend a hearing in connection with: .....

.....

.....

**[Give brief details of alleged misconduct. Be specific – avoid generalisation]**

(Attach all relevant documents)

**DATE OF HEARING:** .....

**TIME OF HEARING:** .....

**PLACE OF HEARING:** .....

**The hearing will be conducted by:** .....

**Minutes will be taken by:** .....

The following individuals will also be asked to attend the interview for the reasons given below:

**NAME**

**REASON**

## Appendix 6

You have the right to be accompanied to the hearing by either your trade Union representative or by a work colleague of your choice, but not by anyone acting in a legal capacity. You also have the right to request witnesses to be called.

You may, if you wish, choose not to attend the disciplinary hearing, in which case the matter will be decided on the basis of the Professional Standards Unit Investigation Report and any written evidence you submit.

You must return **Appendix 7** to me together with any enclosures including a list of your requested witnesses within 10 working days from the date of this note. If it is not returned within that period, your case will be decided on the evidence contained in the Professional Standards Unit Investigation Report.

Further information about the disciplinary procedure is contained in the Prison Service Professional Code of Conduct.

An additional copy, of this document is enclosed, which you may wish to pass to a work colleague or Staff Association representative.

SIGNED: ..... DATE: .....

(Appropriate Manager)

# Appendix 7

## INFORMATION FOR DISCIPLINARY HEARING

**TO:** .....

**HM PRISON/YOC** .....

1. As a result of the recent Professional Standards Unit investigation into alleged misconduct by me you have invited me to a disciplinary hearing on ..... at.... ..

2. I do/do not\* wish to attend the disciplinary interview.

3. My response to the allegations is as follows:

\* a. I accept that the allegations are true

\* b. I contest the allegations

\* c. I would like the officer conducting the hearing to take account of:

the attached statements listed below:

.....  
.....  
.....

4. I wish/do not wish\* to be accompanied at the disciplinary hearing by a work colleague or Staff Association representative.

5. I wish to call the following relevant witnesses

NAME \_\_\_\_\_

COMPLETED BY .....(MEMBER OF STAFF) Date .....

SIGNED .....(ON BEHALF OF THE GOVERNOR) Date: .....

\*Delete as appropriate

# Appendix 8

**Personal in Confidence**

## **NORTHERN IRELAND PRISON SERVICE**

### **RECORD OF DISCIPLINARY PENALTY/PENALTIES**

**(TO BE ISSUED TO THE EMPLOYEE AS SOON AS POSSIBLE UPON COMPLETION OF A DISCIPLINARY HEARING)**

**TO: NAME OF EMPLOYEE AND STAFF NUMBER:** .....

**HM PRISON/YOC** .....

**TYPE OF PENALTY/PENALTIES AND DATE ISSUED:** .....

This is a formal disciplinary penalty or penalties issued in respect of conduct described below.

**Reason for penalty/penalties\*:**

.....  
.....  
.....  
.....

You have the right of appeal against the penalty/penalties\* and the right to be accompanied by your Trade Union representative, or by a work colleague of your choice, but not by anyone acting in a legal capacity.

SIGNED: ..... DATE: .....

(Governor)

---

I acknowledge that I received disciplinary penalty/penalties from the above-named person for the reasons stated. I was informed of my right to appeal against the penalty/penalties and of my right to be accompanied by a trade union representative, or by a work colleague of my choice.

SIGNED: ..... DATE: .....

(Employee)

- cc:     1. Personnel Folder  
       2. Professional Standards Unit

**Expiry Date (from date of issue):** .....

\* Delete as appropriate



# Appendix 9

## Personal in Confidence

### NORTHERN IRELAND PRISON SERVICE

### APPEAL NOTIFICATION

### (TO BE SENT TO THE MANAGER WHO HEARD THE CASE WITHIN 10 WORKING DAYS OF DISCIPLINARY AWARD)

**TO:** \_\_\_\_\_

1. As a result of the disciplinary hearing held on ..... (Date) it was decided that I would be subject to: .....  
.....
2. I wish to appeal that decision on the following grounds:
  - Correctness of procedure;
  - To rectify something that went wrong at the initial disciplinary interview;
  - The fairness of the decision;
  - The appropriateness of the penalty(Tick one or more which may apply.)
3. These grounds are supported by the attached statement and documents listed below:  
.....  
.....
4. I do/do not\* wish to have a personal interview.
5. I wish/do not wish\* to be accompanied by a work colleague of my choice or a trade union representative.

COMPLETED BY ..... (Employee)

STAFF NUMBER .....HM PRISON/YOC\* ..... Date .....

SIGNED ..... (Received on behalf of Governor/ Manager

Date .....

\* Delete as appropriate

# Appendix 10

**Personal in Confidence**

## **NORTHERN IRELAND PRISON SERVICE**

### **APPEAL RESULT**

**TO: NAME OF EMPLOYEE AND STAFF NUMBER:** .....

**HM PRISON/YOC** .....

TO ..... (MEMBER OF STAFF)

1. You appealed against the decision made by ..... (name of officer conducting disciplinary hearing) on ..... (date of hearing) that you should be subject to.....

.....  
.....

2. I/We\* have considered the grounds of appeal made by you in your **Appendix 9** document dated ..... and the accompanying written representations.

3. I/We\* have also taken account of the points made at the interview on ..... (date)

4. My/Our\* decision is .....

.....  
.....

COMPLETED BY .....( Manager/Internal Appeal Board\*) DATE.....

SIGNED.....(MEMBER OF STAFF) DATE.....

- cc: 1. Personnel Folder  
2. Professional Standards Unit

\* Delete as appropriate





**NORTHERN IRELAND PRISON SERVICE**

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