

2.07 Civil Service Appeal Board

This policy allows eligible staff to appeal to the independent Civil Service Appeal Board to determine:

- . Whether a decision to retire early or dismiss an officer is fair and the proper procedures were followed – Section 2.1 a Policy and Organisation
- . Whether a refusal to allow participation in political activities is fair – Section 2.1 b Policy and Organisation
- . Whether a decision to withhold pension benefits or not to pay compensation on dismissal for inefficiency is fair – Section 2.1 c Policy and Organisation.

You are entitled to be represented throughout the appeal by a colleague or Trade Union. The appeal board is a lay body and does not follow legal procedures

- . Procedures to be followed are detailed – Section 5 Submission and Consideration of Appeal
 - . A notice of appeal against dismissal or early retirement must be lodged before the expiry of 3 months from the effective date of dismissal – Section 5.1 a Submission and Consideration of Appeal
- An appeal by a member of staff to the Civil Service Appeal Board does not prejudice an individual's right to appeal to an Industrial Tribunal

The following terms within this policy are defined in the glossary:

Effective date of termination, compensation in lieu of notice.

You may also be interested in the following policies:

6.06 Inefficiency Sickness Absence, 6.07 Inefficiency Performance, 6.01 Standards of Conduct, 6.03 Discipline, and Pensions at www.civilservicepensions-ni.gov.uk

This policy is version 3.0

For a printable version please click the icon. Please make sure that your printed version is current with the one on this portal.

This homepage is only a guide to the policy, not the policy itself. In the event of any discrepancy between the content of this homepage and the associated policy, the wording of the policy shall apply.

2.07 Civil Service Appeal Board

CONTENTS

1 Background.....	3
2 Policy and Organisation	3
3 Statutory Right of Appeal Against Unfair Dismissal	3
4 Eligibility to Appeal to the Civil Service Appeal Board Against Dismissal or Early Retirement	4
5 Submission and Consideration of Appeal	5
5.1 General.....	5
5.2 Giving notice of appeal:	5
5.3 Submitting the appeal:	5
5.4 Procedure.....	5
6 Inefficiency Dismissals: Non-Payment of compensation or payment of less than the maximum.....	7
7 Travelling and Subsistence expenses.....	7

2.07 Civil Service Appeal Board

1 Background

1.1 The Civil Service Appeal Board is an independent body that deals mainly with appeals from you if you have been dismissed or retired early. (Note: Here, and elsewhere in paragraphs 1.1- 5.4.10, 'early retirement' also covers 'early severance'.) Evidence from you and from your employing Department is obtained before appeals are heard and decisions reached. The Appeal Board is a lay body and does not follow legal procedures.

2 Policy and Organisation

2.1 The Civil Service Appeal Board has four functions:

- a. to decide whether a Departmental decision to retire an individual early or to dismiss is fair and that the proper procedures had been followed (the procedure to be followed in such cases is set out in paragraphs 2.2, 4.1 - 5.4.10 and 7.1 - 7.2 below);
- b. to act as the Appeal Board for Civil Servants who have been refused permission by their Departments to participate in political activities (the procedure to be followed in such cases is set out in the 'General Employment Issues' part of the Handbook paragraphs 1.14.17 to 1.14.22);
- c. to consider appeals against a proposal to withhold superannuation benefits under rule 8.2 of the Principal Civil Service Pension Scheme (NI) (see paragraphs 8565 and 8566 in the NICS Pay and Conditions of Service Code); and
- d. to consider appeals against a Departmental decision not to pay compensation or to pay less than the maximum in cases of dismissal on grounds of inefficiency (the procedure to be followed in such cases is set out in paragraphs 5.2 - 5.4 and 6.1 - 7.2 below).

2.2 The Board hearing each case will consist of three members sitting together; either the appointed Chairman or Deputy Chairman of the Appeal Board, together with two others, one drawn from a panel nominated by Management Side and one from a panel nominated by Trade Union Side. The Appeal Board, not being a legal forum, will operate in an informal manner.

3 Statutory Right of Appeal Against Unfair Dismissal

3.1 The entitlement to appeal to the Civil Service Appeal Board does not prejudice your statutory rights, under the provisions of the Employment Rights (NI) Order 1996, to complain against unfair dismissal to an Industrial Tribunal.

4 Eligibility to Appeal to the Civil Service Appeal Board Against Dismissal or Early Retirement

4.1 If you are under notice of dismissal or early retirement you may lodge an appeal with the Civil Service Appeal Board, provided that:

a. the notice is not for retirement on medical grounds (see policy 2.04, Early Retirement on Medical Grounds.)

b. you have been continuously employed in the Civil Service for at least one year ending with the effective date of termination, as defined according to paragraph 4.2;

c. you are not dismissed whilst participating in a strike or other industrial action, unless:

i. the dismissal was for taking part in protected industrial action; or

ii. the Department has not dismissed all employees who were taking part in the industrial action at the same establishment at the date of dismissal or another of those dismissed at the time has been offered reinstatement within three months of the date of dismissal; and

d. at the time of dismissal you were not taking part in an unofficial strike or other unofficial industrial action.

4.2 For the purpose of calculating your length of service, in order to establish eligibility to lodge an appeal with the Civil Service Appeal Board, the period of one year's continuous employment is determined in accordance with the relevant provisions of the Employment Rights (NI) Order 1996 (as amended by the Unfair Dismissal and Statement of Reasons for Dismissal (Variation of Qualifying Period) Order (Northern Ireland) 1999). The period of continuous employment ends with the effective date of termination, in other words the day on which notice of termination expires.

4.3 Where your employment is terminated without notice, with compensation in lieu of notice or with less than the statutory minimum period of notice your effective date of termination will be calculated as if the statutory minimum period of notice had been given.

5 Submission and Consideration of Appeal

5.1 General

5.1.1 The following procedure has been established so that appeals can be heard with the minimum of delay:

5.2 Giving notice of appeal:

5.2.1 You should send a notice of your intention to appeal to the Secretary to the Appeal Board so that it is received before the expiry of three months from the effective date of termination. The onus to ensure the notice of appeal is lodged before the expiry of the three months rests with you. The notice may be sent either before the date on which employment is due to be terminated or after employment has actually been terminated. It must be sent to the Secretary, Civil Service Appeal Board, 4th Floor, Royston House, 34 Upper Queens Street, Belfast BT1 6FD.

5.2.2 The Secretary will inform the employing Department of the appeal as soon as the notice of intention to appeal has been received.

5.3 Submitting the appeal:

5.3.1 You must submit your full case in writing to the Secretary to the Appeal Board within 21 calendar days of the date on which your notice of intention to appeal was received by the Secretary.

5.3.2 The Secretary will send a copy of your full statement of case to the employing Department and invite it to explain the reasons for its action and to comment, as appropriate, on the points you have made.

5.3.3 The Department's response, or statement of case, will be with the Secretary within 21 calendar days from the date on which the copy of your case was issued to it.

5.3.4 The Secretary to the Board will send a copy of the Department's statement to you.

5.3.5 Having seen the Department's statement, you may make a further written submission that must be received by the Secretary to the Board not later than one week prior to the date of the hearing.

5.3.6 Any further comments that you make will be copied to the Department.

5.4 Procedure:

5.4.1 The Appeal Board will invite both parties to submit further evidence either orally (see paragraph 5.4.3 below) or in writing. You may ask a friend, who can be a colleague or a Trade Union representative, to assist with the case and that person may submit evidence on your behalf. Should you opt to engage a Barrister or Solicitor to assist with your case, instead of a colleague or Trade Union representative, you should note that the former cannot act in a professional capacity at Appeal Board hearings and should be advised of this as early as possible in the process. This is because the Board operates informally and is not a legal forum or a court of law.

5.4.2 The hearing of an appeal may not take place within a prison and you may not be assisted at a hearing or be represented in your absence by a friend who is in prison.

5.4.3 The Secretary to the Appeal Board will write to you and your representative (if there is one) to notify you of the date on which the appeal is to be heard and to invite you to appear before the Board. You will be strongly urged to accept the invitation. If you decide to appear before the Board, the Department will be invited to be represented. If you choose not to appear, or to be represented at the hearing, the Board will decide the case on the basis of the written submissions. If a written submission from either party is not clear, the Board will ask the person who submitted it to provide clarification.

5.4.4 You are entitled to receive a copy of the Department's statement. Departments are advised to make sure that their statements contain all the relevant facts and also explain the reasons for their decisions. You will also be given a copy of any communication between a Medical Adviser or a Welfare Officer and the Department that has been taken into account in reaching a decision, unless the Board agrees there are special circumstances which would render such disclosure undesirable. The Appeal Board will, if you wish and subject to considerations of security, require the Department to give you access to other papers which the Board considers should be seen for the purpose of presenting your case.

5.4.5 The Appeal Board, having regard to all of the written and oral evidence provided, will decide whether the decision to retire early or to dismiss is fair. If the Board decides that the decision is unfair, it may recommend to the Head of the Department either that you should be reinstated or re-employed or specify what compensation (or additional compensation in a case of early retirement) you should be paid. If the Board considers that some other action is more appropriate, it will recommend accordingly.

5.4.6 When the Board cannot reach a unanimous decision, there will be a majority conclusion. If the majority conclusion is that the Department's decision is fair, and was made correctly, both you and the Head of the Department will be notified. You will have two weeks from the date of receiving a copy of the Hearing Report during which to make representations (or your representative may make representations on your behalf) to the Head of the Department or to an officer at a level determined by the Permanent Head of Department (see policy 6.01, Standards of Conduct) before a final decision is made. If the majority conclusion is that the Department's decision is unfair, the procedures as set out in paragraph 5.4.5 above will apply.

5.4.7 If the Board makes a recommendation to reinstate or re-employ you, the Head of the Department or an officer at a level determined by the Permanent Head of Department (see policy 6.01, Standards of Conduct) will decide whether to accept the Board's recommendation and this decision will be final. In cases of early retirement on the grounds of limited efficiency or structure, the Department will normally be expected to accept the recommendation of the Board unless there are overriding reasons to the contrary and, before such a recommendation is rejected, Central Personnel Group (Employment

Conditions and Pensions Division) of the Department of Finance and Personnel must be consulted about the possibility of your transfer to another Department. If a recommendation to reinstate or re-employ you is rejected by the Department, the Appeal Board will consider whether to award compensation, or additional compensation in the case of early retirement.

5.4.8 To assist the Appeal Board in determining the amount of compensation to be paid, you and the Department will be invited to make written representations to the Board concerning the extent to which you may have contributed to your dismissal. Any such representations should relate solely to this issue and not to any other aspects of the case.

5.4.9 The Secretary to the Appeal Board will notify you of the Board's recommendation, or its decision to award compensation. The Department will notify you and the Appeal Board of its decision.

5.4.10 The Department must pay any compensation awarded by the Appeal Board.

6 Inefficiency Dismissals: Non-Payment of Compensation

6.1 If you have been dismissed on grounds of inefficiency and have not been paid compensation under the Civil Service Compensation Scheme (NI) or have been paid less than the maximum at the Department's discretion, you may appeal to the Appeal Board against that decision. This is in addition to the right to appeal against dismissal.

6.2 If you are dismissed on the grounds of inefficiency you may appeal against dismissal in accordance with the procedures in paragraphs 2.2, 4.1 - 5.4.10 and 7.1 - 7.2.

6.3 If unsuccessful, you may appeal against a Department's decision not to pay compensation or to pay less than the maximum under the Civil Service Compensation Scheme (NI); notification of intention to appeal should be made to the Secretary to the Appeal Board within 21 days of the date of the Board's finding that the dismissal was fair. In cases where you do not wish to contest the dismissal, but wish to appeal against the non-payment of compensation or payment of less than the maximum, the Secretary should be notified of the intention to appeal within 21 calendar days of the effective date of termination, or, if your appointment has been terminated without notice, the date on which your employment ceased. Should you appeal against the decision not to pay compensation or to pay less than the maximum under the Civil Service Compensation Scheme (NI) you may not subsequently appeal to the Appeal Board against dismissal.

6.4 Where you appeal against the non-payment of compensation or payment of less than the maximum, the procedures followed will be those laid down in paragraphs 2.2, 5.2 - 5.4.6. The time-limits for such appeals are, however, specified in paragraph 6.3 above. The Appeal Board will consider only whether or not compensation under the Civil Service Compensation Scheme

(NI) should be awarded in cases of non-payment of compensation, or the level of compensation in cases where less than the maximum has been paid; the decision to dismiss you will not be considered. The Secretary will notify you of the Board's decision. If the Appeal Board decides that payment of compensation or an increased level of compensation is appropriate, the employing Department will arrange for compensation under the Civil Service Compensation Scheme (NI) to be paid.

6.5 Where the Appeal Board decides that the decision to dismiss is unfair and recommends the payment of compensation under paragraphs 5.4.5 or 5.4.7, it does not necessarily follow that the payment of compensation under the Civil Service Compensation Scheme (NI) would also be appropriate. If you seek compensation under the Principal Civil Service Pension Scheme (NI), it is still necessary for you to appeal against the Department's decision not to pay compensation or to pay less than the maximum.

7 Travelling and Subsistence Expenses

7.1 Departments must meet your travelling and subsistence expenses when you are appearing before the Board and also of any Civil Servants attending to assist you. They must also meet the travelling and subsistence expenses (at the same rates applicable to you) and loss of earnings, if appropriate, incurred by any non-Civil Servant (other than a fulltime Trade Union representative or a Solicitor or a Barrister) who with the Appeal Board's agreement, attends with you.

7.2 Payment of such expenses must be met in accordance with the rules set out in the Travel and Subsistence Allowances section of this Handbook.