

# Employee Handbook



Scottish Information  
Commissioner

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# Part 1

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## Section 1: Introduction, glossary and abbreviations

1. Part 1 this handbook sets out the sections of this handbook which are incorporated into your employment contract (except where specified) and the benefits that you may be entitled to as an employee of the Scottish Information Commissioner (The Commissioner).
2. Part 2 contain important policies and procedures that will apply to you during your employment and you must take time to familiarise yourself with its content.
3. Please note that the policies contained in the Part 2 policies and procedure section of this handbook (unless stated otherwise) are non-contractual and may change from time to time. The policies and procedures will be reviewed and monitored on an ongoing basis, taking account of legislative requirements, recommendations and identified good practice. The Head of Corporate Services (the HOCS) will conduct debriefing sessions with managers on the conclusion of specific cases where relevant to inform the continuous review and enhancement of these procedures and managers' practice.
4. If you have any enquires about any of the policies and procedures, or a benefit you may be entitled to, you should normally contact your manager or the HOCS in the first instance.
5. For business continuity purposes, it may be necessary to provide temporary and interim policies and procedures to add to or amend the provisions set out in this handbook, for example, when dealing with the impact of a pandemic. Staff will be advised where such temporary and/or interim policies and/or procedures are required and the reasons for them.

## Glossary and abbreviations

<b>Term Used</b>	<b>Explanation</b>
<b>COMMISSIONER</b> <i>/we/us/our/the Commissioner</i>	The Scottish Information Commissioner, his staff or the office (context dependent) - covers the officeholder acting in their capacity as Commissioner, the employer and the organisation
<b>SMT</b>	Senior Management Team
<b>FOISA</b>	The Freedom of Information (Scotland) Act 2002
<b>EIRs</b>	Environmental Information (Scotland) Regulations 2004
<b>HOD</b>	Head of Department
<b>HOCS</b>	Head of Corporate Services
<b>FAM</b>	Finance and Administration Manager
<b>VC</b>	Virtual Cabinet (our electronic documents and records management system)
<b>SPCB</b>	Scottish Parliamentary Corporate Body
<b>FWH</b>	Flexible working hours
<b>Bandwidth</b>	The hours within which you may work and accrue time under the FWH arrangements.
<b>SSP</b>	Statutory Sick Pay
<b>EWC</b>	Expected Week of Childbirth
<b>Qualifying week</b>	The 15th week before the EWC
<b>SMP</b>	Statutory Maternity Pay
<b>KIT</b>	Keeping in Touch
<b>MA</b>	Maternity Allowance
<b>ShPP</b>	Statutory Shared Parental Pay
<b>Partner</b>	Spouse, civil partner or partner
<b>SPP</b>	Statutory Paternity Pay

## Section 2: About the Scottish Information Commissioner

### Statutory Framework

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6. Your employer is the Scottish Information Commissioner (the Commissioner).
7. The Commissioner may appoint staff and set their terms and conditions of employment. These determinations are subject to the approval of the Scottish Parliamentary Corporate Body, which also approves the Commissioner's annual budget.
8. The Commissioner is a public official appointed by Her Majesty the Queen on the nomination of the Scottish Parliament. This means that the Commissioner carries out their functions without being directed or controlled by the Scottish Government or Parliament.
9. The Commissioner is responsible for enforcing and promoting Scotland's freedom of information laws, namely:
  - The Freedom of Information (Scotland) Act 2002 (FOISA)
  - The Environmental Information (Scotland) Regulations 2004
  - The INSPIRE (Scotland) Regulations 2009.
10. The Commissioner:
  - Investigates applications and issues legally enforceable decisions
  - Promotes good practice amongst public authorities and
  - Provides the public with information on their rights.

### Values

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11. We are committed to the highest standards of conduct in carrying out our work. These standards are reflected in our values and we have adopted the Nolan Committee's Seven Principles as the guiding framework.

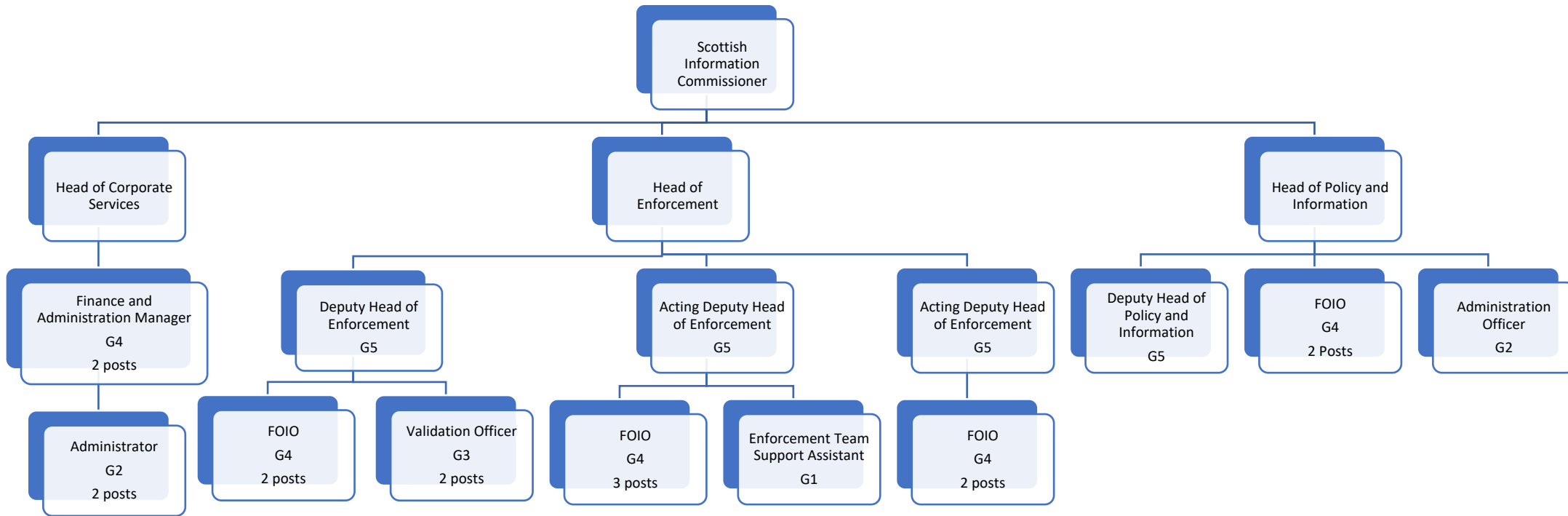
These are:

Selflessness	You should act solely in terms of the public interest and not in order to benefit yourself, your family or your friends.
Integrity	You should not place yourself under any obligation to anyone, individuals or organisations, who might seek to influence you in the performance of your official duties.
Objectivity	You should make choices on merit when carrying out public business such as making public appointments or awarding contracts.

Accountability	You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate to our organisation.
Openness	You should be as open as possible about all the decisions and actions you take and should be able to give reasons for these decisions. You should only restrict information when the wider public interest clearly demands it.
Honesty	You have a duty to declare any private interests relating to your public duties. Any conflicts of interest should be resolved in a way that protects the public interest.
Leadership	You should promote and support these principles by leadership and example.

# Organisational Chart

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## Section 3 Pay, allowances and employee benefits

### Introduction

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12. This section forms part of your contract of employment and covers the following
- Salary arrangements
  - Sick Pay
  - Salary advance for season tickets or bicycle purchase
  - Childcare vouchers
  - Sick Pay
  - Leaving the Commissioner - notice periods
  - Expenses

### Salary arrangements

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#### Salary

13. This section also forms part of your contract of employment.
14. You will be paid monthly in arrears on the last working day of the month. Payment will be by bank transfer into your bank or building society account.
15. You will receive a payslip before each pay day showing details of payments and deductions made.
16. The current salary structure is as shown in the table below:

<b>Grade</b>	<b>Spine Point</b>	<b>Salary from 01/02/2023</b>
		£
<b>1</b>	1	26,413
<b>2</b>	2	28,860
<b>2</b>	3	31,318
<b>3</b>	4	32,884
<b>3</b>	5	36,241
<b>3</b>	6	40,000
<b>4</b>	7	42,000

<b>4</b>	<b>8</b>	46,091
<b>4</b>	<b>9</b>	50,079
<b>5</b>	<b>10</b>	52,583
<b>5</b>	<b>11</b>	56,104
<b>5</b>	<b>12</b>	59,625
<b>5</b>	<b>13</b>	63,147
<b>6</b>	<b>14</b>	66,305
<b>6</b>	<b>15</b>	69,646
<b>6</b>	<b>16</b>	72,987
<b>6</b>	<b>17</b>	76,328
<b>6</b>	<b>18</b>	79,672

### **Salary reviews**

17. Salary scales are reviewed annually.
18. In carrying out the review we will take account of;
  - the SPCB's corresponding pay award
  - affordability in relation to our own budget and resources.

### **Starting salary**

19. You will normally start on the minimum of the salary scale. However, if you have proven relevant experience over and above the minimum requested in the recruitment literature you may, exceptionally, be given a higher starting salary to reflect that experience.

### **Overtime**

20. Exceptionally, you may work overtime, providing this has been approved in advance by your HOD or the HOCS.
21. You and your HOD are encouraged to make use of the flexible working arrangements wherever possible. HODs should seek to avoid asking staff to work overtime, and should authorise overtime only when it is absolutely necessary. HODs should ensure the HOCS is made aware of any overtime costs to be incurred.
22. You must not record time worked as overtime under the flexible working hours arrangements, that is, you may not claim overtime and also accrue flexible working hours.
23. You may be paid overtime for all hours worked outside the bandwidth (that is outside the hours of 0700 – 2000) with the approval of your HOD. Alternatively, at the discretion of your HOD, you may record these as hours worked on your timesheet without overtime payment.
24. You may be paid overtime for hours worked within a bandwidth. For example, if you have already worked 9 hours in that day and your HOD requires you to work later than this, or if an individual has already accrued an unmanageable Flexible Working Hours credit.

25. You will be paid at your standard hourly rate for any overtime worked. Your hourly rate is calculated as follows:

*Annual salary divided by 52 divided by 37*

### **Progression**

26. You will normally progress at the rate of one scale point per year until you reach the top of your grade.
27. Your progression date will be the anniversary of either your employment start date or the date you were promoted to a higher grade.
28. Progression may be suspended if sanctions have been imposed under the formal stages of the Disciplinary Procedures, the Procedures for Dealing with Unacceptable Performance or the Procedures for Dealing with Unacceptable Attendance.
29. If, at the expected progression date, the formal stages of any of the Procedures above are in progress but a decision has not yet been reached, the additional scale point will be suspended pending the outcome of the hearing.
30. If the hearing outcome means you will progress to the next scale point, your increase will be backdated to the progression date, unless any restrictions are imposed at the hearing.

### **Promotion**

31. If you are promoted to a higher grade your starting pay on promotion will be the starting scale of the higher grade.

### **Temporary promotion**

32. If you are covering the duties of a vacant post at a higher grade in accordance with an agreed formal arrangement, you will be paid at the starting scale of the higher grade.
33. Temporary promotion will only be offered to cover vacancies, career breaks, maternity leave, long-term sick leave and official business leave. It would not be offered to cover annual leave or the absence of a colleague on official business.
34. A minimum qualifying period of 4 weeks will apply.

### **Incorrect salary payments**

35. We will make every effort to ensure that you are paid the correct salary and allowances.

### **Underpayments**

36. If you identify an underpayment you should notify the FAM who will ensure this is corrected via the payroll system in the month following the error.
37. If required, the FAM will arrange for an interim payment to cover the shortfall.

### **Overpayments**

38. If you have been overpaid, it is your responsibility to draw the discrepancy to the attention of the FAM.
39. If you have accepted an overpayment in good faith, we will recover the overpayment via the payroll at a rate reasonably convenient to you.



40. If you do not disclose an overpayment once you are aware of it, you may be subject to disciplinary action.

### **Statutory deductions from pay**

41. As an employer, the Commissioner is required to make certain statutory deductions from your pay e.g. income tax, national insurance and pension contributions.

### **Other authorised deductions from pay**

42. If we need to recover any monies you owe us, we will do so via the payroll. This would include overpayments of salary as detailed above, overpayments of expenses and any other money you may owe during the course of your employment.
43. Before we make any deductions, we will notify you of the total amount you owe and discuss with you the rate at which we will recover the sum. If you leave our employment before the total amount you owe us has been repaid, we will recover the outstanding balance from your final salary.
44. In addition, if, when you leave our employment, you have taken in excess of your accrued holiday entitlement or have a flexi hours debit, we will deduct the monetary value from your final salary.

### **Suspension**

45. In cases of serious misconduct, the Commissioner may elect to suspend you, normally on full pay, to allow an investigation to take place. The period of the suspension will be kept to a minimum, and will not be viewed or treated as a punishment.
46. Where you are absent from work due to sickness during any period of suspension, the suspension will automatically come to an end, and you will be treated as on sickness absence and will receive your sick pay entitlement.

In very exceptional circumstances, pay may be withdrawn during a period of suspension. This may occur, for example, where circumstances outwith the control of the Commissioner - such as criminal proceedings or a police investigation - have an impact on the progress of the Commissioner's internal Disciplinary Procedures, thereby leading to a protracted period of suspension.

### **Sick Pay**

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#### **Statutory Sick Pay (SSP)**

47. You are entitled to payment of SSP, subject to meeting the relevant qualifying conditions.
48. Your statutory sick pay rights can be read here:

<https://www.gov.uk/statutory-sick-pay/overview>

49. The SIC offers enhanced benefits over and above your statutory rights. These are set out below.

#### **Entitlement to paid sick leave**

50. If you are employed by the Commissioner, you are entitled to paid sick leave. Previous service in an earlier appointment will not be aggregated with your current appointment for the purpose of determining sick absence allowance, but can be for Statutory Sick Pay purposes.

## **Pay during Absences on Sick Leave**

51. Provided that the absence management rules are fully complied with, sick absence on full pay may be granted for a maximum of 6 months in total during any period of 12 months. Payment of sick absence at half pay is granted subject to a maximum of 12 months' sick absence in any 12-month rolling period. Depending on the level of sick absence incurred over the previous 12 months, half-pay or no-pay rate may take effect at any time during a particular period of sick absence.
52. Each normal workday you are sick (Monday to Friday) counts as a day's sick absence. Weekends, public and privilege holidays and rest days also count if your absence begins before them and continues after them. For example, in the case of a weekend for Monday-Friday workers, if you are absent on Friday and Monday you will be recorded as being absent for 4 days and not 2.
53. To qualify for sick pay, you must comply with our absence reporting and certification procedures as detailed below and in the Attendance Management Policy and Procedure. Sick pay will also be withheld if there are reasonable grounds to believe your absence is not genuine.
54. Please note that sick pay is inclusive of any SSP entitlement; you will not receive additional SSP.

## **Salary advance for season tickets or bicycle purchase**

55. You may apply for an interest-free advance of salary if you wish to purchase an annual season ticket or a bicycle to travel to and from work. For more information, please contact the FAM.

## **Childcare vouchers**

56. If you have children, you may be eligible to purchase Childcare Vouchers via deductions from your salary. Further details on eligibility and how to apply are available from the FAM.

## Leaving the Commissioner - notice periods

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### Notices and references

57. Subject to the exceptions below, and to your contract of employment which will prevail if there is any inconsistency, you will be given the following minimum periods of notice if your appointment is terminated:

Continuous service for:	Notice period:
Up to 4 years	5 weeks
Over 4 years	1 week plus 1 week for every year up to a maximum of 13 weeks

58. Your employment may, however, be terminated without notice or payment in lieu of notice should you be dismissed for gross misconduct.

### Ill-health retirement

59. If you are retired on medical grounds, you will be given the following minimum period of notice:

- Nine weeks, unless you agree a shorter period

### Compulsory termination of appointment

60. You will be given six months' notice if your appointment is terminated by reason of compulsory redundancy. This does not apply if:
- you accept flexible or approved early retirement or voluntary redundancy, where the date of termination is agreed or
  - you are summarily dismissed on grounds of gross misconduct.

### Compensation in lieu of notice

61. Where you are not required to work for all or part of the minimum period of notice to which you are entitled (except where you leave voluntarily before the end of the period of notice), the Commissioner reserves the right to pay you in lieu of the unworked period of notice.

### Resignation

62. If you resign, you are required to give one month's notice unless a longer period is set out in your contract of employment.

## Expenses

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63. This section forms part of your contract of employment and should be read in conjunction with the [Commissioner's Travel & Expenses Policy](#).
64. No specific allowances will be available for hybrid/remote working. The office premises at Kinburn Castle, Doubledykes Road, St Andrews, KY16 9DS, as set out in your employment terms and conditions will be considered as your ordinary commute regardless of how frequently that journey is made - travel and subsistence expenses can only be reimbursed when a staff member is required to travel and/or stay overnight on business.
65. When remote/hybrid working, a member of staff will not be eligible for the reimbursement of the costs or expenses regarding the following
  - childcare costs - childcare costs for days a member of staff needs to work in the office will not be met. Childcare expenses can only be paid in exceptional and unavoidable circumstances, for example, the provision of childcare in the event that you are required to work at short notice.
  - home insurance – you must take reasonable care of any business equipment supplied for remote working purposes. No additional cover is needed for equipment provided by the Commissioner as we will cover the risk, provided reasonable precautions have been taken, for example, the house is reasonably secured when no-one is at home. However, it is your responsibility to ensure that working from home does not invalidate your home insurance policy
  - mortgages and landlords - it is your responsibility to let your mortgage company or landlord know you are working from home. You are responsible for making sure occupation of the home is not subject to conditions or covenants in your mortgage or tenancy agreement which prevents working from home.

### Reimbursement of Expenses

66. If you have to travel on official business, you will be reimbursed for the cost of any travel and expenses which you actually and necessarily incur. You will also be reimbursed for any necessary expenditure incurred by you if you have to stay away from home overnight, up to the limit set out in the Travel & Expenses Policy.
67. Any claims for reimbursement of travelling expenses must be accompanied by a receipt and submitted to the FAM, having been approved and signed in the first instance by your line manager. The expenses claim form is an Excel spreadsheet template in VC entitled Expense Claim Form.
68. If you claim Motor Mileage or Motor Cycle Mileage, you must ensure that you are insured for business travel and you could be subject to disciplinary action if you are not insured and claim for these mileages

## Section 4: Work Life Balance

### *What is work-life balance?*

69. Work-life balance will mean different things to different people. In general terms, it is about having meaningful achievement and enjoyment in your everyday life. In the context of work, there are many ways in which you can be supported in achieving your chosen balance. It is not always about working fewer hours; it is also about having an influence over when and where you perform your role so it fits with the rest of your life. This could mean, for example, time off to have children, to care for a dependant, to update your skills or gain a qualification, to become involved in your local community, to attend cultural celebrations or to pursue interests and hobbies.

### *How can the Commissioner help me to achieve my work-life balance?*

70. We recognise that achievement and enjoyment at work are a critical part of your work-life balance. We will help you to achieve your work-life balance by being a supportive employer, recognising your individual needs and promoting a healthy, balanced and flexible approach to providing a high-quality service and meeting business and personal objectives.

### *What will this mean in practice?*

71. We are committed to developing a culture that encourages diverse ways of working and to creating a framework that will allow you to select your work-life balance option whilst still providing a high-quality service and meeting business and personal objectives. To enable this, we will:
- ensure you are made aware of and understand how different working arrangements can benefit the organisation whilst meeting your individual needs at various stages in your life
  - enable you to make a personal choice so that you have the opportunity, in consultation with your HOD and your Line Manager, to agree the balance you wish to strike between work and other aspects of your life
  - ensure you are not treated less favourably in terms of recruitment, promotion or training opportunities as a result of making changes under this policy to improve your work-life balance
  - monitor the uptake and impact of these arrangements
  - review and look for opportunities to improve our current working arrangements and introduce new ways of working as required.

### *Is the policy open to all staff?*

72. The overarching policy is open to all staff. However, it may not be possible for all staff to access all of the individual arrangements and this will be dependent on work priorities and requirements.

### *What are the various working arrangements and benefits?*

73. You can find out more about the different arrangements by referring to the following sections in other parts of the handbook:
- Annual leave
  - Healthy living scheme

- Employee assistance programme
- Statutory rights to time off
- Parental Bereavement Leave
- Special leave
- Parental leave
- Maternity leave
- Adoption leave
- Paternity leave
- Shared parental leave
- Career break
- Flexible working arrangements

*Are all of these arrangements open to me?*

74. Not necessarily. The concept of work-life balance is to be flexible enough to respond to individual needs but also to the needs of the organisation. The arrangements may not, therefore, be open to everyone at the same time and access to them will depend on your individual circumstances and life choices and the needs of your job.
75. There might, therefore, be legitimate reasons why particular arrangements might not be open to you. However, at the same time, it is important to note that, in line with our Equality Policy, it will not be acceptable for any member of staff to be refused access to any of the arrangements on grounds of their gender, gender identity, sexual orientation, marital, civil partnership, family or part-time status, racial group (includes colour, race, nationality, national or ethnic origin), religion, disability (unless objectively justified), age (subject to the operation of a retirement age policy) or trade union membership/activities (except as permitted by law).
76. If you wish to discuss your individual needs and circumstances, please contact the HOCS who can discuss these with you in confidence.

*How do I apply?*

77. Clearly, some of these benefits do not require you to make a formal application; for example, for enhanced maternity/paternity/adoption pay. You should, therefore, look at the individual working arrangements to check whether you need to make a formal application through your HOD to the HOCS.

Flexible working arrangements - temporary or ad hoc working arrangements

78. Many of the flexible working arrangements potentially available can be implemented informally on either an ad hoc or temporary basis, at the discretion of your line manager in consultation with your HOD and, as necessary, with the HOCS. There is no requirement to follow the formal procedures set out in the Flexible Working Arrangements Policy and Procedures to request an ad hoc or temporary flexible working arrangement.

79. The terms of an ad hoc or temporary flexible working arrangement will be recorded in your personal file and are subject to change to accommodate business requirements. A request for a temporary or ad hoc flexible working arrangement can be refused on operational grounds.

#### Remote Working

77. Remote working is an arrangement where you work remotely, for example, from home, for all or part of your working day or week on an ad hoc basis (or as provided in your terms and conditions or letter of appointment).
78. Whilst you are working remotely, you will continue to be covered by the employment policies of the Commissioner, including the terms and conditions set out within this Handbook and Data Protection legislation
79. Remote working is not an alternative to childcare and other care arrangements. You should ensure that you are able to work uninterrupted and not while looking after a dependant. This may mean changing your working pattern, for example, working in the evening when your child is asleep. If your preferred working pattern extends beyond the FWH bandwidth, your line manager must approve this.
80. There may be particular circumstances where you need to work remotely for a short time, on an ad hoc basis, to complete reports, or to work free from distraction. This type of remote working will not require a hybrid working arrangement or a permanent variation to your terms and conditions of service and can be done with the prior approval of your line manager.
81. When you are working remotely you must only use equipment supplied by the Commissioner, for example, laptop mobile phone and must comply with any remote working guidance.
82. As in the office premises, when remote working you have a responsibility to report all accidents and near misses to the FAM following the guidance issued to all members of staff.

## Hybrid working

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### Contractual place of work

83. The office premises at Kinburn Castle, Doubledykes Road, St Andrews, KY16 9DS, as set out in your employment terms and conditions is your contractual place of work. The capacity to attend the office premises is a contractual requirement and staff must be able to attend the office premises as and when needed. This means that staff can choose to live some distance from their contractual work location but in doing so accept that travel to their contractual work location will be in their own time and at their own expense, as agreement to be put in place as part of a reasonable adjustment under equality legislation.

### Hybrid working

84. Hybrid working enables employees to work partly in the workplace and partly remotely.

85. For most roles, it may be possible for there to be some flexibility on where, when and how work is delivered and for individual members of staff to have a degree of personal choice, subject to business and operational requirements being met.

86. There are some roles, or duties within roles, where there is an absolute requirement that they are performed in a specific workplace or location at specific times, for example, health and safety and office checks. For such roles or responsibilities, there are limited options in terms of flexibility that can be offered for where, when and how that work is carried out, and that is unlikely to change.

87. Where possible, and agreed by your line manager, you are able to work on a hybrid basis between a remote working location and your contractual place of work. As this will be a temporary arrangement, you should not assume that this arrangement can or should remain fixed permanently.

88. When considering a hybrid working arrangement you and your line manager should consider work-styles and take account of operational needs to ensure necessary arrangements are in place. Generally, there are three work-styles available:

- **remote** - for roles where the employee is able to work remotely
  - members of staff who wish, predominately, to work at home can still have that option under the hybrid working work-style, if it fits with business needs and is agreed with their manager
- **hybrid** - for roles that include a regular mix between remote working and working in the office premises.
  - there is no singular or pre-determined ratio between the number of days in each location
  - this is a matter for agreement between line managers and individual members of staff to suit business requirements and personal preferences.
- **in the office premises** - for roles that require the member of staff to be in the office premises
  - where they are unable to work effectively from home
  - where physical presence and access to systems are required as part of the role



- because it is an individual's preference to work predominately in the office premises

89. For most areas there will be an obvious work-style for your role and team. For other areas, you may need time to consider the relative merits, needs and preferences of the requirements of individual roles to find the right balance.

90. To find a work-style, managers and individual staff members should discuss business requirements as well as personal preferences and needs. Public health guidance and wellbeing may also be factors in determining when a member of staff should attend the office premises.

91. It will be important for discussions to be considerate of how teams and groups of colleagues will work together. When discussing work styles, all the different working patterns within a team should be considered to ensure equality of opportunity and inclusion.

#### Fixed ratios – remote working and working in the office premises

92. The Commissioner may set fixed ratios for the organisation between how many days can be worked remotely and how many days must be worked in the office premises. The Commissioner will consider the following when setting any fixed ratios:

- **it is essential that business requirements are met** - while every effort will be made to accommodate your personal choice, it must always be weighed against business and operational needs. You may have to come into the office premises to do certain tasks, functions or take part in certain events.
- **staff are able work remotely on the understanding that they are able to attend their contractual work location** - some roles may require a level of flexibility and responsiveness in order to meet business needs week to week, others may be more predictable
- **the Commissioner cannot support remote working abroad, unless there is a genuine requirement to do so in the role** - specific examples of a genuine role requirement would be official business travel overseas for colleagues to attend conferences, meetings and networking / relationship building opportunities. This position reflects significant issues of compliance related to employing a person resident in another country including immigration / right to work in that country, security, taxation, pensions, social security, employment law and, also, IT requirements

93. When you are working remotely you must only use equipment supplied by the Commissioner, for example, laptop, mobile phone and must comply with any remote working guidance.

94. As in the office premises, when remote working you have a responsibility to report all accidents and near misses to the FAM following the guidance issued to all members of staff.

## **Flexible Working Hours**

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92. Your terms and conditions/letter of appointment/contract (and any subsequent agreed amendment) specifies the number of hours you must work and your agreed working pattern.

93. Full-time hours are 37 hours per week. This equates to 1,631 hours per annum excluding annual leave and public and privilege holidays.
94. Unless you are absent on leave (including sick leave, annual leave and other types of leave) or other officially approved circumstances apply, you must be present each working day you are scheduled to work.
95. You are expected to manage your time to ensure you are able to attend meetings including, for example, All Staff Meetings, team meetings, case/project reviews, appraisals and 1:1s.

### **Bandwidth**

96. The bandwidth is the time during which you can work and record flexi hours without requiring the express permission of your line manager.
97. The current bandwidth is between 0700 and 2000 hours.

### **Core hours**

98. There are no core hours during which you are obliged to be at work. However, if there are occasions when you intend to start work after 1000 you should let your line manager know in advance.

### **Breaks**

99. If you work more than 6 hours per day you must take an uninterrupted break of at least 30 minutes at a time convenient to you and your team. Failure to comply with this may result in disciplinary action
100. However, if you are unable to take such a break because you are;
  - required to attend formal working lunches, lunch time meetings etc or
  - prevented from taking a break in order to meet a deadline and
  - you are unable to take a break at another suitable time

your line manager has the discretion to waive the necessity to deduct 30 minutes from your working hours.

101. This should only be on an exceptional basis since it is important for your health and wellbeing that you take an uninterrupted break at some time during the day.
102. There is no limit to the number of breaks you may take on a daily basis provided these are recorded and do not cause inconvenience to your team or to the organisation.

### **Timesheet**

103. You must use your timesheet to record your daily working hours, recording each time you start or stop work, including all breaks taken during the day. You must also comply with other arrangements for time recording including [signing in and out](#) of the office premises.
104. Your timesheet is an Excel workbook, set up each year and saved to VC. It is divided into 13 four-weekly recording periods.
105. Each day, record all the hours you work. Please ensure you record all the times you stop and start work throughout the day, for example, for a lunch break.

106. If some of your hours worked are out with the bandwidth, either at the request of management or by prior arrangement with your line manager, you should record these hours on the timesheet as normal, and add an explanatory note in the comments box.
107. If these hours are worked at a weekend you should add them to the 'adjustments' column of your timesheet, usually on the Monday following the weekend you have been working.
108. Hours worked out with the bandwidth of your own accord should not be recorded, that is, hours not at the request of, or agreed in advance with, your line manager.
109. If you are required to travel on Commissioner business at any time, you should record the time spent travelling.
110. You should not record travel time between your home and normal place of work except when you are travelling to work at a weekend or outside of normal office hours or on public/privilege holidays (as defined in this Handbook) at the request of a manager.
111. Formulae in the timesheet will calculate your total hours each day and whether the hours you have worked exceed or fall short of your daily standard hours.
112. Your daily hours build up to both a daily and a four-weekly total and result in the number of surplus or deficit hours to be carried forward to the next period.
113. You should check-in your timesheet in VC at the end of each working week.
114. You should not include any false or misleading information in your timesheet relating to your hours of work and activities. If you do, this may amount to gross misconduct and may be subject to disciplinary action

### **Carrying hours forward**

115. You may carry forward to the next period a maximum of two days' surplus or deficit hours without referring to your line manager.
116. The timesheet is set up to carry forward only two working days'-worth of hours (credit or deficit) to the next period. If the carried forward hours exceed this, you should seek your line manager's permission. If agreed, your line manager should notify the FAM who will adjust your brought-forward hours.

### **Flexi-time**

117. If you build up excess hours, you may use these to take flexi-leave. You may also take flexi-leave even if you have not built up extra hours, as long as any deficit does not exceed two days.
118. You do not need formal approval to take flexi-leave but you should discuss your proposed time off with both your line manager and team colleagues to ensure there is adequate cover in place.
119. When you use flexi-time, you should note this in the comments box on your timesheet.

### **Hospital, medical, dental appointments etc.**

120. You are expected to make every effort to make these appointments in your own time, by using flexi time, for example. If this is not possible, however, a credit equal to the duration of the absence will be given for authorised absences. A pregnant member of staff will be given credit for attending ante-natal care.

### **Monitoring your working hours**

121. Part of the reason your working hours are recorded is to ensure you comply with the Working Time Regulations 1998 which govern the hours that people in the UK may work.
122. You and your line manager must ensure that your attendance is managed to keep within two days' surplus or deficit at the period end.
123. It is your responsibility to monitor your working time and ensure you do not build up excessive credit or deficit hours.
124. Your line manager will also monitor your working hours regularly.
125. In addition, the HOCS may monitor working hours from time to time.
126. The FAM also uses your timesheet e.g. to help prepare reports for SMT on sickness absence or to reconcile annual leave noted on timesheets with what is recorded in the VC.

### **Signing in/out sheet**

127. For health and safety reasons and to comply with our fire procedures, you must comply with any required signing in/signing out procedures when in the office premises each time you enter or leave the building, regardless of whether you are actually working.
- N.B. You should continue to be marked as 'in' the office if you remain in the office premises during breaks.
128. For health and safety purposes, it is important that the Corporate Services team are aware of who is going to be in the office premises each day: if you are going to be working in the office premises, you should complete the Office Occupancy Timetable which is in VC169472.
129. If you are not going to be working or are attending external meetings, appointments, taking annual/flexi leave you should ensure your Outlook calendar is up to date.

### **Office premises opening hours**

130. Generally, the office premises are open for work purposes between 0700 and 1700 Monday to Thursday.
131. You should ensure you are available for meetings during your normal working hours, if required.

## **Annual leave**

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### **Annual leave year**

132. Our holiday year runs from 1 September to 31 August.

### **Annual leave entitlement**

133. Unless otherwise specified in your terms and conditions, letter of appointment or contract of employment, if you are employed on a full-time basis you are entitled to paid leave of 30 days each year, with a further 11.5 days for public and privilege holidays.
134. If you are part-time, your holiday entitlement will accrue on a pro-rata basis.
135. Holiday entitlement will accrue at the rate of one-twelfth of your annual allowance for each complete calendar month worked. If appropriate, you will continue to accrue holiday entitlement in periods of maternity/paternity/shared parental leave.
136. If you work full time, a full day's holiday absence attracts a credit of 7 hours 24 minutes, and a half-day a credit of 3 hours 42 minutes. This should be recorded in the adjustment column of your timesheet with 'Annual Leave' in the comments box.
137. If you work part time or on a flexible working pattern your absence should reflect the appropriate number of hours relevant to your specific circumstances.
138. You will be paid at your normal rate of pay for each period of annual holiday taken.

### **Requesting annual leave**

139. You may only take annual leave if this is authorised in advance by your line manager. You should request leave using your leave card in your Admin folder in VC and email your line manager to notify them that you have done this.
140. If you wish to take more than 15 consecutive days, you must give at least 3 months' notice to your line manager.
141. Whilst we will grant holiday requests wherever possible, there may be operational reasons why a request cannot be granted. You should ensure you have approval for your request before making any definite holiday plans.
142. You may carry up to 10 days' annual leave into the next leave year without the prior approval of your HOD. If you wish to carry forward more than 10 days' annual leave, you may only do so at the discretion of your HOD.
143. You may also take up to 10 days' annual leave from the following year's entitlement with the approval of your HOD.
144. You may not claim payment in lieu of any holidays not taken, other than on termination of employment.

### **Leaving the Commissioner's employment**

145. If you terminate your employment during the holiday year, then your holiday pay entitlement will be calculated at the rate of one-twelfth of your annual allowance for each complete calendar month worked.
146. If, on your leaving date, you have taken more annual leave than your accrued entitlement, you will be required to repay the excess amount you have been paid. We reserve the right to deduct this sum from your final salary.
147. We reserve the right to require you to take any unused holiday days before you leave.

### **Public and privilege holidays**

148. We observe the following public and privilege holidays:

- Good Friday
- Easter Monday
- Christmas Eve (usually but may vary from year to year)
- Christmas Day
- Boxing Day
- The three days between Boxing Day and New Year's Day (usually but may vary from year to year)
- New Year's Day
- The day following New Year's Day

149. At the beginning of each leave year, the FAM will notify you of the dates of these holiday days by updating your calendar in Outlook.

150. This means there will usually be at least one and a half days privilege holiday free for you to take at a time of your own choosing and in agreement with your line manager.

## Healthy Living Scheme

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### Policy

151. The Commissioner recognises that the culture, structures, policies and processes of an organisation, together with personal lifestyle factors, can play an important role in the health and wellbeing of staff.

152. We aim to support staff as far as reasonably practicable to achieve and maintain a positive state of mental health and wellbeing.

153. It is well known that physical activity is essential for good health. The aim of the healthy living scheme is to encourage you to increase your physical activity levels.

154. The purpose of this scheme is therefore to support you to take part in physical activities in your own time that contribute to your health and wellbeing, thus helping to improve your overall health. The scheme has been designed to be as flexible as possible to cover a wide range of physical activities.

### Financial Benefit

155. The scheme works on a yearly basis by reimbursing you 50% of the costs of taking part in a physical activity or range of physical activities that contribute to your general health and wellbeing, up to a maximum of £180 between 1 April and 31 March of each year. You may not carry any unclaimed balance over into the following year.

156. As the scheme has been designed to support your participation in physical activities that contribute to your general health and well-being, reimbursement of costs will be restricted to your own personal use and cannot be extended to a third party.

157. Please note that reimbursement of your costs is a taxable benefit and will also be subject to National Insurance Contributions.

## Eligibility

158. The scheme is open to all staff. There is no distinction between part-time and full-time staff.

## Procedure

### *How do I apply?*

159. Before you make an application, you may wish to consult the FAM to confirm that your chosen physical activity or activities are covered under this policy.
160. To apply, please complete the Healthy Living Scheme application form using the template in VC and save it to your HR-Admin folder in VC.
161. Please print and sign the completed form and hand it to the FAM together with your original receipt(s) and/or signed declaration letter. Your claim will not be processed unless a valid receipt or signed declaration accompanies your application.
162. The FAM will arrange for reimbursement to be made through the payroll.
163. You can make claims under this policy at any stage between April and March of each year. You may choose to make claims on a regular basis, for example, on a monthly, quarterly, or annual basis, or you may prefer to make claims as and when you incur costs.
164. All information obtained by the FAM in relation to your claim or application, for example, receipts and completed application forms, will be handled in confidence.

### *What happens if I pay my physical activity by direct debit or standing order and cannot therefore produce a receipt?*

165. We will ask you to sign a declaration confirming that you have a direct debit agreement and also ask for your permission to approach the relevant organisation to confirm that you are continuing with that arrangement. This will not be done automatically; however, we may carry out a check on up to 10% of such applications to confirm that the arrangement is still in place. The declaration form should be accompanied by supporting documentation, for example a letter or email confirming the fee for the activity.

### *What if my application is refused?*

166. If your application is refused you may submit an appeal (an email will be sufficient) to the HOCS stating the reasons why you think your chosen activity should be covered under the policy and how it will contribute to your general health and wellbeing. The HOCS will inform you in writing of the decision, which will be final.

## Guidance

### *What activities are covered?*

167. The scheme is designed to be as flexible as possible to ensure that it is accessible to every member of staff. To assist you in your application, we have put together an indicative list of activities that would be covered:
  - a. yoga and pilates classes;
  - b. gym and health club membership;
  - c. sports club membership;
  - d. membership fees or other payments for physical activities such as hill-walking, fishing or sailing;

- e. exercise classes;
- f. swimming or aqua-fit classes.

168. The above list is for illustrative purposes only and is not exhaustive. On line courses/activities can be included.

*My chosen physical activity involves the purchase of equipment. Will I be reimbursed for these additional costs?*

169. No. The policy only covers the cost of the physical activity.

*Does the policy cover the cost of any travel or an overnight stay related to my chosen physical activity?*

170. No, you will be responsible for meeting any such costs.

*What measures have been put in place to make sure the policy is accessible for all staff?*

171. In the spirit of this policy, we want to ensure that everyone has access to the provision laid out in this policy and that there are no barriers to participation.

172. If, as a result of your financial circumstances, you find it difficult to access the policy, for example, because of the requirement for you to pay a membership fee up front and claim back 50% later on, you are welcome to discuss your application with the HOCS.

173. Similarly, you are also welcome to contact the HOCS if you have a disability and are not able to participate in certain physical activities. In such circumstances, it might be appropriate for us to assist you with any additional expenses or make adjustments to help you participate in your chosen physical activity. If you wish to participate in an activity that is more suited to your needs, and which promotes a healthy living lifestyle, please let the HOCS know and we will make the necessary adjustments.

174. If you have a dependant(s) and you incur additional childcare or carer costs as a result of taking part in your chosen physical activity or activities, you may include these costs in your claim. In these circumstances, you will still only be able to claim a maximum of £180 per year.

*What happens if I join after 1 April?*

175. Your entitlement will be calculated from the month you commence your employment with us. If, therefore, you join on 7 August you can claim a total of £120, i.e. £180 / 12 months x 8 months.

*What happens if I leave before 31 March?*

176. Your entitlement would be calculated from 1 April to the month in which you leave. If you have exceeded your entitlement any excess would be recovered automatically from your final salary.

## **Employee Assistance Programme**

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177. You have access to an independent and confidential employee assistance programme.

178. The service provides practical information, resources and counselling to help you balance your work, family and personal life. Details of what services are provided under the programme are set out in the Wellbeing Resources Note in VC140686.



179. Further information about the service can be obtained from the HOCS or the FAM. Literature is also displayed on the staff noticeboard and distributed by way of all staff emails.

## **Statutory Rights to Time Off**

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### **Time off for dependants**

180. In accordance with the Employment Rights Act 1996, you have a statutory right to take a reasonable amount of unpaid time off work to deal with certain unexpected or sudden emergencies involving your dependant and to make longer term arrangements.
181. You are permitted a reasonable amount of unpaid time off work to:
- provide assistance when a dependant gives birth, falls ill, is injured or assaulted
  - make arrangements for the care of a sick or injured dependant
  - make necessary arrangements as a consequence of the death of a dependant
  - deal with any disruption in arrangements for the care of a dependant
  - deal with an unexpected incident involving a dependent child at school
182. A dependant is defined as a spouse, child, parent, or a member your household (but not an employee, tenant or lodger), and may also include another individual who reasonably relies on you for assistance.
183. The leave granted by the Commissioner will be what we consider reasonable in the circumstances, and will not normally be longer than one or two days.
184. You must notify your line manager at the earliest opportunity of any absence and its expected duration.
185. If you do not comply with the above provisions, your absence may be viewed as unauthorised and disciplinary action may be taken.

### **Parental Bereavement Leave and Bereavement Pay**

186. This is a new statutory right which came into force on 6 April 2020. If eligible, you may be able to get either or both Parental Bereavement Leave and Statutory Parental Bereavement Pay. Details of the leave and pay that you may be entitled to can be found here:

<https://www.gov.uk/parental-bereavement-pay-leave>

187. Additional guidance on how to claim Parental Bereavement Leave and Statutory Parental Bereavement Pay will be included in the Employee Handbook in due course and, in the meantime, if you think are eligible please contact the HOCS or the FAM for assistance.

### **Ante Natal Care**

188. You are entitled to reasonable paid time off for antenatal care. Where possible, you should schedule appointments as close to the end, or the start, of the working day as possible to minimise the time spent away from work.

### **Redundancy**

189. If you have more than two years' continuous service you are entitled to a reasonable amount of paid time-off to look for alternative work/re-training opportunities, where you are under notice of dismissal for redundancy.

### **Safety Representatives**

190. If you are an appointed safety representative you are entitled to a reasonable amount of time off during your normal working hours to carry out relevant health and safety activities.

### **Jury Service**

191. You should notify your line manager as soon as you are aware that you have been called up for jury service. Time off is normally unpaid, but you are entitled to receive payment from the Court for some or all of your lost earnings. See also the Section on "Special Leave" below.

### **Other Statutory Rights to Time off**

192. You are also entitled to unpaid time off from work where you carry out the following public duties or are members of the relevant bodies:

- Justice of the peace
- Local authority
- Statutory tribunal
- Police authority
- Board of prison visitors or prison visiting committee
- Relevant health body <sup>1</sup>– determined by the Commissioner
- Relevant education body <sup>2</sup>– determined by the Commissioner

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<sup>1</sup> Relevant health bodies:

- the National Health Service Commissioning Board;
- a clinical commissioning group established under section 14D of the National Health Service Act 2006;
- a National Health Service trust established under section 25 of the National Health Service Act 2006, section 18 of the National Health Service (Wales) Act 2006 or the National Health Service (Scotland) Act 1978;
- an NHS foundation trust;
- the National Institute for Health and Care Excellence;
- the Health and Social Care Information Centre;
- Local Health Board established under section 11 of the National Health Service (Wales) Act 2006, a Special Health Authority established under section 28 of the National Health Service Act 2006 or section 22 of the National Health Service (Wales) Act 2006; or
- a Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978.

<sup>2</sup> Relevant education bodies:

- a managing or governing body of an educational establishment maintained by a local authority (as defined in section 579(1) of the Education Act 1996);
- a further education corporation, sixth form college corporation or higher education corporation;

- Environment Agency or Scottish Environment Protection Agency

193. While statute does not provide for time off with pay in all of these circumstances, the Commissioner will pay up to a maximum of 5 days per annual leave year for such leave. In exceptional circumstances, you may be allocated more than 5 days' paid leave in any annual leave year for statutory purposes at the discretion of your HOD, in consultation with the HOCS. Leave for statutory purposes will not be counted towards the normal maximum allocation of (non-statutory) Special Leave.

### **Special Leave**

194. Special leave is not a contractual entitlement but it is a form of authorised absence from work which may be granted to you in exceptional circumstances.

195. In addition to your statutory entitlements to reasonable time off work, special leave with pay may be granted to cover up to a maximum of five days per annum in line with the normal leave year i.e. 1 September to 31 August.

196. Circumstances in which special leave with pay will normally be granted include:

- to deal with a domestic crisis such as the serious illness or death of a close relative or dependant, sickness of a child (depending on particular circumstances)
- personal crises such as a relationship breakdown
- attendance at the funeral of a close friend or colleague
- personal involvement in an accident
- circumstances in which you have been a victim of a crime
- unavoidable severe damage or disruption to property which requires you to be at home
- to foster parents for support
- for short term care at home of a close relative or dependant
- for study leave, if the course of study is supported by the organisation, following advice from the HOCS
- to participate in public duties
- to participate in reserve or cadet forces training

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- a school council appointed under section 125(1) of the Local Government (Scotland) Act 1973;
  - a parent council within the meaning of section 5(2) of the Scottish Schools (Parental Involvement) Act 2006;
  - a board of management of a self-governing school within the meaning of section 135(1) of the Education (Scotland) Act 1980;
  - a board of management of a college of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992;
  - a governing body of a central institution within the meaning of section 135(1) of the Education (Scotland) Act 1980;

- trade union /employee representative duties and activities, accompanying an employee at HR meetings
- for attendance at court as a witness or juror

197. Special leave without pay may be granted

- to look after dependent children during school holidays
- for longer-term care for elderly or infirm relatives or dependants
- to get married or enter into a civil partnership
- for participation in religious festivals
- for study leave
- to participate in sporting events
- moving home

198. These lists are not exhaustive and are merely intended to be indicative. Special leave with or without pay may also be granted for other reasons not covered above.

### **Applications for Special Leave**

199. If you wish to apply for special leave, you should normally do so in advance. In the case of domestic emergencies, this may not be possible and in such cases, you should contact your HOD as soon as practicable.
200. Emergencies vary in their complexity and more than one event may arise in a short period of time. In these circumstances, if you consider you have a case for a longer, or second, period of paid special leave, you may apply to your HOD for further approval.
201. This is simply a summary and is not intended to change your statutory rights. Regardless of the terms of this policy, the Commissioner will comply with your statutory rights as they may be amended from time to time.

### **Parental Leave**

202. Unpaid parental leave of up to 18 weeks is granted to employees for the purpose of caring for a child. These parental leave provisions comply with relevant legislation.
203. Employees are entitled to parental leave if;
- they have at least one year's continuous service with the organisation and/or an associated employer and
  - they are the parent of a child under the age of 18 or have or have acquired formal parenting responsibilities for a child under 18, or
  - have adopted a child under 18 years and they have - or expect to have - parental responsibility for the child.
204. Any employee who qualifies for parental leave is entitled to have a maximum of 18 weeks' leave per child. The leave must be taken prior to the child's 18th birthday.

205. Leave may be taken in blocks of one week (or one day in the case of a disabled child), and a maximum of four weeks' leave is permitted in any one year. Leave taken with previous employers will count towards calculation the maximum entitlement.
206. Part-time employees are permitted parental leave on a pro-rata basis.
207. If you wish to apply for parental leave you must give a minimum of 21 days' notice to your HOD stating how much parental leave you wish to take and when you would like to take it. Your line manager may postpone the leave for up to six months where the business of the office would be particularly disrupted if the leave were taken at the time requested. If your leave has to be postponed you will be given written confirmation of the reasons for the postponement and the dates on which you may take leave. This confirmation will be given within seven days of receipt of your application. However, your leave will not be postponed if you give notice to take it immediately after the time your child is born or placed with your family for adoption.
208. Further information on parental leave can be found on the Directgov website:

<http://www.direct.gov.uk/en/Parents/Moneyandworkentitlements/WorkAndFamilies/index.htm>

## **Maternity Leave**

209. This section sets out the provisions in place to support you during your pregnancy, maternity leave and return to work.
210. Pregnancy and maternity is a protected right under the Equality Act 2010. You have the right not to be treated unfairly because you are pregnant or on maternity or shared parental leave.
211. Your statutory maternity rights can be read here:
- <https://www.gov.uk/working-when-pregnant-your-rights>
212. The offers enhanced benefits over and above your statutory rights. These are set out below.

### Policy

213. You are entitled to take up to 52 weeks' maternity leave, regardless of length of service. This is made up of 26 weeks' Ordinary Maternity Leave followed by 26 weeks' Additional Maternity Leave.
214. You are entitled to one period of maternity leave per pregnancy irrespective of the number of children you are carrying.
215. You may also be entitled to take Shared Parental leave either in addition to, or instead of, maternity leave. Please see the [Shared Parental leave](#) section for more information.

### **Time off for ante-natal care**

216. You are entitled to reasonable, paid time off during normal working hours to receive ante-natal care which may include such things as:
- a. medical examinations
  - b. appointments with your midwife
  - c. ante-natal classes
  - d. relaxation classes

e. parent-craft classes

217. Where possible, you should schedule appointments as close to the end, or the start, of the working day as possible to minimise the time spent away from work.

### **Paid maternity leave**

218. Provided you have been in our continuous employment for at least one year when your maternity leave starts you will qualify for 39 weeks' paid maternity leave as follows:

- a. 26 weeks' full pay
- b. 13 weeks at the flat rate of Statutory Maternity Pay (SMP).

219. Once your entitlement has been established, the Commissioner will pay you SMP regardless of whether or not you intend to return to work after Maternity Leave.

220. You will continue to receive all of your other contractual benefits whilst on paid maternity leave. These include:

- pension benefits
- pay progression
- accrual of annual leave and public and privilege holidays

### **Unpaid maternity leave**

221. If you qualified above for paid maternity leave, you will also qualify for 13 weeks' unpaid maternity leave to bring your maternity leave to a maximum of 52 weeks.

222. Unpaid maternity leave will not qualify for pension benefits, although it is counted towards your continuous period of employment, for pay progression awards and towards accrual of annual leave and public and privilege holidays.

223. As stated above, you should ensure you use up annual leave before returning to work as you will only be allowed to carry forward a maximum of 10 days' holiday to the new leave year.

### **Statutory maternity pay (SMP)**

224. If you do not qualify for paid maternity leave as detailed above you may be entitled to SMP.

225. To qualify for SMP you must have:

- a. at least 26 weeks' continuous service by the 15<sup>th</sup> week before your baby is due
- b. reached the 11<sup>th</sup> week before your EWC
- c. average weekly earnings at least equal to the lower earnings limit for National Insurance Contributions
- d. given at least 28 days' notice that you intend to be absent from work due to pregnancy.

226. SMP is payable for a 39-week period as follows:

- a. six weeks at 90% of your average gross weekly earnings
- b. 33 weeks at the prevailing rate of SMP

227. The remaining 13 weeks of maternity leave will be unpaid.

228. SMP commences when your maternity leave starts.

229. If you return to work before your SMP finishes then your entitlement to SMP ceases.

### Procedures

#### Informing us

230. If you are pregnant and wish to take maternity leave, please provide the following information to the HOCS, via your HOD, at least 15 weeks before the due date of the birth of your baby:

- a. Medical evidence of your Expected Week of Childbirth (EWC). This will normally be in the form of a Maternity Certificate (MATB1), available from your GP or midwife. You should give the certificate itself to the FAM.
- b. The date you wish your maternity leave to start. You may choose to start your maternity leave any time from 11 weeks before the EWC up to the birth itself. **Please note:** this date should be provided no later than the end of the 15<sup>th</sup> week before the EWC.

231. Once you have notified us that you intend to take maternity leave we will write to you within 28 days confirming the date you are expected to return to work. Unless you have indicated otherwise, this date will be calculated on the basis that you will take your full entitlement of 52 weeks.

232. You may also be entitled to take Shared Parental Leave either in addition to or instead of maternity leave. Please see the [Shared Parental Leave policy](#) for more information.

#### Health and Safety

233. When you tell us you are pregnant, we will carry out periodic risk assessments to identify any risks to which you and/or your baby may be exposed whilst at work.

234. Where any such risks are identified, we will take all reasonably practicable steps to mitigate them, taking advice from our external Health and Safety advisers if necessary. This may result in temporary adjustments to your working conditions and/or finding you suitable alternative work. If neither is feasible, you will not be required to work but will continue to be paid at your existing rate of pay.

#### Time off for ante-natal care

235. Where possible, you should arrange your appointments at the start or end of the working day.

236. You should inform your line manager of your appointment and produce an appointment card if required.

#### Timing of maternity leave

237. Your maternity leave may start on any day of the working week subject to the following:

- a. You must notify the HOCS or your line manager at least 28 days before you would like to start your leave - this is the minimum statutory period of notice required if you choose change your maternity leave start date.
- b. Paid maternity leave cannot start more than 11 weeks before your due date.

238. Your maternity leave will start automatically if you have your baby before your maternity leave was due to start.

239. Maternity leave will begin the day after the birth of your baby if the birth is before:
- a. the notified maternity leave start date
  - b. you have given any notification of a start date

This will apply even if the birth is before the start of the 11<sup>th</sup> week before your EWC.

240. You may change your mind about when you wish to start your maternity leave provided that you give at least 28 days' notice of the dates, unless this is not reasonably practicable.
241. You must take a minimum of two weeks' leave after your baby is born.
242. You do not have to take 52 weeks' maternity leave.
243. If you are on pregnancy-related sickness absence before you are due to start maternity leave, your paid maternity leave will start on the first day of absence after the beginning of the 4<sup>th</sup> week before your EWC.
244. Special leave with or without pay may be granted for exceptional circumstances.

#### Returning to work

245. If you return to work at the end of your full maternity leave period, you do not need to notify us.
246. If you wish to return to work before the end of your paid maternity leave you must give the HOCS eight weeks' notice of the date on which you intend to return to work.
247. You may not return to work within two weeks of the birth of your baby.
248. You have the right to return to the same job you had prior to the start of maternity leave. However, where you are on leave for more than 26 weeks, there may be circumstances in which returning to the same role is not reasonably practicable. In such a case, you will be provided with a suitable and appropriate role at the same level of seniority and on no-less favourable terms and conditions

#### Keeping in Touch (KIT) Days

249. The purpose of KIT days is to maintain reasonable contact during your period of maternity leave.
250. KIT days will enable you to be involved in or keep you informed about:
- training and development activities
  - changes within the organisation
  - promotional opportunities
  - job vacancies
  - any other activities concerning your role within the organisation.
251. We can agree that you will attend work for a maximum of ten days during your maternity leave without affecting your SMP. Attendance is on a voluntary basis.
252. If you attend a KIT day you will be paid at your normal rate of pay. Partial days will count as a whole day towards the number of KIT days available.



253. You may not participate in any KIT days within two weeks of the birth of your baby.

### **Adoption Leave**

254. This section sets out the provisions in place to support you through the stages of adoption. Your statutory adoption rights can be read here:

<https://www.gov.uk/adoption-pay-leave>

255. The definition of 'matched for adoption' includes arrangements under the 'fostering for adoption' scheme whereby a child is placed with prospective adopters by a local authority.

256. The Commissioner offers enhanced benefits over and above your statutory rights. These are set out below.

### Policy

#### Time off to attend appointments

257. You are entitled to reasonable paid time off to attend high-level contact visits arranged on the advice of an approved UK adoption agency which are designed to prepare you and/or the child for placement.

258. These visits may include such things as:

- a. attendance at training/briefing sessions
- b. appointments with your link worker
- c. introductory visits to allow you to meet the child and begin to establish a relationship.

259. Where possible, you should arrange appointments at the start or end of the working day.

#### Paid adoption leave

260. Adoption leave is available if you have had a child up to 18 years of age placed with you for adoption.

261. If you are adopting jointly, only one parent may take adoption leave. If you are not the one taking adoption leave, you may be eligible for [shared parental](#) or [paternity leave](#).

262. If you are the parent intending to take adoption leave and you meet the eligibility requirements, you are entitled to 52 weeks' adoption leave, made up of 26 weeks' Ordinary Adoption Leave followed by 26 weeks' Additional Adoption Leave.

263. Provided you are in our paid employ at the time your adoption leave starts and have been so for at least one year you will be allowed 39 week's paid adoption leave as follows:

- a. 26 weeks' full pay
- b. 13 weeks' Statutory Adoption Pay.

264. You will continue to receive all of your other contractual benefits whilst on paid maternity leave. These include:

- a. pension benefits
- b. pay progression
- c. accrual of annual leave and public and privilege holidays

- d. childcare vouchers

#### Unpaid adoption leave

265. If you qualified above for paid adoption leave, you will also qualify for 13 weeks' unpaid adoption leave to bring your adoption leave to a maximum of 52 weeks.
266. Unpaid adoption leave will not qualify for pension benefits, although it is counted towards your continuous period of employment, for pay progression awards and towards accrual of annual leave and public and privilege holidays.
267. As stated above, you should ensure you use up annual leave before returning to work as you will only be allowed to carry forward to the new leave year a maximum of 10 days' holiday.

#### Statutory adoption pay (SAP)

268. If you do not qualify for paid adoption leave as detailed above you may be entitled to the following statutory adoption pay:
  - a. first six weeks at 90% of average gross weekly earnings
  - b. 33 weeks at the prevailing rate of SAP
269. The remaining period of adoption leave will be unpaid.
270. To qualify for SAP you must have:
  - a. at least 26 weeks' continuous service with us by the week you are notified you have been matched with a child
  - b. average weekly earnings of not less than the lower earnings limit for National Insurance Contributions
  - c. informed your HOD and the HOCS of your intention to take adoption leave. You should do so in writing and within seven days of being told by the adoption agency that you have been matched
  - d. given at least seven days' notice of the date you would like your adoption leave to start.

#### Procedures

##### Informing us

271. Adoption leave applies only to new parents of the child, including foster carers who adopt a child for whom they have already been caring. You will not qualify for adoption leave or pay if you
  - arrange a private adoption
  - become a special guardian
  - adopt a stepchild
272. To qualify for adoption leave you must have been matched by an approved adoption agency and have agreed formally that the child should be placed with you.
273. You must inform the HOCS, via your HOD, within seven days of being told by the adoption agency that you are being matched.

274. You must also give at least seven days' notice of the date on which you would like your adoption leave to start. Your notice should also include the expected date of placement or, in the case of a child from overseas, the date the child is expected to enter the UK.
275. You must also provide the HOCS with a copy of your Adoption Matching Certificate within seven days of it being issued to you by the adoption agency.
276. If you are adopting a child from overseas, you should provide the HOCS with a copy of the official notification you receive which confirms your eligibility and suitability to adopt. You should provide this within 28 days of receipt.
277. You must also complete and return Form SC6 - Statutory Adoption Pay and Leave: adopting a child from abroad.
278. Once you have notified us of your intention to take adoption leave we will write to you within 28 days confirming the date you are expected to return to work. Unless you have indicated otherwise, this date will be calculated on the basis that you will take your full entitlement of 52 weeks.
279. You may change your mind about when you wish to start your adoption leave provided that you give at least 28 days' notice of the dates, unless this is not reasonably practicable.

#### Time off to attend appointments

280. Where possible, you should arrange your appointments at the start or end of the working day.
281. You should inform your line manager of your appointment and produce an appointment card if required.

#### Timing of adoption leave

282. You may choose your adoption leave to begin either
- a. on the date the child is placed with you for adoption or
  - b. a specific date no earlier than 14 days before the expected date of placement.
283. You should notify the HOCS, via your HOD, and specify which option you have selected.
284. Adoption leave may not normally start after the expected date of placement. However, if this is the case, your circumstances will be taken into consideration. Please discuss with your HOD or the HOCS.
285. If you are adopting a child from overseas, you may choose your adoption leave to begin either
- a. on the date the child enters the UK or
  - b. a specific date no later than 28 days after the child enters the UK
286. You should notify the HOCS, via your HOD, and specify which option you have selected.
287. If you are eligible, you may choose to convert any remaining adoption leave entitlement to [shared parental leave](#) which may be used between you and your partner.
288. If the placement is later or earlier than expected we will be sympathetic to any request to change the date on which you wish your adoption leave and pay to start.

289. Please contact your HOD or the HOCS if you have already started your adoption leave and are advised by the adoption agency that the placement will not take place, or if the child is placed with you and subsequently returns to the adoption agency.
290. Adoption leave and pay may continue for eight weeks after the end of the week in which the disruption to arrangements takes place.
291. You may return to work earlier than this by mutual agreement.

#### Returning to work

292. If you return to work at the end of your full adoption leave period, you do not need to notify us.
293. However, if you wish to return to work before the end of your paid adoption leave, you must give the HOCS eight weeks' notice of the date on which you intend to return to work.

#### Keeping in Touch (KIT) Days

294. The purpose of KIT days is to maintain reasonable contact during your period of adoption leave.
295. KIT days will enable you to be involved in or keep you informed about
- a. training and development activities
  - b. changes within the organisation
  - c. promotional opportunities
  - d. job vacancies
  - e. any other activities concerning your role within the organisation.
296. We can agree that you will attend work for a maximum of ten days during your adoption leave without affecting your SAP. Attendance is on a voluntary basis.
297. If you attend a KIT day you will be paid at your normal rate of pay. Partial days will count as a whole day towards the number of KIT days available.

#### **Paternity Leave**

298. This section sets out the provisions in place if you are eligible to take time off because your partner is having a baby, adopting a child or having a baby through a surrogacy arrangement.
299. Your statutory paternity rights can be read here:  
<https://www.gov.uk/paternity-pay-leave/overview>
300. The Commissioner offers enhanced benefits over and above your statutory rights. These are set out below.

#### Policy

301. Paternity leave cannot begin until your child is born or adopted.
302. You are entitled to two weeks' paternity leave which must be taken during the 56-day period beginning with the date on which the child is born or adopted.

303. You may choose to take two consecutive weeks' leave, or two separate weeks. You may not take this leave as odd days.

304. You may also be entitled to take shared parental leave either in addition to, or instead of, paternity leave. Please see the [shared parental leave](#) section for more information.

#### Time off to attend appointments

305. You will be allowed reasonable time off with pay on up to two occasions if there is a particular need for you to support either

- the mother-to-be in attending ante-natal care appointments made on the advice of a registered medical practitioner, midwife or health visitor or
- the primary carer-to-be in attending high-level contact visits in preparation for a child's placement for adoption made on the advice of a registered UK adoption agency.

#### Paid paternity leave

306. To qualify for paternity leave you must be:

- taking time off to look after the child and/or to support the child's mother
- one of the following:
  - The biological father of the baby
  - The mother's spouse or partner
  - The child's adopter
  - The intended parent if you are having a baby through a surrogacy arrangement

307. To qualify for paternity pay you must satisfy the following conditions:

- you must have worked continuously for the Commissioner for at least 26 weeks by the 15<sup>th</sup> week before the date the child is due to be born or adopted
- you must continue to work for us without a break in your employment up to the date the child is born or adopted
- you must have average weekly earnings of not less than the lower earnings limit for National Insurance Contributions
- be taking time off to support the mother and/or care for the baby/child.

308. If eligible, you will be paid at your full salary rate for your period of paternity leave. This is inclusive of your [Statutory Paternity Pay](#) entitlement.

309. You will continue to receive all of your other contractual benefits whilst on paid paternity leave. These include:

- pension benefits
- pay progression
- accrual of annual leave and public and privilege holidays

- childcare vouchers

310. If appropriate, you should use up annual leave before returning to work as you will only be allowed to carry forward a maximum of 10 days' holiday days to the new leave year.

### Statutory Paternity Pay (SPP)

311. If you do not qualify for paid paternity leave as detailed above, you may be entitled to SPP where at least part of your salary will be paid for one or two weeks.

312. You should complete the HMRC's form SC3 (birth parent) or SC4 (adoptive parent) online, print it out and provide a signed copy to the HOCS. To access the form, please click on the appropriate link below:

S3: <https://www.gov.uk/government/publications/ordinary-statutory-paternity-pay-and-leave-becoming-a-birth-parent-sc3>

S4: <https://www.gov.uk/government/publications/ordinary-statutory-paternity-pay-and-leave-becoming-an-adoptive-parent-sc4>

### Procedures

#### Informing us

313. If you wish to take paternity leave, please notify the HOCS, via your HOD, at least 15 weeks before the due date of the birth of your baby, or within seven days of being told that you have been matched with a child for adoption. In either case, if this is not reasonably practicable, you should notify the HOCS as soon as possible.

314. You should inform us in writing, specifying

- When the child is due to be born or adopted
- Whether you wish to take one or two weeks' paternity leave
- When you want your leave to start.

315. If the date of the child's birth or adoption changes, you should inform your HOD or the HOCS as soon as possible.

316. If necessary, you may change the date on which your period of paternity leave starts by giving 28 days' notice of the new start date (seven days' in the case of adoption).

317. As soon as practicably possible, you should provide either:

- a copy of the Maternity Certificate (MATB1), which is provided by the mother's GP or midwife and is issued approximately 14 weeks before the expected week of birth or
- a copy of the matching certificate issued to you by the adoption agency.

318. Once you have notified us of your intention to take paternity leave, we will acknowledge your notification in writing as soon as reasonably practicable, but no later than 28 days of receipt.

#### Time off to attend appointments

319. Where possible, you should ask your partner to arrange appointments at the start or end of the working day.

320. You should inform your line manager of your appointment and produce an appointment card if required.

### Timing of paternity leave

- 321. Paternity leave may not start until the child is born or adopted.
- 322. You may take paternity leave at or around the time of the baby's birth or the child's placement.
- 323. You can choose to take either one or two weeks' paternity leave. This may not be taken as odd days but you may choose to take it as two separate weeks.
- 324. You may choose to start your leave on any day of the week on, or following, the baby's birth or adoption.
- 325. You must complete your leave within eight weeks of the baby's birth/placement date.
- 326. You have the right to return to the same job after paternity leave.
- 327. If you are adopting, shared parental leave may be taken by either you or your partner instead of, but not in addition to, adoption leave.

### **Shared Parental Leave (SPL)**

- 328. This section sets out the provisions in place for all staff for SPL and pay with regard to the birth of a child.
- 329. Your statutory rights to shared parental leave can be found here:  
<https://www.gov.uk/shared-parental-leave-and-pay/overview>
- 330. The Commissioner offers enhanced benefits over and above your statutory rights. These are set out below.

### Policy

- 331. SPL applies to parents of children born on or after 5 April 2015.
- 332. The SPL scheme is optional. The default position is that the child's mother will take 52 weeks' maternity leave. If you wish to use the scheme, you must opt in to it and fulfil the notification requirements set out below.
- 333. SPL is leave available to you during the year following your child's birth if you and your partner are both working. It provides you, as parents, with the flexibility to share caring responsibility for you child, should you choose to do so.
- 334. Eligible mothers or primary carers may convert up to 50 of their 52 weeks' maternity or adoption leave entitlement to SPL and share this with their partner.
- 335. The total amount of SPL available is 52 weeks minus the number of weeks spent by the child's mother on maternity leave or weeks when the mother has been in receipt of SMP or MA if she is not entitled to maternity leave.
- 336. SPL must be taken between the baby's birth and first birthday or within one year of the child's adoption.
- 337. SPL may only be taken after the mother/primary carer has returned to work or given appropriate notice to reduce her maternity/adoption leave.

## Paid SPL

338. Our provisions on paid SPL mirror those that would be payable to a birth mother or primary carer in relation to maternity or adoption leave.
339. You will be eligible for SPL if you are either the birth mother or father of a child due on or after 5 April 2015 or the primary carer of a child placed for adoption on or after 5 April 2015 or the birth mother's spouse, civil partner or partner.
340. In addition, the law requires that the following criteria are satisfied:
- you and your partner must have the main responsibility for the care of the child and will use SPL to care for the child
  - the mother/primary carer must be entitled to statutory maternity or adoption leave, pay or allowance and must have ended or given notice to reduce her maternity or adoption entitlements
  - you must have a minimum of 26 weeks' continuous service with us by the end of the 15<sup>th</sup> week before your child is due to be born/adopted
  - you must have average weekly earnings of not less than the lower earnings limit for National Insurance Contributions
  - you must still be employed by us at the start of SPL being taken
  - your partner must have worked in an employed or self-employed capacity for at least 26 weeks in the 66-week period before your child is born or due to be placed with you for adoption and have average weekly earnings of not less than the lower earnings limit for National Insurance Contributions in any 13 of those weeks
  - you must have notified us correctly of your entitlement to SPL and provided the necessary evidence and declarations as detailed in the [SPL policy](#) below.
341. If you fulfil the above criteria then you will qualify for SPL as follows:
- first two weeks: compulsory maternity or adoption leave to be taken by the birth mother/primary carer. Eligible partners may take [paternity leave](#) during this period if they wish to do so. Paternity leave must be taken before SPL commences.
  - up to 24 weeks' SPL available to be shared between both parents. The portion of SPL taken by you will be on full pay.
  - up to 13 weeks' SPL available to be shared by both parents. The portion of SPL taken by you will be payable at the prevailing rate of Statutory Shared Parental Pay (ShPP)
  - up to 13 weeks' unpaid SPL available to be shared between both parents.
342. You should ensure you use up annual leave before returning to work as you will only be allowed to carry forward a maximum of 10 days' holiday days to the new leave year.

## Statutory Shared Parental Pay (ShPP)

343. SPL is paid at the prevailing rate of ShPP.

## **Procedures**



## Informing us

344. If you are the child's mother or primary carer and wish to opt in to the SPL scheme, you must give the HOCS at least eight weeks' notice of your intention to end your maternity/adoption leave and take SPL and specifying the date on which it will end. You should also complete a mother's [Declaration Form](#).
345. If you are the child's father or the partner of the mother/primary carer you should, at this stage, give notice to the HOCS of your intention to take SPL and complete the relevant [Declaration Form](#). You will only be able to take SPL once the mother has either returned to work or given notice of her intention to end her maternity/adoption leave.
346. This notice is usually binding but can be revoked in writing up to eight weeks after it was given, should you realise that either you or your partner are not, in fact, eligible for SPL
347. Your notice should specify the following:
- your name
  - your partner's name
  - the maternity leave start and end dates or the start and end dates of any SMP or Maternity Allowance (MA) period
  - the total SPL available (52 weeks less the number of weeks' maternity leave, SMP or MA taken or to be taken)
  - how much of the available SPL will be allocated to you and how much to your partner
  - the total ShPP available if you are claiming it (39 weeks minus the number of weeks of the SMP or MA period taken or to be taken)
  - how much of the available ShPP will be taken by you and how much by your partner
  - an initial indication of the pattern of leave you are thinking of taking including suggested start and end dates for each period of leave. This is not binding at this stage, but as much information as possible will help us with work planning.
348. You must also provide:
- a copy of the child's birth certificate, or documents from the adoption agency confirming its name and address, the date on which you were notified of the match for adoption and the date the child is expected to be placed for adoption
  - the name and address of your partner's employer or a declaration that they have no employer or are/have been self-employed.
349. An alleged false claim of SPL entitlement will be investigated in line with our disciplinary procedures and may result in disciplinary action.

## Notice to reduce maternity/adoption leave

350. In order to take SPL, you must have either returned from maternity leave or served a curtailment notice to bring your maternity leave to an end at a specified point in the future.
351. A curtailment notice must be served at least eight weeks in advance of the date on which you wished to begin leave.

### Timing of SPL

352. Both parents can take SPL at the same time or in consecutive blocks.
353. The minimum period of leave is one week, and all leave must be taken in multiples of one week.
354. You may make up to three requests to take SPL over a number of split periods (discontinuous leave) rather than taking it in one continuous block.
355. We will aim to accommodate you, taking account of both your personal circumstances and also business needs.
356. If you are planning to make such a request, please discuss this informally with your HOD at the earliest opportunity.
357. We reserve the right to refuse a request if there is a genuine business reason which cannot be reasonably overcome. If this arises, a further meeting will be held with you to try and agree alternative arrangements.
358. If a pattern of leave cannot be agreed, your leave must be taken in a continuous block.
359. You may change your mind about dates or cancel a period of SPL provided that you give at least 8 weeks' notice of the dates unless that is not reasonably practicable. If your child is born or placed for adoption earlier or later than expected and you had indicated that you wished to start SPL a certain length of time (but no more than 8 weeks) after the birth/adoption, you should simply notify us in writing of the change at the earliest opportunity.
360. A notice to change the dates or cancel a period of SPL will count as one of your three notices for discontinuous leave unless the variation is at our request or the change is as a result of your baby being born or placed for adoption earlier or later than expected.

### Returning to work

361. If you wish to end a period of SPL early, you must give at least eight weeks' notice of your new return date.
362. If you wish to extend SPL, you must submit a new period of leave notice at least eight weeks before you are due to return to work, assuming you still have SPL entitlement and have not already submitted three period of leave notices.

### Keeping in Touch (KIT) arrangements

363. The purpose of KIT days is to maintain reasonable contact during your period of SPL.
364. KIT days will enable you to be involved in or keep you informed about
  - training and development activities
  - changes within the organisation
  - promotional opportunities
  - job vacancies
  - any other activities concerning your role within the organisation.
365. On a voluntary basis you may, with the agreement of your line manager, work up to a maximum of 20 Shared Parental Leave In Touch (SPLIT) days during your SPL.

366. This is in addition to any KIT days you may have taken during maternity or adoption leave.
367. SPLIT days allow you to participate in activities designed to keep you up to date, such as learning and development activities or meetings.
368. These days do not have to be worked consecutively, and any part of a day worked will counts as one day.
369. SPLIT days form part of your SPL; they do not extend it.

## **Career break policy and procedures**

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### **Policy**

370. A career break is an extended period of unpaid leave for a specified period of between 3 months and one year. The total duration of a career break, inclusive of any extension granted, will not normally exceed a total period of one year.
371. The purpose of a career break is to give you a break away from work for a variety of reasons whilst retaining the right to return to the same, or a similar, job, at the end of the period of the break.
372. We recognise the benefits a career break can bring and will seek to accommodate such requests where possible whilst taking into consideration the constraints of the needs of the organisation.
373. Career breaks may be requested for a variety of purposes including, but not limited to:
- travel
  - further study or research
  - voluntary or charitable work
  - religious or cultural reasons.
374. Career breaks can have a significant impact on the operations of a small organisation such as ours, and it may not be possible to approve a request if the impact would prove disruptive or uneconomic.
375. You must normally have a period of three years' continuous service at the date of your application and have satisfactory levels of conduct, attendance and performance.
376. We will not normally grant a career break for the purpose of taking up alternative paid employment but it may be granted as an alternative to a formal secondment.
377. You may only undertake paid employment during a career break if you have the written permission of the Commissioner.
378. Career breaks will normally be granted for a minimum period of three months and up to a maximum period of one year.
379. If requested, we will consider granting an extension to a career break providing this would not take the total length of the career break beyond one year. Only one extension will normally be considered. Individual circumstances and the Commissioner's operational requirements will be taken into account in reaching a decision.

380. You may request more than one career break in the course of your employment with the Commissioner, up to a maximum of two years' break in total. Consideration will be given to individual circumstance if a longer period is requested.
381. You will not normally be granted a further career break for at least three years after the completion of a previous career break. If you make a request for a career break to follow immediately after a period of Maternity, Adoption or Additional Paternity Leave this will be considered irrespective of any previous career breaks you may have had.
382. If any external secondment opportunities come to our attention they will be published on the internal blog.
383. If you wish to apply for an external secondment opportunity you should discuss this in the first instance with your HOD or the HOCS.

## Procedures

### Requesting a career break

384. Before you submit a formal request, you should discuss informally with your HOD or the HOCS your intention to take a career break.
385. Where practicably possible you should give at least three months' written notice to your HOD or the HOCS of your intention to take a career break, setting out the reasons for your request.
386. Applications will be managed in accordance with the procedures set out in the **Flexible Working Arrangements Policy and Procedures**.
387. If your request cannot be granted, your HOD or the HOCS will explore other options with you to help you achieve an appropriate work-life balance.

### Terms and Conditions attached to a career break

388. You will continue to be employed by the Commissioner during your career break, although the break will be unpaid. Employer pension contributions will also not be paid during this time.
389. Your career break will count as continuous employment for the purpose of your entitlement to other statutory employment rights.
390. Your break will also count as reckonable service for incremental pay progression and pension purposes.
391. You will accrue annual leave whilst on a career break.

### Conduct during career breaks

392. During the period of your career break, you will continue to be subject to all our normal requirements relating to conduct. This means that if you breach our rules of conduct, you may be subject to disciplinary action in line with the arrangements set out in the section covering disciplinary procedures.

### Job vacancies

393. You may apply for all advertised internal vacancies during your career break. However, if you are successful you will be required to take up your new job at the time of the offer and terminate your career break at that time.

### Keeping in touch

394. During your break, you will be invited to attend events such as meetings, training etc.
395. If you are required to attend the office for anything (e.g. attending an office away day or for training, etc. purposes) we will pay you for your hours of attendance.
396. In the case of a career brake it may not be possible for you to attend the office during your break. Please discuss with your line manager and the HOCS any alternative arrangements which could be put in place.

### Returning to work

397. As far as is reasonably practicable, you will return to the same post in which you were employed prior to the career break. Where this is not reasonably practicable, you will return to a similar job at the same grade to that held before your break.
398. You must write to the HOCS a minimum of one month before the end of your break to confirm one of the following:
- you will return to work on the date agreed
  - you wish to request an extension to your career break
  - you wish to resign from your post with the Commissioner.
399. If you wish to return to work before your agreed date of return, you should contact the HOCS as soon as possible in order to discuss your situation. We will accommodate your requirements if practicably possible.
400. Your line manager will discuss with you any support you may need to help you settle back into work. This could include:
- a mini re-induction programme
  - learning and development opportunities
  - using anticipated annual leave in such a way as to allow you to return on a phased basis over a set period of time.

# Flexible Working Arrangements Policy and Procedure

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## Policy

### Introduction

401. We are committed to assisting you to effectively balance the responsibilities of your employment with your family and other personal commitments whilst ensuring that the Commissioner's operational needs can continue to be met effectively. To support this commitment, a range of working arrangements designed to provide greater flexible working are potentially available. Generally, these arrangements operate on the basis that flexibility is a two-way process. This policy and procedures are non-contractual.

### Permanent change to working arrangements

402. Should you wish to apply to formally change your working arrangements on a permanent basis, this policy sets out the provisions which apply and the procedures which must be followed in such circumstances. Requests for career breaks will also be managed through this procedure and reference should be made to the provisions of any Career Break policy that is in place, as appropriate.

403. Any formal change to your working arrangements which is approved through this procedure will constitute a permanent change to your terms and conditions of employment with the Commissioner. You will not have the right to revert to your previous pattern of work unless the Commissioner agrees otherwise, taking account of the circumstances of any such request you may make and business needs at the particular point in time.

### Advice and Support

404. If you are thinking about requesting a formal change to your working arrangements, you should arrange to speak to your line manager at the earliest opportunity in order to explore the opportunities potentially available to you. This will allow a view to be formed at an early stage of the implications for your business area, if your request should be accepted, and allow your line manager to plan to manage these as appropriate. The HOCS can provide support and advice to managers and staff.

405. Before you make your application you can also discuss this in confidence with the HOCS.

### Flexible Working Arrangements

406. A variety of different working arrangements may be requested. The most common forms of flexible working arrangement are:

- compressed working hours
- job-sharing
- part-time working
- partial retirement
- remote working

407. Further details on the operation of these arrangements are set out below.

408. Other flexible working arrangements may be considered. You will normally be limited to making one request under this procedure per year.

409. We are committed to ensuring that staff who have flexible working arrangements are treated no less favourably than staff employed on a standard full-time basis and receive equal treatment, for example, in relation to pay, leave, promotion and development opportunities and access to training. All reasonable efforts will be made to schedule training activities and team meetings at times when all relevant colleagues can attend.
410. If your request is agreed, your HOD may adjust the commencement date of an agreed flexible working arrangement to meet operational needs, for example, to allow appropriate cover to be sourced where hours of work are to be reduced.
411. Requests for a formal change in working arrangement or a career break may be refused if there is a clear operational reason for doing so. Grounds for refusing an application are:
- burden of additional costs
  - detrimental effect on ability to meet demand
  - inability to reorganise work among existing staff
  - inability to recruit additional staff
  - detrimental impact on quality
  - detrimental impact on performance
  - insufficiency of work during the period the member of staff wishes to work
  - planned structural changes.

#### Eligibility

412. You have a statutory right to request a flexible working arrangement if you have a minimum of 26 weeks service with the Commissioner and you have not have made another application to work flexibly under the right during the past 12 months.
413. Notwithstanding the eligibility criteria set out under the statutory right to request flexible working and the common association of flexible working arrangements with caring responsibilities, we will give serious consideration to requests for flexible working from any member of staff for any reasonable purpose. We will assess each case on its own merits in a realistic and sensible manner, taking account of the impact on the business and colleagues. Decisions will be evaluated in light of any relevant statutory entitlements. All options will be reasonably explored with a view to achieving a solution which works for all parties.

#### General implications of a flexible working arrangement for terms and conditions of employment

414. You continue to be employed by the Commissioner during any non-working time associated with your flexible working arrangement. As such, you continue to be covered by the policies of the Commissioner, including the terms and conditions of employment set out in this Handbook.
415. You will receive the salary applicable to the post, pro-rated to the hours you are contracted to work.
416. You are entitled to the same annual leave and public/privilege holidays as a full-time member of staff, calculated on a pro rata basis for your contracted hours. Your holiday entitlement for

the year will be calculated and expressed in hours. The FAM will advise you of your specific entitlement.

417. You will be treated no less favourably than any member of staff employed on a full basis in relation to Maternity, Adoption and Paternity Leave and pay or sick pay.
418. Your employment will be pensionable under the terms of the Civil Service pension arrangements. Your pension will accrue on a pro rata basis according to the hours and weeks worked.
419. If you are asked to work, or attend a training course, at a time when you would not normally work, you will be paid for the extra hours involved or you may take time off in lieu of those hours.
420. If attendance at a time when you would not normally work requires you to arrange extra child-care cover, you should let your HOD know. If your HOD confirms that you are required to attend for these additional hours, you will be reimbursed for the extra child-care costs.

## **Types of flexible working arrangements**

### Compressed working hours

421. Compressed working hours is an arrangement whereby you work your normal contractual hours over fewer days than the traditional work pattern. Compressed working hours may not be a viable option for particular posts due to the type of work required to be undertaken
422. The most common compressed working hours arrangements involve working:
  - 37 contracted hours over a 4-day period
  - 74 contracted hours over a 9-day period.
423. Other arrangements will be considered. This type of working pattern can be accommodated within our existing flexible working hours system as an ad hoc or temporary change, provided your HOD agrees to the change. However, if you wish to formally change your working pattern, you should apply under **the Flexible Working Arrangements Policy and Procedure**.
424. Non-working times under a compressed working hours arrangement will normally be fixed, but may be varied from time to time by mutual agreement to take account of business demands.
425. Your HOD will determine your normal daily start and finish times, in accordance with service needs. Such arrangements will operate in compliance with the Working Time Regulations and, in scheduling your day, the HOD will ensure your working hours do not exceed the bandwidths for your business area and sufficient time is allowed for appropriate rest breaks.
426. Your entitlement in respect of a public/privilege holiday is 7 hours 24 minutes pro rata. If you would ordinarily work more hours than this on the day of the week that a public/privilege holiday falls, the difference between the number of hours you ordinarily work and 7 hours 24 minutes will be debited from your flexi balance by the FAM. If you request a deduction from salary equivalent to your normal working day, no adjustment will be necessary. Similarly, if you would ordinarily work fewer hours than this on the day of the week that a public/privilege holiday falls, you will be credited with hours to your flexi-balance equal to the number of hours you were due to work.



## Job sharing

427. Job Sharing is a form of part-time working, whereby two or more people are appointed to share the tasks and responsibilities of one full-time job. The job share can be divided on the basis of hours worked, days worked, the tasks covered, or any combination of these.
428. As effective communication and co-operation are required between job share partners, a provision for overlap time may be included to facilitate and maintain continuity of the whole role.
429. When it has been agreed in principle that a particular post is suitable for job sharing and a partner is needed, the remaining part of the post will normally be advertised, either internally or externally, unless a suitable partner has been identified in some other way, for example if someone has requested job-sharing or part-time working on return from Maternity or Adoption Leave.
430. Once a suitable partner is identified, contracts will be offered on the basis that all job-share partners accept the terms of the contract. This means that if your partner(s) rejects our offer, the offer made to you will be withdrawn and you will be required to return to full-time working until such times as another partner can be identified.
431. If a suitable partner cannot be identified, your HOD will explore with you other potential options to assist you in achieving an appropriate work-life balance. If there are no suitable alternative options, you will be required to continue working your contractual hours.
432. From the outset of a job-sharing arrangement, the working patterns of each partner will be clearly stipulated along with the division of duties and sharing of responsibilities. Your agreed working pattern may be subsequently changed only in consultation with and with the agreement of your job-share partner and HOD.
433. You will be responsible for communicating effectively with your job-share partner. As well as overlap periods, other methods of maintaining strong communication links should be established in agreement with your partner and your line manager. It is also important that you and your line manager and/or HOD agree individual targets and clearly define your areas of responsibility and objectives. This will ensure that you are accountable only for the delivery of your own objectives.
434. All posts will be considered as open to job-sharing arrangements unless it can be positively demonstrated that this is inappropriate owing to the particular nature and accountabilities of the role.
435. You will have an individual contract of employment based on part-time terms. The salary and other benefits of the post will be divided between the job share partners in proportion to the number of hours each works. Provisions which are dependent on length of service, such as pay progression, will be applied individually.
436. You may be offered the opportunity to cover your partner's part of the job if they are absent for any reason. If you do not wish to, or are not able to, provide such cover, then other arrangements will be made.
437. The job-share arrangements will continue until your job-share partner resigns or returns to full-time work, or until your HOD can demonstrate that the job-sharing arrangement is no longer viable for operational reasons.

438. If your job-share partner resigns or returns to full-time work, your line manager and/or HOD will assess whether there is an ongoing requirement for full-time cover. If there is such a requirement, you may be offered the post on a full-time basis. If you are unable to, or do not wish to work on a full-time basis, we will advertise the job-share post, either internally or externally. If this is unsuccessful, we will attempt to find you an alternative suitable job-share or part-time post.

#### Part-time working

439. Part-time working is an arrangement where you are contracted to work less than full-time hours (which are the equivalent of 37 hours per week). You may make a request to your HOD to work part-time on a temporary basis for a period of up to 6 months without going through the formal procedure. If your circumstances are such that you wish to work part-time on a longer-term basis, a request will require to be made under the formal procedure.
440. The pattern of work under a part-time working arrangement will vary according to the needs of the business. Your individual preferences will also be considered. Attendance is not necessarily required on every working day. Some examples include working only mornings, afternoons or school hours or working only on certain days per week.
441. Before a part-time working arrangement commences, it is important that you and your line manager agree how your workload will be adjusted to fit your reduced working hours.
442. All posts will be considered as open to part-time working unless it can be positively demonstrated that this is inappropriate owing to the particular nature and accountabilities of the role. You will be employed on terms and conditions of employment pro rata to full time staff.
443. You may from time to time be offered the opportunity to work additional hours, for example, to cover the absence of a colleague. If you do not wish to, or are not able to, provide such cover, then other arrangements will be made.

#### Partial retirement

444. Partial retirement is a potential option which, subject to the Commissioner approving your application, allows you to move gradually from work into retirement rather than moving overnight from full-time work to full-time retirement. This may work well for you as it allows you to adjust to a new lifestyle. It can also work well for the Commissioner as it allows us to retain your skills while making space to bring on other employees or develop less experienced staff.
445. Partial retirement allows you to draw on some or all of your pension and remain in work. In order to do this, you must reduce your pensionable earnings (including additional allowances or shift pay) by at least 20 per cent and the change must be permanent. This will require reshaping your job in a way which meets both your needs and the continuing needs of the business. Reshaping your job could mean:
- reducing your hours;
  - downgrading your job by reducing the responsibilities of the role; or
  - moving to a lower graded job.
446. Whilst working on a partial retirement basis, you will continue to build up further pension entitlement in your current scheme on a pro-rata basis in accordance with the number of hours you work until you finally retire.

447. Further information about partial retirement can be obtained from the FAM or if you have a civil service pension, from [www.civilservicepensionscheme.org.uk](http://www.civilservicepensionscheme.org.uk)
448. If you wish to apply for partial retirement you should follow the procedures as set out in our Flexible Working Arrangements Policy and Procedure and seek advice from the FAM/the HOCS before doing so.

## **Procedure**

### Making a request

449. Any requests for a permanent flexible working arrangement must be made by you in writing. The written request should set out:
- the working patterns that you are requesting
  - outline the impact the requested change will have on your workplace and team and
  - suggest how the change may be accommodated.
450. You must submit your request to formally change your working arrangement well in advance and at least three months before the date you propose the new working arrangement or career break to start. It is important that you provide as much detail as possible about your proposed new working arrangement or career break. Before making a request to change your working arrangement or take a career break, you should consider carefully how the proposed change can meet operational needs and how it might affect your colleagues and service quality.
451. Incomplete requests will not be considered and will be returned to you for completion and resubmission by your HOD. In these circumstances, your request for a career break will be considered from the date your fully completed request is received.
452. We will deal with your application reasonably and will make a decision within the decision period – this is three months from the date of receipt of your request. The decision period may be extended by agreement with you in advance of the expiry of the 3-month time frame or retrospectively. Any extension of the timescales requires the approval of the HOCS.

### Application – procedure

453. The following procedure will apply:
- you make the make the request, in writing, to your HOD
  - if the application is incomplete
    - the HOD will return the application to you and asks you to complete the application and re-submit
  - if the application is complete
    - the HOD advises the HOCS of the application (within 5 working days) and provides details of where the application is stored
    - the HOCS will confirms the decision period to you and the HOD and provides a decision-making timetable to ensure that the decision (and any appeal) can be dealt within the decision period

- the decision maker will be the HOD and the HOCS will provide advice and guidance to the HOD to assist them in the determination of the application
- the HOCS will refer the request to the Commissioner for comment and will advise the HOD of the Commissioner's comments
- the HOD and HOCS will meet to discuss your request
- if it is likely that the request cannot be agreed, the HOD and the HOCS will meet with you to discuss the application - you have the right to be accompanied by a trade union representative or work colleague of their choice at this meeting
- the HOD decides the application
- the HOD notifies the HOCS of the decision and the reasons for the decision

#### Request granted

454. The HOCS will notify you, in writing of the outcome of your request. If your request is granted, this notification may include the agreed start date of the arrangement and any particular conditions which apply, If necessary, a meeting may be held between the member of staff and the HOCS to discuss how the changes might best be implemented.
455. In relation to a request for a Career Break, you and your HOD should complete and sign a Career Break Agreement in order that responsibilities are clear for all parties.

#### Request refused

456. The notification from the HOCS will state the reasons for refusing your request and will explain why they apply in your circumstances. You will have the right to appeal the decision as set out below.
457. Career breaks - the right of appeal does not apply to requests for Career Breaks and your HOD's decision at this stage in relation to a request for a Career Break represents the final position. Such a decision will not prejudice any future requests you may wish to make.

#### Appeal – refusal of request

458. You may appeal against a decision to refuse your application for a permanent change to your working arrangements by giving written notice of the grounds of appeal to the HOCS **within** 14 days after the date on which notice of the decision is given.
459. All requests, including any appeals, should be considered and decided upon within three months of receipt of the application.
460. Your appeal will be dealt with reasonably and will considered by the Commissioner. The following procedure will apply:
- the HOCS will confirm receipt of your appeal
  - the HOCS will advise the Commissioner of the appeal
  - the HOCS will confirm the decision-making timetable to ensure that the decision (and any appeal) can be dealt within the decision period
  - the decision maker will be the Commissioner and the HOCS will provide advice and guidance to the Commissioner to assist them in the determination of the appeal

- the HOCS will refer your appeal to the HOD for comment and will advise the Commissioner of the HOD's comments
- the Commissioner and HOCS will meet to discuss your appeal
- if it is likely that the appeal will be refused, the Commissioner and the HOCS will meet with you to discuss the application –you will have the right to be accompanied by a trade union representative or work colleague of their choice at this meeting
- the Commissioner decides the application

461. The HOCS will notify you of the appeal outcome within the decision period – this is three months from the date of receipt of your request. The decision period may be extended by agreement with you in advance of the expiry of the 3-month time frame or retrospectively.

# Part 2 Policies and Procedures

## Section 5 Professional conduct – standards and code of conduct

### Values

462. We are committed to the highest standards of professional conduct in carrying out our work. These standards are reflected in our values and we have adopted the Nolan Committee's Seven Principles as the guiding framework:

Selflessness	You should act solely in terms of the public interest and not in order to benefit yourself, your family or your friends.
Integrity	You should not place yourself under any obligation to anyone, individuals or organisations, who might seek to influence you in the performance of your official duties.
Objectivity	You should make choices on merit when carrying out public business such as making public appointments or awarding contracts.
Accountability	You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate to our organisation.
Openness	You should be as open as possible about all the decisions and actions you take and should be able to give reasons for these decisions. You should only restrict information when the wider public interest clearly demands it.
Honesty	You have a duty to declare any private interests relating to your public duties. Any conflicts of interest should be resolved in a way that protects the public interest.
Leadership	You should promote and support these principles by leadership and example.

### General standards of professional conduct

463. As a member of the Commissioner's staff you are expected to behave in line with the values set out above. You must behave in a manner that will not bring Commissioner into disrepute, or cause embarrassment to the Commissioner. You must also ensure that your professional conduct meets the highest standards of integrity and impartiality and is above any criticism or suspicion in terms of propriety in order to maintain public trust and confidence. The Commissioner also acknowledges their responsibility to protect individual members of staff from any undue suspicion of impropriety.

464. The professional code of conduct (below) sets out the standards of professional behaviour required of you as a member of staff in carrying out your role within the Commissioner and the rules which you must follow in specific circumstances. You should ensure that you are familiar with the professional code of conduct and that you seek guidance from the HOCS at an early stage if you are uncertain as to what is required of you.
465. In accordance with the Equality and Diversity Policy, the Commissioner will not discriminate in the application of the code of conduct in respect of age; disability; gender; race; nationality; ethnic or national origin; religion or belief; sexual orientation; trade union membership or non-trade union membership.
466. The code of conduct applies to all members of staff employed by the Commissioner. Contractors' staff, consultants, agency staff and staff on secondment to or on secondment from the Commissioner are also expected to act in accordance with the values and standards of behaviour set out in the code.

### **Professional code of conduct**

467. As an employee of the Commissioner you must be, and be seen to be, professional, honest and impartial in the exercise of your duties. You must not allow your judgement or integrity to be compromised in fact or by reasonable implication. In particular you must not:
- carry out any activity which would amount to a criminal offence under section 45 of FOISA, regulation 18(5) of the EIRs or section 170 of the Data Protection Act 2018, misuse information which you acquire in the course of your duties, or disclose information which is held in confidence within the Commissioner
  - seek to frustrate the policies, decisions or actions of the Commissioner either by declining to take, or abstaining from, action which flows from decisions of the Commissioner or by unauthorised, improper or premature disclosure outside the Commissioner of any information to which you have had access as an employee of the Commissioner
  - take part in any political or public activity which compromises, or might be seen to compromise, your impartial service to the Commissioner
  - misuse your official position, or information acquired in the course of your official duties, to further your private interests or those of others. Conflicts of interest may arise from financial interests and more broadly from official dealings with, or decisions in respect of, individuals who share your private interests (for example freemasonry, membership of societies, clubs and other organisations, and family). Where a conflict of interest arises, you must declare your interest to the HOCS (and, in relation to the investigation of an application to the Commissioner, the HOE) so that a decision can be made on how best to proceed;
  - accept gifts, hospitality or benefits of any kind from a third party which might be seen to compromise your personal judgement or integrity.
468. You must also ensure that you:
- undertake your duties and responsibilities to the best of your abilities, acting in accordance with all legitimate and reasonable management instructions;
  - conduct yourself in your day to day work with the highest standards of honesty, integrity, impartiality and professionalism, consistent with the values of the Commissioner

- be as open and honest as possible about decisions and actions you take and be prepared to give reasons for your decisions;
- ensure that the nature of any activities you choose to engage in cannot embarrass the Commissioner or bring the Commissioner into disrepute;
- ensure that you present yourself for work in a way which is appropriate to the environment in which you are working and the type of work you are performing and in a manner which is consistent with the values of the Commissioner and the standards of behaviour expected of staff.

## **Confidentiality and Official Information, Standards of Propriety and Political Neutrality**

469. You are also required to comply with the sections below on Confidentiality and Official Information; Standards of Propriety and Political Neutrality.

### Confidentiality and official information

470. The Commissioner is committed to being open, accountable and transparent. The Commissioner's Publication Scheme provides a list of all available information about the Commissioner and how to get it. Wherever possible, information will be published on the website [www.itspublicknowledge.info](http://www.itspublicknowledge.info).
471. The Commissioner and his staff will also make available information about their contacts in accordance with FOISA and the EIRs and data protection legislation
472. The Commissioner has a duty under FOISA and the EIRs to make decisions as to whether public authorities have complied with the legislation. This involves accessing information held by public authorities which they consider to be exempt or excepted from disclosure. Section 45 of FOISA and regulation 18(5) of the EIRs make it a criminal offence for the Commissioner and the Commissioner's staff to disclose, without lawful authority, information which has been obtained by or furnished to the Commissioner for the purposes of FOISA and the EIRs and which is not, or has not been, otherwise publicly available. You must not, therefore, knowingly or deliberately take part in activities or make public statements which might involve the disclosure of such information, or in any other way disclose it contrary to section 45 of FOISA.
473. Further to this, you have a legal duty not to misuse information that you acquire in the course of your work or disclose information that is received in confidence from others or disclose information in contravention of Data Protection Law<sup>3</sup>. This applies even after you leave the Commissioner's employment.
474. Nothing in this policy is intended to prevent you making a protected disclosure under the Public Interest Disclosure Act 1998 (see **Raising matters of concern**).

### **Standards of Propriety - Procurement**

#### Relationship with suppliers of goods and/or services to the Commissioner

475. The Commissioner and the Commissioner's staff who are involved in the procurement process must always be honest, fair and impartial in their dealings with suppliers.

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<sup>3</sup> Section 170, Data Protection Act 2108



Relationships with suppliers must always be conducted on a professional basis, with proper regard to ethics and propriety.

#### Declaration of interest/potential conflict of interest

476. The Commissioner and the Commissioner's staff must declare and record any personal interest that might influence, or be seen by others to influence, their impartiality in arriving at a procurement decision. Those who have business or personal relationships with, or friends/relatives employed by, outside organisations tendering for contracts with the Commissioner must inform the HOCS at the outset.

#### Personal gain, business gifts, corruption and bribery

477. Staff involved in procurement activity, or others who may be perceived to be in a position of influencing purchasing decisions, may not solicit or accept contributions of any kind from suppliers. The Commissioner and the Commissioner's staff should only accept gifts or hospitality of a trivial nature. Records of all gifts and hospitality offered and whether or not they were accepted must be kept in the Declaration of Gifts (VC 48521). If there is any doubt over whether a gift / hospitality should be accepted, the HOCS should be contacted for advice.
478. Under the terms of the Bribery Act 2010, it is an offence to offer or accept any inducement or reward in order to gain any commercial, contractual, regulatory or personal advantage. Staff suspected of engaging in any such activity may be subject to disciplinary action.

#### Hospitality

479. Modest hospitality (e.g. lunch, sandwiches, dinner) may be accepted from a supplier, provided it is for a legitimate reason, is infrequent and that a situation is not reached where impartiality may be influenced, or be perceived by others to be influenced.
480. Invitations from suppliers or potential suppliers to attend social functions or events must not be accepted without receiving the prior consent of the HOCS. Records of all hospitality offered and whether or not accepted must be kept in the Declaration of Gifts (VC 48521).

#### Standards of propriety - general

481. Declaration of interest/potential conflict of interest – the Commissioner and the Commissioner's staff must declare and record any personal interest that might influence, or be seen by others to influence, their impartiality in conducting an investigation of an application made under FOISA or the EIRs. Should such a situation arise you should raise this immediately with your Deputy Head of Enforcement or the Head of Enforcement.
482. Bankruptcy or insolvency – If you become bankrupt or insolvent you must advise the HOCS.
483. Outside employment - you must seek permission from the Commissioner before accepting any outside employment or undertaking voluntary work which might affect your work either directly or indirectly. You should, in the first instance, discuss this matter with your HOD.

#### Political neutrality

484. As individual citizens, staff have the right to hold their own political views and to be active members of political parties. You will not, however, take part in any political or public activity (including campaigning) that compromises your professional impartiality. As a member of the Commissioner's staff you will work with all members of the public and with public

authorities in a politically neutral way. You will not take part in any surveys or research projects if they deal with attitudes or opinions on political matters or matters of policy.

485. The post of Commissioner is a politically sensitive one, which means that the Commissioner is completely barred from taking part in either national or local political activities. Furthermore, the Commissioner may not take part in any activity which would in any way conflict with the Commissioner's responsibilities to the Scottish Parliament or be inconsistent with the Commissioner's official position.

### **Other Relevant Policies and Procedures**

486. This policy explains the professional standards expected of the Commissioner's staff. You should note that the **Disciplinary Procedures** set out what the organisation considers misconduct and gross misconduct.
487. There are standards of behaviour set out in other sections, policies and procedures in this Handbook. Accordingly, you should familiarise yourself with the following additional policies and procedures set out in this part which relate to the following:
- Health and Safety;
  - Equality and Diversity;
  - Dignity at Work;
  - Disciplinary Procedures;
  - Grievance Procedures;
  - Attendance Management (including notification, certification and record keeping);
  - Statutory and Occupational Sick Pay Rules;
  - Smoke-Free work environment;
  - Substance Abuse;
  - Data Protection;
  - Whistleblowing - Public Interest Disclosure
  - Communications and Social Media.

### **Breach of professional code of conduct**

488. If you breach any of the conduct rules or standards of behaviour, or through negligence on your part other people breach these rules, matters will be investigated in accordance with the Disciplinary Procedure set out in this Handbook and you may be subject to disciplinary action up to and including dismissal.
489. If you have sufficient grounds for believing that the conduct of another member of staff may be in breach of any of these rules, or that an unlawful act has been committed, you should bring the matter to the attention of the HOCS.

### **Raising Matters of Concern**

490. If you believe that any wrongdoing, impropriety or malpractice has occurred or is likely to occur within the Commissioner, or if you believe you are being asked to act in a way which

conflicts with the standards of professional conduct, you should normally report this to your HOD in the first instance. If circumstances render this inappropriate, you should report the matter to the HOCS. Where fraudulent activity is suspected, you should also notify the FAM.

491. The Public Interest Disclosure Act 1998 allows you to disclose certain issues to specific external parties if you have good reason to believe that internal disclosure will not be taken seriously or will cause you to be penalised in some way. Further details and the procedure to be followed in such circumstances are set out in the Public Interest Disclosure (Whistleblowing) Section below.

## **Data Protection**

492. Information provided by you in relation to actual or potential conflicts of interests will be processed in accordance with our [Data Protection Policy and Handbook](#) and as set out in our Privacy Notice. Access to the Register of Interests is restricted strictly to those who require this information in fulfilling the responsibilities of their job roles.
493. The Commissioner and the SMT are each required to complete a declaration of interests form and these forms are published on the Commissioner's website.

### Data Protection Principles

494. As an employer, the Commissioner recognises the importance of safeguarding personal privacy when dealing with information about its staff. Relevant data protection laws, including the General Data Protection Regulation and the Data Protection Act 2018 (DPA) requires us to inform you what data we hold on you and the purposes for which this data might be used. This information can be found in Data Protection Policy and Handbook and in the Commissioner's Privacy Notice, available at: <http://www.itspublicknowledge.info/home/privacy.aspx>.
495. The Commissioner undertakes to process your personal data in accordance with the following data protection principles. Your data will be:
- used lawfully, fairly and in a transparent way;
  - collected only for valid purposes that are clearly explained and not used in any way that is incompatible with those purposes;
  - relevant to specific purposes and limited only to those purposes;
  - accurate and kept up to date;
  - kept only as long as necessary for the specified purposes; and
  - kept securely.
496. Further information can be found in the Data Protection Policy and Handbook and in the Commissioner's Privacy Notice, available at: <http://www.itspublicknowledge.info/home/privacy.aspx>
497. The Commissioner will have regard to the principles of this policy and relevant legislation when designing or implementing new systems or processes

### *What is personal data?*

498. Personal data means any information which relates to you and allows you as an individual to be identified this will include any information you tell us about yourself and your views that you tell us about other people.

### *Why do we hold personal data about workers?*

499. We collect, maintain and process personal data about employees to enable us to conduct our business, in particular our payroll and personnel functions. We also process personal data to enable us to comply with legal and tax requirements.

### *To whom might we disclose personal data?*

500. We supply personal data to:

- individuals who are legally entitled to the information;
- those who provide us with electronic data processing services, technical initiatives of benefit to the Commissioner, or other professional or management services such as payroll administration, insurance, health or legal services
- any authority to which we are required by law to disclose personal data (for example, the Inland Revenue, the Health and Safety Executive etc)
- anyone to whom we are otherwise required to disclose it, such as employees seeking access to their own personal data or transferee organisations in the context of a TUPE transfer.

### Publication on the Internet

501. Generally, the only personal data which would be on the Commissioner's internet website is the name, job title, function and photograph of staff. This limited information is to enable the public to access appropriate staff in accordance with the policy to be open and accessible.

### Special category personal data

502. Certain sensitive information about you is regarded as "special category personal data" under relevant legislation. We can only process such data under strict conditions. special category personal data may only be processed if:

- the individual has given explicit consent to the processing of the data or
- one of the other conditions set out in the legislation applies to the processing.

503. Special category data includes any data revealing:

- your racial or ethnic origins;
- your political opinions;
- your religious beliefs or other beliefs of a similar nature;
- your membership or otherwise of a trade union;
- your sexual life or sexual orientation;
- your physical or mental health or condition;
- the commission or alleged commission by you of any offence;

- any proceedings or sentence imposed for any offence committed or alleged to have been committed by you; or
- genetic or biometric information.

504. It is the Commissioner's policy at all times to keep any special category personal data we hold and process to a minimum. Unless we are permitted to do otherwise we will also obtain your explicit consent before such data is processed. We may need to process special category personal data for the following purposes:

- in relation to your physical or mental health or condition,
- for the purpose of sickness records we are required to maintain relevant to your employment for equal opportunities monitoring and
- for any other purpose that is necessary to allow us to comply with our statutory obligations.

505. If we wish to carry out any additional processing which is not otherwise permitted, we will first obtain your explicit consent to the processing.

#### *Security of personal data*

506. The Commissioner will ensure that adequate technical and organisational security measures are taken so that privacy is preserved whenever and wherever processing of personal data (including sensitive personal data) takes place. This is achieved by observance and regular review of our existing information security and IT security policies.

507. In the event of a personal data security breach, the Commissioner will notify any staff member affected and any applicable regulator of a suspected personal data breach where legally required to do so. In certain circumstances, the Commissioner will be required to notify regulators of a personal data security breach within 72 hours of the breach.

508. If you become aware of a personal data security breach it is important that you report it immediately to the FAM or the HOCS.

#### Your rights in relation to your personal data

509. All staff are entitled to reasonable access to their own personal data to verify it and put right any inaccuracies. You have access to your personal data which is held in your Personal and Admin files in VC. If you wish to access the personnel data held on the paper copy of your personnel file, you should submit a subject access request to the HOCS describing the information that you seek. We will then process your subject access request in accordance with DPA. Please note that there are certain types of information that are exempt from this general right of subject access and which we may not disclose to you.

510. Our [Privacy Notice](#) sets out more detail but, generally, all members of staff also have the right to:

- request erasure of personal information
- object to processing of personal information where the Commissioner is relying on a legitimate interest (or those of a third party) to lawfully process it
- request the restriction of processing of personal information and
- request the transfer of personal information to another party.

511. If you wish to exercise any of these rights, you should submit your request to the HOCS. Please note that, depending on the nature of the request, the Commissioner may be unable to fully comply if there are lawful grounds for continuing to process the information.

Updating personal data

512. We wish to ensure that personal data is kept accurate and up to date. If you feel that your personal data may be inaccurate, please contact the FAM to discuss the matter further.

Misuse of employee data

513. It is an offence under DPA for employees to disclose the personal data of others to third parties or procure the disclosing of such personal data to third parties without the consent of the Commissioner. Any misuse of personal data by employees will be treated extremely seriously and may constitute a disciplinary offence under the disciplinary procedure. If you are concerned about a request to disclose any employee information please contact the HOCS.

Freedom of Information

514. As a Public Authority, the Commissioner is subject to requests from private individuals under FOISA or the EIRs. The Commissioner has a duty to provide information in response to requests made under FOISA or the EIRs subject to the exemptions, etc. contained in the legislation.

515. Amongst other things, such requests may call for the disclosure of personal data about staff. The Commissioner will apply the principles of the UK GDPR and the DPA to each request and the level of disclosure will be decided on its merits. You should be aware, however, that an internal review under FOISA can overrule an initial decision that information should be withheld.

516. The Commissioner may inform and/or consult staff on certain FOI requests. The circumstances under which staff may be informed or consulted are:

<b>Nature of Information about Employees</b>	<b>Staff Informed or Consulted</b>
Purely incidental references to names/jobs	No
Specific enquiry about job title of identified/identifiable individuals	No
Nature of Duties/job description (other than arising from purely incidental reference e.g. when a memo happens to disclose type of work)	Yes
Information disclosing actions taken by identified individuals in the course of work in non-controversial circumstances	No
As above but information might be expected to focus further attention on employee	Yes
Enquiries designed to ascertain actions taken by identifiable members of staff	Yes

Pay, allowances and expenses (of identified or identifiable individual rather than grade)	Yes
Any disciplinary matter	Yes
Any information about private life	Yes

517. The criteria suggested here relate only to the circumstances in which the Commissioner may inform and/or consult you about FOI requests. While the Commissioner will take account of your views about whether or not information should be disclosed, they will make a decision on the basis of the circumstances of each individual request and in the light of any relevant case law.

#### How to obtain further information

518. You have certain statutory rights concerning the provision by us of information regarding the manner in which we store and process your personal data. If you wish to raise an issue relating to your personal data or data protection, please contact the HOCS. If you are unsatisfied by the Commissioner's response in relation to any issue relating to your personal data, you are also entitled to contact the Commissioner's Data Protection Officer (DPO)

Robin Davidson Scottish Parliament  
Edinburgh  
EH99 1SP  
Telephone: 0131 348 5281  
Email: [dataprotection@parliament.scot](mailto:dataprotection@parliament.scot)

519. Alternatively, you may wish to make a complaint to the Office of the Information Commissioner. Further details can be found at <https://ico.org.uk/concerns/>.

520. The rights that you have under this policy do not affect any rights that you may have under the DPA or any other Act, rules or regulation.

## Security Vetting Policy and Procedure

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### Policy

521. Under Section 45(1) of the Freedom of Information (Scotland) Act 2002 (FOISA) or regulation 18(5) of the Environmental Information (Scotland) Regulations 2004 (the EIRs), a person who is or has been the Commissioner, a member of the Commissioner's staff or an agent of the Commissioner must not disclose any information which-
- has been obtained by, or furnished to, the Commissioner under or for the purposes of FOISA/the EIRs; and
  - is not at the time of the disclosure, and has not previously been, available to the public from another source,
  - unless the disclosure is made with lawful authority.
522. A person who knowingly or recklessly discloses information in contravention of section 45 or regulation 18(5) is guilty of an offence. The Commissioner mitigates the risk of unauthorised disclosure of information by requiring all staff<sup>4</sup> to undergo security vetting. This entails completion of a security questionnaire which is processed in confidence by the Scottish Parliament on the Commissioner's behalf
523. This policy provides assurance to public authorities which are required to submit sensitive or secret information to the Commissioner in the course of the investigations carried out in respect of applications and appeals
524. There are three types of security clearance:
- Security Check (SC) Developed Vetting (DV)
  - Counter Terrorist Checks (CTC)
  - Developed Vetting (DV)
525. The Commissioner's staff are cleared using the SC clearance type.
526. The SC clearance must be renewed every 10 years and the HOCS will contact a member of staff whose clearance is due for renewal and request that the relevant forms are completed.

### Procedure

527. The security vetting arrangements, are the same as those used by the Scottish Parliamentary Corporate Body (SPCB) and are in line with the programme of national security vetting used by all Government Departments, Agencies and Devolved Administrations. Security Questionnaires are processed by the Scottish Parliament's Security Office on the Commissioner's behalf.
528. Each member of staff or successful job applicant is required to complete a Security Questionnaire which incorporates a Statement of HM Government's Personnel Security and National Security Vetting Policy. Notes providing guidance on completion of the questionnaire and a Privacy Notice are contained within the questionnaire.

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<sup>4</sup> The Commissioner may also require the staff of some suppliers to undergo security vetting



529. The Security Questionnaire must be accompanied by acceptable identification (Passport or UK Driving Licence) when it is returned to the Scottish Parliament's Security Office. It has been agreed with the Scottish Parliament's Security Office that, rather than send original identification with the completed Security Questionnaire, the identification process can be carried out in one of two ways:
- the HOCS or the FAM corroborates identity - identification may be presented to the HOCS or the FAM who will take a photocopy of it and this will then be returned with a completed Identity Confirmation Form
  - the applicant arranges for their identity to be corroborated - this can be done by having a person of some standing in the individual's community (for example, a Justice of the Peace, medical practitioner, officer of the armed forces, teacher, lecturer, lawyer, bank manager, civil servant, etc), who has known them for 5 years or more, endorse the ID confirmation form. A photocopy of the of the ID presented to the person of good standing would also be required. This, along with the endorsed ID confirmation form, can be returned to our office to forward to the Scottish Parliament's Security Office with the completed Security Questionnaire.
530. Once completed, the Security Questionnaire and the Identity Confirmation Form, accompanied by the photocopy of the identification, should be placed in an envelope, sealed and sent/passed to the HOCS or the FAM who will in turn arrange for the sealed documentation to be forwarded to the Parliament's Security Office together with a covering letter signed by the HOCS. Detailed instructions will be provided to the member of staff/applicant on the completion of the Security Questionnaire and the Identification Confirmation Form and how these should be passed/sent to the HOCS.
531. Once the security check has been completed, the Scottish Parliament's Security Office will communicate the outcome to the member of staff and provide a copy of the communication to the HOCS which will be retained in a file accessible by only the Commissioner and the HOCS. The completed Security Questionnaire will also be returned to the HOCS in a sealed envelope with the individual's name and security clearance review date endorsed on the envelope and this will be retained with the outcome notification.
532. When a member of staff leaves the Commissioner's employment the outcome notification and the sealed Security Questionnaire will be securely destroyed.

## Equality and Diversity

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529. In meeting our commitments, we aim to make equality and diversity a natural and integral part of our organisational culture. Equality is central to creating a positive working environment in which decisions are made and business is planned without bias, prejudice or stereotyping and where staff can actively contribute to the promotion of equality and diversity.
530. As an employer, policies have been developed to enable everyone to be treated fairly, and without prejudice or bias. With this in mind, equality is woven into all our employment policies so that no one is unlawfully discriminated against and that everyone can participate freely and be given the opportunity to excel during their employment.
531. We are committed to continually reviewing and monitoring our employment practices.
532. We seek the support and cooperation of all staff to promote equality and diversity in their day to day work and to develop and maintain positive working relationships with their colleagues. Doing so will create a pleasant and productive environment in which to work while making sure that barriers are removed for any individual or group that could be placed at a substantial disadvantage.
533. Staff will be provided with training to gain an understanding of the Commissioner's commitment to the principles of equality and diversity and how this should be applied at a practical level. Everyone is expected to attend this training as part of their induction process and attend a refresher session every year thereafter (or as required by the Commissioner) to ensure they remain up to date in changes to legislation and what is expected of them as employees.
534. There are groups in society which are discriminated against or treated less favourably because of their background, status or circumstance and it is important that, in delivering our policies and practice, no one is substantially disadvantaged.

### Defining discrimination

535. The Equality Act 2010 prohibits discrimination on the grounds of the following protected characteristics:
- Sex;
  - Race, nationality or ethnic origin;
  - Disability;
  - Religion;
  - Age;
  - Sexual orientation;
  - Transgender status (in relation to gender reassignment);
  - Pregnancy; and
  - Marriage and civil partnerships.

536. Unlawful discrimination can take a variety of different forms which include:
537. Direct discrimination - occurs when a person is treated less favourably because of a protected characteristic. (For example, you treat someone less favourably because of the colour of their skin or because they are a woman.)
538. Indirect discrimination occurs where you have a condition, rule, policy or practice that applies to everyone but particularly disadvantages people who share a protected characteristic, and which cannot be justified under the Equality Act 2010.
539. Discrimination arising from disability - occurs when a disabled person is treated unfavourably because of something connected to their disability and where this cannot be objectively justified. This only applies if you know or could reasonably have been expected to know that the staff member is a disabled person.
540. Harassment - occurs where a member of staff is subjected to unwanted conduct related to a protected characteristic that violates their dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment (having regard to all the circumstances, including the perception of the victim).
541. Sexual harassment - occurs when a staff member is subjected to harassment which is of a sexual nature. The conduct need not be sexually motivated, only sexual in nature.
542. Victimisation - occurs, broadly, where a member of staff is treated less favourably as a result of making or supporting or assisting, a complaint of discrimination.
543. Discrimination by perception – occurs when a person is treated less favourably because they are perceived to have one of the protected characteristics. (For example, you treat someone less favourably because you believe they have a particular sexual orientation have a particular religious belief.)
544. Discrimination by association – occurs when a person is treated less favourably because they are associated with someone who has one of the protected characteristics. (For example, someone is discriminated against because they have a disabled child or because they are friends with someone who has gone through gender reassignment.)
545. Failure to make reasonable adjustments applies to people who are disabled as defined in the Equality Act 2010 and which occurs where an employer does not take reasonable steps to prevent any provision, criterion or practice it applies, or any physical feature of its premises, from placing a disabled member of staff at a substantial disadvantage in comparison to those who are not disabled.
546. The Commissioner will treat all staff fairly and during their course of employment staff will be assessed purely on the basis of their abilities, competencies and merit irrespective of their background or circumstance. This applies to all aspects of employment including:
- Recruitment and Selection
  - Pay
  - Terms and Conditions of Service
  - Promotion
  - Training and Development

- Secondment
- Appraisal
- Grievance and Disciplinary Procedures;
- Termination of Employment; and
- Working Environment (see Dignity at Work Policy)

547. If there is any evidence of disadvantage, the Commissioner will take immediate action to remove it so that everyone can fully access our policies and practices.

548. The policy applies to all job applicants, staff employed by the Commissioner and staff seconded to the Commissioner irrespective of length of service, hours worked or whether the employment is on a temporary or permanent basis.

### **Staff responsibilities**

549. Whilst the Commissioner is committed to creating an environment in which equality of opportunity and treatment will flourish, we seek the support and cooperation of staff to provide their commitment to the policy and this should be reflected in the way in which we work and interact with our colleagues and others. The Commissioner expects all staff to make their contribution to promoting equality of opportunity and treatment and to take a proactive role. Each member of staff has a responsibility:

- to comply with this Equality and Diversity section of the Employee Handbook and to co-operate with its implementation;
- to actively contribute towards making equality a natural and integral part of the organisational culture;
- to comply with any additional measures introduced by the Commissioner to promote equality and eliminate unlawful discrimination and to take whatever steps you can to ensure that any measures introduced are implemented in practice;
- to prevent unlawful discrimination and to act in an appropriate manner towards, any other member of staff, job applicant or service user. Discrimination includes harassment, sexual harassment and bullying. This obligation is set out in greater detail in the Dignity at Work Policy;
- to prevent anyone from feeling victimised because they have raised a complaint under this section of the Employee Handbook or the section of the Employee Handbook that relates to Dignity at Work or who has given assistance or information in connection with a complaint of discrimination made by another individual. This obligation is set out in more detail in the Dignity at Work;
- to draw to the attention of your manager or the HOCS any act, practice or behaviour by others which you believe contravenes this section of the Employee Handbook or the section of the Employee Handbook on Dignity at Work;
- to participate fully in the equalities and diversity training provided to you by the Commissioner.

550. Performance of these responsibilities, together with any positive contributions made to the implementation of this section of the Employee Handbook or the section of the Employee Handbook on Dignity at Work will be assessed through the Performance Management system.

## **Dignity at work**

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### **Introduction**

551. The Commissioner is committed to providing an environment which is free from harassment, bullying, unlawful discrimination and victimisation. We believe that everyone should have the right to be treated with dignity and respect.
552. The Commissioner's aim is to excel as a public office, and we recognise that sustained success is built on a well led, high quality staff team. In achieving this aim, staff should work in a culture in which they feel valued for their contribution, where they can utilise their talents and resources in order to reach their full potential.
553. If we are to maintain this standard, our values of selflessness, integrity, objectivity, accountability, openness, honesty and leadership should be reflected in our day to day work and in the way in which we work and interact with our colleagues and others.
554. The Commissioner therefore promotes a strong culture of openness and equality in which people are treated fairly and with dignity and respect. We seek the support and cooperation of staff in creating this culture and ensuring that others are treated fairly by developing and maintaining positive working relationships with colleagues and others with whom they interact daily.
555. Harassment, bullying, unlawful discrimination and victimisation are unacceptable to the Commissioner and will not be tolerated. If there is any incidence of this type of behaviour, which has a detrimental effect on staff, the Commissioner will take prompt action to remedy it and steps to prevent any recurrence. The Commissioner recognises the impact such behaviour can have on the individual/s experiencing it as well as on the wider organisation in terms of its staff morale and operational efficiency.
556. This Dignity at Work section of the Employee Handbook applies to all staff directly employed by the Commissioner. It also applies to other staff, including those on secondment from other organisations, contractors and agency workers. All staff are expected to take action as appropriate to incorporate the principles of this Policy into their working relationships. In addition, all staff are responsible for reporting as appropriate any incidents of unlawful discrimination, harassment, victimisation and bullying that come to their attention.

### **Principles**

557. The Commissioner recognises that all staff have the right to be treated with consideration, dignity and respect while at work. Our aim is to create a positive and fulfilling working environment which promotes the respectful treatment of staff and the protection of staff from discrimination, victimisation, bullying and harassment.
558. Every member of staff is responsible for their own behaviour and in ensuring that their conduct is in line with the standards set out in this policy. Developing and maintaining positive working relationships with colleagues and others should facilitate both enhanced performance and improved working lives for all.

559. The Commissioner will treat all allegations of harassment, sexual harassment, unlawful discrimination, victimisation or bullying seriously and prompt action will be taken to investigate complaints. Where there is a breach of policy, this could result in disciplinary action up to and including dismissal.
560. The Commissioner wishes to create a culture which promotes tolerance, dignity and respect. It is not the intention of this policy to prevent or inhibit social interaction in the workplace. However, it should be borne in mind that what may appear to be acceptable to some may be offensive and humiliating to others.

### **Making a complaint**

561. If a member of staff believes they are being harassed, sexually harassed, unlawfully discriminated, bullied or victimised they should make it clear to the perpetrator that their behaviour is unacceptable. However, we recognise that the member of staff may, in some cases, feel unable to approach the perpetrator directly. Advice can be sought from your line manager or the HOCS on how the matter can be dealt with, or an informal or formal complaint can be made using the grievance procedures set out in this handbook.
562. If a member of staff is not certain whether an incident or series of incidents amount to harassment, sexual harassment, unlawfully discrimination, bullying or victimisation, they should initially contact their line manager or the HOCS informally for confidential advice.
563. A written complaint should set out full details of the conduct in question, including the name of the perpetrator, the nature of the behaviour, the date(s) and time(s) at which it occurred, the names of any witnesses and any action that has been taken so far to attempt to stop it from occurring.
564. As a general principle, the decision whether to progress a complaint is up to the member of staff who has lodged the complaint. However, in serious cases we may have to take formal action even if the person making a complaint does not wish this to happen. The details of a complaint may be shared with the person being complained about.
565. We will investigate complaints in a timely and confidential manner. All parties involved in any complaint are expected to respect this need for confidentiality during the resolution of any complaints, and disciplinary action may be taken against any party who breaches this.
566. The investigation, where possible, will be conducted by someone with appropriate experience and no prior involvement in the complaint. The investigation will be thorough, impartial and objective, and carried out with sensitivity and due respect for the rights of all parties concerned.
567. Depending on the nature of the complaint, it may be necessary to temporarily transfer the alleged perpetrator to another department during the investigation, or where this is not possible to suspend him or her on full pay. We will also seriously consider any request that the complainer makes for changes to their working arrangements during the investigation. For example, they may ask for changes to duties or working hours so as to avoid or minimise contact with the alleged perpetrator.
568. Where the investigation uncovers evidence of prohibited conduct, the alleged perpetrator will be dealt with under the disciplinary procedure. In serious cases of harassment, sexual harassment or bullying, the harasser may be summarily dismissed. Aggravating factors such as abuse of power over a more junior colleague will be taken into account when deciding what disciplinary action to take.

569. Whether or not a complaint is upheld, we will consider how best to manage the ongoing working relationship between the member of staff who raised the complaint and the alleged perpetrator. It may be appropriate to arrange some form of mediation and/or counselling, or to change the duties, working location or reporting lines of one or both parties.
570. All staff should feel able to raise a complaint in good faith and be reassured that they will not be disadvantaged as a result of raising a complaint. However, in the rare event that malicious or vexatious complaints are made they will not be tolerated and will be treated as a serious disciplinary matter

### **Harassment at Work**

571. Harassment is any unwelcome behaviour or conduct which has no legitimate workplace function and which makes you feel: offended, humiliated, intimidated, frightened and/or uncomfortable at work. Harassment can occur as an isolated incident or as persistent behaviour and is essentially about what the recipient deems to be offensive, not about what was intended.
572. It can be experienced directly or indirectly at work. Harassment which is experienced indirectly can be when someone is making sexist or homophobic jokes in the office environment but it is not directed at a particular person. However, the person is affected by simply being in the environment in which it is taking place.
573. Acts of harassment at work may be unlawful and could amount to unlawful discrimination on the grounds of race, disability, gender, sexual orientation, age, religion and belief. In some circumstances, harassment can be a criminal offence, for example, under the provision of the Protection from Harassment Act 1997.
574. In alleged cases of harassment, the perception of the complainant is very important. Behaviour which one individual may regard as acceptable may be unacceptable to another person. The perception of a complainant must therefore always be taken fully into account when a judgement is made on whether conduct is considered to be inappropriate.
575. It is also important to note that, even if behaviour is unintentional, it can still be classed as a form of harassment. What may seem to be harmless to one person can be offensive to another. The principle at the heart of this policy is that what is offensive is determined by the nature of the conduct itself and how it is regarded by those who experience it. It is the impact rather than the intent that is the key.

### **Examples of harassment**

576. Harassment can take many forms. It may include unwanted physical, verbal or non-verbal conduct. Harassment may occur in a face-to-face setting, by telephone or in written or electronic communications. The following list provides examples of the type of behaviour which can amount to harassment – this list is, by no means, exhaustive:
- Unwelcome physical contact such as touching or invading someone's "personal space" by standing very close to them where this is unnecessary.
  - Unwelcome verbal conduct. This may include the making of remarks and comments about someone's appearance, lewd comments, sexual advances, innuendo and banter, the making or repetition of offensive or stereotyped comments, jokes or songs including those of a racial and/or sectarian nature.

- Intrusive questioning. For example, this may include the intrusive discussion of a person's sexual practices, sexual orientation or religious beliefs - either directly or with others.
- Unwelcome written, visual or physical interaction. This may include sending unwelcome e-mails, notes or pictures, displaying or sending offensive material (e.g. displaying offensive pin-ups or screen savers), making obscene or offensive gestures, persistently sending unwanted gifts, notes, cards or unsolicited emails or following, spying or stalking someone.
- The deliberate exclusion of an individual from work-related activities (including social activities related to work) or conversations in which they have a right or legitimate expectation to participate as a result of a personal characteristic of the complainant.

### **Sexual Harassment at Work**

577. Sexual harassment occurs when a staff member is subjected to harassment which is of a sexual nature. The conduct need not be sexually motivated, only sexual in nature.

578. An individual can experience unwanted conduct from someone of the same or different sex. Sexual interaction that is invited, mutual or consensual is not sexual harassment because it is not unwanted. However, sexual conduct that has been welcomed in the past can become unwanted and therefore, become sexual harassment.

#### Examples of Sexual Harassment

579. Sexual harassment can take many forms. It may include unwanted physical, verbal or non-verbal conduct. Sexual harassment may occur in a face-to-face setting, by telephone or in written or electronic communications. The following list provides examples of the type of behaviour which can amount to sexual harassment – this list is, by no means, exhaustive:

- sexual comments or jokes;
- displaying sexually graphic pictures, posters or photos;
- suggestive looks, staring or leering;
- propositions and sexual advances;
- making promises in return for sexual favours;
- sexual gestures;
- intrusive questions about a person's private or sex life or a person;
- discussing their own sex life;
- sexual posts or contact on social media;
- spreading sexual rumours about a person;
- sending sexually explicit emails or text messages; and/or
- unwelcome touching, hugging, massaging or kissing.

### **Bullying at Work**



580. Bullying is inappropriate and unwelcome behaviour which is offensive, intimidating, malicious or insulting to an individual or group of individuals. Bullying can be directed at anyone, which can have the effect of making someone feel undermined, humiliated or injured.
581. There are similarities with harassment but the reasons for bullying behaviour may be much broader than the grounds on which it is unlawful to harass someone. For example, you may be bullied because you are seen to be quiet or weak.
582. The bullying may be obvious or it may be insidious which can make it difficult to recognise. It might also be unintentional but nonetheless this does not prevent it being defined as bullying. It is the impact of the behaviour rather than the intent which will determine whether it is regarded as bullying. It is how the person feels as a result of that behaviour which is important.
583. The Commissioner recognises and respects the differences of perspectives and that some staff will cope with situations differently to others. Some staff may be reluctant to come forward with a complaint whereas others may be more willing to take action. Anyone involved in handling a dignity at work complaint should always take account of these differences and treat all complaints sensitively.

#### Examples of bullying

584. Like harassment, bullying may take many forms. It may include unwelcome physical, verbal or non-verbal conduct. Bullying may occur in a face-to-face setting, in writing or via electronic communication. The following list provides examples of the types of behaviour which can amount to bullying – this list is, by no means, exhaustive:
- Verbal abuse or threats.
  - Steps taken to make someone's working life difficult. This might involve the setting of impossible deadlines, objectives or targets, constantly changing objectives and goals, deliberately imposing an intolerable workload, unreasonably removing areas of responsibility, or deliberately blocking advancement without cause.
  - Intimidating behaviour.
  - Unwarranted disparaging, ridiculing or mocking comments and remarks. Such remarks might be made in front of others and/or designed to undermine an individual.
  - Physical violence.
  - The deliberate exclusion of an individual from work-related activities (including social activities related to work) or conversations in which they have a right or legitimate expectation to participate.

#### **Legitimate Firm Management Practice**

585. Bullying is not about the legitimate exercise of managerial responsibility. Managers and supervisors have a duty to manage performance, attendance and conduct issues, and to instruct staff to carry out legitimate tasks associated with their role. They must provide employees with accurate feedback, which may be critical, and to take steps to achieve an improvement in performance, conduct or attendance where that is required.
586. In exercising these functions, the Commissioner expects its managers to take a firm managerial approach, which is not considered to be bullying. There are times when managers will be required to have difficult conversations with staff about their performance or

conduct but it is important not to misconstrue this as bullying behaviour. A manager with a firm approach which is fair and reasonable in their actions does not constitute bullying behaviour. A bullying manager is more likely to be inconsistent in their actions and will exercise their functions in a way that seeks to deliberately undermine or intimidate others.

587. The behaviour of individuals in the workplace can vary from day to day. Someone who is normally perfectly civil may occasionally appear impatient, pre-occupied and fail to show the courtesy expected of them. This may be for a variety of reasons including pressure of work, domestic difficulties or ill health. This policy is not intended to deal with occasional minor lapses of good manners, courtesy or respect unless a pattern of behaviour emerges that becomes objectionable or intimidating in itself, in which case such behaviour may constitute bullying.

### **Victimisation at Work**

588. Victimisation within the scope of this policy (and within the scope of equal opportunities legislation) has a specific, defined meaning. Victimisation involves treating you less favourably than other people because you have:

- made, in good faith, a claim of discrimination, harassment or bullying under equal opportunities legislation or you have made a complaint under the section of the Employee Handbook relating to **Equality and Diversity**
- suggested or complained that, in some other way, you have been, discriminated against, bullied or harassed or that the section of the Employee Handbook relating to **Equality and Diversity** has, or may have been, breached in some way; or
- helped another person who is making such a claim, perhaps by providing evidence or some other form of support to that person.

589. Victimisation is entirely unacceptable behaviour which can have a profound effect upon the working environment and lead to a reluctance to report acts of discrimination, bullying, victimisation or harassment.

### **Harassment, sexual harassment, discrimination, bullying and victimisation by using technology**

590. Given the degree of reliance upon electronic means of communication and information sharing/gathering within the Commissioner's office, it should be particularly noted that harassment, sexual harassment, bullying and victimisation can occur during the use of technology. For example, this could involve:

- sending e-mails (with or without attachments) which breach the terms of this policy;
- using, displaying or saving offensive materials (e.g. offensive screen-savers, photographs) which are then accessed, or seen by, another person or group of people;
- downloading, displaying or printing offensive material from an Internet source in the presence of another person or group of people; and
- making malicious and derogatory comments on social networking sites such as Facebook and Twitter. It is equally as important that staff are protected even when it is outside of work but there is an association to the workplace.

591. These are only examples of the way in which behaviour which breaches this policy can occur when using technology. As it may also constitute a misuse of the Commissioner's equipment, you should also familiarise yourself with the Communications and Social Media section of this Handbook and, also, the Commissioner's published policies relating to communications and social media.

### **Harassment, sexual harassment, bullying, discrimination and victimisation outside normal working hours**

592. Behaviour amounting to harassment, sexual harassment, bullying, discrimination or victimisation which occurs outside the workplace and out with normal working hours can be connected to work and, therefore, may fall within the scope of this policy.

593. In particular, your conduct at a work-related social event or when using social networking sites such as Facebook and Twitter or messaging apps such as Instagram or WhatsApp or Snapchat would be covered by this policy and you are therefore expected to maintain standards which are consistent with the terms of this policy at all such events, in all such activities and in all work, or work-related, settings.

### **Third party harassment or sexual harassment**

594. Third party harassment is harassment or sexual harassment of a worker by someone who does not work for, and who is not an agent of the same employer. For example: a client, customer or service user. Third party harassment or sexual harassment will not be tolerated and, if witnessed, staff are encouraged to report it.

595. If staff are subject to or witness to third party harassment or sexual harassment, they should report the matter to their line manager or follow the grievance process. Where instances of third-party harassment occur, we will consider what action may be appropriate to protect that member of staff and anyone involved, bearing in mind the reasonable needs of the organisation and the rights of that person.

### **Responsibilities under this Policy**

596. The Commissioner will ensure that all staff are made aware of the terms of this policy and their rights and responsibilities arising under it.

597. All members of staff:

- must ensure that they are familiar with and comply with the terms of this policy;
- must treat all individuals with courtesy and respect when carrying out their duties;
- must not participate in or condone acts of harassment, sexual harassment, discrimination, victimisation or bullying;
- who witness acts of harassment, sexual harassment, victimisation or bullying must encourage the complainant to seek support and assistance and make it clear that they will offer assistance to the complainant by providing truthful evidence if s/he decides to make an informal or formal complaint;

598. If you, as an employee, are told that your own behaviour is unacceptable in some respect you must:

- try to remain calm and listen carefully to the complaint and to the concerns expressed, remembering that it is the other person's reaction to the behaviour which is important, not the reaction you think s/he should have;
- respect the right of all members of staff to work in an environment which is free from harassment, sexual harassment, victimisation or bullying;
- try to agree on ways to deal with the situation productively, taking full account of this policy and the associated grievance procedures; and review your behaviour more generally with a view to making sure that you are not causing offence in any respect.

599. All managers:

- must ensure that, within their area of responsibility, all staff are aware of the terms of this policy and that the policy is actually implemented in practice;
- should lead by example in promoting the development of a culture where everyone is treated with courtesy and respect and where it is understood that discrimination, harassment, victimisation and bullying will not be tolerated;
- are expected to take action and take allegations of discrimination, harassment, sexual harassment, bullying and victimisation seriously and deal with them speedily, sympathetically and confidentially. Failure to deal with a complaint of discrimination, harassment, sexual harassment, bullying or victimisation can amount to misconduct;
- must take appropriate action or seek advice from the HOCS on how to proceed if they witness behaviour which contravenes this Policy;
- should be sensitive to behaviour which may point to harassment, sexual harassment, victimisation, discrimination or bullying. Where potential harassment, victimisation, discrimination or bullying is noted, sensitive exploration of the situation should be undertaken with a view to establishing what action may be required to rectify the position. You should seek assistance from the HOCS where necessary/appropriate

### **Sources of Internal and External Support**

600. Support and advice services are available to any member of staff who makes a complaint or the alleged harasser, within and out with the workplace.

601. Internal sources of support include:

- the employee assistance programme;
- the HOCS or the FAM

602. External sources of support include:

- the [Equality Advisory and Support Service](#);
- [Protect](#) (whistleblowing charity);
- local advice centres;
- helplines which have been set up to deal with specific forms of harassment (such as the helplines provided to deal with sexual harassment by the Scottish Women's Rights Centre in Scotland and Rights of Women in England and Wales); and

## Monitoring and Review

603. This section of the Employee Handbook will be reviewed regularly.

## Inclusive work practices

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604. The Commissioner recognises that the delivery of high-quality services is critically dependent on the Commissioner's staff who are well-rewarded, well-motivated, well-led, have access to opportunities to enhance their skills and knowledge and are engaged in decision making. By creating a diverse and inclusive working environment, this will help maximise each person's contribution and productivity and enable us to recruit from a wider diverse talent pool. These factors are important for workforce recruitment and retention, and thus continuity of service delivery. The Commissioner has adopted inclusive work practices, which include:

- Clear leadership commitment to diversity and inclusion and mainstreamed into the way we deliver our services; how we make decisions at all levels; and providing the right infrastructure to allow individuals to harness their individual talent and capabilities;
- Creating an inclusive atmosphere to support a diverse staff body
- Support for learning and continuing professional development, developing our staff and utilising their talents and resources;
- Stability of employment and hours of work, and avoiding exploitative employment practices, including no inappropriate use of zero-hours contracts;
- Flexible working (including practices such as flexi-time and career breaks) and support for family friendly working and wider work life balance recognising the diversity within family life;
- Progressive workforce engagement by regularly consulting with the staff body (for example, ASM, team meetings, all staff emails) and recognising employees' rights in relation to trade union activities and representation.

## Performance management and accountability

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605. We aim to be in a position where we set all staff and managers challenging but realistic objectives, derived from personal and corporate aims, which contribute demonstrably to the success of the organisation, and are supported by fair and effective reward systems.
606. We have a proportionate and effective performance management system which meets the good practice principles set out by ACAS in their guidance “How to Manage Performance”, covering:
- What the business is trying to achieve
  - Individuals’ roles in helping the business achieve its goals
  - The skill and competencies individuals need to fulfil their role
  - The standards of performance required
  - How individuals can develop their performance and contribute to development of the organisation
  - How individuals are doing
  - Identifying when there are performance problems and what to do about them.
607. We have robust staff governance and management policies and systems in place that ensure the performance and development framework is applied consistently and to all levels in the organisation.
608. We set staff clear objectives against which we monitor and appraise. These are both personal to the individual and drawn from corporate objectives
609. We set all staff and managers challenging but realistic objectives, derived from personal and corporate aims, which contribute demonstrably to the success of the individual and the organisation supported by fair and effective reward systems. To achieve our HR performance management aims, we need to:
- a. ensure our performance and development framework is reviewed regularly, outcomes monitored and reported on, and every individual made aware they are empowered to dedicate time and resource to operating it to the standards required
  - b. ensure we have the competencies to do our jobs efficiently, effectively and economically

## Performance management and the performance and development framework

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### Job Description

610. You will have received a job description that describes the main duties of your post. As stated in your Main Terms and Conditions, you may occasionally be asked to carry out tasks which, although within your capability, are not detailed in your job description. Apart from sometimes meeting short term operational needs, these alternative duties may provide you with opportunities to develop your skills and knowledge and enable the Management Team to see how you perform these tasks in order to facilitate the development of your career. Wherever possible, these changes to your duties will be planned, explained and discussed with you in advance. We believe that this flexibility is an important feature of our culture and that this practice can operate to our mutual advantage.

### 611. Grading structure

Grade	Description
Grade 1	Enforcement Team Support Assistant
Grade 2	Administrator (Corporate Services Team) Administration Officer (Policy & Information)
Grade 3	Validation Officer
Grade 4	Finance and Administration Manager Freedom of Information Officer
Grade 5	Deputy Head of Enforcement
Grade 6	Head of Corporate Services Head of Enforcement Head of Policy and Information

612. The application of this grading structure is comparable to that applying to similar grades within the Scottish Parliament Corporate Body's grading structure.

### Performance Management

613. If you, as an employee, are told that your own behaviour is unacceptable in some respect you must:
- try to remain calm and listen carefully to the complaint and to the concerns expressed, remembering that it is the other person's reaction to the behaviour which is important, not the reaction you think s/he should have;
  - respect the right of all members of staff to work in an environment which is free from harassment, victimisation or bullying;

- c. try to agree on ways to deal with the situation productively, taking full account of this policy and the associated grievance procedures; and review your behaviour more generally with a view to making sure that you are not causing offence in any respect.

## **Performance and Development Framework**

614. The Commissioner recognises that the development of all staff and the management of performance are essential to ensure that everyone can contribute fully to the achievement of our strategic and operational objectives.
615. We believe that all members of staff have a right to a clear understanding of what is expected of them, an opportunity for a detailed discussion of their contribution to the achievement of personal and organisational objectives, and to feel valued.

## **Overview**

616. The Performance and Development Framework (P&DF) is designed to:
  - identify personal strengths and development needs
  - recognise good performance
  - support the achievement of objectives
617. The core elements of the P&DF are:
  - Personal Objectives (which are derived from the Strategic and Operational Plans)
  - A Personal Development Plan – which articulates the knowledge or skills you will need to achieve your objectives, and the most effective way to develop them
  - Ongoing performance management – routine meetings and tools used throughout the year e.g. caseload management reviews, project status reports etc.
  - Performance & Development Review & In-Year meetings - Forms A to D are used to set personal objectives, and to prepare for and record Performance & Development Reviews (which are carried out annually) and In-Year meetings.
618. The P&DF is designed so that the core elements can be used flexibly, reflecting the requirements of the role, the individual and the line manager.
619. The P&DF uses 4 forms, which are available as in VC as Word templates:
  - Form A – Forward Work Plan
  - Form B – In-Year Review Meeting Record
  - Form C – Performance & Development Review Self-Assessment
  - Form D – Performance & Development Review Meeting Record



## Unacceptable performance procedure

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### Introduction

620. As an employer, the Commissioner is committed to providing a working environment and fostering a culture which actively encourages, facilitates and recognises effective performance. The Commissioner values the provision of high-quality professional advice and support services and recognises that it is essential that staff maintain certain standards of performance.
621. You are required to undertake your role in a professional manner and in accordance with the performance expectations established by the Commissioner as your employer. The standards of performance required of you will be communicated to you by your line manager and reinforced through the operation of the P&DF. If you require any clarification as to the standards of performance expected of you, you should consult your line manager.
622. This Policy details the procedures which will be followed if you do not meet the standards of performance expected by the Commissioner, with a view to assisting you to improve your performance to a level that is acceptable. These procedures do not form part of your contract of employment.
623. The procedures associated with this policy are set below along with a list of potential sanctions – see section on **Disciplinary Sanctions**.

### Purpose

624. This policy and procedures are intended as an aid to good management and are designed to ensure that if your standard of performance is not acceptable, you are encouraged and assisted to improve your performance through positive management intervention and support. You should not, therefore, see them as being primarily punitive in nature, although particular circumstances may result in sanctions being imposed, up to and including dismissal. The procedures set out a clear framework to enable managers to deal with unacceptable performance in a fair and consistent manner and without undue delay.
625. This policy and procedures are not part of the P&DF. The P&DF enforces expectations of performance standards relevant to each role and reflects management's assessment of individual staff performance. If your performance falls below an acceptable standard this will be addressed separately from the operation of the P&DF through the procedures set out below, and issues will be dealt with promptly as and when they arise.
626. This policy and procedure reflect legislative requirements and take account of relevant Codes of Practice, case law and recognised good practice.

### Application

627. This policy and procedure applies to all staff employed by the Commissioner, with the exception of those staff in a temporary role. If you are in a temporary role, please see the Temporary Roles section below

### Definition

628. "Performance" is your ability to carry out your duties in order to meet your responsibilities and objectives and the way in which you do this. Your performance may be considered unacceptable if you do not demonstrate the skills, competences and/or abilities required to effectively fulfil all, or a significant portion of, the requirements of your role. This may occur if

your performance is assessed in an annual P&D Review meeting as “Unacceptable” or if your performance has not improved following attempts to resolve the matter through the P&DF. Your line manager does not need to wait until the end of the reporting year to complete an appraisal report. He or she may complete one at any time if your performance deteriorates during the reporting year. If such an unscheduled report is completed under the performance management system, this will normally trigger the unacceptable performance procedures set out below.

629. If your performance is unacceptable as a result of wilful lack of application or wilful disregard for performance standards, then this will be regarded as a conduct issue and will be dealt with through the disciplinary procedures. Similarly, if you are able to meet the requirements of your role but choose not to, the matter will be dealt with in accordance with the disciplinary procedures.
630. In particular circumstances, it might be appropriate to transfer the management of performance difficulties from the procedures under this policy to an alternative procedure. This may arise, for example, if it becomes clear during the operation of the procedures that the issue is not one of unacceptable performance but is actually one of conduct or attendance. In such situations, you will be advised in writing which procedure is to be followed. The circumstances and action already progressed will be taken into account in determining the appropriate level at which to enter the new procedure.

## **Principles**

631. The main principles governing this policy are that:
- The Commissioner will ensure that a range of appropriate measures are in place to minimise the potential for performance below an acceptable level. This includes effective processes in relation to recruitment and selection, induction, performance management, and training and development;
  - You will be made aware of the standards of performance expected of you. Aims, objectives and training to meet development needs will be discussed with your line manager through the operation of the P&DF and will form your job role and objectives for the year in question;
  - You will be advised at the earliest opportunity, normally within the context of the performance management arrangements, if your performance is unacceptable and you will be given the opportunity to put forward your case before any decision is made to proceed to use the formal Unacceptable Performance procedures;
  - Where appropriate, attempts will be made to resolve matters informally in the first instance and support will be provided to help you to improve your performance within the context of the performance management arrangements;
  - Performance below an acceptable standard will be managed in a way that is sensitive to both your needs and the needs of the Commissioner. Information relating to the management of individual performance cases will be strictly restricted to those who need to know it in order to carry out the responsibilities of their role;
  - The Commissioner will not discriminate in the application of these procedures in respect of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender identity, sexual orientation, trade union

membership or non-trade union membership. Reasonable adjustments will be put in place, as appropriate, to support staff with a disability;

- At all formal stages of the procedures set out below, you will have the right to be assisted by a trade union representative or work colleague;
- The procedures set out below will be progressed without any unnecessary delay;
- You will have the right to appeal against any sanction imposed, in accordance with the procedures set out in Stage 3; and
- The Commissioner reserves the right to invoke the unacceptable performance procedures set out below at any stage and to miss out a step or steps in the procedure if considers appropriate in the circumstances. If this occurs, reasons will be given. HODs will keep the Commissioner apprised of proposed and ongoing disciplinary matters.

### **Procedures for dealing with unacceptable performance**

632. The Commissioner is committed to following a full and fair process dealing with performance matters to ensure consistency of treatment for all employees. Set out below is the process that the Commissioner will normally follow. Please note, however, that the Commissioner reserves the right to change or amend this policy from time to time.

633. Managers may seek advice about the Performance and Disciplinary Procedures from the HOCS at any time.

634. Managers must consult the HOCS for advice and guidance prior to taking any formal disciplinary action. Where HOCS has a conflict of interest, the matter will be referred to the Commissioner who may seek external advice and assistance, as appropriate.

#### *Informal Stage*

635. Prior to any formal procedures commencing your line manager will normally deal with any performance issues on an informal basis when the line manager will advise you of the performance issue, counsel and/or coach you on what must be done to improve, and give you the opportunity to make such improvement(s). This stage falls under the normal P&DF where managers should ensure that a member of staff has been given the proper support, training and opportunity to improve before they decide to invoke the formal procedure.

636. Managers should be alert to the fact that if a member of staff's performance deteriorates or is not as good as it should be, they should always consider the possibility that the member of staff may have a disability. Managers must give due regard to the requirements of the Equality Act 2010 and provide "reasonable adjustments" that would enable the member of staff to perform adequately in his/her role.

637. Managers should also ensure that these and any other mitigating factors are seriously considered during the normal P&DF before they decide to invoke formal procedures.

638. If your performance has been assessed in an annual P&D Review meeting as "Unacceptable", or if your performance has not improved following attempts to resolve the matter through the P&DF, the formal stages (as opposed to the informal stage) of these procedures will be invoked.

639. If the formal procedures are invoked, you will no longer be assessed through the P&DF guidance or timetable whilst going through these procedures, although performance

appraisal forms will still be used to record your actual performance and achievements at the end of the review period.

### *Formal Stage*

640. Your line manager will provide you with a performance appraisal worksheet, which clearly sets out the unacceptable areas of performance and the HOD will invite you, in writing, to attend a formal hearing. The invitation will set out the respects in which the HOD believes that the employee's performance still falls short of an acceptable standard. You will be given a minimum of two working days' notice of the Hearing which will be chaired by your HOD. The HOCS will normally attend the Hearing to provide procedural advice. The letter will set out the possible outcome of the meeting, i.e. that it could result in a first (or final) written warning. You are entitled to be assisted at this meeting by a trade union representative or a work colleague. If the date and time of the meeting are unsuitable for you and/or your companion, you can suggest an alternative date and time within five working days from the date originally proposed. You and your companion must take all reasonable steps to attend the meeting.
641. At this meeting, the areas where the performance is considered to fall below an acceptable standard will be discussed and a Performance Improvement Plan (PIP) and review period will be put in place, together with any necessary support measures to give you the opportunity to improve. The PIP will normally be in place for a maximum of 6 months and the review period will normally be three months but time period for each may vary according to the nature of the unacceptable performance identified and the individual circumstances of the case.
642. Your HOD will issue a letter confirming the outcome of the meeting. A copy of the Performance Improvement Plan will be enclosed. The letter will normally confirm the following:
- this represents the first stage in the formal procedure
  - it is a first written warning (or a final written warning depending on the circumstances) which will be in place during the period of the PIP
  - that your performance remains unacceptable
  - failure to improve your performance to an acceptable level within the established review period could lead to further sanctions being applied, including a final written warning and, ultimately, dismissal.
643. The letter will also inform you of the right to appeal against the written warning and the procedures for doing so, including details of to whom the appeal should be made.
644. At the end of the review period, you will be invited to attend a review meeting chaired by your HOD to consider if the required level of performance has been achieved. You will be given a minimum of two working days' notice of the hearing. Your line manager will prepare an appraisal report using the standard form and will provide his or her assessment of performance during the review period. The outcome of the review meeting will be confirmed in writing. You may be assisted at this meeting by a trade union representative or a work colleague. If the date and time of the meeting are unsuitable for either you and/or your companion, you can suggest an alternative date and time within five working days from the date originally proposed. You and you companion must take all reasonable steps to attend the meeting.

645. If your performance is now considered to be of an acceptable level, the formal procedure will end at this stage and your line manager will provide reasonable guidance to help you maintain this improvement. Following the successful completion of a PIP, your performance will continue to be monitored. If at any stage during the lifetime of the first written warning your performance again starts to fall short of an acceptable standard, your HOD may decide to institute stage two of this procedure.
646. If your performance does not meet an acceptable standard and, provided a final written warning has not already been given, your HOD will normally invite you, in writing, to attend a second formal Hearing. You will be given a minimum of two working days' notice of the meeting. The letter should record the possible outcome of the meeting, i.e. that it is likely to result in a final written warning. You may be assisted at this meeting by a trade union representative or a work colleague. If the date and time of the meeting are unsuitable for either you and/or your companion, you can suggest an alternative date and time within five working days from the date originally proposed. You and your companion must take all reasonable steps to attend the meeting.
647. In most circumstances, a final review period will normally be set and the PIP will be updated to capture any additional support which has been agreed for the final review period. This review period will normally be for three months but this may vary according to individual circumstances. Your line manager will confirm the outcome of this meeting in writing and attach the previously completed appraisal report and the updated PIP. The letter will normally confirm that:
- your performance remains unacceptable
  - this is a final written warning which will remain on file for 12 months
  - if, at the end of the final review period your performance is still not at an acceptable level, you may be dismissed on grounds of capability.
648. The letter will also inform you of the right of appeal against the final written warning and of the procedures for doing so, including to whom the appeal should be made.
649. If your performance continues to be unacceptable at the end of this final review period, and there are no mitigating factors to be taken into account, your line manager will normally provide the HOD with an up to date appraisal report, and a copy of the previous PIP. You will be invited by the HOD to attend a formal Hearing and will be provided in advance with a written statement which sets out the reasons why your performance is not acceptable together with a copy of the appraisal report, the Final PIP and any other accompanying evidence.
650. A Hearing will be set up and you will be given a minimum of two working days' notice of the Hearing. At the Hearing, you may make oral and/or written representations and you will be entitled to be assisted by a trade union representative or work colleague. If the date and time of the Hearing are unsuitable for you and/or your companion, you can suggest an alternative date and time within five working days from the date originally proposed. You must take all reasonable steps to attend the Hearing which will be chaired by your HOD.
651. Having heard your representations, the HOD will adjourn to consider the evidence and to determine whether the disciplinary case has been made. If your performance does not meet an acceptable standard and, in the event that the HOD considers dismissal is warranted, the HOD will make a recommendation to the Commissioner who has sole authority to dismiss a

member of her staff. When a decision is made, the HOD will reconvene the Hearing, on the same day if possible, and inform you of the decision, the reasons for the decision, the sanction where appropriate and the procedures for lodging an appeal including details of to whom the appeal should be addressed. You will receive confirmation of these details in writing normally within five working days of the date on which you were informed of the decision.

### *Appeal*

652. You can appeal against any sanction under the formal stages of the Procedures. If you wish to appeal, you must intimate your intention to do so within five working days of the date on which you receive written confirmation of the decision. You should then set out your reasons for appeal clearly in writing and submit this to the Commissioner within five working days of the date on which you receive written confirmation of the decision.
653. You will be invited to attend an Appeal Hearing at which you may make oral and/or written representations. You may be assisted at the Appeal Hearing by a trade union representative or work colleague. You will be given a minimum of two working days' notice of the Appeal Hearing. If the date and/or time of the Appeal Hearing are unsuitable for you and/or your companion, you can suggest an alternative date and time within five working days from the day originally proposed. You and your companion must take all reasonable steps to attend the Appeal Hearing.
654. Appeals will be heard by a member of the Senior Management Team, as determined by the Commissioner. Having heard the representations, the member of the Senior Management Team hearing the Appeal will adjourn to consider the evidence and to determine whether the sanction to be imposed is appropriate or whether a different sanction should be imposed. The sanctions are set out in the section on **Disciplinary Sanctions**. When a decision is made, the member of the Management Team will reconvene the Hearing, on the same day if practicable, and will inform you of the decision, the reasons for the decision, the sanction where appropriate. Those details will then be confirmed in writing, normally within five working days of the date on which you were informed of the decision. If the sanction is dismissal, the Commissioner will ultimately make the decision and sign any letter of dismissal.
655. You will receive confirmation of these details in writing within five working days of the Hearing. The decision of the Commissioner on appeal will be final.

### **Order of Events**

656. Ordinarily, the Procedures for Dealing with Unacceptable Performance will follow the sequence outlined above. However, the Commissioner reserves the right to invoke these procedures at any stage in the process where the circumstances are deemed sufficiently serious to merit this and to miss out a step or steps (but not any of the stages) in the procedure if it is considered appropriate in the circumstances. If this situation occurs, reasons will be given. If you have previously been subject to the Procedures for Dealing with Unacceptable Performance and there is a further lapse in performance within the period of a live warning, the Procedures will be invoked at the same stage as the last action taken, that is, the procedures will not revert to the beginning.
657. If at any stage during the formal procedures it has been identified that you have a disability for which a reasonable adjustment has not already been made, the procedures will be

temporarily suspended to establish whether the performance is related to disability and whether any reasonable adjustments need to be put in place.

### **Temporary Roles: Promotions, Secondments and Redeployment**

658. If you are in a temporary role and have been doing the job for more than six months during the appraisal year, you will be assessed against the competence profile of the temporary role by the line manager of that post. Otherwise, your temporary line manager will request a report from the line manager of your substantive role.
659. The **Unacceptable Performance** procedures above will not apply to performance issues for staff in a temporary role.
660. If your line manager considers that your performance does not meet the requirements of the temporary role, then he or she will meet with you to discuss:
- the substance of the performance issues
  - the standards required in the temporary role
  - the action required to help you achieve those standards.
661. You will then be given a reasonable amount of time to achieve those standards, during which you will receive appropriate support to help you improve your performance to the standard required.
662. At the end of that period, your line manager will meet with you to review your performance. If your line manager's decision is that your performance does not meet the requirements of the role then your temporary promotion will come to an end.

### **Records**

663. A record of any action taken and/or any sanction applied in relation to the Procedures for Dealing with Unacceptable Performance will be kept on your personnel file in accordance with our data protection policies and procedures and will be removed where appropriate after the specified time limit has elapsed.

### **Employees with less than two years' service**

664. The Commissioner reserves the right not to follow these procedures for employees with less than two years' service.

## Disciplinary procedure

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### Introduction

665. It is essential that certain standards of conduct, performance and attendance are maintained to protect the smooth running of the Commissioner's office and the well-being of the Commissioner's staff. You are required to undertake your role in a professional manner and to conduct yourself in accordance with the rules, policies and procedures set by the Commissioner as your employer.
666. The procedures set out in this section should be read in conjunction with the **Code of Conduct** in Part of this handbook which sets out the standards of conduct expected of you.
667. You are also required to meet other standards that are set out in this Employee Handbook. For example, **professional standards performance standards** and maintain acceptable levels of **attendance**. The procedures that will be followed in the event that you fail to meet these standards are explained in the relevant areas.
668. The Disciplinary Procedures set out below detail the action which will be followed should you fail to meet the required standards of conduct expected by the Commissioner, with a view to assisting you to improve your conduct to a satisfactory standard. You will find examples of behaviour which is normally regarded as misconduct and gross misconduct below.
669. These Disciplinary Procedures do not form part of your contract of employment.
670. The disciplinary procedures apply to all staff employed by the Commissioner.

### Purpose

671. The Disciplinary Procedures are principally intended as an aid to good management and are designed to ensure that you are encouraged to improve if your standard of conduct is unsatisfactory. You should not, therefore, see them as being primarily punitive in nature, although particular circumstances may result in disciplinary sanctions being imposed (see section on **Disciplinary Sanctions**). These procedures set out a clear framework to enable disciplinary matters to be dealt with in a fair and consistent manner and without undue delay.
672. The Disciplinary Procedures reflect the requirements of the ACAS Code of Practice on Disciplinary and Grievance Procedures, relevant case law and recognised good practice.

### Principles

673. The main principles governing the Disciplinary Procedures are that:
- where appropriate, attempts will be made to resolve matters informally in the first instance and guidance will be provided to help you improve;
  - no formal disciplinary action will be taken against you until the matter has been fully investigated and a Disciplinary Hearing has taken place;
  - you will be advised of the nature of any complaint against you and be given the opportunity to put forward your case before any decision is made;
  - the Commissioner will not discriminate in the application of these procedures in respect of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender identity, sexual orientation,



trade union membership or lack thereof. Reasonable adjustments will be put in place, as appropriate, to support staff with a disability;

- at all formal stages of the Disciplinary Procedures, you will have the right to be accompanied by a trade union representative or work colleague. “Accompanied by” means that your companion may put your case forward on your behalf, sum up your case on your behalf and respond on your behalf to any view expressed at any formal meeting or hearing, including the appeal. However, the person hearing the case or the appeal has the right to put questions directly to you and to receive responses directly from you;
  - you will not be dismissed for a first offence except in the case of gross misconduct when the penalty will normally be dismissal without notice;
  - all timescales stipulated in this policy may vary depending upon the circumstances, but will not be subjected to unreasonable delay;
  - you will have the right to appeal against any disciplinary action imposed, in accordance with the procedures set out in the **Disciplinary Procedures**; and
  - the Commissioner reserves the right to invoke the procedure at any stage in the process and to miss out a step or steps in the process if it is considered appropriate in the circumstances. If this occurs, reasons will be given. HODs will keep the HOCS and the Commissioner informed of all proposed and ongoing disciplinary matters.

## Investigation

674. Thorough investigation will take place in any disciplinary issue. In situations initially believed to constitute gross misconduct, suspension may take place to allow investigation to take place. However, any suspension will be reasonable in all the circumstances and will be for no longer than is necessary. The investigation and disciplinary stages will normally be carried out by separate managers.

## Procedures

675. The Commissioner is committed to following a full and fair process dealing with disciplinary matters to ensure consistency of treatment for all employees. Set out below is the process the Commissioner will normally follow. Please note, however, that the Commissioner reserves the right to change or amend this policy from time to time.

676. Managers may seek advice about the Disciplinary Procedures from the HOCS at any time. Managers must consult the HOCS for advice and guidance prior to taking any formal disciplinary action.

### *Informal Stage*

677. Minor conduct issues will normally be dealt with by your line manager and may take the form of advice, counselling or a reprimand. The aim of the informal stage is to meet, discuss areas of concern and to agree the action required to avoid further disciplinary sanction.

678. A note of the informal meeting will be taken and a review period set during which an improvement in conduct should be evident.

679. The informal approach does not constitute disciplinary action.

680. In cases where your conduct has not improved, or in the case of a more serious breach of conduct being alleged, your line manager will discuss the issues with the HOD. Action may be taken in accordance with the formal stages outlined below.

### *Formal Stages of the Disciplinary Procedure*

#### Stage 1 – Disciplinary Investigation

681. Where the HOD considers that formal action may be appropriate, a proper and thorough investigation of the facts will be undertaken as promptly as is reasonably practicable in the circumstances. The HOCS will determine who is appropriate to carry out the investigation.
682. Before the investigation begins, you will be advised in writing by your HOD that your conduct is being investigated and you will normally be invited to attend an investigatory interview where you are entitled to be assisted by a trade union representative or work colleague. In accordance with the **Suspension** section below, you may be suspended, normally on full pay whilst the investigation is carried out.
683. Following the investigation, you will be informed in writing whether the HOD considers the case merits progression to a formal Disciplinary Hearing. If there appear to be grounds for disciplinary action, you will be invited to attend a Disciplinary Hearing and you will be provided in advance with a written statement setting out the full details of the allegations against you, together with a copy of the investigatory report and any accompanying evidence.

#### *Suspension*

684. In cases of serious misconduct, the Commissioner may elect to suspend you, normally on full pay, to allow an investigation to take place. The period of the suspension will be kept to a minimum, and will not be viewed or treated as a punishment.
685. Suspension will only apply for the length of time which is deemed strictly necessary and will be confirmed in writing.

#### Stage 2 – Disciplinary Hearing

686. A Disciplinary Hearing will be set up and you will be given a minimum of two working days' notice of the Hearing. At the Hearing, you may make oral and/or written representations and you will be entitled to be assisted by a trade union representative or work colleague. If the date and time of the Hearing are unsuitable for you and/or your companion, you can suggest an alternative date and time within five working days from the date originally proposed. You must take all reasonable steps to attend the Hearing.
687. Your HOD will normally hear the case. Where your HOD is unavailable or has had prior formal involvement in the case, another HOD will hear the case. The HOCS will normally be in attendance at the Hearing to provide procedural advice.
688. Having heard your representations, the HOD will adjourn to consider the evidence and to determine whether the disciplinary case has been made and, if so, whether a disciplinary sanction is appropriate. If the latter, the appropriate level of sanction to be imposed will be discussed with the HOCS. Levels of Disciplinary Sanction are set out below. When a decision is made, the HOD will reconvene the Hearing, on the same day if possible, and inform you of the decision, the reasons for the decision, the sanction where appropriate and the procedures for lodging an appeal including details of to whom the appeal should be addressed. You will receive confirmation of these details in writing normally within five working days of the date on which you were informed of the decision. If the sanction is

dismissal, the Commissioner will ultimately make the decision and sign any letter of dismissal.

### Stage 3 - Appeal

689. If you wish to appeal the outcome of a Disciplinary Hearing, you must intimate your intention to do so within five working days of the date on which you receive written confirmation of the decision. You should then set out your reasons for appeal clearly in writing and submit this to the Commissioner within five working days of the date on which you receive written confirmation of the decision.
690. You will be invited to attend an Appeal Hearing at which you may make oral and/or written representations. You may be assisted at the Appeal Hearing by a trade union representative or work colleague. You will be given a minimum of two working days' notice of the Appeal Hearing. If the date and/or time of the Appeal Hearing are unsuitable for you and/or your companion, you can suggest an alternative date and time within five working days from the day originally proposed. You and your companion must take all reasonable steps to attend the Appeal Hearing.
691. Appeals will be heard by the Commissioner, or the Commissioner will nominate a HOD other than the HOD who heard the Disciplinary Hearing.
692. Having heard the representations, the member of the Management Team hearing the Appeal will adjourn to consider the evidence and to determine whether a sanction is appropriate. The sanctions are set out in the **Disciplinary Sanctions** section. When a decision is made, the member of the Management Team will reconvene the Hearing, on the same day if practicable, and will inform you of the decision, the reasons for the decision, and the sanction where appropriate. Those details will then be confirmed in writing, normally within five working days of the date on which you were informed of the decision. If the sanction is dismissal, the Commissioner will ultimately make the decision and sign any letter of dismissal in which case the decision of the Commissioner will be final.
693. You will receive confirmation of these details in writing within five working days of the Hearing.

### **Examples of Misconduct**

694. The following is a non-exhaustive list of examples of misconduct:
- Lateness or short periods of unauthorised absence from work without good reason
  - Abuse of the flexible working hours system e.g. not recording working time accurately, not checking in timesheets as required
  - Minor breaches of security
  - Breach of conduct rules including standards of behaviour
  - Inappropriate behaviour e.g. being rude to a work colleague or member of the public
  - Failure to follow office security procedures
  - Damage to the Commissioner's property
  - Unauthorised use of the Commissioner's IT systems

- Refusal to give consent to allow access to personal or private e-mails or files during the investigation of a suspected disciplinary offence or following any other reasonable request from management (for example, a reasonable request could be where an employee has forwarded work emails to a personal email address and these emails are relevant to a disciplinary investigation)
- Failure to report a criminal charge which may impact on your employment
- Refusal to obey a legitimate instruction
- Insubordination
- Breach of procurement policies.

695. This list is for illustrative purposes and is not exhaustive. The gravity of the act will determine whether it is dealt with as a minor or more serious offence.

### **Examples of Gross Misconduct**

696. The following is a non-exhaustive list of examples of gross misconduct:

- Prolonged unauthorised absence
- Serious breach of security
- Theft
- Fraud, forgery or other dishonesty including fabrication of expense claims and hours worked, for example deliberate false information on timesheet
- Disclosure of information in contravention of section 45 of FOISA, regulation 18(5) of the EIRs or section 170 of the DPA
- Deliberate falsification of any records including deliberate abuse of the flexible working hours system
- Abuse of official information or position
- Deliberate acts of discrimination, harassment or victimisation
- Violent or intimidating behaviour
- Being under the influence of and/or incapacity through alcohol whilst at work or on the Commissioner's office premises or when acting in an official capacity
- Being under the influence of, taking, possessing, or selling illegal drugs, or any drugs (except over-the-counter remedies) which have not been prescribed to you on medical grounds, whilst at work or on the Commissioner's office premises or acting in an official capacity
- Selling prescription drugs whilst on duty or on the Commissioner's premises or acting in an official capacity
- Deliberate damage to the Commissioner's property
- Serious breach of conduct rules

- Serious or gross negligence/dereliction of duty which causes financial loss, damage to property or injury to people
- Serious unauthorised use of the Commissioner's IT or other business systems
- The intentional viewing or downloading of pornographic or other derogatory, defamatory, obscene or inappropriate material from internet or e-mail systems
- Serious breach of Health & Safety rules and procedures
- Serious breach of any of the Commissioner's Employment Policies
- Knowingly giving false information or deliberately omitting relevant information on a job application form or any other document or report
- Performing, arranging or carrying out work or activity which could be considered to be in serious conflict with or which adversely affects in any way the Commissioner's interest, for example, being a member of a lobbying group, leaking information or running a business from the office
- Conviction for a criminal offence which is related to your employment and which is not spent
- Accepting or soliciting gifts or hospitality as an inducement to show favour
- Deliberate misuse of procurement and corporate credit cards
- Serious breach of procurement policies
- Serious action that may bring the Commissioner into disrepute
- Sleeping on duty
- Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure
- Recording audio and/or video of any meeting, conversation or discussion with another person or people without the express prior consent of the person or people being recorded
- Making untrue allegations in bad faith against a colleague
- Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith
- Deliberately failing to work your contractual hours when remote working
- Any illegal act during working time or on the organisation's premises
- Compromising security such as failing to ensure alarms are set and doors properly locked
- Breach of any of the Equality and Diversity or Dignity at Work section of this Employee Handbook
- Negligence which causes financial loss, damage to property or injury to people
- Failure to report fraud or suspected fraud as soon as it is discovered or suspected

- Refusal to work in accordance with Health and Safety rules and procedures
- Any act described as gross misconduct elsewhere in this handbook

697. This list is not exhaustive and other acts or omissions, if they are considered to be serious enough, may be regarded as gross misconduct.

## Disciplinary Sanctions

698. The level of the sanction imposed will depend upon the nature of the misconduct. In exceptional circumstances, disciplinary penalties applied under this procedure may be referred to after they have elapsed. It may be a matter for the HOCS to advise the HOD/the Commissioner whether such exceptional circumstances arise in any particular case. It will be for the HOD/the Commissioner to decide whether or not to take that into account when deciding on an appropriate sanction.

Sanction	Information	Normal Expiry Period
Verbal warning	This may be the initial action imposed in a case of misconduct. Your conduct will be monitored and further action may be taken if improvements are not realised. This warning will be confirmed in writing and will be retained and recorded on your personnel file.	6 months
First written warning	This sanction will normally be imposed in the case of more serious misconduct, if there have been further minor breaches during the period when a verbal warning is live, or where there have been a number of attempts to address the issue informally.  A first written warning will be retained and recorded on your personnel file.	12 months
Final written warning	This sanction will be imposed if there has been a further act of misconduct during the period when a first written warning is live, or if a single act of misconduct has been sufficiently serious.  The final written warning will specify that any further breaches of discipline may result in your dismissal. A final written warning will be retained and recorded on your personnel file.	18 months
Dismissal	Where further breaches of discipline or performance standards occur after a final written warning, or where you breach any of the rules set out in the gross misconduct	N/A

	<p>section above, the Commissioner may dismiss you either with or without notice.</p> <p>In cases of gross misconduct, normally no notice will be given or paid by the Commissioner.</p>	
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- 699. You should bear in mind, however, that the Commissioner reserves the right to invoke the procedure at any stage in the process and to miss out a step or steps in the process if it is considered appropriate in the circumstances. If this occurs, reasons will be given.
- 700. Any act of gross misconduct will normally result in the summary termination of your employment (i.e. without notice).

**Order of Events**

- 701. Ordinarily the disciplinary process will follow the sequence outlined above at procedures. However, the Commissioner reserves the right to invoke the procedure at any stage in the process where the circumstances are deemed sufficiently serious to merit this and to miss out a step or steps in the process if the Commissioner considers it appropriate in the circumstances. If this occurs, reasons will be given.

**Criminal Proceedings**

- 702. Disciplinary action may be taken in parallel with criminal proceedings concerning the same circumstances.

**Records**

- 703. A record of any disciplinary action taken against you will be kept on your personal file in accordance with the Data Protection Policy and will be expunged where appropriate after the specified time limit has elapsed.

**Employees with less than two years' service**

- 704. The Commissioner reserves the right not to follow the Disciplinary Procedures for employees with less than two years' service.

## Grievance Procedure

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### Definition of a grievance

705. A grievance is a complaint that you may have in relation to your work: your terms and conditions of employment, your working conditions or your working relationships and which affects you personally.
706. This grievance procedure will enable you to raise an issue with an appropriate manager and ensure that your grievance is dealt with fairly, consistently and within a reasonable timescale. The procedure reflects the ACAS Code of Practice on Discipline and Grievance. This procedure does not form part of your contract of employment.

### Collective grievances

707. You may find yourself in the position where a decision affects more than one individual. In these circumstances, you may raise the grievance collectively. If required, you should contact the HOCS for advice on how best to proceed. A collective grievance may be appropriate where a decision is not in the gift of the manager hearing the grievance, for example a change to working hours that affects the whole Office.

### Raising a Complaint on an Informal Basis

708. Where possible, you should aim initially to raise any concerns or complaints you have about your work on an informal basis with your line manager or directly with the individual who has caused you to feel concerned. This may resolve the problem quickly and preserve working relationships. If resolution of the grievance requires a decision to be taken which does not fall within the remit of your line manager, he or she will refer it to the appropriate person. If your grievance relates to your immediate line manager, you may wish to raise your concerns with your HOD. If your grievance is against your HOD or the Commissioner, you should seek advice from the HOCS who will arrange for your grievance to be considered by a different HOD. If your grievance is against the HOCS you should seek advice from the Commissioner on the procedures to be followed.

### Formal Procedure

709. If you consider that an informal approach is not appropriate in the circumstances or if you feel that your attempt to raise the grievance informally has not resolved your concern satisfactorily, you may wish to raise your grievance formally, in writing. If applicable, your grievance should provide details of any attempts you have taken to resolve the issue informally. The formal process is in place to:
- provide you with a course of action if you have a complaint which you are unable to resolve on an informal basis;
  - provide points of contact and timescales to resolve issues of concern;
710. The formal grievance procedure is in three stages, outlined below.

#### *Stage 1 – statement of grievance*

711. You must set out your grievance in writing making clear you are raising a formal grievance, the nature of your complaint and, where applicable, detailing any attempts you have made to try to resolve the issue on an informal basis. You should also provide an indication of what outcome you wish to be achieved. Your written grievance should normally be submitted to



your HOD. If the grievance relates to your HOD and (unless you feel unable to) you have tried to resolve the matter informally with him or her, you may wish to proceed to this formal stage by raising your concern with the HOCS.

### *Stage 2 – the meeting*

712. Grievances will be heard by a member of the Management Team, as determined by the Commissioner. The manager hearing the grievance will invite you to attend a meeting to discuss the grievance and to try to come to a solution.
713. This meeting will be held within a reasonable time and normally within 10 working days of receiving your written statement. However, the meeting may be delayed and/or a second meeting held with you, if the manager concerned needs to carry out an investigation into your complaint in order to make a reasonable response to it.
714. You have the right to be assisted at this meeting by a trade union representative or colleague. You may be assisted at any hearing by a trade union representative or work colleague. You will be given a minimum of two working days' notice of the hearing. If the date and/or time of the hearing are unsuitable for you and/or your companion, you can suggest an alternative date and time within five working days from the day originally proposed. You and your companion must take all reasonable steps to attend the hearing.
715. Ideally, the manager concerned will inform you of his or her decision verbally and this will be confirmed in writing normally within 10 working days of the meeting. If it is not appropriate for the manager to inform you of the decision verbally he or she will write to you, normally within 10 working days of the meeting, to confirm the decision and the reasons for it.
716. The manager concerned will also inform you of your right of appeal if you are not satisfied with the decision.

### *Stage 3 – Appeal, if necessary*

717. If you do not consider that your grievance has been resolved satisfactorily, you have the right to appeal to the Commissioner.
718. If you wish to appeal, you should set out the grounds for your appeal in writing and submit it to the Commissioner within 10 working days of the date you were notified of the outcome of the formal grievance hearing. Your appeal must cover all of the relevant issues including, if appropriate, the process followed by the manager at the first stage of the procedure.
719. Appeals will be heard by the Commissioner, or they will nominate a HOD other than the HOD who heard the Grievance. You will be invited to attend a meeting to consider the grounds of your appeal. The HOCS will normally attend to provide procedural advice.
720. This meeting will be held within a reasonable time and normally within 10 working days of receiving your written statement of appeal. However, the meeting may be delayed and/or a second meeting held with you, if the appeal manager needs to carry out any investigation into your complaint in order to make a reasonable response to it.
721. You have the right to be assisted at this meeting by a trade union representative or colleague.
722. Following the appeal meeting, you will be notified of the appeal manager's decision in writing and normally within 10 working days of the meeting.
723. The grievance procedure is complete at this stage and there is no further route of appeal.

## Other Appeals Procedures

724. This appeals procedure applies to the grievance procedure only and is not intended to act as a second route of appeal in other situations. The procedures for appealing against other sanctions or decisions made by the Commissioner that affect you are set out in the appropriate sections of this Handbook.

## Legal representation at public expense

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725. You may be involved in legal proceedings or formal enquiries as a consequence of your employment. The Commissioner has discretion to grant you some or all of your legal representation or to pay for some or all of your legal costs. In deciding whether to exercise this discretion, the Commissioner will take into account the following considerations:

- whether or not it is in the Commissioner's interest to grant assistance.
- whether the act in question was committed or suffered within the scope of your employment.

726. The Commissioner will provide legal representation if you are sued for damages as a result of actions carried out in the course of your employment. This representation will be by the Commissioner's legal representatives. Any damages and/or liability for the other side's costs will also be met from public funds. This right does not apply if:

- the Commissioner reasonably considers that you were acting outside the scope of your employment
- the Commissioner reasonably considers that you were acting when having a conflict of interest which you did not disclose to the Commissioner.
- you have contravened section 45 or section 65 of FOISA (or, where relevant, regulation 18(5) or regulation 19 of the EIRs).
- you refuse to instruct the solicitor in terms reasonably required by the solicitor.

727. The Commissioner will also:

- provide legal advice if you are assaulted in the course of your official duty and give reasonable assistance with any subsequent proceedings;
- allow you to be represented by the Commissioner's legal representatives if you are involved in an inquest or fatal accident inquiry as a result of your official duty, provided there is no conflict of interest;
- when a formal inquiry might lead to you being blamed, consider, after taking legal advice, whether you should be given legal representation at public expense; and
- provide legal representation if you are sued as a result of the findings of the inquiry for actions carried out in the course of your official duty, unless you appear to have been guilty of wilful or gross negligence or may have acted outside the scope of your employment

## Early Retirement or Severance

### *Introduction*

728. The Commissioner will not unlawfully discriminate on grounds of age when making decisions in redundancy, early retirement or severance situations. However, the benefits available under the Civil Service Pensions Scheme (CSPS) and the Civil Service Compensation Scheme (CSCS) to employees in the event of redundancy, early retirement or severance vary according to the age of the employee and their length of service.

729. You can retire, or be retired early, under the following categories

- Compulsory Early Retirement or Severance.
- Flexible Early Retirement or Severance.
- Approved Early Retirement.
- Actuarially Reduced Retirement.
- Ill Health Retirement.

### *Benefits Payable on Early Retirement or Severance*

730. You will find full details of the benefits payable under the various categories in the Civil Service Compensation Scheme (CSCS) and the rules of the Civil Service Pension Scheme (CSPS) on the Civil Service Pension Website: <http://www.civilservicepensionscheme.org.uk>

731. This Section simply summarises these benefits and is not intended to change your rights in terms of these schemes.

### *Eligibility*

732. You are eligible to receive the Early Retirement Benefits under the CSPS arrangements provided you are pensionable under one of those schemes.

733. If you choose to opt out of the CSPS, you may still be eligible for certain compensation payments if you are retired early. For further information you should contact the HOCS.

734. There is a range of schemes which provide for early retirement or severance under different circumstances and as defined by the CSCS. These are set out below.

735. Compulsory Schemes: the Commissioner takes the initiative under these schemes. Compulsory schemes provide for early retirement or severance on grounds of:

- redundancy, including voluntary redundancy
- limited efficiency (as defined in the CSCS)
- structure.

736. Flexible schemes: under these schemes early retirement or severance is voluntary. Flexible schemes provide for early retirement or severance on grounds of structure to help with management problems, caused, for example, by organisational changes.

737. Approved schemes: where volunteers might be invited if this would help solve management problems and improve overall efficiency.

738. Actuarially reduced: if you are aged 50 or over you have the right to retire subject to giving six months' notice and to your actuarially reduced pension not being less than the guaranteed minimum pension.

739. Ill Health retirement: you may retire voluntarily, or be retired compulsorily, on health grounds on the advice of our medical adviser in liaison with the scheme's medical adviser.

### *Appeals*

740. You have the right of appeal against compulsory early retirement or severance. You also have the right of appeal against a refusal to retire you on medical grounds. You will be given full details of the appeal procedure if and when appropriate.

## **Compulsory Redundancy**

### *Principles*

741. Redundancies will be handled in a fair, consistent and sympathetic manner. All practicable steps will be taken to minimise the risk of hardship, and good employee relations practice and statutory employment requirements will be observed.

### *Definition of redundancy*

742. Redundancy, as defined by section 139 of the Employment Rights Act 1996, occurs where a dismissal is wholly or mainly attributable to:

- the fact that the employer has ceased or intends to cease:
  - to carry on the business for the purposes of which the employee was employed, or
  - to carry on that business in the place where the employee was so employed, or
- the fact that the requirements of the business have ceased or diminished or are expected to cease or diminish as regards:
  - employee/s carrying out work of a particular kind, or
  - employee/s carrying out work of a particular kind in the place where the employee was employed by the employer

743. "Cease" and "diminish" mean cease and diminish either permanently or temporarily and for whatever reason.

### *Measures to avoid or minimise compulsory redundancies*

744. All appropriate measures to avoid or minimise the need for compulsory redundancy will be considered. Such measures will be in accordance with the overall commitment to take all sensible steps to avoid compulsory redundancy amongst permanent staff. Measures to be considered will include (in no particular order):

- Transfer of staff to other areas of work.
- Restrictions on recruitment and/or promotion.
- Review of the use of contractors.
- Retraining of staff for redeployment to other work where vacancies exist.
- Surplus staff being allowed to block vacant posts at a lower level.

- Inviting staff to volunteer for redundancy on compulsory early retirement/severance terms

745. The above list is not exhaustive.

746. Where, after thorough consideration and consultation, these measures do not avoid the need for compulsory redundancy, other measures may be considered.

*Procedure for less than 20 affected staff*

747. If the Commissioner has no alternative but to reduce the staff complement, you will be consulted on an individual basis. At these meetings you may be assisted by a trade union representative or work colleague.

748. "Assisted by" means that your companion may put your case forward on your behalf, sum up your case on your behalf and respond on your behalf to any view expressed at any formal meeting or hearing, including the appeal. However, the person hearing the case or the appeal has the right to put questions directly to you and to receive responses directly from you.

*Procedure for more than 20 affected staff*

749. If the Commissioner has no alternative but to reduce the staff complement by more than 20 staff, collective consultation will commence with the appropriate representatives in accordance with obligations under statute.

*Selection for redundancy*

750. The group of staff within which decisions about redundancy may have to be made and the criteria for selecting staff for redundancy will be decided by the Commissioner. The criteria to be used in determining the unit of redundancy may include (in no particular order):

- Specialism or discipline
- Functional area of work.
- Any other relevant factor.

751. In considering the selection of staff for compulsory redundancy, the criteria to be considered will include length of service and may also include others, for example and in no particular order:

- Skills or qualifications based on objective evidence: in order to ensure the retention of a balanced workforce appropriate to future needs. It may be appropriate for other aptitudes to be taken into account.
- Individual ability: ability or specialist knowledge acquired as a result of special training, or an individual's value to the objectives of the organisation.
- Standard of work performance: selection on this basis must be supported by objective evidence e.g. by appraisal assessments.
- Attendance or disciplinary records - based on records of absence which are accurate and where the reasons have been fully investigated.

752. The criteria to be used will be objective and non-discriminatory. They will be applied consistently to all employees including anyone absent from the office for whatever reason.

Selection procedures will be examined carefully to ensure that unlawful discrimination does not result directly or indirectly.

### *Appeals*

753. Staff selected for redundancy will have the right of appeal to the Commissioner against unfair application of the selection criteria.
754. If you wish to appeal you should do so in writing within 10 working days of the date of your notice of redundancy setting out clearly the grounds for the appeal. You will be given the opportunity of an oral hearing at which you may be assisted by a trade union representative or colleague. "Assisted by" means that your companion may put your case forward on your behalf, sum up your case on your behalf and respond on your behalf to any view expressed at any formal meeting or hearing, including the appeal. However, the person hearing the case or the appeal has the right to put questions directly to you and to receive responses directly from you.

### *Period of Notice*

755. Staff will be given at least six months' notice if selected for redundancy. If it is not possible to give this minimum period of notice, compensation in lieu of that notice, or part thereof, will be paid.

### *Alternative to Redundancy*

756. Where vacancies exist, you may be offered a post at a different level as an alternative to redundancy. Where the pay rate for the alternative post is lower than your current salary:
- you will have your pay protected for a period of 18 months, i.e. "the protected period" during which time you will continue to progress up the pay scale for the higher grade
  - the protected period will commence on the date on which you take up your new post and will include any trial period, regardless of length and
  - at the end of the protected period you will immediately be placed on the maximum of the salary scale of the lower grade and will receive a non-consolidated compensation payment equal to three months' salary, based on the maximum of the salary scale of the higher grade.
757. During the protected period you will continue to be eligible to apply for a job in your old grade either through internal or external competition. In such cases you will be guaranteed an interview.
758. If you move to a post that is substantially different either in the work that is required or the grade of the post, you will be entitled to a trial period up to a maximum of nine months. The benefit of a trial period is that it gives you and your new manager an opportunity to assess whether the new role is suitable whilst protecting your right to a redundancy payment.

### *Pension treatment following a move to a post at a lower grade*

759. A member of staff who moves from a higher to a lower paid post may receive, on retirement, whichever of the following produces the larger total pension:
- an award calculated in the normal way based on total reckonable service or
  - two separate awards in respect of reckonable service before and after the change of post.

## *Assistance to staff*

760. Staff selected for redundancy may be assisted in the following ways:

- Retraining: the HOCS will consider whether retraining is appropriate in individual circumstances. Retraining may be appropriate where a member of staff has served most of their career in a specialised area and needs to develop additional skills to make them more attractive to other employers.
- Outplacement counselling: this could include advice on finding alternative employment, investment of redundancy compensation, stress management etc.
- Time off during notice: Staff serving notice of redundancy will be allowed reasonable time off on full pay to look for alternative employment. Where staff obtain alternative employment, sympathetic consideration will be given to allowing them to leave before the expiry of their period of notice if possible.

## *Compensation*

761. Redundancy benefits are paid under the CSCS as provided for in the CSPS arrangements.

### **Retirement**

762. The Commissioner does not operate a retirement age policy. This means that there is no upper age limit beyond which you would be automatically retired and you are free to continue in employment for as long as you wish subject to the normal rules concerning Performance, Attendance and Conduct.

763. It is important to note, however, the difference between retirement age and scheme pension age and that the retirement policy does not affect the age on which you may retire and have immediate access to your pension benefits.

764. Further information about partial retirement can be obtained from the FAM or if you have a civil service pension, from [www.civilservicepensionscheme.org.uk](http://www.civilservicepensionscheme.org.uk)

765. If you wish to apply for retirement you should seek advice from the FAM/the HOCS on the procedures that need to be followed.

766. It will be your responsibility to inform us of your intended retirement date. However, you must inform the HOCS at least four months before your planned retirement date to ensure the necessary actions are taken to pay your pension on time.

## Attendance Management

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### Absence notification

- 767. If you are absent due to an injury sustained or a disease contracted at work, you should report the matter immediately to the HOCS since special arrangements may apply.
- 768. If you cannot attend work due to illness, you must speak to your line manager as early as reasonably practicable and definitely before 10:00 on the first day of your absence explaining the reason for and the likely duration of your absence.
- 769. In exceptional circumstances, we recognise that it may be necessary for you to make contact through a different route or for a relative or friend to speak to your manager on your behalf. If your line manager is not available, you should speak to the most senior manager available.
- 770. A note of the absence will be recorded on the Absence – self certification sick leave form in VC with details of the appropriate dates of, and reason(s) for, your absence.
- 771. You must keep in regular contact with your manager during your absence and keep him/her informed about the expected length of your absence and your progress.

### Absence Certification

- 772. When you return to work, you should complete a self-certification form for any absence of between one and seven calendar days. The completed form should be submitted to your line manager who will hold a return to work discussion with you as soon as is practicable. Your line manager will also complete and sign the form and pass it to the FAM who will add it to your personnel file.
- 773. If you are absent for eight calendar days or more, you must provide a Fit Note covering your absence from the eighth calendar day. It is important that you submit the Fit Note on the day your preceding certificate runs out, to ensure that your absence is properly authorised and that you receive the correct rate and type of payment.

### Record keeping

- 774. If you are absent on sick leave for a whole day, you should enter a credit into the adjustment column on your timesheet for the number of hours you were due to work that day.
- 775. If having started work you become unwell and are unable to continue working, you should stop work and, for that day, include your normal working hours in your timesheet.
- 776. In both of the above circumstances, you should note “agreed adjustment” so that your line manager can see what has been recorded in your timesheet.
- 777. For statutory and occupational sick pay provisions, please refer to the Employee Benefits section above.



## Absence Management Procedure

### Introduction

778. The Commissioner is committed to providing high-quality professional advice and services. The Commissioner recognises that a healthy, highly skilled and motivated workforce can contribute to that and has in place progressive employment policies and practices, one of which is an effective Attendance Management Policy to help it achieve its goal
779. The Commissioner will be sympathetic to staff who experience ill-health and will treat staff in a fair, responsible and caring manner.
780. The aim of this policy is to ensure that a clear framework is in place in order that:
- staff and managers are aware of the standards of attendance required and recognise their responsibilities in relation to attendance at work;
  - a proactive approach to the management of attendance is adopted so that any possible issues or underlying causes are identified and addressed at an early stage;
  - attendance is managed in a fair and consistent manner
781. This policy and procedure applies to all members of staff employed by the Commissioner.
782. The main principles governing the attendance management procedures are that:
- the Commissioner will provide a safe working environment for you. Arrangements are regularly reviewed and appropriate information and training provided to ensure, so far as possible, that safe methods of work are adhered to and risks minimised;
  - the Commissioner will provide you with information and support to help you to adopt a healthy and balanced lifestyle through a range of health and wellbeing services, including access to health checks, professional lifestyle advice and a confidential Counselling and Information Service;
  - in accordance with the Equality Policy, the Commissioner will not discriminate in the application of these procedures in respect of age; disability; transgender status (in relation to gender reassignment); gender reassignment gender; race; nationality; ethnic or national origin; religion or belief; sexual orientation; trade union membership or non-trade union membership. Reasonable adjustments will be put in place, as appropriate, to support staff with a disability;
  - the Commissioner will provide managers with regular training and guidance to support the application of this policy and to help them motivate staff to achieve high levels of attendance;
  - the Commissioner encourages you to share with your managers any relevant information which may affect your work to enable your employer to provide you with any appropriate support to overcome these issues; and
  - the Commissioner will collect and analyse information on absence levels, including the reasons for the absence, to provide regular management information reports at organisational and office levels, and will take action to identify and resolve the root cause of any emerging trends of unacceptable attendance.

## *Roles and Responsibilities*

783. We will achieve a positive attendance culture and effective attendance management through the combined efforts of the following:
784. The Commissioner has overall responsibility for providing a safe working environment.
785. The HOCS has responsibility for providing professional guidance and advice in relation to the application of this policy and procedure and for organising health assessments and liaising with medical professionals as appropriate.
786. Line Managers have responsibility for:
- Directing positive action to support staff wellbeing and optimum attendance.
  - Supporting staff to achieve high levels of attendance and for managing absence in accordance with this policy and procedure.
  - Monitoring attendance within their teams and for taking early action in response to any issues identified. They will also actively contribute to the management of systems and practices that help to minimise absence levels.
  - Analysing absence data.
787. The FAM is responsible for collecting and reporting absence data.
788. WorkNest will provide impartial advice, support and guidance to management.
789. The Employee Assistance Programme will provide impartial advice, support and guidance to staff on health and wellbeing issues.
790. You are responsible for attending work in accordance with your terms and conditions of employment, unless prevented from doing so by illness or another reason. It is up to you to ensure that your lifestyle does not adversely affect your ability to attend work. You are required to comply with the terms of this policy and procedure, including notification of absence arrangements and absence certification requirements.
791. Your manager will arrange to maintain contact with you at agreed regular intervals in order to:
- check on your wellbeing;
  - assess what support they can provide;
  - discuss with you a likely return to work date;
  - get information to help him or her plan to cover your absence;
  - check your understanding of the Attendance Management Procedures; and
  - keep you abreast of developments at work.
792. You have a responsibility to respond to contact from your manager and to provide them with reasonable information to allow them to manage your absence effectively.

## **Contact whilst you are absent**

793. If your absence extends beyond a period of four weeks, your manager will normally arrange to meet you, either at your home or at another mutually agreed location. The purpose of the

meeting is to find out your current state of wellbeing and progress, to offer support and to discuss a timeframe for your return to work.

### *Return to Work Discussions*

794. After each period of absence, regardless of length, your line manager or someone in your management chain will arrange a return to work discussion with you at the earliest opportunity. A return to work discussion provides an opportunity for your manager to:

- establish that you are well and fit to return to work;
- acknowledge your absence and confirm that your contribution has been missed;
- confirm that the record of your absence is accurate;
- ask whether there is any underlying medical condition or other contributory factor to your absence, including work-related factors;
- gather sufficient information to enable them to, complete a self-certification form covering any absence from one to seven calendar days;
- review your attendance record and highlight any concerns;
- consider what support is appropriate, including any reasonable adjustments;
- explore the impact your absence has on work and establish priorities of work;
- confirm the details of an agreed return to work plan, if applicable.

795. Your line manager will record a summary of the discussion on the return to work discussion form and send it to the FAM who will store it in your personal file.

796. If your levels of attendance give your line manager cause for concern, they will bring this to your attention at the return to work discussion and arrange a further meeting with you to explore matters in further depth. It is at this stage that line managers should ensure that medical information, any known disability and any other mitigating factors are taken into consideration before they decide to recommend or invoke the relevant formal procedures. This further discussion will be recorded, together with a note of any changes/improvements you require to make to bring your attendance to an acceptable level. You will be asked to confirm that it is a true record of your discussion. Where relevant, this meeting will constitute the informal stage of the Procedures for Dealing with Unacceptable Attendance.

### *Phased return to work*

797. A phased return to work is a supportive arrangement which may be put in place to assist your rehabilitation if you have had a period of long-term absence from work as a result of illness or injury. Long-term absence is defined as a period of four or more weeks' continuous absence. The purpose of a phased return to work is to rehabilitate you to your full duties and to enable you to gradually progress to undertake your full normal working hours within an agreed timescale. The length and nature of any arrangement would be agreed between you and your line manager taking into account all relevant circumstances. Medical and/or an occupational health opinion may be sought by the Commissioner when considering implementing a phased return.

#### What impact will a phased return to work have on my pay?

798. You will be paid at the rate of your normal contractual salary for an element of non-attendance associated with an agreed phased return to work programme. Payment will not normally exceed a total of six days' non-attendance.
799. If your Return to Work Plan involves more than six days' non-attendance, agreement will be reached with you as to how these additional days will be managed. Potential options include use of annual leave, flexi-time, homeworking and unpaid leave. A mixture of these options might be appropriate to your individual circumstances. Any arrangements agreed will take account of both your personal health needs and the needs of the Commissioner.

#### How will non-attendance associated with a phased return to work programme be recorded?

800. Days of non-attendance for which you are eligible to receive full contractual salary in relation to your phased return to work will be recorded as "Rehabilitation Leave" in the comments column of your flexible working hours' sheet.
801. If you are absent due to illness during your phased return to work, you will be classified as being on sick leave.

#### What happens if I am experiencing any difficulties in following my Return to Work Plan?

802. During the period of a phased return to work, your line manager will regularly discuss your progress with you on an informal basis to ensure your wellbeing and to identify any possible problems. If you are experiencing any difficulty in undertaking your phased return to work, you should bring this to the attention of your line manager at the earliest opportunity in order that adjustments to your programme can be agreed. In circumstances where major adjustments are being considered, your line manager will consult with the HOCS.
803. Your line manager will hold a formal review meeting with you at the mid-point of your agreed period of rehabilitation and a note of this meeting will be taken and shared with the HOCS. If, at this stage, you are experiencing difficulties relating to your recovery which impact on the Return to Work plan, the external Occupational Health Adviser may be asked to meet with you to review the situation and provide further advice. This may result in a further time-limited extension of your phased return. If it is unlikely that you will be able to return to full normal working hours and duties at the end of your agreed return to work programme, consideration will be given to a temporary contractual reduction in your working hours.

#### What will happen if I am not fit to return to full working hours and/or duties after the agreed period of my phased return to work programme?

804. In these circumstances, the HOCS may seek advice from an external occupational health adviser. A meeting will be arranged with you, your HOD and the HOCS to discuss potential options. You may be accompanied by your Trade Union representative if you wish. Options to be considered may include a further time-limited extension of the phased return programme based on medical advice or a temporary contractual reduction in your working hours.
805. Ultimately, if your health difficulties mean that you are unable to resume your normal working hours and duties within a reasonable timescale despite the support measures put in place, the Commissioner will need to consider options which may include a permanent variation to your contractual hours or redeployment. Where none of these measures is appropriate due to the severity of your illness, consideration may have to be given to an application for early

retirement or dismissal on the grounds of ill-health, provided this is supported by an external occupational health adviser.

#### What if I do not want to reduce my contractual working hours?

806. If you are not fit to return to your full working hours despite measures to support your rehabilitation and you do not wish to reduce your contractual working hours, you will be considered unfit for work and your sick leave will resume. Your absence will be managed in accordance with the Attendance Management Policy and Procedures and poor attendance procedures may be invoked should your levels of absence reach the relevant thresholds.

#### Absence Flags for Consideration of Formal Management Action

807. To ensure that absence is managed in a fair and consistent manner, your line manager will consider whether they should take further action in accordance with this procedure if:
- you have had more than ten days' self-certificated absence in total within a rolling twelve-month period;
  - you have had four periods of absence (including single days) within a rolling six-month period;
  - any unacceptable patterns of absence emerge, for example, regular absences on Mondays and/or Fridays or immediately before/after rest days; or
  - you have had a continuous period of absence exceeding four weeks.
808. These flags may be adjusted for staff whose absence is related to disability. Pregnancy related illness will not be counted towards the flags.
809. The primary purpose of setting flags is to allow your manager to manage any unacceptable attendance including investigating the cause and frequency of the absences at an early stage to see whether there is any underlying medical condition; it is not to try to prove that the absences are not genuine. If there is an underlying medical condition, your manager will work to establish whether the employer can put in place any support mechanisms to help you to attend work to a level that is acceptable and that may include seeking professional advice from an external occupational health adviser.
810. The external occupational health adviser may wish to seek information from your General Practitioner or other medical adviser and will do so only with your informed consent in accordance with the Access to Medical Reports Act 1988.
811. You should be aware that, if you do not give consent, your manager will have no choice but to proceed based on the information available. You should also bear in mind that if you refuse to co-operate in the application of any the Commissioner's policies or procedures, this may be treated as misconduct and dealt with under the disciplinary procedures.

#### Absence recording

812. The FAM maintains an individual attendance record for each member of staff to enable levels of attendance to be monitored and to facilitate the identification of any particular absence patterns. Information recorded includes the reason, duration and frequency of absence. Accurate records assist with an early assessment of potential issues and allow your line manager to determine what action he or she should take, in partnership with you, to improve attendance. The FAM will alert the line manager/HOD to any pattern of absence that raises a concern. Your line manager/HOD may also use the data to initiate formal action under the

absence management procedures if necessary. Information relating to your health will be restricted to staff who require access to the data in fulfilling the responsibilities of their job roles.

813. In accordance with the [Data Protection Policy and Handbook](#), you may request access to your attendance record. If you wish to exercise that right, you should contact the FAM.
814. The FAM provides the Management Team with statistical information to monitor absence levels and trends in the office as a whole and to consider whether there is any need for a wider programme of positive action to address any areas of concern. Regular statistical analysis also facilitates measurement of the impact of any absence reduction initiatives and provides a useful means of benchmarking absence levels against national averages.
815. HODs are also responsible for monitoring and reviewing attendance levels within their functional areas on a regular basis and the statistical data will assist in that process and allow your managers to identify and take prompt action on any incidence of unacceptable attendance.

### **Procedures for Dealing with Unacceptable Attendance**

816. The procedures are intended as an aid to good management and are designed to ensure that if your standard of attendance is not acceptable, you are given the appropriate guidance and support to help you to improve your attendance through positive management intervention and support; or to manage, appropriately, your exit from the organisation if you are unable, through long-term illness, to meet the required standards. You should not, therefore, see them as being primarily punitive in nature, although particular circumstances may result in sanctions being imposed, up to and including dismissal. The procedures set out a clear framework to enable managers to resolve issues relating to unacceptable attendance in a fair and consistent manner and without undue delay.
817. In applying these procedures, managers should always consider the possibility that the member of staff may have a disability. The Commissioner must give due regard to the requirements of the Equality Act 2010 and provide “reasonable adjustments” that would enable the member of staff to perform adequately in their role. If a manager knows or thinks that a member of staff has a disability, he or she should contact the HOCS. Specific, tailored, advice will be given on how to ensure that the individual’s needs are taken into account.

#### *Informal Stage*

818. Prior to taking formal action, and where appropriate, the manager will normally deal with any attendance issues on an informal basis by taking the opportunity, normally through a return to work discussion, to:
  - advise the member of staff of the attendance issue;
  - counsel and/or coach the member of staff on what must be done to improve; and
  - give the member of staff the opportunity and time to make such improvement(s).
819. Line managers and managers should ensure that a member of staff has been given the proper support, opportunity and time to improve before they decide to invoke the formal procedure. It is at this stage that a line manager/manager should ensure that medical information, any known disability and any other mitigating factors are taken into consideration before they decide to invoke the formal procedures. Where appropriate, consideration will be given to and support provided for reasonable adjustments that may be implemented on a temporary or permanent basis, depending on the circumstances.

820. Line managers/managers may seek advice about the Procedures for Dealing with Unacceptable Attendance from the HOCS at any time. Managers must consult the HOCS for advice and guidance prior to taking any formal action under these procedures. A line manager/manager should consult the HOCS if attendance levels:
- reach a flag set out in the Attendance Management Policy;
  - reach a flag which has been set according to particular individual circumstances; and
  - if attendance has not improved following attempts to resolve the matter informally.
821. If it is decided that the formal stages (as opposed to the informal stages embedded in the Attendance Management Policy) of these procedures should be invoked, then as part of Stage 1 – Investigation (below), the HOCS may seek professional advice from an external Occupational Health provider. The external occupational health adviser may wish to obtain medical information from the member of staff's General Practitioner in accordance with the Access to Medical Reports Act 1988.
822. The informal stage will not normally apply to long-term absence caused by ill-health since this type of absence will be managed through regular contact with the member of staff throughout the absence.

### *Formal Stages*

#### Stage 1 - Investigation

823. Where a line manager considers that formal action may be appropriate, he or she will provide the member of staff with a note of his or her absence record and invite him or her, in writing, to attend a formal meeting. This meeting is to allow the line manager to assess whether there is a need for the matter to progress to a formal Hearing. If the member of staff refuses to attend the meeting or is unable to attend after the line manager has made two attempts to convene it, the line manager may proceed in the member of staff's absence. The HOCS will advise the line manager on the content of the letter inviting the member of staff to attend the formal meeting. The letter will set out clearly the reasons why attendance is unacceptable, with reference to the particular flag reached, the history of unacceptable attendance (if appropriate) and the impact on the organisation of the member of staff's non-attendance. The member of staff is entitled to be assisted at this meeting by a trade union representative or a work colleague. "Assisted" means that your companion may put your case forward on your behalf, sum up your case on your behalf and respond on your behalf to any view expressed at any formal meeting or hearing, including the appeal. However, the person hearing the case or the appeal has the right to put questions directly to you and to receive responses directly from you.
824. Following that meeting, the line manager will produce a full report for the HOCS. If the HOCS concludes that a Hearing should be arranged, the member of staff will be invited to attend a meeting which will be chaired by the HOD.

#### Stage 2 – The Formal Hearing

825. The HOD will give the member of staff a minimum of two working days' notice of the Hearing. At the Hearing, the member of staff may make oral and/or written representations and he or she will be entitled to be assisted by a trade union representative or work colleague. "Assisted by" means that your companion may put your case forward on your behalf, sum up your case on your behalf and respond on your behalf to any view expressed at any formal meeting or hearing, including the appeal. However, the person hearing the case or the

appeal has the right to put questions directly to you and to receive responses directly from you. If the date and time of the Hearing are unsuitable for the member of staff and/or the companion, he or she can suggest an alternative date and time within five working days of the date originally proposed. The member of staff and his or her companion must take all reasonable steps to attend the Hearing.

826. The Hearing will normally be conducted by the staff member's HOD. When the HOD is unavailable or has had prior formal involvement in the case another HOD will hear the case. The HOCS will normally attend the hearing to provide procedural advice.
827. Having heard your representations, the HOD will adjourn to consider the evidence and to determine whether the disciplinary case has been made and, if so, whether a disciplinary sanction is appropriate. If a disciplinary sanction is appropriate, the appropriate level of sanction to be imposed will be discussed with the HOCS. When a decision is made, the HOD will reconvene the Hearing, on the same day if possible, and inform you of the decision, the reasons for the decision, the sanction where appropriate and the procedures for lodging an appeal including details of to whom the appeal should be addressed. You will receive confirmation of these details in writing normally within five working days of the date on which you were informed of the decision. If the sanction is dismissal, the Commissioner will ultimately make the decision and sign any letter of dismissal.

### Stage 3 – Appeal

828. The member of staff can appeal against any sanction under Stage 2 of these procedures. If the member of staff wishes to appeal, he or she must set out the reasons for the appeal in writing and submit it to the HOCS within five working days of the date of written confirmation of the decision.
829. An Appeal Hearing will be arranged at which the member of staff may make oral and/or written representations and may be assisted by a trade union representative or work colleague. "Assisted by" means that your companion may put your case forward on your behalf, sum up your case on your behalf and respond on your behalf to any view expressed at any formal meeting or hearing, including the appeal. However, the person hearing the case or the appeal has the right to put questions directly to you and to receive responses directly from you. A minimum of two working days' notice of the appeal will be given. If the date and/or time of the Appeal Hearing are unsuitable for the member of staff and/or the companion, he or she can suggest an alternative date and time which must be within five working days of the day originally proposed. The member of staff and his or her companion must take all reasonable steps to attend the Appeal Hearing.
830. Appeals will be heard by the Commissioner or a nominated HOD (that is a member of the Senior Management Team) other than the HOD who conducted the Hearing.
831. Having heard the representations, the member of the Senior Management Team hearing the Appeal will adjourn to consider the evidence and to determine whether the proposed sanction is appropriate or whether a different sanction is appropriate. The sanctions are set out in the section on **Disciplinary Sanctions**. When a decision is made, the member of the Senior Management Team will reconvene the Hearing, on the same day if practicable, and will inform you of the decision, the reasons for the decision, the sanction where appropriate. Those details will then be confirmed in writing, normally within five working days of the date on which you were informed of the decision. If the sanction is dismissal, the Commissioner will ultimately make the decision and sign any letter of dismissal.



832. You will receive confirmation of these details in writing within five working days of the Hearing. The decision of the Commissioner will be final.

#### *Order of Events*

833. Ordinarily the Procedures for Dealing with Unacceptable Attendance will follow the sequence outlined. However, the Commissioner reserves the right to invoke these procedures at any stage in the process where the circumstances are deemed sufficiently serious to merit it and to miss out an individual sanction or sanctions (but not any of the stages) in the procedure if it is considered appropriate in the circumstances.

834. If at any stage during the formal procedures it has been identified that the member of staff has a disability for which a reasonable adjustment has not already been made, the procedures will be temporarily suspended to establish whether absence is related to disability and whether any reasonable adjustments need to be put in place.

#### *Records*

835. A record of any action taken and/or any sanction applied in relation to the Procedures for Dealing with Unacceptable Attendance will be kept on the member of staff's personal file and will be removed where appropriate after the specified time limit has elapsed.

#### *Sanctions*

836. The level of sanction imposed will depend upon the circumstances of each case, for example if there has been a history of unacceptable attendance and, in particular, if there is an extant warning on the record. In exceptional circumstances, sanctions applied under these procedures may be referred to even after they have elapsed. It may be a matter for the HOCS to advise the HOD whether such exceptional circumstances arise in any particular case. It will be for the HOD to decide whether to take that into account when deciding on an appropriate sanction.

<b>Sanction</b>	<b>Information</b>	<b>Expiry Period</b>
Recorded verbal warning	This may be the initial action imposed in a case of unacceptable attendance.  This warning will be confirmed in writing and will be retained on the personal file.	6 months
First written warning	This sanction will normally be imposed if the member of staff is not able to meet the required standards of attendance and will specify the expected standard of attendance and timescale for reaching the required standard.  A first written warning will be held on the personal file.	12 months
Final written warning	This sanction will normally be imposed if the member of staff:	18 months

	<p>fails to bring their attendance up to the required standard within the timescale specified in a first written warning or</p> <p>does not maintain the required standard of attendance during the period when a first written warning is live</p> <p>and will specify a further period of time within which the member of staff must reach the required standard of attendance.</p> <p>The final written warning will also specify that any further breaches of attendance standards may result in dismissal.</p>	
Dismissal	<p>This sanction will normally apply if the member of staff has:</p> <p>failed to bring their attendance up to the required standard within the timescale specified in a final written warning or</p> <p>does not maintain the required standard during the period when a final written warning is live; or</p> <p>if the member of staff has an underlying medical condition and medical advice is that he or she is unfit to do his or her job and alternatives to dismissal have been fully explored and cannot be put in place.</p>	Not applicable

## Smoke-Free

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### Purpose

837. This policy has been developed to protect all employees, service users, customers and visitors from exposure to second-hand smoke and to assist compliance with legislation.
838. Exposure to second-hand smoke increases the risk of lung cancer, heart disease and other serious illnesses.
839. Ventilation or separating smokers and non-smokers within the same airspace does not completely stop potentially dangerous exposure.

### Policy

840. It is the policy of the Commissioner that our workplace is smoke free, and all employees have a right to work in a smoke free environment. Smoking is prohibited in all enclosed and substantially enclosed premises in the workplace. This includes company vehicles.
841. This policy applies to all employees, consultants, contractors and visitors.

## **Implementation**

842. Overall responsibility for policy implementation and review rests with the HOCS. However, all staff are obliged to adhere to, and support the implementation of, the policy. The person named above shall inform all existing employees, consultants and contractors of the policy and their role in the implementation and monitoring of the policy.
843. Appropriate “no-smoking” signs will be clearly displayed at the entrances to and within the premises, and in all smoke free vehicles.

## **Non-compliance**

844. Disciplinary action may be taken against any if a member of staff does not comply with this policy.
845. Those who do not comply with the smoke free law may also be liable to a fixed penalty fine and possible criminal prosecution.

## **Support to stop smoking**

846. You can find out more about smoking and obtain support if you are trying to give up from:
- Your doctor
  - The Employee Assistance Programme
  - Smokeline (0800 84 84 84). This is a Freephone counselling service provided to give help and advice to smokers who are trying to give up. The line is available from 8 am to 10 pm Monday to Friday and 9 am to 5 pm Saturday and Sunday. You will also be offered a helpful step by step guide offering guidance and advice on how to give up smoking.
  - Quit is an independent charity whose aim is to help smokers to stop. They have a telephone helpline (0800 00 22 00) and website ([www.quit.org.uk](http://www.quit.org.uk)). You can also contact them by e-mail ([stopsmoking@quit.org.uk](mailto:stopsmoking@quit.org.uk)).
  - ASH (Action on Smoking and Health) Scotland, on 0131 225 4725 (website: [www.ashscotland.org.uk](http://www.ashscotland.org.uk)) can also provide general information on giving up smoking.

## Substance abuse

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### Policy on Substance Abuse

847. The Commissioner is committed to providing a safe and healthy working environment for all staff. Part of this commitment will include minimising the risks caused by alcohol and/or drug consumption or dependency. The Commissioner also has a legal responsibility to ensure, so far as is reasonably practicable, the health, safety and welfare of staff and other building users. Individual members of staff are also responsible for taking reasonable care of themselves and others who could be affected by what they do at work. This policy has been developed with these commitments and legal responsibilities in mind.

848. The Commissioner recognises such dependency on drugs and/or alcohol as an illness that can seriously affect the health and work performance of any individual in terms of safety, efficiency, productivity and attendance. It also recognises the effects that it can have on work colleagues. We will take full account of the provisions of the Equality Act 2010 in the operation of this policy.

#### Who is covered by this policy?

849. This policy applies to all of the Commissioner's staff.

#### What is the policy?

850. The principles of the Commissioner's policy on substance abuse, which includes the use of illegal drugs, misuse of legal drugs or other substances (including psychoactive substances that have intoxicating and/or behaviour-altering effects or impair judgement) such as solvents or alcohol, are that:

- You must not present yourself for work under the influence of alcohol or drugs. Under the influence means that there is a sufficient amount of substance in your system to demonstrate that your performance is impaired or that you are likely to pose a risk to others.
- You must not consume alcohol in the office during normal working hours unless you have the prior agreement of your HOD. The HOD may agree to this if, for example, a small celebratory drinks party were being held to mark someone's retirement.
- When you are performing a representational role or if you can be identified as an employee, either internally or at external functions, you are expected to adopt a responsible attitude towards the consumption of alcohol.
- You must not be in possession of or sell illegal drugs whilst on duty and/or on our premises. This is a criminal offence under the Misuse of Drugs Act 1971. Anyone caught in this position will be reported to the police and will also be investigated under the Commissioner's disciplinary procedures in relation to alleged gross misconduct. If the investigation finds that the allegation against you is well founded, you will be liable to sanctions up to and including dismissal without notice or payment in lieu of notice. You should be aware that committing an act of gross misconduct will normally result in your dismissal.
- You must not sell on prescription drugs whilst on duty and/or on our premises. Anyone caught doing so will be reported to the police and will also be investigated under the Commissioner's disciplinary procedures in relation to alleged gross

misconduct. If the investigation finds that the allegation against you is well founded, you will be liable to sanctions up to and including dismissal without notice or payment in lieu of notice.

- With the exception of over the counter remedies, if you take any drugs at work which have not been prescribed to you on medical grounds you will, in the absence of any mitigating circumstances, be investigated under the Commissioner's disciplinary procedures in relation to alleged gross misconduct. If the investigation finds that the allegation against you is well founded, you will be liable to sanctions up to and including dismissal without notice or payment in lieu of notice.

851. The Commissioner recognises that prescription and over the counter remedies can also have an effect on your performance at work. If you are in any doubt, you should discuss any possible effects with your GP. If there are any such side effects impairing your performance at work, you should inform your line manager so that he/she can take these into account and adjust your duties if necessary. It is your responsibility, when beginning any course of medication, to check whether it may adversely affect your ability to work.

#### What does "if your performance is impaired" mean?

852. Your performance is impaired if you cannot carry out your duties to the standard that is normally required for your job. However, other things may have an effect on your performance at work, for example, if your breath smells of alcohol. The smell of alcohol on your breath will affect people's views, not only about you, but also about the organisation. Work and alcohol are not a good mix.

#### What happens if I breach the policy?

853. If you are employed by the Commissioner, you will be provided with all of the support mechanisms described in this policy. This may include a compulsory referral to an external occupational health adviser in order to draw up and agree an assistance programme, if necessary. If you are on secondment from another organisation or a contractor, the responsibility lies with your own employer to provide support and assistance. Accordingly, if you breach this policy, your employer will be informed so that they might take any necessary action. This may result in the termination of the secondment etc. arrangements.

#### What are the signs of substance abuse?

854. Signs of substance abuse that you might look for include:

- sudden mood changes;
- unusual irritability or aggression;
- a tendency to become confused;
- abnormal fluctuations in concentration and energy;
- impaired job performance;
- poor timekeeping;
- increased short term sickness absence;
- a deterioration in relationships with colleagues or members; and/or
- any behaviour which may indicate the need to finance an expensive habit.

855. Remember all the signs shown above may be caused by other factors such as stress and should be regarded only as indicators that an employee may be misusing drugs, solvents or alcohol.

#### Why should I be aware of such signs?

856. The Commissioner's policy is primarily to provide support to staff who have a substance abuse problem. It is important, therefore, that if a member of staff is showing any signs of substance abuse, the appropriate support structure is put in place at the earliest possible time.

#### What can I do if I suspect that someone has a substance abuse problem?

857. Line Managers are often best placed to spot problems related to substance abuse. If you are the person's line manager you should discuss it with the individual privately. You should take time to establish whether or not there is a substance abuse problem. If there is, then you should encourage the individual to self-refer to the HOCS who will put in place the appropriate support mechanisms in line with this policy. If the individual refuses to self-refer, or if they fail to self-refer within five working days, then you must report the matter to the HOCS who will take this forward as a compulsory referral as referred to above. The HOCS will let you know what the agreed programme is and keep you up to date with progress.

858. Colleagues are often the first to know that someone has a problem with substance abuse. Although there is often an instinctive desire to cover up for someone, this does nothing to help them. You may feel able to discuss it with him or her privately. If you do, and if the person recognises that they have a substance abuse problem, you should encourage him or her to self-refer to the HOCS who will put in place the support mechanisms set out below. If he or she does not recognise that there is a problem then you should tell them that you will raise your concerns with their line manager so that help can be arranged.

#### What do I do if I want to self-refer?

859. If you think that you need help, you should contact the HOCS who will arrange for you to meet with someone an external occupational health adviser and/or provide details of the Employee Assistance Programme. The reason for this meeting will be to draw up and agree an assistance programme.

860. You may also self-refer directly to the confidential Employee Assistance Programme and all members of staff have been provided with the relevant contact details.

#### What is an assistance programme?

861. An assistance programme provided by an external occupational health provider will be tailored to your own individual circumstances and may involve referral to an outside agency. Any absences from work to attend counselling sessions or rehabilitation programmes will be treated as sickness absence.

#### What if I don't want to self-refer?

862. The Commissioner will provide the same support and assistance as set out above but this may be done as part of our disciplinary procedures if there are no mitigating circumstances. Any action we take will take account of the Equality Act 2010.

#### What if I don't follow an assistance programme?

863. If you have self-referred and you do not follow the programme, you will be warned under the disciplinary procedures that failure to participate or to abide by the assistance programme

will result in you being charged with gross misconduct and you may be dismissed without notice.

864. If you have been referred on a compulsory basis and you do not follow the programme, your conduct may be considered gross misconduct and you may be dismissed without notice.

What if I complete the programme and have a relapse?

865. If you have a relapse, we will seek external medical advice and/or occupational health advice to find out how much more treatment/rehabilitation you will need to make a full recovery. We will consider each case on its own merits and on the basis of how likely it is that you will make a full recovery.

Where can I find help?

866. Sources of External Information and Assistance include:

- Your general practitioner/doctor.
- The Commissioner's confidential Employee Assistance Programme (Employee Matters) on 0800 282193. Employee Matters provide a free confidential counselling service and offers general advice and support if required.

## Public Interest Disclosure (Whistleblowing)

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### Introduction

867. The Public Interest Disclosure Act 1998 (PIDA) allows individuals to disclose certain issues to particular external parties where there is good reason to believe that internal disclosure will not be taken seriously or will cause the individual making the disclosure to be penalised in some way. However, the Commissioner is committed to dealing responsibly, openly and professionally with any genuine concern and encourages you to discuss your concerns internally wherever possible by reporting any wrongdoing or malpractice within the Commissioner's office which you believe has occurred or is likely to occur and is in the public interest.
868. The aim of this policy is to ensure that you are fully aware of the sorts of matters which you should report and the reporting procedure you should follow.

### Scope

869. This policy applies to all staff engaged by the Commissioner. This includes staff directly employed by the Commissioner, staff on secondment from other organisations, agency workers and other temporary staff.

### Protection and Confidentiality

870. The Commissioner will not tolerate any detrimental treatment of anyone raising a genuine concern under this policy. You have the Commissioner's assurance, therefore, that you will be offered protection if you raise such a concern. We accept that you may wish to raise your concern in confidence. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent unless we are required to do so by law or it is otherwise necessary for us to do so. You should be assured that any matter that you report under this procedure will be taken extremely seriously and will be fully investigated. If the situation arises where it is not possible to resolve the concern without revealing your identity, we will discuss with you whether and how we can proceed.

### Reporting Wrongdoing or Malpractice

871. It is the responsibility of everyone to ensure that appropriate, reasonable and timely action is taken in relation to any concerns of wrongdoing or malpractice raised that could expose the Commissioner to loss or liability. You are encouraged to report any situation or matter which you reasonably believe might show that one or more of the following has occurred, is occurring or is likely to occur in the future:
- a criminal offence
  - a failure to comply with a legal obligation
  - a miscarriage of justice
  - a danger to the health and safety of any individual
  - damage to the environment
  - a deliberate cover-up of any of the above matters
  - a serious act of misconduct (examples of which are set out in the Disciplinary Procedure)



- a serious breach of our professional conduct rules (these are set out in our professional code of conduct).

872. This reporting procedure should also be followed if you feel that you have been asked to do something which you believe to be improper or unethical or would result in you being implicated in any of the matters listed above. Please note that not everything will be covered by the protections of PIDA, although we will treat them as if they were if raised internally.

### **How to Raise a Concern Internally**

873. As soon as you become aware of any matter of the type listed above, or if you wish to confirm whether it is a matter which should be raised, you should speak with your HOD or the HOCS.
874. If you decide to raise the matter under the policy, you should then report it immediately to the HOCS, or your HOD if you prefer. You may raise these concerns either orally or in writing. You are reminded, however, that e-mail is not an appropriate medium for transferring confidential information.
875. It is very important for you to report promptly any of the matters referred to above in order to assist in upholding the Commissioner's high standards and to help prevent the concealment or destruction of evidence which we might need to review.
876. Once you have told us of your concerns, we will look into the matter and make an initial assessment of what action should be taken. This might involve an internal inquiry or a more formal investigation. We will tell you who is handling the matter, how you can contact them and whether your further assistance may be needed. Subject to any legal constraint, we will keep you informed of the progress of the investigation and its outcome. You have an assurance that the matter will be dealt with promptly and within a reasonable time.
877. Although, for obvious reasons, we would not encourage matters to be raised on an anonymous basis, these will still be investigated. Anonymous disclosures are very rarely helpful since the reliability of the disclosure cannot always be readily tested.

### **How to Raise a Concern Externally**

878. It should only be in exceptional circumstances that it should be necessary for you to raise a concern externally. It is accepted, however, that you may disclose information to a legal adviser in the course of obtaining legal advice. You should be aware, however, that PIDA states that employees would not qualify for protection if, by disclosing the information, they were committing an offence. Disclosure, without lawful authority, to a third party of information obtained by, or furnished to, the Commissioner for the purposes of FOISA or the EIRs (see section 45 of FOISA and regulation 18(5) of the EIRs) will be such an offence.
879. Subject to the above, you may disclose information to the Chair of the Commissioner's Advisory Audit Board (the FAM or the HOCS can provide the relevant details) or a prescribed person <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people>
880. You should seek independent advice before raising concerns externally so that you can be advised as to whether the proposed disclosure may be protected under PIDA. Such advice can be obtained from the charity:

Protect

The Green House  
244-254 Cambridge Heath Road  
London  
E2 9DA  
Telephone: 020 3117 2520 (\* option 1)  
Website: <https://protect-advice.org.uk/>

881. You can be assured that no one who reports any concern under this policy in the public interest will suffer any detriment for coming forward, regardless of whether or not the concern is ultimately substantiated. Victimising staff for or deterring them from raising a concern under this policy is a disciplinary offence and will be dealt with under the disciplinary procedures (see below).

882. You should be aware that disclosure to the media or to non-prescribed persons will not usually be protected other than in extreme circumstances and that non-protected disclosures may lead to disciplinary action being taken against you (see below).

### **How We Will Handle Alleged Detriment**

883. If you believe that you are being victimised by or suffering any detriment from someone within the Commissioner's team as a result of reporting a concern or assisting us in any investigation, you must inform the HOCS or your HOD immediately and appropriate action will be taken to protect you.

### **Disciplinary Action**

884. Disciplinary action will be taken against anyone who:

- deliberately makes false or malicious allegations
- makes disclosures for personal gain
- makes a non-protected disclosure (see paragraph xxxx for a list of those disclosures which are protected) without first following the required internal procedures
- victimises anyone for raising a concern or making a disclosure under this policy
- inappropriately deters anyone from making a legitimate disclosure.

885. Such conduct will be treated as gross misconduct and may lead to dismissal.

886. Where, following investigation, a disclosure is substantiated, disciplinary action, in terms of the Disciplinary Procedures, may be taken against the person who is the subject of the disclosure.

### **Guidance on Specific Issues**

887. This policy is designed to allow a channel for serious issues of public interest (i.e. inappropriate or illegal use of public resources) to be raised. It should not be used for concerns of any other nature which you feel have a particular negative impact on you and for which the normal grievance or other appropriate procedure should be used.

888. Further guidance will be issued to staff on specific issues if necessary.

## Communications

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### Scope

889. This policy applies to all of the Commissioner's staff, staff on secondment and contractors who are authorised to use the Commissioner's internet, e-mail and other business communications systems. Any references to an "employee" or "staff" include staff on secondment and contractors who have been issued with a user account.

### Principles on the use of the internet and e-mail systems

890. The principles under which you are authorised to use the Internet and e-mail systems are as follows:

- The Internet and e-mail are business systems. The Commissioner requires that all use of the systems by you is primarily for business purposes
- You may, however, use the systems for limited non-business use if you do so in your own time, for example during your break or before or after work provided you observe the terms of this policy. For security reasons, you may not access personal email accounts using the Commissioner's business systems.
- You may also use these systems for personal purposes in the same way that short, important, personal telephone calls are allowed (see below).
- The Commissioner may monitor and record the use of the Internet and any e-mails which are transmitted over its computer system for the reasons set out below. This means that you must not expect to have total privacy in respect of any messages you send or receive or in your use of the internet.

891. All e-mail use is automatically recorded by the IT systems and through these logs, use can be attributed accurately to individual users. Normally, we will only interrogate these logs for the reasons set out below. However, in line with ICT security best practices, the Commissioner reserves the right to review these logs to ensure adherence to this policy.

892. All Internet use can be automatically recorded by the IT systems and through these logs, use can be attributed accurately to individual users. Normally, we will only interrogate these logs for the reasons set out below. However, in line with ICT security best practices, the Commissioner reserves the right to review these logs to ensure adherence to this policy.

893. You are required to comply with this policy at all times. The consequences of failing to comply with the policy are set out below. This means that all breaches in this policy will be dealt with under the disciplinary procedures.

894. You must ensure your use of the Commissioner's ICT does not discriminate in respect of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender identity, sexual orientation, trade union membership or lack thereof.

895. Since the technology and law in this area are subject to change, this policy will be updated from time to time. The Commissioner will circulate any updated policy to all staff before it is introduced.

## **Commercial and legal effects of e-mail**

896. The commercial and legal effects of sending and receiving e-mails are the same as any other form of written communication. The style, tone and content of emails have a direct effect on the way the Commissioner and his office are perceived by others. E-mails can also contractually bind the Commissioner and any commercial advice, opinion, guarantee, representation or other statement contained in an e-mail may be relied upon by third parties.
897. You must not, therefore, send e-mails which make representations, contractual commitments or any form of legally binding statement concerning the Commissioner unless you have specific authority to do so.
898. It is your responsibility to ensure that appropriate records are retained in accordance with our corporate records retention schedule, including records of any commercial or legally binding e-mails which are sent in the course of Commissioner's business.

## **Security**

899. You must take all reasonable steps to ensure that you do not unnecessarily compromise the security of the Commissioner's information and associated assets. You are responsible for any action carried out under your IT account. To avoid misuse, you must lock your workstation when away from your desk and you must never divulge your password to anyone unless authorised or required to do so by the Commissioner or a HOD. You should also ensure that you log out of your account when you are finished. Unless you are an Administrator with authority to do so, you should never attempt to log on to, or use, a network account that is not yours.
900. Internet e-mail is not a secure means of transmitting information. It can be intercepted or can be sent to the wrong person or organisation. Emails can also be copied and widely distributed/circulated. You should be aware of these hazards when you send e-mails.
901. All e-mails that are sent from the Commissioner's system automatically contain a privacy notice. You must not delete, alter or otherwise interfere with the privacy notice.

## **Viruses**

902. Viruses can be introduced into the Commissioner's network or transmitted to a third party's system by sending and receiving e-mail and by using the Internet. The deliberate introduction of a virus onto a third party's computer systems may be a criminal offence. Accidental introduction of viruses on to a third party's computer system may, in certain circumstances, give rise to a claim against the Commissioner by that third party. You must take all reasonable steps to ensure that no viruses are transmitted by you to any third parties and to ensure that you do not knowingly allow a virus to affect the Commissioner's computer systems.
903. All e-mail transmitted via the Commissioner's network is automatically scanned for viruses, whether it is being sent or received. Since a virus may, nevertheless, slip through. Take care, in particular, with all unsolicited e-mails and e-mails from unknown sources. If you have any reason to be suspicious, contact CST for assistance before opening the message or attachment. If in any doubt, do not open or run any attached file.
904. From time to time, you may receive e-mails warning of computer viruses, encouraging you to forward the e-mail on to others. These are usually hoax messages designed to overload

computer systems or introduce computer viruses. If you receive such a message, please do not forward it but contact CST immediately.

## Unauthorised Use

905. Unless strictly necessary for proper conduct of your duties, e-mail and the Internet must not be used for the creation, transmission, downloading, browsing, viewing, reproduction or accessing of any image, material or other data of any kind which:

- is illegal or
- is unacceptable to the Commissioner, including but not limited to:
  - sexually explicit messages, images, cartoons, jokes, or any other material of a sexual nature, (including nude or partially dressed men or women)
  - malicious gossip or inappropriate personal information about others
  - inappropriate emotional responses to others, for example e-mails that contain an aggressive or abusive tone and/or content
  - anything which may harass, provoke, demean, degrade, threaten, victimise or discriminate against anyone else or a group of people, particularly on grounds of gender, gender identity, sexual orientation, marital, civil partnership, family or part-time status, racial group (including colour, race, nationality, national or ethnic origin), religion, disability, age or trade union membership/non- membership activities or political belief
  - material which involves the inappropriate use of social networking sites, blogs, instant messaging, newsgroups, bulletin boards or forums. Examples of inappropriate use include: posting data which breaches the confidentiality of information relating to the organisation and/or colleagues; posting information relating to colleagues which could be considered discriminatory; engagement in online dialogue regarding colleagues which could be considered "cyber" bullying, and; use of the Commissioner's logo or corporate branding on a personal web page
  - material which is, or is potentially, defamatory
- material which does, or is likely to, introduce viruses, worms, Trojan horses, or other unauthorised software into the Commissioner's computer system;
- material which is concerned with your own commercial enterprise or conflicts with the interests of the Commissioner
- material which may be of embarrassment to the such as making insulting or untrue statements about any person, any company or its employees, products or services, which could then be reported as the Commissioner 's official opinion or
- material which unnecessarily disrupts the work of colleagues.

906. The above lists are illustrative and not exhaustive. If you have any questions as to whether a particular activity is/is not permissible, you should ask your line manager before acting. You should also note that the prohibitions in this policy still apply even if the material is located on a part of the system which is personal or password protected.

907. It is also clear that bullying and harassment can occur by electronic means (see Dignity at Work policy) and that such behaviour is not determined solely on the content of such correspondence. The tone or style used when writing e-mails is also extremely important. All users must ensure that they avoid using a bullying tone or style when sending correspondence electronically.
908. These restrictions on the use of e-mail and the Internet apply to both business (unless otherwise stated) and personal use. The Commissioner considers that it is important that all use is restricted in this way to avoid disruption in the workplace and embarrassment, distress or offence to others. Remember that what is offensive material is determined by the effect on the recipient, not how it is regarded by the sender.
909. It may not always be possible to avoid receiving unacceptable e-mails from others. If you receive such material you should delete it. If the sender is someone you know, you should ask them not to send such material in future. If you do not know the sender, you must not reply to the e-mail, rather you should contact CST for advice. If the email is from within the Commissioner's office you should report the matter to your line manager who may wish to raise it at a higher level or with the HOCS.
910. It is also possible to enter Internet sites carrying offensive material by accident, for example sites that contain pornographic, derogatory, defamatory or obscene material. If you enter such a site, such access will not be considered a breach of this policy if you immediately close your browser window and report the matter to your line manager.
911. You must not create, transmit, download or reply to chain letters, junk mail or unsolicited commercial or advertising materials. If you receive such e-mails you should delete them immediately and they should not be forwarded to anyone else, either externally or internally. If the e-mail is unsolicited, do not click on any "unsubscribe" link as this may simply confirm to the sender that your e-mail account is active.
912. You are not permitted to download any software, audio files, games, etc. from the Internet or to install or use any unauthorised software or hardware from home to use on the Commissioner's network unless such activity has been approved by your HOD. If you require any particular business-related software, please submit a written request, with a full business case, detailing why the software is required to the CST and HOCS.
913. You must not access or attempt to access anyone else's e-mail account without their permission. In emergency cases, your line manager may authorise CST to perform a password reset on your IT account.
914. You must not use e-mail or the Internet to impersonate others or to forge messages or e-mail addresses. Where a message is sent on behalf of another person, the message should make it clear that this is the case and should identify the writer and the sender.
915. You must not browse, access or use any Internet site in any manner which breaches its published terms and conditions or download or store any material without reading and complying with any copyright or licence restrictions. In addition, you must not store any copyright material (e.g. audio or video files) on the Commissioner's IT systems if it is not directly related to the business of our office.
916. You must not use information feeds (an Internet site that provides automatic updates of selected information from a variety of sources, e.g. news pages) unless for legitimate business purposes. For example, a legitimate business purpose might be for the HOCS to

have automatic updates from a site that provides an information service on employment issues.

917. Any unauthorised use of the Commissioner's business systems may lead to the disciplinary action up to and including dismissal under the Commissioner's Disciplinary Procedures.

#### *Additional Guidance on the use of E-Mail*

918. When using e-mail all members of staff should remember the following:

- E-mail is a form of written communication. The generally recognised standards that apply to internal memos and external letters should be observed when sending e-mails.
- In line with Commissioner's Records Management policy and procedures, you should file all essential sent and received e-mails in VC, WorkPro or to create a record for ease of retrieval. You should delete all other messages (which do not require to be retained) on a regular basis.

### **Privacy and Monitoring**

919. It is not the Commissioner's intention to monitor and/or record routinely any e-mails which are transmitted over the Commissioner's computer system or your use of the internet, including the nature of material downloaded from the internet. However, we may, from time to time, monitor the systems for the following purposes:

- To ensure the Commissioner's practices, policies and procedures are being followed.
- To investigate or detect the suspected unauthorised use of the Commissioner's computer system.
- To secure the effective operation of the Commissioner's computer system.
- For the purpose of preventing or detecting crime.

920. If you are absent from work, or in the event of an emergency, it may be necessary to check your inbox to ensure that mail items are dealt with appropriately in your absence. Under normal circumstances, you will have given permission to another member of your team to access your inbox. However, there may be times when this is not possible and permission will be given to another work colleague. This will only be done if requested by your line manager or HOD. E-mails which are clearly personal or private will not be checked unless we have your prior permission.

921. This policy will be operated in line with the Commissioner's [Data Protection Policy and Handbook](#) in relation to employee information.

### **Use of Office Telephones**

922. The Commissioner recognises the occasional need to make short, important, personal telephone calls during work hours and expects you to use your personal mobile phone for these. However, the Commissioner's network or the mobile phone which has been provided to you for work purposes may be used occasionally for such calls when this is not possible. You may not, however, make personal use of international calls, unless:

- you are working abroad and have come to an arrangement with your line manager or
- you make arrangements with the FAM to reimburse the cost of the calls.

## **Use of other Business Communications Systems**

923. If you have been supplied with an office mobile phone, you may only use it for personal calls if:
- you have reached an agreement with your line manager as to what are reasonable personal calls or
  - you inform your line manager and make arrangements with the FAM to reimburse the cost of these calls, if they amount to more than £5.00.
924. The internet use rules and guidance above apply to your office mobile phone
925. The email rules and guidance above apply if your work email is accessible on your office mobile phone
926. Text messages should only be used for internal communication and when no other option is reasonably available.
927. You may not, however, under any circumstances, use the Commissioner's postage or stationery for personal purposes.

## **Breaches of the Policy**

928. Any member of staff who breach this policy will be dealt with under the disciplinary procedures. If the breach is considered to be gross misconduct, the penalty will normally be summary dismissal without notice or compensation in lieu of notice. Offences include intentional viewing or downloading of pornographic or other derogatory, defamatory, obscene or inappropriate material.
929. Where a breach or an alleged breach of this policy involves harassment or discrimination, this may be reported or dealt with under the Dignity at Work Policy. Again, depending on the severity of the offence, the breach may be considered as gross misconduct.
930. Contract staff found to be in breach of this policy will be reported to the contract manager and may result in the abuser's services being terminated under the terms of the contract.
931. If we suspect that the Commissioner's business systems are being used for anything illegal, we will report these concerns to the police or any other relevant authority.



## Social Media

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### Policy

932. All forms of social media are covered by this policy, including internal platforms provided for professional use and external channels used in both a professional and personal capacity. In terms of use of social media in your personal life, this policy applies whether use is during working hours or otherwise and regardless of whether the social media is accessed using the Commissioner's IT systems or personal equipment (including smart phones).
933. There should be a clear distinction between anything you post in a business capacity through the Commissioner's official social media channels and anything you post in a personal capacity through your own social media profiles. The relevant approval procedures should be followed before posting from an official Commissioner profile. You should feel free to like or follow official Commissioner pages from your personal accounts.
934. The Commissioner positively encourages the use of social media to connect, communicate and collaborate in ways which add value to the Commissioner's office. As such, we do not intend, through this policy, to prevent you from conducting legitimate personal and business activities via social media. Rather, guidance is provided to empower you to take advantage of the opportunities which social media offers whilst avoiding the pitfalls that can result.
935. You can utilise the advantages of social media for a variety of means, including:
- Engaging others in your work and keeping them informed;
  - Generating ideas and feedback;
  - Promoting initiatives/projects and explaining concepts;
  - Following discussions and keeping track of news;
  - Sharing good practice and making recommendations; and
  - Building and extending networks.

### Responsibilities

936. You have a personal responsibility for everything you post, whether through internal or external social media channels. You must therefore ensure that in your use of all social media, you observe the Commissioner's policies, including the Professional Code of Conduct, Dignity and Work Policy and Disciplinary Policy. This includes, but is not limited to, ensuring that any posts you make are in line with the Commissioner's values, that you are politically impartial, that you protect confidential information and treat others with respect. You are trusted to exercise common sense and good judgement and to seek early advice from your line manager if you are in any doubt as to what is acceptable.
937. Specific to your use of social media in your personal life, you may identify yourself as an employee of the Commissioner. What you do in your personal life is, generally speaking, your own business. You should be aware, however, that as an employee you represent the Commissioner to the world – whether acting on the Commissioner's behalf or your own. There is only one you. It is important to be mindful that personal views or information expressed on social media cannot be entirely isolated from your working life. Your actions and behaviour on social media therefore have the potential to positively enhance or

adversely impact the Commissioner's reputation and appropriate care should be exercised to comply with Commissioner's organisational policies and procedures at all times.

# Appendices

## Appendix 1

### Shared Parental Leave: Declaration Form (father)



Name of employee:	
Team:	

I declare that I satisfy the following eligibility requirements to take Shared Parental Leave:

	Tick
I am the father of the child or am married to/the civil partner of/the partner of the mother.	
My partner and I have main responsibility for the care of the child.	
The mother or primary carer of the child is entitled to statutory maternity or adoption leave, pay or allowance and has ended or given notice to reduce her maternity or adoption entitlements.	
I will have a minimum of 26 weeks' continuous service at the end of the 15 <sup>th</sup> week before the date the child is due to be born or placed with me for adoption.	
My partner has worked (in an employed or self-employed capacity) for at least 26 weeks in the 66 week period before the child is due to be born or due to be placed for adoption. He or she earned an average of at least £30 a week in any 13 of those weeks.	
I will comply with the organisation's shared parental leave notice and evidence requirements.	
I will inform the HOCS immediately if I cease to care for the child or if the child's mother informs me that she has revoked the curtailment of her maternity leave or pay period.	
The information I have provided is accurate.	

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix 2

### Shared Parental Leave: Declaration Form (mother)



Name of employee:	
Team:	

I declare that I satisfy the following eligibility requirements to enable my partner to take Shared Parental Leave:

	Tick
As the mother or primary carer of the child I am entitled to statutory maternity or adoption leave, pay or allowance and will give notice separately to reduce my maternity or adoption entitlements.	
I have been employed by the Scottish Information Commissioner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth or date the child is due to be placed for adoption.	
I have average weekly earnings of at least £30 for any 13 of those 66 weeks.	
At the date of the child's birth or date the child is placed for adoption, I will have the main responsibility, apart from my partner, for the care of the child.	
My partner has worked (in an employed or self-employed capacity) for at least 26 weeks in the 66-week period before the child is born or due to be placed for adoption. He or she earned an average of at least £30 a week in any 13 of those weeks.	
I will comply with the organisation's shared parental leave notice and evidence requirements.	
The information I have provided is accurate	

Signed: \_\_\_\_\_

Date: \_\_\_\_\_



## Appendix 3 – Performance and Development Framework

### Performance and development framework

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#### Introduction

938. The Scottish Information Commissioner recognises that the development of all staff and the management of performance are essential to ensure that everyone can contribute fully to the achievement of our strategic and operational objectives.
939. We believe that all members of staff have a right to a clear understanding of what is expected of them, an opportunity for a detailed discussion of their contribution to the achievement of personal and organisational objectives, and to feel valued.

#### Overview

940. This Performance and Development Framework (P&DF) is designed to:
- identify personal strengths and development needs
  - recognise good performance
  - support the achievement of objectives
941. The core elements of the P&DF are:
- Personal Objectives (which are derived from the Strategic and Operational Plans)
  - A Personal Development Plan – which articulates the knowledge or skills you will need to achieve your objectives, and the most effective way to develop them
  - Ongoing performance management – routine meetings and tools used throughout the year e.g. caseload management reviews, project status reports etc.
  - Performance & Development Review & In-Year meetings - Forms A to D are used to set personal objectives, and to prepare for and record Performance & Development Reviews (which are carried out annually) and In-Year meetings.
942. The P&DF is designed so that the core elements can be used flexibly, reflecting the requirements of the role, the individual and the line manager.
943. The P&D uses 4 forms, which are available as in VC as Word templates:
- a. Form A – Forward Work Plan
  - b. Form B – In-Year Review Meeting Record
  - c. Form C – Performance & Development Review Self-Assessment
  - d. Form D – Performance & Development Review Meeting Record.
944. The following table provides an overview of how the Forms are used:

Form (Purpose)	Completed By			When (Guidance)
	Jobholder		line manager	
<b>A Forward Work Plan</b> Record of jobholder's personal objectives the Personal Development Plan	<input checked="" type="checkbox"/>			<b>April – May</b> After annual Performance and Development Review meetings* - these meetings are held between 1 April and 30 May Contents agreed with Line manager and date that the Forward Work Plan is agreed is recorded on the form
<b>B In-Year Review Meeting Record</b> Recording what was discussed during In-Year meeting(s)	<input checked="" type="checkbox"/>	OR	<input checked="" type="checkbox"/>	<b>July / October / January</b> (and ad-hoc, as required) Completed within 5 days after quarterly meetings, and any additional in-year meetings
<b>C Performance &amp; Development Review Self-Assessment</b> To prepare for annual P&D Review meeting	<input checked="" type="checkbox"/>			<b>April – May</b> Submitted to the line manager at least 5 days prior to annual Performance and Development Review meeting
<b>D Performance &amp; Development Review Meeting Record</b> Summarises what was discussed during the annual Performance and Development Review meeting			<input checked="" type="checkbox"/>	<b>April – May</b> Completed within 5 days after annual Performance and Development Review meeting Signed by both the line manager and the job holder.

945. Forms B to D, which support and record the In-Year and Performance & Development Review meetings, should summarise and capture key points. There will be other information created to support ongoing performance management throughout the year

(e.g. statistical reports, project status reports) together with records of meetings (e.g. caseload management reviews) which will also provide relevant information for the review process.

## Core Elements

### Personal Objectives

946. At the beginning of the annual performance review cycle (April/May) the line manager will:
- review the requirements of the role against the Behaviours Framework (see below)
  - identify the specific observable behaviours the jobholder most needs to demonstrate to fulfil the requirements of the role and identify, with the jobholder, the objectives that will evidence those behaviours.
  - focus should be on the behaviours most needed for the role / most relevant to the jobholder rather than trying to incorporate every behaviour observable that a job may need to demonstrate.
947. Objectives must be:
- sufficiently specific to be measurable (quantitatively and/or qualitatively)
  - relevant to the jobholder's work
  - achievable within an agreed period.
948. It is acknowledged that, due to changed circumstances or priorities, objectives may change within the review period. Objectives should be updated as necessary, with discussion and agreement between the line manager and jobholder, to ensure they remain current
949. Form A (Forward Work Plan) is used to record (and update as appropriate) the jobholder's Personal Objectives - the Behaviours Framework (see below) provides guidance on how to set Personal Objectives using the Behaviours Framework.
950. As part of the process of setting personal objectives, the line manager and jobholder should consider what areas of knowledge or skills the jobholder will need to achieve their personal objectives, and the most effective way to develop them. The Personal Development Plan (PDP), which is incorporated in Form A (Forward Work Plan), should be agreed and filed in the member of staff's personal folder in VC.
951. The HOCs will use the PDPs of all members of staff to inform the drafting of the annual Learning and Development Plan. Once the annual Learning and Development Plan has been signed off by the SMT the HOCS will confirm to line managers what activities identified in PDPs have been incorporated in it and who is responsible for organising the training/development.

### Ongoing Performance Management

952. Line Managers and jobholders monitor and manage performance throughout the year using a range of meetings and resources appropriate to the role and to the experience, abilities and development needs of the Jobholder.
953. These might include, for example, caseload management reviews, project status reports, team meeting notes and statistical reports.



## Performance Review and In-Year Meetings

### In-Year Meetings

954. Line Managers and jobholders should meet quarterly to discuss performance. HoDs will agree with line managers the most appropriate approach, including the number of meetings per year, depending on the role, and the experience, abilities and development needs of individual Jobholders. Line managers and jobholders should reflect upon the activity for the year to date.
955. The review should be informed by the ongoing performance management discussions (see above), making reference to the materials produced to support and record them. Reference should also be made to the objectives established at the start of the year, as recorded on Form A (Forward Work Plan).
956. If appropriate, the objectives recorded in Form A (Forward Work Plan) may be amended or updated to reflect changed circumstances or priorities. Any changes should be agreed by the line manager and the jobholder and the form should be re-signed and dated.
957. Form B (In-Year Review Meeting Record) should be completed to capture a note of what was discussed. This form may be completed by either the line Manager or the jobholder and who is to complete the form should be agreed by the line Manager and the jobholder at the start of the meeting.
958. If it is felt to be beneficial, line managers may wish to hold additional In-Year meetings throughout the year. This might be to respond to changed circumstances or priorities, or to discuss concerns regarding performance or training needs which have emerged, for example.

### Performance & Development Review

959. Each April /May line managers and jobholders will meet to review the full year's activity.
960. To prepare for this meeting Jobholders should complete Form C (Performance & Development Review Self-Assessment) and give it to their line manager at least five working days before the review meeting.
961. The self-assessment should refer to the personal objectives recorded on Form A (Forward Work Plan) and should be informed by the ongoing performance management discussions (see above) and the In-Year Review(s), making reference to the materials produced to support and record them.
962. Form D (Performance & Development Review Meeting Record) should be completed by the line manager within five working days following the meeting and should summarise the content of the discussion.
963. The line manager must indicate in the appropriate section of Form D whether the jobholder has met, or not met, objectives.
964. Once the line manager has completed Form D the Form should be passed to the jobholder for signature. The line manager should inform the HOCS when an agreed Form D is filed in the jobholder's personal folder in VC.

### Forward Work Plan (Form A)

965. The discussion at the Performance & Development Review meeting should help line managers and jobholders prepare for setting personal objectives and the PDP for the next

year. Line managers and jobholders may elect to establish these at the Performance & Development Review meeting itself, or choose to do so separately.

966. In the event that the jobholder has not met personal objectives the line manager will, wherever possible, aim to support and enable the Jobholder within the P&DF to demonstrate improved performance by discussing and setting suitable personal objectives.
967. Form A (Forward Work Plan), which should be completed by the end of May, is used to record the agreed personal objectives. Line managers should advise the HOCS when agreed Form As and Ds have been filed in VC.

## **Jobholder and line manager discussions**

### Preparation

968. Thorough preparation for a Performance & Development Review meeting by both the line manager and jobholder is very important. Sufficient time should be set aside for the meeting and the line manager should ensure that a suitable room is available, which offers privacy and freedom from interruption. Prior to a round of Performance & Development Review meetings members of the Senior Management Team should ensure line managers have been trained and are aware of any organisational plans, objectives and priorities (e.g. the Operational Plan) for the next review period that will affect jobholders.
969. In preparing for the meeting jobholders should consider the key tasks undertaken since the last review (in light of the personal objectives for that period), their strengths and any new skills they might need in the context of the challenges likely to be encountered in the year ahead. Form C (Performance & Development Review Self-Assessment) is designed to facilitate preparation for the review meeting. It should be completed by the jobholder and given to the line manager at least five working days before the review meeting.
970. Prior to the meeting, the line manager should consider the individual's achievements and contributions to the work of the Commissioner since the last review, their strengths and any new skills or development areas the jobholder may need in light of their likely range of personal objectives for the next review period.

### Review Discussion

971. A Performance & Development Review is a planned and structured meeting that enables the line Manager and jobholder to discuss, agree and record achievements related to performance in the job, the plan of work for the coming year, and any work-related developmental requirements.
972. The process is most beneficial when it generates an open and honest review of past achievements, future goals and the assistance and support needed to achieve them.
973. The discussion should include any changes to the individual's job (either over the last year or foreseen in the coming year) and a review of workloads and working arrangements. The line manager and Jobholder should be mindful of the Commissioner's approach to building resilience to stress in their discussions.
974. The review discussion should centre on the work of the jobholder in light of their major responsibilities over the review period. Progress against objectives set at the last review

should be examined and, if objectives have not been met or have changed, the reason(s) for this should be discussed.

975. Objectives for the forthcoming review period should then be discussed.
976. Performance & Development Reviews provide an opportunity for line Managers to formally recognise and, where possible, note this against the Jobholders' performance and contributions. Line Managers should recognise good performance in their discussions and this should also be reflected in their notes on Form D.
977. The Commissioner does not operate a financial rewards system where a member of staff may have exceeded the performance levels set out in their Performance Development Plan. However, where a member of staff has done this, it may be possible that a development opportunity identified can be identified by the line manager and jobholder, for example:
- leading a project
  - training to support career development
  - a secondment to another team, or another organisation
978. The Commissioner will seek to support proposals for development opportunities wherever possible. However, resources are limited and proposals will need to be considered on a case-by-case basis, taking into account operational priorities and budgetary constraints.
979. It is important to ensure that the meeting closes with both parties having a mutual understanding of what needs to be done in the next review period, by whom, and any follow-up actions that is required.

## **Equalities**

980. Line managers must be mindful of their responsibilities under the sections of the Employee Handbook relating to equality and Diversity and Dignity at Work.
981. When reviewing a jobholder's performance, it is important to:
- avoid any preconception or assumptions about the abilities or ambitions of a particular groups or individuals
  - avoid stereotyping how different people will react to different situations or their suitability for particular types of work
  - ensure assessments of performance and other comments are based solely on evidence and are not influenced by impressions, expectations or hearsay
  - include measures for performance based on outcomes and results, and not just presence in the office and hours worked.
982. Changes in performance caused by pregnancy must not form any part of a review; the dates of any absence due to pregnancy or maternity leave should be noted.

## **Scope**

983. The P&DF applies to all of the Commissioner's staff.

984. The P&D is not linked to pay or grading arrangements.
985. The P&D must not be used to address matters which fall within the remit of the Disciplinary Procedures, the formal stages of the Procedures for Dealing with Unacceptable Performance, or the Procedures for Dealing with Unacceptable Attendance.
986. The HOCS will review PDPs in order to prepare the annual Learning and Development Plan.
987. The HOCS will review Performance and Development Review Meeting Records to prepare an annual report to the SMT, in line with the Governance Arrangements.

## Behaviours Framework

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### Introduction

988. The Behaviours Framework reflects the behaviours that will support effective performance, and around which personal development needs will be identified. It joins up all elements of people and performance management and enables us to ensure our management processes are consistent with our strategic and operational plans.
989. As an organisation we aim to consolidate and build on our strengths, and focus on areas that need improvement.
990. Part A of this section sets out the behaviours that are expected of jobholders. There are core behaviours which apply to all jobholders and there are job-specific behaviours covering the main job groups in the organisation. To help illustrate the characteristics of the behaviours, examples have also been provided.
991. The behavioural characteristics are not an exhaustive list – jobholders and line managers have flexibility to identify additional characteristics for each behaviour as appropriate to best support effective performance and personal development.
992. Part B explains how the behaviours are used to create the Personal Objectives which are recorded on Form A (Forward Work Plan) for each Jobholder.

## Part A – Core and Job Specific Behaviours

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### Part A – Core and Job Specific Behaviours (general)

#### Core Behaviour A: Communication (Oral and Written)

##### Description:

Communicating confidently and clearly to influence and persuade others, and adapting style to the needs of each audience

##### Characteristics

- A. Demonstrates an understanding of the other person's view and treats everyone fairly, with respect and dignity
- B. Understands the motivations, concerns and values of others, and tailors how they communicate with them
- C. Uses persuasive and justifiable arguments or points to explain reasoning
- D. Remains suitably firm and assertive with persistent and unreasonable parties
- E. Able to accept feedback, and continuously improves on own communication
- F. Shows awareness of the impact that disability, ethnicity and age can have on communication and adapts to the individual appropriately
- G. Writing is clearly structured and in plain language
- H. Communications are understandable by, and appropriate to, the audience

#### Core Behaviour B: Stakeholder Focus

##### Description:

Understanding, anticipating and supporting the needs of different stakeholders to deliver a high quality service

##### Characteristics:

- A. Sensitivity to diversity of stakeholders, respects 'difference' and responds appropriately to individual needs
- B. Manages stakeholders' expectations realistically
- C. Is committed to continuous improvement of services, sharing ideas with the team
- D. Seeks stakeholder feedback and considers the information in adapting service
- E. Accurately and empathetically identifies stakeholder concerns and circumstances and gives appropriate, professional response
- F. Pro-actively keeps relevant stakeholders informed of plans and updates them when things change
- G. Committed to achieving high standards of service

<b>Core Behaviour C: Co-operative Working</b>
<p><b>Description:</b></p> <p>Working supportively and effectively with colleagues and others, and contributing positively to the organisation's objectives</p>
<p><b>Characteristics</b></p> <ul style="list-style-type: none"> <li>A. Proactively shares all relevant and useful information with others</li> <li>B. Works flexibly with colleagues and others on major tasks, priorities and projects</li> <li>C. Contributes constructively to discussions about how to achieve goals and objectives</li> <li>D. Recognises that colleagues may be faced with competing priorities</li> <li>E. Shows empathy towards colleagues facing professional or personal difficulties, and offers support appropriate to the working relationship</li> <li>F. Is aware of and respects others' views and differences</li> <li>G. Is aware of own strengths, preferences, and areas of development and shows ability and willingness to complement those of the workgroup</li> <li>H. Fully contributes to successful team performance</li> <li>I. Works across teams, building relationships in pursuit of common interests</li> <li>J. Engages with, communicates and supports corporate decisions</li> </ul>

<b>Core Behaviour D: Workload Management &amp; Results Orientation</b>
<p><b>Description:</b></p> <p>Meeting or exceeding targets and objectives by managing workloads efficiently, setting priorities, goal setting, seeking opportunities to improve quality and productivity, and being adaptable to changing working conditions</p>
<p><b>Characteristics</b></p> <ul style="list-style-type: none"> <li>A. Understands importance of, and is committed to, achieving Operational Plan objectives, KPIs and other key targets and objectives</li> <li>B. Maintains a working knowledge of the Operational Plan, and contributes to its development for own work area</li> <li>C. Keeps priorities under review, plans and works flexibly to cope with changing circumstances and changing demands</li> <li>D. Sets personal goals to improve own performance</li> <li>E. Meets agreed time targets and deadlines without compromising quality</li> <li>F. Manages own time effectively and sets priorities according to changing needs without losing sight of deadlines</li> <li>G. Provides clear and accurate reports on own performance</li> <li>H. Manages projects from inception to closure and reports status as required</li> <li>I. Identifies potential work pressures and seeks ways to manage them</li> <li>J. Identifies and adopts methods to improve effectiveness</li> <li>K. Accurately estimates resources and time needed to achieve plans</li> </ul>

## Core Behaviour E: Information & Records Management

### Description:

Applying information and records management procedures to support efficient working, and to protect the Commissioner's reputation

### Characteristics

- A. Understands and complies with IRM policies and procedures
- B. Understands and complies with the procedures for Enquiries and Responding to Information Requests
- C. Creates accurate records and information that adequately documents the decisions and processes they undertake as part of their duties
- D. Captures information in the correct information keeping system and has awareness of good filing practices so that information can be quickly retrieved
- E. Finds needed information effectively and efficiently
- F. Carries out destruction of paper and electronic information of no significant operational, informational or evidential value requiring its retention as soon as it has served its immediate purpose
- G. Maintains and develops knowledge and skill in the use of IT software and systems, as appropriate for the role



**Job Specific Behaviours (general)**

Role	Characteristics
Administrator	<ul style="list-style-type: none"> <li>A. Actively keeps stakeholders informed of plans and updates them when things change</li> <li>B. Strong organising and planning skills</li> <li>C. Has well-developed skills and knowledge in own area(s) of responsibility (e.g. Records Management; IT, PA function etc.)</li> <li>D. Highly responsive, adapting to changing demands</li> <li>E. Focused on accuracy, quality and attention to detail</li> <li>F. An understanding of the process of making an information request and an application to SIC</li> <li>G. An understanding of the requirements on public authorities to respond to information requests and requests for review within the timescales set down by FOISA and the EIRs</li> </ul>
Enforcement Team Support Assistant	<ul style="list-style-type: none"> <li>A. Good organising and planning skills</li> <li>B. An understanding of the process of making an information request and an application to SIC</li> <li>C. Focused on accuracy, quality and attention to detail</li> <li>D. Responsive to the needs of the team, but recognising where work needs prioritised</li> </ul>

## Job Specific Behaviours (general)

Role	Characteristics
Finance and Administration Manager	<ul style="list-style-type: none"><li>A. Analyses complex information and situations and uses judgement to make recommendations</li><li>B. Presents complex and technical arguments in an accurate and understandable way</li><li>C. Advises and assists others to help them understand complex issues</li><li>D. Highly responsive, adapting to changing demands</li><li>E. Highly focused on accuracy, quality and attention to detail</li><li>F. Excellent planning and organising skills</li><li>G. Maintain and develops ability to extract data from different sources to create statistics and information</li><li>H. Applies advanced IT skills and techniques to manipulate and interrogate data, and produce reports</li><li>I. Maintains and develops knowledge of a wide range of statutory and legal obligations, including those relating to finance and accounting, pensions administration, health &amp; safety, data protection and employment law</li><li>J. Maintains a good understanding and awareness of the SIC's governance arrangements, including SIC's relationship with key stakeholders e.g. SPCB, Audit Scotland</li><li>K. An understanding of the process of making an information request and an application to SIC and responds confidently to them</li><li>L. An understanding of the requirements on public authorities to respond to information requests and requests for review within the timescales set down by FOISA and the EIRs</li></ul>

## Job Specific Behaviours (general)

Role	Characteristics
Freedom of Information Officer (Enforcement)	<ul style="list-style-type: none"> <li>A. Identifies key issues in an application and applies judgement consistently to reach sound and justified decisions as quickly as possible</li> <li>B. Develops effective and appropriate relationships with applicants and public authority staff</li> <li>C. Presents complex and technical arguments in an accurate and understandable way</li> <li>D. Gathers, interprets and analyses complex information and situations</li> <li>E. Uses judgement to make recommendations</li> <li>F. Advises and assists others to help them understand complex issues</li> <li>G. Maintains and develops knowledge of the structure and operation of public bodies and uses this to advise the public on legal or individual rights</li> <li>H. Maintains and develops a comprehensive knowledge of FOISA and the EIRs, associated secondary legislation and Codes of Practice and relevant case precedent</li> <li>I. Maintains and develops an appreciation of the political, legal and practical issues around freedom of information</li> </ul>
Freedom of Information Officer (P&I)	<ul style="list-style-type: none"> <li>A. Presents complex and technical arguments and information in an accurate, digestible and understandable way</li> <li>B. Gathers, collates, interprets and analyses information to present it in summary form and reports</li> <li>C. Maintains and develops strong analytical and research skills</li> <li>D. Maintains and develops an appreciation of the political, legal and practical issues around FOI.</li> <li>E. Maintains and develops a good working knowledge of the functions and work of central government, the Scottish Government and Scottish Parliament</li> <li>F. Has an understanding of the structure and operation of public bodies in Scotland</li> <li>G. Maintains and develops skills and knowledge in own area(s) of specialism</li> <li>H. Manages relationships with a range of stakeholders, including media</li> </ul>

## Job Specific Behaviours (general)

Role	Characteristics
Administration Officer (P&I)	<ul style="list-style-type: none"> <li>A. Strong organising and planning skills, including the ability to predict demand for support and adapt plans as required.</li> <li>B. Is focused on accuracy, quality and attention to detail.</li> <li>C. Actively keeps internal and external stakeholders informed of plans and updates them when changed.</li> <li>D. Has a good understanding of the requirements on public authorities in relation to good FOI practice and is able explain these to others in an accurate and digestible way.</li> <li>E. Well-developed skills and knowledge in own areas of responsibility (e.g. statistics collection, publication schemes, etc)</li> <li>F. Ability to collect, collate and report internal management information and prepare datasets.</li> </ul>
Heads of Department	<ul style="list-style-type: none"> <li>A. Initiates discussions with key influencers and decision makers and gains confidence and support</li> <li>B. Develops and implements influencing strategies</li> <li>C. Maintains a full knowledge of the Operational Plan, and takes a leading role in its development for own work area</li> <li>D. Ensures everyone is clear what their role is and how it links to the organisations' objectives</li> <li>E. Promotes collaborative working within the SMT and within &amp; across teams</li> <li>F. As a member of the SMT, shares responsibility for organisational governance and maintains an appropriate knowledge of relevant statutory and legal requirements</li> <li>G. Seeks new ways to improve performance, setting an example to others</li> <li>H. Establishes clear monitoring systems for team/individual performance</li> <li>I. Encourages colleagues to try out new approaches to their work and manages risk sensibly</li> <li>J. Maintains and develops technical and professional skills and knowledge as appropriate</li> </ul>

## Job Specific Behaviours (general)

Role	Characteristics
Line Manager	<ul style="list-style-type: none"> <li>A. Builds communication networks beyond immediate team</li> <li>B. Creates a supportive and challenging environment, helping team members to realise their potential</li> <li>C. Implements positive change</li> <li>D. Ensures others understand their role objectives and how they contribute to team performance</li> <li>E. Is committed to continuous improvement of services, sharing ideas with managers and colleagues</li> <li>F. Gives clear direction to the team and keeps them informed of wider organisational issues</li> <li>G. Provides a clear appreciation of the team's efforts and supports them when there are difficulties</li> <li>H. Encourages the team to share ideas, solutions and new approaches</li> <li>I. Provides learning opportunities for the team</li> <li>J. Takes responsibility for planning and developing courses of action, including responsibility for the work of others and the overall performance of the team</li> <li>K. Recognises and pursues opportunities to improve productivity</li> <li>L. Explains ideas in a clear and concise manner and presents a well-structured case</li> </ul>
Validation Officer / Failure to Respond Investigator	<ul style="list-style-type: none"> <li>A. A full understanding of the process of making an information request and an application to the Commissioner, in particular the requirements, under FOISA and the EIRs, for a valid information request, requirement for review and application to the Commissioner.</li> <li>B. A full understanding of the requirements on public authorities to respond to information requests and requests for review within the timescales set down by FOISA and the EIRs</li> <li>C. Good drafting skills, including the ability to write letters and decisions based on templates</li> <li>D. The ability to explain technical legal matters regarding validation to applicants and public authorities</li> <li>E. Actively keeps stakeholders informed of plans and updates them when things change</li> <li>F. Strong organising and planning skills</li> <li>G. Focused on accuracy, quality and attention to detail</li> </ul>

<b>Job Specific Behaviours (general)</b>	
<b>Role</b>	<b>Characteristics</b>
Administrator	<ul style="list-style-type: none"> <li>A. Actively keeps stakeholders informed of plans and updates them when things change</li> <li>B. Strong organising and planning skills</li> <li>C. Has well-developed skills and knowledge in own area(s) of responsibility (e.g. Records Management; IT, PA function etc.)</li> <li>D. Highly responsive, adapting to changing demands</li> <li>E. Focused on accuracy, quality and attention to detail</li> <li>F. An understanding of the process of making an information request and an application to SIC</li> <li>G. An understanding of the requirements on public authorities to respond to information requests and requests for review within the timescales set down by FOISA and the EIRs</li> </ul>
Enforcement Team Support Assistant	<ul style="list-style-type: none"> <li>A. Good organising and planning skills</li> <li>B. An understanding of the process of making an information request and an application to SIC</li> <li>C. Focused on accuracy, quality and attention to detail</li> <li>D. Responsive to the needs of the team, but recognising where work needs prioritised</li> </ul>
Finance and Administration Manager	<ul style="list-style-type: none"> <li>A. Analyses complex information and situations and uses judgement to make recommendations</li> <li>B. Presents complex and technical arguments in an accurate and understandable way</li> <li>C. Advises and assists others to help them understand complex issues</li> <li>D. Highly responsive, adapting to changing demands</li> <li>E. Highly focused on accuracy, quality and attention to detail</li> <li>F. Excellent planning and organising skills</li> <li>G. Maintain and develops ability to extract data from different sources to create statistics and information</li> <li>H. Applies advanced IT skills and techniques to manipulate and interrogate data, and produce reports</li> <li>I. Maintains and develops knowledge of a wide range of statutory and legal obligations, including those relating to finance and accounting, pensions administration, health &amp; safety, data protection and employment law</li> <li>J. Maintains a good understanding and awareness of the SIC's governance arrangements, including SIC's relationship with key stakeholders e.g. SPCB, Audit Scotland</li> <li>K. An understanding of the process of making an information request and an application to SIC and responds confidently to them</li> <li>L. An understanding of the requirements on public authorities to respond to information requests and requests for review within the timescales set down by FOISA and the EIRs</li> </ul>

### Job Specific Behaviours (general)

Role	Characteristics
Freedom of Information Officer (Enforcement)	<ul style="list-style-type: none"> <li>A. Identifies key issues in an application and applies judgement consistently to reach sound and justified decisions as quickly as possible</li> <li>B. Develops effective and appropriate relationships with applicants and public authority staff</li> <li>C. Presents complex and technical arguments in an accurate and understandable way</li> <li>D. Gathers, interprets and analyses complex information and situations</li> <li>E. Uses judgement to make recommendations</li> <li>F. Advises and assists others to help them understand complex issues</li> <li>G. Maintains and develops knowledge of the structure and operation of public bodies and uses this to advise the public on legal or individual rights</li> <li>H. Maintains and develops a comprehensive knowledge of FOISA and the EIRs, associated secondary legislation and Codes of Practice and relevant case precedent</li> <li>I. Maintains and develops an appreciation of the political, legal and practical issues around freedom of information</li> </ul>
Freedom of Information Officer (P&I)	<ul style="list-style-type: none"> <li>A. Presents complex and technical arguments and information in an accurate, digestible and understandable way</li> <li>B. Gathers, collates, interprets and analyses information to present it in summary form and reports</li> <li>C. Maintains and develops strong analytical and research skills</li> <li>D. Maintains and develops an appreciation of the political, legal and practical issues around FOI.</li> <li>E. Maintains and develops a good working knowledge of the functions and work of central government, the Scottish Government and Scottish Parliament</li> <li>F. Has an understanding of the structure and operation of public bodies in Scotland</li> <li>G. Maintains and develops skills and knowledge in own area(s) of specialism</li> <li>H. Manages relationships with a range of stakeholders, including media</li> </ul>
Administration Officer (P&I)	<ul style="list-style-type: none"> <li>A. Strong organising and planning skills, including the ability to predict demand for support and adapt plans as required.</li> <li>B. Is focused on accuracy, quality and attention to detail.</li> <li>C. Actively keeps internal and external stakeholders informed of plans and updates them when changed.</li> <li>D. Has a good understanding of the requirements on public authorities in relation to good FOI practice and is able explain these to others in an accurate and digestible way.</li> <li>E. Well-developed skills and knowledge in own areas of responsibility (e.g. statistics collection, publication schemes, etc)</li> <li>F. Ability to collect, collate and report internal management information and prepare datasets.</li> </ul>

### Job Specific Behaviours (general)

Role	Characteristics
Heads of Department	<ul style="list-style-type: none"> <li>A. Initiates discussions with key influencers and decision makers and gains confidence and support</li> <li>B. Develops and implements influencing strategies</li> <li>C. Maintains a full knowledge of the Operational Plan, and takes a leading role in its development for own work area</li> <li>D. Ensures everyone is clear what their role is and how it links to the organisations' objectives</li> <li>E. Promotes collaborative working within the SMT and within &amp; across teams</li> <li>F. As a member of the SMT, shares responsibility for organisational governance and maintains an appropriate knowledge of relevant statutory and legal requirements</li> <li>G. Seeks new ways to improve performance, setting an example to others</li> <li>H. Establishes clear monitoring systems for team/individual performance</li> <li>I. Encourages colleagues to try out new approaches to their work and manages risk sensibly</li> <li>J. Maintains and develops technical and professional skills and knowledge as appropriate</li> </ul>
Line Manager	<ul style="list-style-type: none"> <li>A. Builds communication networks beyond immediate team</li> <li>B. Creates a supportive and challenging environment, helping team members to realise their potential</li> <li>C. Implements positive change</li> <li>D. Ensures others understand their role objectives and how they contribute to team performance</li> <li>E. Is committed to continuous improvement of services, sharing ideas with managers and colleagues</li> <li>F. Gives clear direction to the team and keeps them informed of wider organisational issues</li> <li>G. Provides a clear appreciation of the team's efforts and supports them when there are difficulties</li> <li>H. Encourages the team to share ideas, solutions and new approaches</li> <li>I. Provides learning opportunities for the team</li> <li>J. Takes responsibility for planning and developing courses of action, including responsibility for the work of others and the overall performance of the team</li> <li>K. Recognises and pursues opportunities to improve productivity</li> <li>L. Explains ideas in a clear and concise manner and presents a well-structured case</li> </ul>



<b>Job Specific Behaviours (general)</b>	
<b>Role</b>	<b>Characteristics</b>
Validation Officer / Failure to Respond Investigator	<ul style="list-style-type: none"> <li>A. A full understanding of the process of making an information request and an application to the Commissioner, in particular the requirements, under FOISA and the EIRs, for a valid information request, requirement for review and application to the Commissioner.</li> <li>B. A full understanding of the requirements on public authorities to respond to information requests and requests for review within the timescales set down by FOISA and the EIRs</li> <li>C. Good drafting skills, including the ability to write letters and decisions based on templates</li> <li>D. The ability to explain technical legal matters regarding validation to applicants and public authorities</li> <li>E. Actively keeps stakeholders informed of plans and updates them when things change</li> <li>F. Strong organising and planning skills</li> <li>G. Focused on accuracy, quality and attention to detail</li> </ul>

**Note**

993. As a guide, the job specific behaviours for HODs, and the FAM are derived by combining behaviours, as set out in the table below:

<b>Head of Enforcement</b>	<b>Head of Policy &amp; Information</b>	<b>Head of Corporate Services</b>
Head of Department	Head of Department	Head of Department
Line Manager	Line Manager	Line Manager
Freedom of Information Officer (Enforcement)	Freedom of Information Officer (Policy & Information)	Finance and Administration Manager
<b>Deputy Head of Enforcement</b>	<b>Finance &amp; Administration Manager</b>	
Line Manager	Line Manager	
Freedom of Information Officer (Enforcement)	Finance & Administration Manager	

994. The emphasis placed on the characteristics for each behaviour should be adjusted to reflect the role and responsibilities, as appropriate.

## Part B – Using Behaviours to Create Personal Objectives

995. Please refer above for an explanation of Personal Objectives.
996. Personal Objectives are set in the context of the relevant behaviour(s). In some instance articulating a Personal Objective may cut across multiple behaviours. In these cases, simply use the primary behaviour to label the Personal Objective.
997. Remember, the characteristics of the behaviours given are examples. These behavioural characteristics are not an exhaustive list – jobholders and line managers have flexibility to identify additional characteristics for each behaviour as appropriate to best support effective performance and personal development.
998. Personal Objectives should be recorded in Form A (Forward Work Plan) using the table format provided in the template below. The information in each section of the form should be clear, simple and preferably in list format. It is essential that the jobholder and the line manager have a shared understanding of what is expected. The following table also describes what is meant by each heading:

<b>Behaviour</b>	Selected from the Core and Job-Specific behaviours provided at Part A
<b>Objective</b>	A succinct description of what is to be achieved
<b>Success Criteria</b>	What does good look like?
<b>Stretch (optional)</b>	To go the extra mile, do this
<b>Measures</b>	How will we know if the objective has been achieved?

999. Illustrative examples of Personal Objectives are provided below.

## Illustrative Personal Objectives

### Administrator

1	<b>Behaviour</b>	Job Specific
	<b>Objective</b>	Provide high quality administrative support to the Commissioner and HOE
	<b>Success Criteria</b>	Anticipate needs and demands of management Maintain confidentiality and exercise discretion Work to defined targets and deadlines
	<b>Stretch (optional)</b>	Become increasingly proactively in providing support
	<b>Measures</b>	A well organised manager Feedback from the manager(s) concerned

2	<b>Behaviour</b>	Workload Management & Results Orientation
	<b>Objective</b>	Demonstrate effective planning and organisation of workload
	<b>Success Criteria</b>	Good prioritisation skills New tasks captured and built into plans Tasks completed on time (including to agreed revised timescales)
	<b>Stretch (optional)</b>	
	<b>Measures</b>	Majority of work completed within prescribed timescales Good quality of work

3	<b>Behaviour</b>	Job Specific
	<b>Objective</b>	Maintain and develop expertise in Information and Records Management
	<b>Success Criteria</b>	Changes in legislation and good practice are identified and raised with HOCS
	<b>Stretch (optional)</b>	
	<b>Measures</b>	Feedback from HOCS Internal Audit Evidence of training and reading undertaken

4	<b>Behaviour</b>	Job Specific
	<b>Objective</b>	Successful implementation of records review process
	<b>Success Criteria</b>	Retention and Disposal procedures applied effectively in line with schedule Documentation reviewed and updated in line with schedule
	<b>Stretch (optional)</b>	Additional improvements developed and introduced
	<b>Measures</b>	Feedback from HOCS Annual governance report to SMT Internal Audit

5	<b>Behaviour</b>	Information and Records Management
	<b>Objective</b>	Meet standards for Records Management, and for responding to Enquiries, Information Requests (RFIs)
	<b>Success Criteria</b>	Enquiries and IRs responded to by target dates Enquiries and IRs responses are accurate and appropriate Records are managed in line with procedures
	<b>Stretch (optional)</b>	
	<b>Measures</b>	Review of Enquiries report from WorkPro Review of IRs report from WorkPro Review of records management performance

## Freedom of Information Officer (P&I)

1	<b>Behaviour</b>	Workload Management & Results Orientation
	<b>Objective</b>	As Project Manager, deliver allocated projects as detailed in the Operational Plan
	<b>Success Criteria</b>	PID, Workplan and project reports prepared in line with procedures Project Outputs delivered on time Project Outputs delivered are of required quality
	<b>Stretch (optional)</b>	Reduced need for support and guidance from Project Executive
	<b>Measures</b>	PID, Workplan and other project documents approved by SMT / Programme Board Feedback from Project Executive SMT approval of Outputs

2	<b>Behaviour</b>	Workload Management & Results Orientation
	<b>Objective</b>	Demonstrate effective planning and organisation of workload
	<b>Success Criteria</b>	Good prioritisation skills New tasks captured and built into plans Tasks completed on time (including to agreed revised timescales)
	<b>Stretch (optional)</b>	
	<b>Measures</b>	Majority of work completed within prescribed timescales Good quality of work

3	<b>Behaviour</b>	Job Specific
	<b>Objective</b>	Maintain and develop expertise in XXXXXXXXXXXXX
	<b>Success Criteria</b>	Changes in legislation and good practice are identified and raised with HOPI
	<b>Stretch (optional)</b>	
	<b>Measures</b>	Feedback from HOPI Evidence of training and reading undertaken

4	<b>Behaviour</b>	Information and Records Management
	<b>Objective</b>	Meet standards for Records Management, and for responding to Enquiries, Information Requests (RFIs)
	<b>Success Criteria</b>	Enquiries and IRs responded to by target dates Enquiries and IRs responses are accurate and appropriate Records are managed in line with procedures
	<b>Stretch (optional)</b>	
	<b>Measures</b>	Review of Enquiries report from WorkPro Review of IRs report from WorkPro Review of records management performance

5	<b>Behaviour</b>	
	<b>Objective</b>	
	<b>Success Criteria</b>	
	<b>Stretch (optional)</b>	
	<b>Measures</b>	

## Freedom of Information Officer (Enforcement)

1	<b>Behaviour</b>	Workload Management & Results Orientation
	<b>Objective</b>	To meet the attached KPIs
	<b>Success Criteria</b>	KPIs met
	<b>Stretch (optional)</b>	Target higher than above
	<b>Measures</b>	Monthly statistical report

2	<b>Behaviour</b>	Co-operative Working
	<b>Objective</b>	Share examples of good and bad authority practice internally
	<b>Success Criteria</b>	Contributions at Enforcement Team Meetings Issues and non-compliance records in WorkPro updated appropriately
	<b>Stretch (optional)</b>	
	<b>Measures</b>	Feedback from DHOE Review of WorkPro Records

3	<b>Behaviour</b>	Job Specific
	<b>Objective</b>	Write clear, concise and well-argued Decisions
	<b>Success Criteria</b>	Decisions written in plain English Arguments well-presented Analysing and judgement skills evidenced
	<b>Stretch (optional)</b>	
	<b>Measures</b>	Extent editing required Feedback from the Commissioner / HOE / DHOE Number of times draft returned for additional work

4	<b>Behaviour</b>	Co-operative Working
	<b>Objective</b>	Ensure smooth introduction of revised investigation procedures
	<b>Success Criteria</b>	Familiar with and applies revised procedures Supports colleagues where requested Contributes to problem solving where necessary
	<b>Stretch (optional)</b>	
	<b>Measures</b>	Feedback from the Commissioner/ HOE / DHOE

5	<b>Behaviour</b>	Workload Management & Results Orientation
	<b>Objective</b>	Meet standards for responding to Enquiries, Requests for Information (RFI), and Records Management
	<b>Success Criteria</b>	Enquiries and RFI responded to by target dates Enquiries and RFI responses are accurate and appropriate Records are managed in line with procedures
	<b>Stretch (optional)</b>	
	<b>Measures</b>	Review of Enquiries report from WorkPro Review of RFI report from WorkPro Review of records management performance

## Form A – Forward Work Plan

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<b>Jobholder name:</b>	
<b>Job title:</b>	
<b>Line manager name:</b>	
<b>Period covered by this plan:</b>	
<b>Date this plan agreed:</b>	

### Personal Objectives<sup>5</sup>

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<b>1</b>	<b>Behaviour</b>	
	<b>Objective</b>	
	<b>Success Criteria</b>	
	<b>Stretch (optional)</b>	
	<b>Measures</b>	

<b>2</b>	<b>Behaviour</b>	
	<b>Objective</b>	
	<b>Success Criteria</b>	
	<b>Stretch (optional)</b>	
	<b>Measures</b>	

<b>3</b>	<b>Behaviour</b>	
	<b>Objective</b>	
	<b>Success Criteria</b>	
	<b>Stretch (optional)</b>	
	<b>Measures</b>	

<b>4</b>	<b>Behaviour</b>	
	<b>Objective</b>	
	<b>Success Criteria</b>	
	<b>Stretch (optional)</b>	
	<b>Measures</b>	

<b>5</b>	<b>Behaviour</b>	
	<b>Objective</b>	
	<b>Success Criteria</b>	
	<b>Stretch (optional)</b>	
	<b>Measures</b>	

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<sup>5</sup> Delete or add boxes as required.

## Personal Development Plan

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1000. Consider the areas of knowledge or skills that you will need to achieve your objectives and the most effective way to develop these skills.

	<b>What is your learning need?</b>	<b>How do you think you could meet this need?</b>	<b>What objective(s) (above) does this link to?</b>
<b>1</b>			
<b>2</b>			
<b>3</b>			
<b>4</b>			

**Form B: In-Year Review Meeting Record**

<b>Jobholder name:</b>	
<b>Line manager name:</b>	
<b>Period covered by this review:</b>	
<b>Date of review:</b>	

**Summary of Discussion**

<b>Record progress and performance against objectives</b>
<b>Record any objectives that have been achieved and the standard of performance</b>
<b>If appropriate, amend objectives to reflect changed circumstances or priorities (Form A), and note the changes here</b>
<b>Consider any learning and development actions and review the personal development plan (Form A) as appropriate</b>
<b>Record any action points agreed during the meeting</b>



**Form C: Performance & Development Review Self-Assessment**

<b>Jobholder name:</b>	
<b>Line manager name:</b>	
<b>Period covered by this review:</b>	
<b>Date of review:</b>	

**To be completed by the Jobholder and given to the Line Manager at least 5 working days before the review meeting**

<b>Summarise your main achievements in relation to your Objectives, Key Results and Personal Development Plan for the review period.</b>

<b>Provide a summary of any factors affecting achievement of your Objectives, Key Results and Personal Development Plan or your contribution to the Commissioner’s work over the review period.</b>

**Overall, do you think you have met / not met your objectives?**

**Met  Not Met**

**Please list major activities, tasks and priorities anticipated in the coming review period, and any training or other support that you will need to assist you in achieving them. (In**

**planning your priorities and development activities for the coming period you should take account of known/anticipated Operational Plan activities, discussions with your Line Manager or HoD etc.)**

## Form D: Performance & Development Review Meeting Record

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<b>Jobholder name:</b>	
<b>Line manager name:</b>	
<b>Period covered by this review:</b>	
<b>Date of review:</b>	

### Summary of Discussion

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#### To be completed by the Line Manager

<b>Record the achievements in relation to the Objectives, Key Results and Personal Development Plan for the review period.</b>
<b>Record any Objectives, Key Results and Personal Development Plan activities not achieved and any factors affecting achievement. If appropriate, note any action agreed to reduce the impact of such factors in the future.</b>
<b>Record any views on future development needs / opportunities</b>

<b>Record any action points agreed</b>

<b>Line Manager</b>	
<b>The Jobholder has met/ has not met objectives</b>	
Met <input type="checkbox"/> Not Met <input type="checkbox"/>	
<b>Signed:</b>	<b>Date:</b>

<b>Jobholder</b>	
<b>Comments (optional)</b>	
<b>Signed:</b>	<b>Date:</b>



## Document control sheet

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Summary of changes to document				
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26/10/23	BOW	09.00	09.01	New document created following approval of draft
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