



Cabinet Office

Efficiency Compensation 2016

Departures in the interests of the continued efficiency of the service and the wellbeing of the individual

November 2016

Foreword

1. This guidance replaces PIN 40 published in October 2001. It does not occasion any change in terms and conditions for civil servants.
2. Section 11.4 of the Civil Service Management Code sets out the discretion which departments and agencies have to pay compensation in cases where staff depart on Inefficiency grounds. In the event of a decision to compensate, departments and agencies have to decide on the level of compensation which would be appropriate to reflect the degree of individual and departmental/agency responsibility. Guidelines for making these decisions are given below.
3. The maximum level of compensation which may be payable if the employing department or agency decides that such compensation is appropriate is set out in Section 11 of the Civil Service Compensation Scheme.
4. When applying this policy managers must be aware that the nature of some illnesses can alter perceptions and behaviour. For example, a mental health condition might adversely affect behaviour following years of good service. Therefore, a longer-term view must be taken with advice from OH where this could be the case.
5. Any enquiries about the contents of this guidance should be directed to s11payment@cabinetoffice.gov.uk.

Making Decisions about Efficiency

Departure Compensation

Introduction

6. Efficiency Departures are made to balance the interest and the wellbeing of the individual and in the interests of the continued efficiency of the Department.
7. Compensation should be considered for civil servants when they are dismissed on efficiency grounds under section 6.3 of the Civil Service Management Code. The objective of the compensation is to compensate the employee for loss of employment that is beyond their control; not to compensate for poor performance or poor attendance when there is no underlying health condition. Compensation is not guaranteed.
8. Compensation payments are paid under the Civil Service Compensation Scheme (CSCS) rules, as set out in Section 11 of the CSCS.
9. Employers must notify individuals of their right to appeal against non payment of compensation and/or the amount of compensation to the Civil Service Appeal Board (CSAB). This notification should include details of the deadline for notifying CSAB of an appeal.

Purpose

10. The purpose of this guidance is to assist decision makers in assessing:
 - whether employees are eligible to be considered for compensation when dismissed on efficiency grounds;
 - if any compensation should be paid;
 - if paid, the amount to be paid.

Considering payment

11. Compensation can be made to civil servants following dismissal on efficiency grounds. To qualify to be considered for this payment, the employee has to have at least 1 years service.
12. When deciding whether to compensate the employee on efficiency grounds consideration may be based on: health conditions both long term and intermittent, where the condition is not judged appropriate for medical retirement but does affect attendance and/or performance thereby impacting the Service' s efficiency. It is important to note that unsatisfactory attendance or poor performance dismissal criteria should not be applied in such cases. Decisions about compensation should be based on the employee' s health condition(s) and circumstances.
13. It is not possible to give strict criteria against which individual cases may be assessed. Each case should be considered on its merits, following the general guidelines in this note and with regard to Civil Service diversity and equality considerations.

When not to approve compensation

14. Compensation must not be awarded where any of the following criteria would apply:
 - in any discipline/ misconduct dismissals
 - where investigations establish evidence that the attendance management policy has been abused by the employee
 - in dismissals where there is no evidence that they are related to an underlying ill-health condition or conditions.

When to approve compensation in principle

15. A payment would be made only when the following requirements are met:
 - where medical evidence exists or can be obtained to show that the employee's unsatisfactory attendance or performance is caused by an underlying medical condition (or combination of conditions) or circumstances in the context of their medical condition, which is, at least partly, beyond the control of the individual
 - there is clear evidence that the employee has made efforts to comply with relevant departmental policies [LINK to relevant policies], and cooperate with Occupational Health (OH) Service requirements and there is clear evidence that the employee has tried to improve their attendance/performance by cooperating with their department. For example the employee has:
 - sought and accepted agreed reasonable adjustments, where relevant;
 - demonstrated commitment, where appropriate, to return to work/has attempted to return to work in unsatisfactory attendance cases;
 - demonstrated a positive attitude and commitment to work where possible, for example they have attempted to implement recommended changes to working practices.
16. In considering these factors managers must be aware and take into account that the nature of some illnesses can alter perceptions and behaviour. For example, a mental health condition might adversely affect behaviour following years of good service. Therefore, a longer-term view must be taken with advice from OH where this could be the case.

Compensation levels

17. When deciding on the amount of compensation to be paid managers should take evidence into consideration as outlined below.

Evidence

18. Evidence which managers need to consider may consist of a recent and relevant combination of medical evidence and supporting evidence:
19. Medical evidence would include:
 - OH reports
 - medical reports or General Practitioners' reports
 - specialist reports, as appropriate.
20. Supporting evidence would include:
 - agreed attendance/performance management meetings notes.
 - recorded evidence of efforts of the individual to remain in work or improve performance e.g. correspondence or documented actions.
 - recorded evidence of the support the individual has received from their managers and employer to remain at or return to work or improve performance.

Guide for Calculating Compensation

This should not be considered as strict criteria to assess compensation as it is in the interests of the individual and the employer for there to be flexibility to consider each case on its merits. Therefore the bullet points in the table below will not necessarily be relevant in all cases; nor should they be read as specific requirements all of which must apply in respect of each level of compensation.

Employers should be aware that whilst there is an obligation on the employee to co-operate with measures to improve, make reasonable adjustments and keep in touch, there is a mutual obligation on the employer that they will make this possible. For example where there is a change of line manager or contact details these must be communicated to employees who may be absent.

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| <p>100% compensation</p> | <ul style="list-style-type: none"> • The employee has co-operated with all measures to improve their attendance/performance (e.g. put in place agreed reasonable adjustments, changed working practices, attended medical appointments) and been proactive in seeking solutions. • The employee has kept in touch with the Department throughout all of their absence. • The employee demonstrated a positive attitude and showed full commitment to work. Where possible, trying to return to work. • The employee has sought and co-operated with all attempts to make reasonable adjustments. • The employee has co-operated with departmental OH services and followed all of their advice. |
| <p>Around 75%</p> | <ul style="list-style-type: none"> • The employee co-operated with all measures to improve their attendance/performance (e.g. attended the relevant training, changed working practices, attended medical appointments) and demonstrated pro-activity in seeking their own solutions. • The employee has kept in touch with the Department for most of their absence. • The employee demonstrated a positive attitude and is committed to their work. • The employee has sought and co-operated with most attempts to make reasonable adjustments. • The employee has co-operated with departmental OH services and followed most of their advice. |

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| <p>Around 50%</p> | <ul style="list-style-type: none"> • The employee co-operated with most measures to improve their attendance/performance (e.g. attended the relevant training, changed working practices, attended medical appointments) and demonstrated some pro-activity in seeking their own solutions. • The employee has kept in touch with the Department for some of their absence. • The employee demonstrated a positive attitude and shown a fair amount of commitment to their work. • The employee has shown a fair amount of desire to try and return to work. • The employee has sought and co-operated with a fair number of attempts to make reasonable adjustments. • The employee has co-operated with departmental OH services and followed a fair amount of their advice. |
| <p>Around 25%</p> | <ul style="list-style-type: none"> • The employee co-operated with some measures to improve their attendance/performance (e.g. attended the relevant training, changed working practices, attended medical appointments) and demonstrated limited pro-activity in seeking their own solutions. • The employee has had to be reminded to keep in touch with the Department during their absence. • The employee demonstrated a positive attitude and showed some commitment to work. • The employee has sought and co-operated with some attempts to make reasonable adjustments. • The employee has co-operated with departmental OH services and followed some of their advice |
| <p>0% compensation</p> | <ul style="list-style-type: none"> • The nature of the problem is entirely or almost entirely within the employee' s control. The employee has not attempted to keep in touch with the Department during their absence. • The employee has a poor attitude or little commitment to work (for example carelessness and/or negligence, requiring a lot of management attention for no good reason). • The employee has not co-operated with departmental OH Services or any of the suggested measures to improve their attendance/performance (e.g. attended the relevant training, changed working practices, attended medical appointments) and has not sought out their own solutions. |