

Staff Handbook PRE 2015 – PROCEDURES ONLY

Part B: Procedures - Working in Highways England

[2.1 Recruitment Procedure](#)

[2.1 Secondment Procedure](#)

2.2 Probation procedure (not currently available)

Chapter 2.4 - Part B: Leave

2.4.15 Annual leave during sickness absence

If you are on long term sickness absence, the following procedures will apply:

1. Accrual of annual leave
 - a. You will continue to accrue annual leave at the rate applicable to your individual terms and conditions , exclusive of public and privilege holidays (see Chapter 2A Section 2.4.2)
 - b. If you work non-standard hours you will accrue annual leave on a pro-rata basis. See [Chapter 2A, Section 2.4.3](#).
2. Taking annual leave during sickness absence
 - a. If you want to take annual leave during a period of sickness absence, you must agree this with your line manager in advance. Your line manager will then raise a service ticket with Shared Services arvato to book your annual leave and make appropriate arrangements for you to be paid for the period of annual leave. If you are on half pay or nil pay, your salary will be adjusted to reflect the fact that you are on paid annual leave for this period.
 - b. Your line manager can provide you with information about the amount of annual leave you have accrued.
 - c. Any period of annual leave taken during long term sickness absence will not break the continuity of your sickness absence. This is because if your annual leave was refused, you would still be sick and therefore absent from work.
 - d. Requests for annual leave during sickness absence will not normally be refused, provided you have accrued sufficient annual leave (including any leave carried over from previous leave years) to cover the period you wish to take.
 - e. Both you and your line manager have shared responsibility in managing any annual leave accrued during periods of sickness absence.
3. Taking accrued annual leave at the end of your sick absence before or as part of your return to work
 - a. If you have been absent for a long period and you have not taken any accrued annual leave during your sickness absence, you will be encouraged to take the accrued leave at the end of your sickness absence, before you return to work.
 - b. If appropriate, this may form part of a phased return to work to help your rehabilitation back into the work environment. This has advantages in that it may:
 - i. help to gently re-introduce you back into the work environment, and
 - ii. a phased return has been recommended by medical advisers / occupational health advisers after an extended absence, it may enable you to be paid for days when you may have otherwise been on unpaid sick absence
 - c. Requests to take annual leave immediately before a return to work, or as part of a phased return, will not be refused, except for overriding business reasons or where the process for requesting leave has not been followed, provided you have sufficient annual leave available to cover the period you wish to take. In considering requests for annual leave in these circumstances, line managers should apply the same approach as when considering requests for similar periods of annual leave from any other individual. See the annual leave policy, [Chapter 2A Section 2.4](#).
- 4 Carrying forward accrued annual leave
 - a. You are not obliged to take accrued annual leave before your return to work. However, if you return to work and have had the opportunity to take the leave before the end of your leave

year, but did not ask to do so, then any excess over normal carry over limits will be lost. See the annual leave policy, [Chapter 2A, Section 2.4](#).

- b. For example, if you return to work too near to the end of the leave year to take all your accrued annual leave (e.g. you return two weeks before the end of the leave year, and you have accrued four weeks leave), you will not have had the opportunity to use all the leave before the end of the leave year and may carry it forward.
- c. You should also note that your manager can also ask you to take your accrued annual leave, subject to giving you the required notice. Managers have a shared responsibility to ensure that your accrued annual leave is used as soon as practicable, however, if you have the opportunity to take your annual leave but do not do so (as per paragraph 4a), excess over normal carry over limits will be lost.
- d. If you request to take annual leave, but your request is refused for business reasons, and the leave cannot be rescheduled by the end of the leave year, then again you may carry forward the unused balance.
- e. In considering requests for annual leave from those returning from long term sickness absence, line managers should apply the same approach as when considering requests from any other individual. Requests will not be refused except for overriding business reasons or where the process for requesting leave has not been followed. See the annual leave policy [Chapter 2A, Section 2.4](#).
- f. If you have been absent for the whole leave year and have not taken any annual leave during your absence, you can carry forward your accrued annual leave to the next leave year. Once you return to work, you may continue to carry it forward until you have an opportunity to take it. You should bear in mind, however, that if it is possible for you to take the leave you must do so, otherwise it will be lost.

5. Payment in lieu for untaken leave

- a. If your employment terminates, you will receive payment in lieu of any untaken annual leave, including any untaken leave accrued during sickness absence in an earlier leave year. This is the only circumstance in which you will be paid for untaken annual leave.
- b. Payment will be calculated in accordance with the usual rules.

6. Sickness absence during annual leave

- a. If you fall ill or suffer an accident during a period of annual leave, this period may be recorded as sickness absence provided that you inform your manager:
 - i. on the first day of illness or, if abroad, immediately on return to the country, and/or
 - ii. if you cannot return to work at the end of the period of annual leave
- b. A self certificate must be provided on return to work or, if the illness exceeds seven calendar days, a fit for work certificate must be supplied to cover the period of sickness. If the illness has occurred while abroad, an equivalent document from the overseas doctor/hospital must be provided.
- c. The normal return to work procedures must then be followed.
- d. Failure to follow these procedures will result in you being unable to reclaim your annual leave.

7. Sickness absence during annual leave

Any period of annual leave taken during sickness absence will continue to count towards limits of sickness absence for unsatisfactory attendance or inefficiency proceedings.

8. Keeping in touch

During any period of annual leave taken during long term sickness absence, the normal keeping in touch requirements may be suspended, subject to agreement with your manager.

Chapter 2.5 - Part B: Parental Procedures

[Part A: Policy](#)

[Part C: Guidance](#)

[2.5.3 Additional Paternity leave procedure](#)

[2.5.4 Parental Leave procedure](#)

[2.5.5 Shared Parental Leave procedure](#)

Chapter 2.5.3 - Part B: Parental Policies - Additional Paternity leave procedure

Additional paternity leave and pay is no longer be available for babies due after 5 April 2015. It has been replaced with Shared Parental Leave ([see Chapter 2.5.5, Part B](#))

a) Inform line manager, complete the request and sign the declaration

The employee must inform their Line Manager in writing at least eight weeks before they want to start their Additional Paternity Leave. The employee should do this using the HMRC SC7 form

b) The mother or primary adopter makes a declaration

The child's mother or the primary adopter who has taken maternity or adoption leave must also make a declaration.

c) Submit the request

Submit the relevant HMRC SC7 form and declaration to your line manager giving at least 8 weeks' notice.

d) Communicate the Decision in Writing

Highways England must write to the employee within 28 calendar days of them making the request, letting the employee know if they are eligible for leave and pay and affirming the dates. See model letter 1 (Chapter 2C Section 2.5.3)

If an employee is not eligible, an ASPP 1 form must be sent to explain the reason why.

The leave and pay dates may be different as eligible employees will only be paid for the outstanding term of the mother or primary adopter's 39 week statutory payment period. Employees will only be paid Additional Statutory Paternity Pay where there is at least 2 weeks remaining of the mother's maternity pay period or primary adopter's adoption pay period (which lasts 39 continuous weeks) following their return to work. Any Additional Paternity Leave taken after the end of the 39 weeks is unpaid.

e) Confirming Information

Highways England may choose to check a small sample of applications to ensure the information is correct. Highways England may, in accordance with the Regulations, require the employee to provide details of the mother's or adopter's employer and may then choose to write seeking confirmation of the details provided.

Highways England may also request a copy of the child's birth certificate or matching certificate. If so these must be given within 28 calendar days of it being requested.

f) Notification of Changes

Employees must give at least 6 weeks notice if they wish to change the date of their leave or if they no longer wish to take their leave. If they do so and the change cannot be accommodated, for example because cover has already been hired; the original dates can be enforced for up to 6 weeks after the date on which the employee ought to have given notice.

If the mother or primary adopter has not returned to work or the employee will not be caring for the child, the entitlement to Additional Paternity Leave ceases. The onus is on the employee to tell Highways England as soon as possible.

g) The Mother/Primary Adopter returns to work

Before the employee can start Additional Paternity Leave, the child's mother or the primary adopter must have returned to work. Please refer to Q&A Q8 for what constitutes 'returned to work'. (Chapter 2C Section 2.5.3 a)).

h) Starting Additional Paternity Leave

Once the mother/primary adopter has returned to work, the employee can, subject to giving the required notice and complying with the notification requirements, start their leave and pay (where eligible) on the agreed date.

i) Return to Work

The manager must, 2 weeks prior to return, confirm in writing that the employee will be returning to the same job or to give details of an alternative role. See model letter 2: Welcome back (Chapter 2C Section 2.5.3).

If the employee fails to return to work on the agreed date the manager must write to them immediately. See Model Letter 3: Failure to return to work (Chapter 2C Section 2.5.3).

Chapter 2.5.4 - Part B: Parental Policies - Parental Leave procedure

1. If you wish to request parental leave you must give 21 days notice in writing to your line manager of the start and end dates for each period of leave, stating the name, date of birth (or adoption date) of the child concerned. (In the case of a new adoption or where a child is born prematurely, you can give less notice if 21 days is not reasonably practicable). However, where possible, staff are encouraged to give as much notice as possible. If you give less than one month's notice there is a risk that you may receive pay for days not worked, in which case this will be recovered from you as soon as possible.
2. Line managers are responsible for operating parental leave.
3. Line managers must respond to a request for parental leave within seven days of receipt. If the line manager is known to be absent during that period, the request must be made to the next appropriate manager in the reporting line. In the absence of a response within seven days, the request for parental leave will be deemed to have been accepted.
4. Once a period of parental leave is agreed, your line manager will notify Shared Service arvato using the online system to arrange for a period of unpaid leave to be reflected in your pay, making sure that the name and birth/adoption date of the child concerned are given,
5. Your line manager will notify Shared Service arvato of each period of parental leave you take. A record will be kept on file and the amount of parental leave taken can be released to new employers, and to your current line managers. However, it will not normally be made available to prospective line managers before a vacancy is filled.

Chapter 2.6 - Part B: Flexible working procedure (working from home)

[*Part A: Policy*](#)

[*Part C: Guidance*](#)

[The flexible working procedure \(working from home\) document](#)

Chapter 2.7 - Part B: Postings, Promotions and Transfers

2.7.1 Mobility obligation

The Mobility Obligation in Highways England is set out in Chapter 2A Section 2.7.1.

2.7.2 Promotion into Senior posts (formerly SCS)

All promotion opportunities in Highways England into the Senior posts will be published and promotions only made following consideration of those candidates who meet the specified criteria. Applicants who meet the published criteria are not guaranteed an interview. The promotion panel is entitled to sift applications to a manageable number applying additional criteria or giving greater emphasis to particular competencies or by ranking applicants.

Promotion into a Senior posts will generally be through post specific boards chaired by a manager at the appropriate grade from HR.. Where several posts are to be offered on promotion at the same time these may be combined into a "mini board" - avoiding the need for individuals to appear before several different boards in a short space of time.

If you apply for promotion into a Senior post you may appeal against non-selection for interview. The panel chairman will inform you in writing of the appeal arrangements when you are notified of the results of the sift. If you consider that you have grounds for appeal against non-selection for interview you may do so on the following grounds:

- a. a procedural irregularity
- b. an infringement of Highways England's equal opportunities policy

Your appeal against non-selection for interview must be submitted in writing, and must be received by the Appeals Officer, who will be at least one Band higher than the promotion panel chairperson, by a date specified in the letter which will be no later than 2 days before the interview date. If the appeal is upheld you may be asked to attend an interview at short notice.

If you are not selected for promotion into a Senior post following an interview you also have the right to appeal on the grounds that:

- a. there has been a procedural irregularity
- b. there has been an infringement of the Highways England's equal opportunities policy at interview
- c. there were exceptional circumstances (which were not notified to the panel) which might have affected your performance at interview

Your appeal against non-selection for promotion must be submitted in writing, and must be received by the Appeals Officer within 2 working days of the interview. If your appeal is upheld, you will be informed and given an alternative interview date - this may be at short notice.

2.7.3 Promotion to Director

There is a presumption that promotion to Director level will be by advertisement but an element of flexibility will be retained where the Board considers that circumstances demand a different approach.

There is no right of appeal

2.7.4 Postings below Senior level

Highways England recognises that a balance is needed between recruitment of new staff from the external market, and the need to provide promotion opportunities for its existing workforce. Highways England is committed to developing its own staff and giving opportunities for progression. Highways England recruits new employees to meet new and/or changing business needs or to replace people who have left the organisation. Highways England will always consider what internal skills and abilities exist in the organisation before recruiting from the external market.

All posts in Highways England are open to part-time working or job sharing and must be filled by open competition.

In October 2016, a new recruitment policy and procedure was implemented and this supersedes Chapter 2.7 of the Staff Handbook (pre 1 April 2015). Unfortunately, we are unable to accommodate level transfers. Requests for compassionate transfers will be dealt with on a case by case basis.

2.7.5 Secondments

Arrangements for secondments are covered in Part B of this Staff Handbook.

Chapter 2.8 - Part B: Major disruption to travel Procedure

The purpose of this document is to provide the procedure which employees and managers need to follow in applying the major disruption to travel policy.

This document should be read in conjunction with the major disruption to travel [policy](#) and [Q&A](#).

Major disruption to travel is disruption which severely affects public transport or roads to the extent that it prevents or seriously affects a significant number of employees' efforts to come to and from work. This includes impact arising from events such as severe weather, other natural disasters, national travel strikes, or other major incidents

Major disruption to travel can be planned or unplanned. It is important where potential major disruption to travel is known about in advance that managers and employees pro-actively plan what alternative working and/or travelling arrangements may be possible. In addition, managers should consider using business unit level [business continuity management](#).

It is important in the event of unplanned major disruption to travel that managers and employees keep in touch and work together to reach an appropriate solution.

2.8.1 Employee Responsibilities

Employees have a responsibility to attend work as far as practicably possible. Where major disruption affects employees' ability to attend or leave their usual place of work they must immediately phone their manager or an agreed alternative manager. If an employee is unable to contact a manager they must keep trying until they succeed. It is the responsibility of employees to familiarise themselves with their local arrangements and know who they should contact in such situations.

Employees are expected to perform their usual role or carry out appropriate alternative work. They are also expected to attend their usual place of work unless alternative arrangements are agreed with their manager.

Employees should continue to keep in touch with their manager throughout any period of disruption so that the situation can be kept under review and alternative options considered. See Fig 1 below for a summary of the process

2.8.2 Manager Responsibilities

When the employee has made contact with the manager, the manager must discuss any potential obstacles preventing an employee travelling to and from their usual place of work. The manager should explore with the employee practical alternative ways of travelling to minimise loss of working time.

A number of factors should be considered when deciding on the most appropriate course of action. Managers must consider potential health and safety risks, the nature of the disruption and the individual's personal circumstances. This must include individual employee needs such as disabilities that may make alternative means of travel more difficult. See Fig 1 below for a summary of the process.

Managers should not expect staff to take unnecessary risks.

2.8.3 Alternative working arrangements

Managers should discuss options with the employee for alternative working arrangements such as:

- a. Changing the timing of the journey and/or consider alternative routes or mode of travel to or from work.
- b. Working from alternative premises subject to manager's approval, local security arrangements and business continuity arrangements.
- c. Working from home: advice on remote and flexible working can be found in Chapter 2A Section 2.6.4
- d. Discussing longer term plans that may not have been possible at short notice where the disruption is expected to last for several days.
- e. Whilst every effort should be made to reach a mutually acceptable agreement, it is ultimately an employee's manager who should decide on the most appropriate course of action in any particular circumstances.

2.8.4 Leave and pay arrangements

Where alternative working arrangements are not possible the manager should discuss and can authorise:

- a. Whether the employee wishes to take annual leave or flexi leave. Employees may take annual leave or flexi leave rather than keep trying to get into work when it is difficult to do so. This should be done with the agreement of their manager who should consider business continuity when agreeing leave.
- b. Whether any working time lost can be made up at a later date.
- c. In exceptional circumstances, where an employee's manager is satisfied that the employee has made every reasonable effort to come into work but has been unable to do so, managers may consider awarding paid time credits/paid special leave. This should only be up to the employee's normal working pattern/shift for that day

2.8.5 Managing absence

When an employee does not attend work and/or no contact has been made the manager must follow the procedure for absence with no contact (see chapter 10C Section [10.3.1 Managers Toolkit](#)).

Part B: Personal Conduct Procedures

[3.2 Maintaining satisfactory standards of conduct](#)

[3.5 Gifts and hospitality procedure](#)

[3.9 Outline of procedures in complaints to the parliamentary commissioner for administration \(PCA\)](#)

Chapter 3.2 - Part B: Maintaining satisfactory standards of conduct

Chapter 3B – Personal Conduct Procedures

3.2.1 Introduction

a) Purpose of procedures

The procedures set out in this chapter are designed to help and encourage all Highways England employees working in Highways England to achieve and maintain satisfactory standards of conduct. The aim is to ensure consistent and fair treatment for all, in line with the principles of natural justice and Highways England's Equal Opportunities policy (see Part A of this Staff Handbook, Chapter 2 - Working in Highways England).

There are separate procedures for dealing with:

- a. poor performance (see Chapter 7A Section 7.2 Managing poor performance policy), and;
- b. unsatisfactory attendance due to intermittent and frequent sick leave (see Chapter 10A Section 10.3 Attendance management policy).

As an employee working within Highways England you are entitled to be dealt with in accordance with the procedures set out in this chapter.

b) Misconduct

For the purpose of these procedures, misconduct consists of one or more types of unacceptable behaviour, including:

- a. unauthorised absence and/or lack of punctuality;
- b. disruptive behaviour at work;
- c. dishonesty;
- d. some other breach of an individual's terms and conditions of employment (see Part A of this Staff Handbook, Chapter 1 - Introduction).

Cases of perceived or alleged misconduct that cannot be dealt with informally (see section a) trigger the formal misconduct procedure (see section 3.2.4 c)) which can lead to disciplinary action. With the exception of gross misconduct (see paragraph d) below), no employee will be dismissed for a first act of misconduct.

c) Serious misconduct

Some perceived or alleged acts of misconduct are, by their nature, so serious that they are automatically dealt with under Stages 3 or 4 of Highways England's formal misconduct procedure - final written warning or disciplinary action. (see section 3.2.7 and 3.2.8) Examples (the list is illustrative only) include:

1. a major breach of security
2. disability, sex or race discrimination or harassment/bullying
3. deliberate damage to Highways England property
4. falsification or irregular practice in relation to cash or claims for allowances or obtaining unauthorised pecuniary advantage
5. serious incapacity through alcohol or being under the influence of drugs
6. serious negligence which causes unacceptable loss, damage or injury
7. a serious act of insubordination
8. the threat of assault or physical violence
9. conviction for a serious criminal offence

d) Gross misconduct

Having taken account of all the facts and circumstances of a particular case, it may be determined that an alleged offence amounted to gross misconduct. Gross misconduct is misconduct serious enough to destroy the employment contract between the employer and the employee and make any further working relationship and trust impossible. It is restricted to very serious offences, for example, theft, fraud, corruption (actual or attempted) or physical violence.

The normal penalty for gross misconduct is, therefore, dismissal.

Acts of perceived or alleged gross misconduct will be automatically dealt with under Stage 4 of Highways England's formal misconduct procedure - disciplinary action.

e) Standards of conduct

Part A of this Staff Handbook, Chapter 3 - Personal conduct indicates the standards of conduct that all staff must comply with. If you are a line manager, you are responsible for monitoring the conduct of your staff, making clear the standards of conduct that Highways England expects of them and for giving them help and encouragement to reach the required standards. You are also responsible for taking prompt action in all cases where a staff member's conduct gives you cause for concern.

As a line manager, you are likely to be best placed to detect any possible misconduct and you are responsible for considering and taking such action as is appropriate given the facts of the case, liaising with HR as necessary. However, if HR consider it necessary, they will assume responsibility for cases of misconduct and will communicate this decision with the reasons to all the parties involved.

HR must be contacted immediately if, as a line manager, you become aware of or suspect an individual of a serious act of misconduct (see section 3.2.1 c)) or gross misconduct (see section 3.2.1 d)). The HR Advice Service will advise on the next steps, which could include suspension (see section 3.2.2 k)) of the individual concerned pending investigation (see section 3.2.7).

f) Your responsibility as a line manager

As a line manager (or HR Adviser if HR assume responsibility for a case - see above), you must ensure that the procedures set out in this chapter are followed in all cases of alleged misconduct. This is necessary to ensure natural justice and due process and to prevent accusations of unfair behaviour. Any warning or penalty given in response to misconduct may be invalid if it can be shown that you did not follow these procedures. In particular you must always give the individual concerned a fair opportunity to put their case. Similarly, failure to follow these procedures could leave Highways England open to challenge, for instance through the Employment Tribunals (see Part A of this Staff Handbook - Chapter 11 - Complaints, grievances and appeals). You may yourself be liable to disciplinary action for misconduct or for poor performance (see Part A of this Staff Handbook, Chapter 7 - Performance) if, as a line manager or HR Adviser, you fail to follow these procedures correctly.

g) Senior management involvement

Senior managers are a useful source of advice and support and must always be consulted in more serious cases. As a line manager, consider from the outset whether they or other colleagues have any relevant practical experience you can draw on and contact your HR Business Partner to discuss a strategy as soon as you recognise you have a possible problem.

h) Criminal offences

As a line manager, you must not involve the police in any case of alleged misconduct without first consulting your HR Business Partner or an officer at grade 6 level, where your HR Business Partner is not available. However where there are grounds for believing that a criminal offence has been

committed, the police will be called in by HR and may search premises, individuals and personal property under various statutory powers of search.

Where a criminal offence is suspected you must take particular care as line manager not to alert those under suspicion or to hinder subsequent police enquiries.

As an employee, you have the right to contact the police if you are the victim of a criminal offence whilst on official duty. If you do so, you must notify your line manager who must, in turn, report the fact to your HR Business Partner.

Part A of this Staff Handbook, Chapter 3 - Personal conduct sets out your obligation, as an employee, to notify your HR Business Partner if you are arrested and refused bail or convicted of a criminal offence.

If, as an employee, you are convicted of a criminal offence, it does not necessarily follow that you will also be subject to disciplinary action. HR will give consideration, for example, to whether the offence:

1. breaches the mutual trust that must exist between employer and employee (i.e. Highways England and you)
2. makes you unsuitable for the work in your grade; or
3. is likely to impair the business of Highways England

i) Breach of security or fraud

If, as a line manager, and subject to the Public Interest Disclosure Act, you believe that there has been a serious breach of security, you must contact local Security Liaison Officer as soon as possible. Similarly, where fraud is suspected, you must contact the Audit and Assurance team immediately. In both cases, but subject to the Public Interest Disclosure Act, you must also notify your HR Business Partner immediately.

j) Other sources of support for staff

As a line manager, you must ensure, throughout these procedures, that your staff are reminded of the availability of the Employee Assistance Programme (see Chapter 2A Section 2.9) and that they can also consult their Trade Union Representative (see Part A of this Staff Handbook, Chapter 12 - Industrial Relations). If formal action is necessary to address misconduct you must remind staff of their right to be accompanied and/or represented by a Trade Union representative or a colleague (see section 3.2.4 f) and g)) at all stages of the formal procedure.

3.2.2 Encouraging improved conduct

a) Encourage improvement

Whenever you perceive misconduct, your initial aim, as a line manager, must always be to help and encourage improvement without recourse to formal procedures. You must consider what help and assistance can be provided to the employee concerned (including any training and/or guidance that might help). Section 3.2.4 sets out how you must proceed in cases of perceived or alleged serious misconduct or gross misconduct.

b) Be fair but firm

As a line manager or HR Business Partner, you must always maintain proper standards of fairness, objectivity and consistency in your treatment of staff (see Chapter 2A Section 2.12 equal opportunities policy). This means not giving more favorable treatment to one group or individual employee than to another group or employee.

Maintaining satisfactory standards of conduct also requires firmness on the part of line managers. If, as a line manager:

- a. having taken all reasonable steps to encourage improvement, you consider that the required improvement cannot or will not be made without recourse to the formal misconduct procedures set out in section 3.2.4 to 3.2.8
- b. in accordance with section 3.2.1 c) and d) , the alleged misconduct appears to warrant immediate recourse to the formal misconduct procedures

you are required to adopt those formal misconduct procedures.

c) Prompt action

Tackling problems is never easy but those dealt with early enough can often be resolved before they become complex and deep-rooted. Delay could be seen as acceptance of misconduct.

If you or other managers have in the past failed to tackle misconduct, this is not in itself sufficient to let the matter rest. As a line manager, what you must do in such cases is to make clear to the individual the standards that are now expected of them and actively encourage them to achieve the required improvements.

d) The right word at the right time

In many cases, the right word - at the right time and in the right way - may be all that is needed and will often be a more effective method of dealing with perceived misconduct than a formal interview, e.g. an informal talk as line manager or colleague might be sufficient, if it comes at an early enough stage

(Chapter 3C advice on counselling).

As a line manager, it is good practice to keep a note of any such counselling for future reference.

e) Gather facts

As a line manager, you must investigate carefully whether there is an underlying cause for the perceived misconduct. Knowledge of any underlying cause may help you to identify the most appropriate course of action. For example, ask yourself whether:

- a. there has been a sudden or gradual deterioration in the individual's conduct;
- b. there may be an underlying health problem;
- c. the problem is work related. For example, whether the individual has not settled properly into a new job or new Band, has been set inappropriate objectives, has responded badly to reorganised duties or there have been changes in the reporting line or in the composition of the team (is it a problem of workplace practice or arrangements?);
- d. the individual has any personal or domestic difficulties;
- e. there are any equal opportunity aspects that need to be addressed; ensure you are not making any assumptions on limited knowledge or basing your assessment of the problem on stereotypical images you may have about the individual's background;
- f. failure to achieve the required standards of conduct is constant or intermittent and in all areas or only some.

You must also as a line manager take into account the wider picture including the individual's previous record - you must consult HR for further information and advice about how similar cases have been handled in the past.

f) Discussion to gather facts

Having gathered facts as outlined above, and where appropriate, you must, as a line manager, discuss with the individual exactly what concerns you and why it concerns you. In discussing such concerns you must:

- a. encourage the individual concerned to give you their views on the situation (recognising their right to confidentiality - see below paragraph g) and to discuss any possible underlying problems affecting their conduct,
- b. keep an open mind and do not prejudge the issues,
- c. listen carefully to any information put forward and explore the issues raised, and,
- d. where appropriate, discuss and set out the improvements you think are necessary, how these might best be achieved and by when and what you will do to help the individual improve.

You must make it clear to the individual that the discussion is not a formal interview or part of Highways England's formal misconduct procedure.

Subsequent to this discussion, it is good practice to make notes of what transpired for future reference. You must take any action that you have promised, continue to provide advice and support, ensure that the individual acts upon any promises that he/she made and, generally, continue to monitor conduct.

g) Confidentiality

Some perceived or alleged misconduct may arise because of, or be affected by, a medical condition. If this appears to be the case, you must always, as a line manager, take into account and respect the fact that employees are not obliged to disclose the nature of their illnesses or medical conditions to you. Where this applies, you will have to work in partnership with HR to help and encourage the individual concerned to achieve the required standards of conduct.

h) Staff with disabilities

Where a disabled member of staff's conduct gives cause for concern, you must consult HR for advice at an early stage. As a line manager or HR Business Partner, you must not treat staff with disabilities less favorably and you must make any adjustments to the workplace or to work arrangements which are reasonable in order to help such staff perform their duties (see Chapter 10 Attendance Management)

i) Pregnant women and nursing mothers

Where the conduct of a pregnant woman or nursing mother gives cause for concern, you must, as line manager, consult your HR Business Partner. Disciplinary or appeal interviews must not take place in the absence of the employee when that absence is due to pregnancy or childbirth related reasons.

j) Take each case on its merits in determining future action

In considering how best to proceed, you must as line manager or HR Business Partner consider whether the perceived misconduct stems from something within or outside the individual's control.

Health problems (including stress) or domestic difficulties or other relevant factors may put misconduct wholly or partially outside the individual's immediate control. Where appropriate, HR will seek medical advice. More flexible working patterns, reorganisation of duties or a programme of training may all help an individual to improve in such cases. As line manager, you should be aware that recent studies have indicated health and other problems may be more severe or likely in the lower grades. Where appropriate, encourage the individual to seek help from their GP, the EAP or their trade union.

You must also as the line manager be alert to the possibility that in some cases problems may stem from the composition of the team. Where you think it could help, you must consider with other managers and HR the possibility of helping the individual to move to another post.

Sometimes problems may seem to be caused by no more than what you as line manager perceive to be an "attitude" adopted by the individual, or by laziness, or other causes immediately within the individual's control. In such cases you should not jump to conclusions. You should discuss problems considerately with the individual, identify its true nature (seeking advice from HR, or the EAP, as appropriate), decide what, if any, action is appropriate and whether it is reasonable to expect a rapid improvement.

k) Sending staff home/suspension

You can, as a line manager, send a member of staff home for the rest of the day to "cool off" if, in your opinion, it is necessary for the good conduct or order of the office (e.g. because an individual is drunk or there has been a heated argument). Such action, however, can only be taken after careful consideration (including, if necessary, the fitness of the individual to travel safely).

Where a serious act of misconduct or gross misconduct is suspected (see Section 3.2.1 c) and d)), you can, as line manager, suspend the individual(s) concerned from duty for up to three days so long as you are at least at SEO/TM3. You must, however, consult your HR Business Partner before taking such action.

As a line manager, you cannot suspend Trade Union representatives from duty, but, if you consider that it might be appropriate to do so, you must notify HR immediately. HR will discuss the matter with Senior Trade Union representatives or full-time Trade Union officials before deciding what action should be taken.

Senior members of HR (again, at least HEO level) will be responsible for deciding whether any suspension should be for longer than three days. Suspension will always be on full pay.

If you are accused of misconduct and you are sent home or suspended from duty, this is not a disciplinary penalty and does not imply any prejudgment about the merits of the case itself.

If, as a line manager, you send a member of staff home for either a "cooling off" period or on suspension from duty, you must remind the individual concerned:

- a. of the availability of the EAP and,
- b. that they can also consult their Trade Union

l) Action if the required improvement in conduct is achieved

You must as a line manager continue to monitor conduct closely and to encourage improvement. If the required improvement has been attained or, having gathered all the facts, it becomes clear that there is no cause for concern, you must make this clear to the individual concerned immediately.

m) Anonymous or unsubstantiated allegations

No record of any anonymous or unsubstantiated allegation will be kept on an individual's personal file, although Highways England may keep a separate, general, record of such allegations.

n) Action if there is no improvement in conduct

If as a line manager or, where appropriate, HR Business Partner:

- you have given an employee reasonable time, opportunity, encouragement and assistance to improve their conduct (in accordance with sections 3.2.2 a) to l), have made any reasonable

adjustments necessary if the employee concerned is disabled (see section 3.2.2 h), and it has become clear that satisfactory standards of conduct are not being achieved or sustained; or

- the alleged misconduct appears to you to warrant immediate recourse to the formal misconduct procedures;

you must consider with HR and senior managers whether it is appropriate to begin the formal misconduct procedures which can, ultimately, lead to dismissal. If appropriate, HR will consult the Medical Adviser and any resulting advice must be taken into account before initiating the formal misconduct procedures. Formal disciplinary action may only be initiated with the express approval of HR.

3.2.3 Referral to the Medical Advisor

If, as a line manager, you consider that formal action may be necessary, or if you are considering whether or not to move from one stage of the formal procedure to the next: (see sections 3.2.5 to 3.2.7)

- a. you must first consider with HR whether there are any grounds for referring the case to the Medical Adviser,
- b. if it is considered appropriate to seek advice from the Medical Adviser, HR will take any referral action necessary (HR will also refer cases at the individual's behest - see section 3.2.3 b),
- c. HR will ask the individual to complete a "consent" form (see below), which will allow the individual's doctor to respond to the Medical Adviser's enquiries,
- d. the Medical Adviser will be able to advise HR whether or not:
 - the unsatisfactory conduct is caused or aggravated by a medical condition,
 - any such medical condition is likely to improve, or,
 - medical retirement is appropriate.

a) Refusal to co-operate with Medical Adviser

Highways England has no power to compel you as an employee to co-operate in providing medical evidence; to sign a "consent" form; or to undergo an independent medical examination. However, if you refuse to co-operate, decisions on formal action will be made on the basis of any information available (and your line manager will write to you explaining that decisions will be taken on this basis).

b) Individuals' rights to Medical Adviser referral

You are entitled as an employee to have your case referred (by HR) to the Medical Adviser if:

- you believe that your unsatisfactory conduct is caused or aggravated by a medical condition which will or is likely to improve, or
- you wish to apply for medical retirement

Section 3.2.3 sub paragraph d) sets out the advice the Medical Adviser can give if your case is referred. HR will discuss any advice received from the Medical Adviser with you as an employee before coming to any decisions about formal action.

As an employee, in order to have your case referred, you must apply in writing to HR stating your reason(s). You will then be asked to complete a "consent" form, which will allow your doctor to respond to the Medical Adviser's enquiries.

3.2.4 Formal Action

a) Prompt action

Once the decision is taken to proceed with formal action you must as the line manager or, where appropriate, HR Business Partner, act promptly to initiate that action and arrange an initial interview with the individual concerned as soon as possible.

b) Full written records

As the manager responsible for formal action (see paragraph d) below), you must ensure that:

- a. a full, up to date, written record is kept once the formal procedures have begun, and
- b. the individual concerned is kept informed of the position at all times

The fairness and reasonableness of any of the actions and decisions under these procedures may, potentially, be tested on appeal to an Employment Tribunal (see Part A of this Staff Handbook - Chapter 11 - Complaints, grievances and appeals). In that event, the documentary evidence prepared by you as the manager responsible for formal action will form the basis of Highways England's defence and will be open to examination by the individual's representatives and the Board and/or the Tribunal. You are likely to be called as a witness to any Tribunal. You could be subject to disciplinary action if you apply these procedures unfairly.

c) The formal misconduct procedure

There are four stages to the Highways England formal misconduct procedure:

- a. Stage 1 an oral warning
- b. Stage 2 a first written warning
- c. Stage 3 a final written warning
- d. Stage 4 disciplinary action

In certain circumstances, depending on the seriousness of a case of misconduct, it may be appropriate to start the formal misconduct procedure at Stage 2, Stage 3 or Stage 4. If the alleged misconduct appears to you to be:

- a. serious misconduct you must contact HR who will advise you whether it is appropriate to proceed directly to Stage 3 - final written warning or, if appropriate, Stage 4 - disciplinary action, or
- b. gross misconduct, you must contact HR who will advise you whether it is appropriate to proceed directly to Stage 4 - disciplinary action

As line manager responsible for formal action (see below), you must not start the formal misconduct procedure at Stage 2, Stage 3 or Stage 4 without first consulting HR (who will obtain legal advice as appropriate).

d) Manager responsible for formal action

So far as is practicable, the same manager (or, if appropriate, HR Business Partner) should assume responsibility for taking forward each of the first three stages to the Highways England formal misconduct procedure. You can only give the warnings referred to above if you are:

- a. at least one Grade higher than the individual accused of misconduct; and
- b. at least Grade EO

As the manager responsible for formal action, you must liaise with HR who will advise you on the handling of the case and the timing of action.

e) The proper test

It is essential that the proper test is applied when judging cases of alleged misconduct. That test is one of the balance of probabilities and not one of proof beyond reasonable doubt. Where the facts are disputed you must therefore decide on the balance of probability what version of the facts is true.

f) Right to representation

As an employee, you are entitled to be accompanied and represented by a companion (see below) at all stages of the formal misconduct procedure if you so choose. You are also entitled to advice and support from the EAP, Chapter 2A - Working in Highways England.

g) Role of the companion at the disciplinary meeting

The companion must be either a trade union representative or a colleague. The companion has the right to:

- a. address the meeting at the start and finish of proceedings to present the individual's case and to sum up
- b. reasonable time to familiarise themselves with the case and confer with the individual before and after the meeting
- c. reasonable time to confer with the individual during the meeting, and
- d. respond on the individual's behalf to any view expressed at the meeting

You as the manager responsible for conducting the meeting, should not allow the companion to answer questions on the individual's behalf or address the meeting if the individual states that he/she does not wish the companion to do so.

h) Extension or discontinuation of procedures

As the manager responsible for formal action, you must explain to the individual immediately, and confirm in writing, any decision to extend a stage in the procedures, or to discontinue the procedures.

i) Formal action involving Trade Union representatives

Although Highways England's formal procedures apply to individuals who are Trade Union representatives, you must not, as the manager responsible for formal action, take formal disciplinary action against a Trade Union representative until the circumstances of the case have been discussed with HR, who will pursue the matter with a senior Trade Union representative or full time official.

3.2.5 Stage 1 – Oral Warning

a) Circumstances that warrant Stage 1 action

Subject to section 3.2.4 c), as the manager responsible for formal action (see section 3.2.4 d)) you must commence the formal misconduct procedure at Stage 1 - oral warning.

b) Interview before oral warning is considered

As the manager responsible for formal action, you must arrange a formal interview with the individual concerned as soon as possible:

- a. you must prepare for and conduct the interview in accordance with Chapter 3C
- b. you must not make any decisions about whether or not to give an oral warning without first complying with Chapter 3C Section 3.2.13 and applying the proper test (see section 3.2.4 e)

If, as an employee, you are the subject of Stage 1 formal action, you will have your case considered in accordance with Chapter 3C Section 3.2.13 and taken forward in accordance with paragraphs below..

c) The oral warning

If, as the manager responsible for formal action, you have complied with Chapter 3C Section 3.2.13 and applied the proper test for forming a judgement (see section 3.2.4 e)) and you conclude that it is appropriate to proceed with an oral warning, you must tell the individual that he or she is being given a formal oral warning (conversely, if you conclude that there is no need to proceed to formal action you must make this clear to the individual). The oral warning must be given in accordance with the below.

The oral warning must be clear, unequivocal and unambiguous. You must, as the manager responsible for formal action, reiterate that Highways England is concerned about the individual's misconduct and specify:

- a. the misconduct complained of
- b. the improvement in conduct required
- c. if appropriate, the period allowed for improvement
- d. the fact that the individual's conduct will be closely monitored during any period specified for improvement
- e. any action agreed by the line to aid improvement, and
- f. that this is the first stage in a formal disciplinary procedure and that failure to achieve and sustain the necessary improvement, or a further act of misconduct, could, ultimately, lead to dismissal arising from misconduct

As the manager responsible for formal action, you must make a written note of the oral warning (clearly setting out all of the points covered as explained above and including a note of the preceding interview) immediately after giving the oral warning and send a copy to the individual and to HR. This must clearly state that it is a note of an "Oral Warning". The individual must be asked to sign a copy of the note and return it to you as acknowledgement of receipt.

d) Parameters for improvement

As the manager responsible for formal action, you need to exercise your judgement and act reasonably when setting:

- a. the improvement in conduct that is required; and
- b. any timescale within which you expect the individual to achieve and sustain the required improvement in conduct (see below)

You must balance the interests of Highways England as an employer in having the matter resolved expeditiously with the need to be fair to the individual concerned.

As the manager responsible for formal action, you must stipulate the period for improvement to be achieved. For example, in some cases, it would be appropriate to require immediate improvement. In some other cases, for example, poor time-keeping, you will need to allow time to ensure a sustained improvement - in such cases, a reasonable period for improvement would be not less than one month and not more than three months (but whatever period is specified may be extended if the individual is unable to attend work due to a medically certified "one-off" condition - for instance a broken limb or appendicitis).

Further advice about parameters for improvement can be obtained from HR. All cases must be treated on their merits.

As the manager responsible for formal action, you must maintain a complete, up to date, written record of the individual's conduct during any period specified for improvement (and a record of any

other relevant developments). The individual concerned must be kept informed of the position at all times. Any decision to extend any period specified for improvement, or to discontinue the procedures, must be explained to the individual and confirmed in writing.

The below sets out how you, as the manager responsible for formal action, must proceed following any period specified for improvement.

3.2.6 Stage 2 – First Written Warning

a) Action if the required improvement in conduct is achieved

As the manager responsible for formal action (see section 3.2.4 d), you must carry out a review of the case at the end of any period for improvement specified in an oral warning. If the required improvement in conduct has been achieved, you must notify the individual concerned in writing and confirm that disciplinary action has ceased. It must also be made clear that the improvement has to be sustained and that, should the individual be accused of misconduct again in the future, it will again be considered in accordance with these procedures. The note must be copied to HR.

b) Circumstances that warrant Stage 2 action

Subject to section 3.2.4 c) , as the manager responsible for formal action, you must proceed to Stage 2 of the formal procedure - first written warning - if you have given an oral warning but the required improvements do not appear to have been achieved within the period for improvement specified in the oral warning.

c) Interview before first written warning is considered

As the manager responsible for formal action, you must arrange to interview the individual. You must conduct this interview as soon as possible - normally within 10 working days of the end of any period for improvement specified in the oral warning, or, if the alleged misconduct appears to warrant moving straight to Stage 2 - first written warning (see paragraph b) above) as soon as practicable after the alleged misconduct:

1. you must prepare for and conduct the interview in accordance with Chapter 3C Section 3.2.13, and
2. you must not make any decisions about whether or not to give a first written warning without first complying with Chapter 3C Section 3.2.13 and applying the proper test (see section 3.2.4 e)

If, as an employee, you are the subject of Stage 2 formal action, you will have your case considered in accordance with Chapter 3C Section 3.2.13 and taken forward in accordance with paragraphs below.

d) First written warning letter

If, following the interview and having complied with Chapter 3C and applied the proper test for forming a judgement (see section 3.2.4 e) you conclude, as the manager responsible for formal action, that it is appropriate to give a first written warning, you must write to the individual immediately in accordance with the below.

Conversely, if, following the interview, you conclude that there is no need to give a first written warning and the required improvement in conduct has been achieved, you must notify the individual concerned in writing and confirm that disciplinary action has ceased - this note must be copied to HR. It must also be made clear that the improvement has to be sustained and that, should the individual be accused of misconduct again in the future, it will be considered in accordance with these procedures.

The first written warning letter must be clear, unequivocal and unambiguous. It must:

- a. clearly state that the letter is a "First Written Warning"
- b. refer to any oral warning given
- c. specify the misconduct involved
- d. specify the improvement in conduct required (see below)
- e. set out, if appropriate, any period allowed for improvement (see below)
- f. record the fact that the individual's conduct will be closely monitored during any period specified for improvement
- g. record any action agreed by the line to aid improvement
- h. specify that this is the second stage in a formal disciplinary procedure and that failure to achieve and sustain the necessary improvement, or a further act of misconduct, could, ultimately, lead to dismissal arising from misconduct
- i. state that the individual has the right to have their case referred to the Highways England Medical Adviser and to apply for medical retirement
- j. enclose a copy of your note of the preceding interview; and
- k. be copied to HR to be placed on the individual's personal file and for referral to the Highways England Medical Adviser

As the manager responsible for formal action, you must ask the individual concerned to sign a copy of the first written warning letter and return it to you as acknowledgement of receipt.

e) Parameters for improvement

As the manager responsible for formal action, you need to exercise your judgement and act reasonably when setting:

- a. the improvement in conduct that is required; and
- b. any timescale within which you expect the individual to achieve and sustain the required improvement in conduct

You must balance the interests of Highways England as an employer in having the matter resolved expeditiously with the need to be fair to the individual concerned.

As the manager responsible for formal action, you must stipulate the period for improvement to be achieved. For example, in some cases, it would be appropriate to require immediate improvement. In some other cases, for example, poor time-keeping, you will need to allow time to ensure a sustained improvement - in such cases, a reasonable period for improvement would be not less than one month and not more than three months (but whatever period is specified may be extended if the individual is unable to attend work due to a medically certified "one-off" condition - for instance a broken limb or appendicitis).

Further advice about parameters for improvement can be obtained from HR. All cases must be treated on their merits

As the manager responsible for formal action, you must maintain a complete, up to date, written record of the individual's conduct during any period specified for improvement (and a record of any other relevant developments). The individual concerned must be kept informed of the position at all times. Any decision to extend a period specified for improvement, or to discontinue the procedures, must be explained to the individual and confirmed in writing.

The below sets out how you, as the manager responsible for formal action, must proceed following the period specified for improvement.

3.2.7 Stage 3 – Final Written Warning

a) Action if the required improvement in conduct is achieved

As the manager responsible for formal action (see section 3.2.4 d), you must carry out a review of the case at the end of any period for improvement specified in a first written warning. If the required improvement in conduct has been achieved, you must notify the individual concerned in writing and confirm that disciplinary action has ceased. It must also be made clear that the improvement has to be sustained and that should the individual be accused of misconduct again in the future, it will again be considered in accordance with these procedures. The note must be copied to HR.

b) Circumstances that warrant Stage 3 action

Subject to section 3.2.4 c) , as the manager responsible for formal action, you must proceed to Stage 3 - final written warning - if you have given a first written warning but the required improvements do not appear to have been achieved or sustained within any period for improvement specified in the first written warning.

You must seek guidance from HR before commencing Stage 3 -final written warning.

c) Interview before final written warning is given

As the manager responsible for formal action, you must arrange to interview the individual. You must conduct this interview as soon as possible - normally within 10 working days of the end of any period for improvement specified in the first written warning or, if the alleged misconduct appears to warrant moving straight to Stage 3 - final written warning (see above) as soon as practicable after the alleged misconduct:

- a. you must prepare for and conduct the interview in accordance with Chapter 3C Section 3.2.13, and
- b. you must not make any decisions about whether or not to give a final written warning without first complying with Chapter 3C Section 3.2.13 and applying the proper test (see section 3.2.4 e))

If, as an employee, you are the subject of Stage 3 formal action, you will have your case considered in accordance with Chapter 3C Section 3.2.13 and taken forward in accordance with the below.

d) Final written warning letter

If, following the interview and having complied with Chapter 3C Section 3.2.13 and applied the proper test for forming a judgement (see section 3.2.4 e) you conclude, as the manager responsible for formal action, that it is appropriate to give a final written warning, you must write to the individual immediately in accordance with the below.

Conversely, if, following the interview, you conclude that there is no need to give a final written warning and the required improvement in conduct has been achieved, you must notify the individual concerned in writing and confirm that disciplinary action has ceased - this note must be copied to HR. It must also be made clear that the improvement has to be sustained and that, should the individual be accused of misconduct again in the future, it will be considered in accordance with these procedures.

The final written warning letter must be clear, unequivocal and unambiguous. It must:

- a. clearly state that the letter is a "Final Written Warning"
- b. refer to any oral warning and/or first written warning
- c. specify the misconduct involved
- d. specify the improvement that is required and any period allowed for improvement (see below)
- e. specify that this is the final stage in a formal disciplinary procedure and that failure to improve, or any further misconduct, will lead to disciplinary action (see section 3.2.8) which could result in dismissal
- f. record the fact that the individual's conduct will be closely monitored during any period allowed for improvement

- g. state that the individual has the right to have their case referred to the Highways England Medical Adviser and to apply for medical retirement
- h. record any action agreed by the line to aid improvement
- i. enclose a copy of your note of the preceding interview, and
- j. be copied to HR to be placed on the individual's personal file and for referral to the Highways England Medical Adviser

As the manager responsible for formal action, you must ask the individual concerned to sign a copy of the final written warning letter and return it to you as acknowledgement of receipt.

e) Parameters for improvement

As the manager responsible for formal action, you need to exercise your judgement and act reasonably when setting:

1. the improvement in conduct that is required; and
2. any timescale within which you expect the individual to achieve and sustain the required improvement in conduct (see below)

You must balance the interests of Highways England as an employer in having the matter resolved expeditiously with the need to be fair to the individual concerned.

As the manager responsible for formal action, you must stipulate the period for improvement to be achieved. For example, in some cases, it would be appropriate to require immediate improvement. In some other cases, for example, poor time-keeping, you will need to allow time to ensure a sustained improvement - in such cases, a reasonable period for improvement would be not less than one month and not more than three months (but whatever period is specified may be extended if the individual is unable to attend work due to a medically certified "one-off" condition - for instance a broken limb or appendicitis).

Further advice about parameters for improvement can be obtained from HR. All cases must be treated on their merits

As the manager responsible for formal action, you must maintain a complete, up to date, written record of the individual's conduct during any period specified for improvement (and a record of any other relevant developments). The individual concerned must be kept informed of the position at all times. Any decision to extend a period specified for improvement, or to discontinue the procedures, must be explained to the individual and confirmed in writing.

Section 3.2.8 sets out how you, as the manager responsible for formal action, must proceed following the period specified for improvement.

3.2.8 Stage 4 – Disciplinary Action

a) Action if required improvement in conduct is achieved

As the manager responsible for formal action (see section 3.2.4 d), you must carry out a review of the case at the end of any period for improvement specified in a final written warning. If the required improvement in conduct has been achieved, you must notify the individual concerned in writing and confirm that disciplinary action has ceased. It must also be made clear that the improvement in conduct has to be sustained and that, should the individual be accused of misconduct again in the future, it will again be considered in accordance with these procedures. The note must be copied to HR.

b) Circumstances that warrant Stage 4 action

Subject to paragraph 3.2.4 as the manager responsible for formal action, you must proceed to Stage 4 - disciplinary action - if:

- a. you have given a final written warning but the required improvements do not appear to have been achieved within the period for improvement specified in the final written warning, or
- b. an individual appears to have committed gross misconduct

c) Review by manager responsible for formal action

Where the alleged misconduct appears to warrant moving to Stage 4 - disciplinary action - you must, as the manager responsible for formal action, review the situation and, as soon as practicable, produce a report for HR. This report (which must include all relevant papers available to you) must set out your reasons for believing that a disciplinary charge should be considered, and must:

1. show that you have applied the proper test (see section 3.2.4 e)); and
2. set out your reasons for believing that
 - the required improvement has not been met; or
 - a serious or gross misconduct has been committed

As the treatment of disciplinary offence will be affected by the circumstances of the particular case, there is no rigid link between particular offences and penalties. Penalties can range from oral warnings to the more extreme, dismissal.

You must copy this report to HR, the individual and, where appropriate, the individual's representative.

d) Decision Officer

On receipt of the report referred to as above, a Decision Officer will be appointed by the Director of Human Resources or a senior member of HR. The Decision Officer will be:

1. manager (either in the line or HR) of at least HEO and at least one band higher than the manager responsible for formal action.

If, as an employee, you are the subject of Stage 4 formal action:

1. HR will advise you of the Decision Officer's identity when the Decision Officer is appointed
2. You will have your case considered by the Decision Officer (and any Investigating Officer - see below) in accordance with paragraphs 3.2.55 to 3.2.59 and Chapter 3C Section 3.2.2, and
3. you may object to the nominated Decision Officer provided you give reasons, but the Director of HR reserves the right to overrule your objection

e) Investigating officer - note that this section of the Staff Handbook is waiting to be updated. Please speak to PMST for the latest advice

As the Decision Officer, you may appoint an Investigating Officer to carry out an investigation. The Investigating Officer must be at least one Band higher than the individual accused of misconduct and not directly involved in the matters under investigation.

If you are appointed as an Investigating Officer, you must carry out your investigation as quickly and thoroughly as the circumstances permit and must act honestly and impartially. Your investigation will be carried out under the overall direction of the Decision Officer:

- a. if it is necessary for you to carry out a search, you cannot search an individual or their personal effects (including those parts of their workplace which hold these), without their

express permission. Any search you conduct must be carried out in the presence of an independent witness, and

- b. if it is necessary for you to conduct formal interviews with anyone with information material to the case, these must be carried out in accordance with Chapter 3C Section 3.2.13

f) Investigating Officer's report - note that this section of the Staff Handbook is waiting to be updated. Please speak to PMST for the latest advice.

At the end of any investigation, you must, as the Investigating Officer, prepare a report for the Decision Officer setting out your findings and, where appropriate and having applied the proper test (see section 3.2.4 e)) your conclusions. You must also send a copy of your report to HR and to the individual concerned.

g) Investigation by Decision Officer - note that this section of the Staff Handbook is waiting to be updated. Please speak to PMST for the latest advice.

As the Decision Officer, you can choose not to appoint an Investigating Officer. However, if you instead carry out any investigation yourself, it must be conducted on the same basis as an investigation carried out by an Investigating Officer (see above)

h) Failure to attend an interview

As the Investigating Officer or Decision Officer (but subject to section 3.2.2 i), you are not precluded from considering a case where, without good reason, and on more than one occasion, the individual, who is subject to stage 4 disciplinary action, fails to attend for an interview. After the first failure to attend without good reason, you must, in re-arranging the interview, inform the individual in writing beforehand that, if they fail to attend again, their case will have to be considered on the basis of the information available.

i) Action by Decision Officer

If, as the Decision Officer you conclude that there is no disciplinary case to answer, or that some other action may be appropriate, you must write to the individual informing them of this. A copy of the letter must be sent to HR.

If, as the Decision Officer you conclude that there is a disciplinary case to answer, you must arrange for HR to issue the individual with a formal disciplinary charge (see paragraph below). You must then consider the case in accordance with paragraphs k and l below.

If, as an employee, you are the subject of a recommendation for disciplinary action, you will have your case dealt with in accordance with paragraphs k and l below.

j) Formal disciplinary charge

If, as an employee, you are accused of misconduct and the Decision Officer concludes (see paragraph above) that there is a disciplinary case to answer, HR will issue you with a written formal disciplinary charge setting out:

- a. what the disciplinary charge is and the case you have to answer (including copies of the documentary evidence on which the charge has been based)
- b. an appropriate time and location for an interview
- c. your right to reasonable access to any additional relevant documentary evidence
- d. your right to reply to the charge in writing
- e. that you must submit any written response and/or request for an interview within 10 working days (a longer period may be agreed) of the date of the formal disciplinary charge being issued

- f. the identity of the Decision Officer (see c above) appointed to consider whether or not to uphold the charge
- g. that you may be assisted by a colleague or Trade Union representative (see section 3.2.4 paragraphs f and g)); and
- h. that the Counselling and Support Service is available to help you

k) Response to the formal disciplinary charge

If, as an employee, you are issued with a formal disciplinary charge, HR will notify you in writing with details of the disciplinary charge, an invite to a hearing at a reasonable time and location and your right to be accompanied or represented by a colleague or trade union representative (see section 3.2.4 paragraphs f and g)).

As the Decision Officer responsible organising and conducting the interview, you must

- a. prepare for and conduct the interview in accordance with Chapter 3C Section 3.2.13; and
- b. not make any decisions about whether or not to uphold the formal disciplinary charge without first complying with Chapter 3C Section 3.2.13 and applying the proper test (see paragraph 3.2.4 e))

If the individual chooses not to respond (or if, without good reason, they fail to attend for an agreed interview - see paragraph 3.2.54 and Chapter 3C Section 3.2.13), you are not precluded from deciding whether or not to uphold the formal disciplinary charge - in such cases, you must base your decision on the information available.

l) Decision Officer's decision

Having carefully considered the facts of the case and the individual's response to the formal disciplinary charge (see paragraph j above), you must, as Decision Officer, and applying the proper test (see section 3.2.4 e)), decide whether or not to uphold the charge.

If you conclude that a disciplinary penalty is appropriate, you must, before determining what form it should take (the options available to you are set out below), give consideration to:

- a. the penalty imposed in similar cases in the past
- b. any mitigating circumstances which might make it appropriate to lessen the severity of the penalty (each case must be looked at on its merits and any relevant circumstances taken into account - these may include health or domestic problems, provocation, ignorance of the rule or standard involved or inconsistent treatment in the past)
- c. the employee's disciplinary record, general record, age, position and length of service
- d. whether the proposed penalty is reasonable in view of all the circumstances

As the Decision Officer, you must ensure that the individual concerned is informed promptly about your decision and the action to be taken. You must write to the individual and copy the letter to Shared Service arvato, the line manager concerned and, where appropriate, the individual's representative. The letter must also notify the individual of their right to appeal against the decision if he/she is not satisfied with the outcome and must give the identity of the Appeal Officer

As the Decision Officer, you must ask the individual concerned to sign a copy of the letter referred to above and return it to you as acknowledgement of receipt.

m) Options for disciplinary action

The options for disciplinary action include:

- a. written warning reprimand

- b. suspension from duty for a specified period including where appropriate loss of pay (either wholly or in part)
- c. withholding performance related pay increases for a specified period (either wholly or in part)
- d. a ban on promotion, normally for a specified period
- e. restitution (in whole or in part) by deductions from pay or otherwise for any loss of public funds caused by a breach or breaches of discipline, or for damage to, or theft of, Highways England property caused by an employee
- f. deductions from pay for any period of unauthorised absence from duty
- g. an arranged move/transfer, or
- h. dismissal

3.2.9 Appeals

a) Right of appeal

You have a right of appeal if, as an employee, you are the subject of disciplinary action. You must lodge your appeal with the nominated Appeal Officer (see below) either in writing or by seeking an opportunity to make oral representations, within 21 calendar days of the date of the decision letter referred to in section 3.2.8 paragraph l).

b) Appeal Officer

The Appeal Officer, who will not previously have been involved with the case, will be:

- a. appointed by HR
- b. at least one grade above the Decision Officer, and

As the Appeal Officer, you must deal with the appeal as quickly as possible, consistent with a thorough examination of the case and you must arrange for the appeal to be heard within 21 calendar days of it being lodged.

As the Appeal Officer, you must inform the individual of arrangements for hearing their appeal and of their right to be accompanied or represented at the hearing a colleague or trade union representative (see sections 3.2.4 paragraph f and g)):

- a. you must prepare for and conduct the hearing in accordance with Chapter 3C section 3.2.13, and
- b. you must not make any decisions about whether or not to uphold the appeal without first complying with Chapter 3C Section 3.2.13 and applying the proper test (see section 3.2.4 e))

As the Appeal Officer, you must, as soon as possible after the appeal hearing, inform the individual concerned of the results of the appeal and the reasons for your decision and this must be confirmed in writing (along with details of any further rights of appeal - see below).

As the Appeal Officer (but subject to section 3.2.2 paragraph i)), you are not precluded from considering a case where, without good reason, and on more than one occasion, the individual fails to attend for an interview. After the first failure to attend without good reason, you must, in re-arranging the interview, inform the individual in writing beforehand that, if they fail to attend again, their case will have to be considered on the basis of the information available.

Implementation of the decision referred to in section 3.2.8 paragraph l) will not be postponed whilst awaiting the outcome of any appeal that may be made. The Appeal Officer's decision regarding the disciplinary charge will be final and will not be open to further internal appeal. However, you may have certain further internal appeal rights against the penalty (see Part A of this Staff Handbook, Chapter 11 - Complaints, grievances and appeals).

As an employee you can also, in certain circumstances, submit a claim to an Employment Tribunal if you believe you have been unfairly treated (see Part A of this Staff Handbook, Chapter 11A - Complaints, grievances and appeals).

3.2.10 Recovery of losses to public funds

If you are dismissed for an offence involving loss of public funds, any sums unpaid, for example in respect of salary or wages up to the last day of duty, or of income tax overpaid on salary may be held as a set-off against the loss.

Similar set-offs will be made if you have been dismissed for an offence and resign before the dismissal can be put into effect. In addition, the Inland Revenue will be notified of any sums so withheld in respect of income tax refund, and at the same time requested to withhold the refund of overpayment of tax.

If the amount of tax from these sources is less than the loss to public funds, and Highways England has taken legal advice that the debt is recoverable, HR will seek authorisation for set-off against your superannuation benefits from Civil Service Pensions at the Cabinet Office.

3.2.11 Records

a) Records of warnings and penalties held on personal files

If you are given a warning or disciplinary penalty, it will be disregarded after 12 months in the case of oral and first written warnings and after 24 months in the case of final written warnings or disciplinary penalties. There may, however, be occasions where your conduct is satisfactory throughout the period of a warning only to lapse very soon thereafter. Where a pattern emerges and there is evidence of abuse, your disciplinary record will be borne in mind when deciding how long any warning should last. Exceptionally, there may be circumstances where misconduct is so serious that it cannot be disregarded for future disciplinary purposes. In such circumstances, it will be made clear to you that the warning or penalty can never be disregarded and that any recurrence will lead to a final written warning or possibly dismissal.

Chapter 3.9 - Part B: Outline of Highways England procedures in complaints to the parliamentary commissioner for administration (PCA)

Chapter 3B – Personal Conduct Procedures

3.9 Outline of Highways England procedures in complaints to the Parliamentary and Health Service Ombudsman (PHSO)

3.9.1 Outline of procedures

This Section outlines the procedures followed by Highways England in dealing with PHSO cases, and identifies particular points to note.

IMD Enquiry Services is responsible for:

- a. the procedures themselves
- b. co-ordination of the handling of PHSOPCA cases within Highways England , and
- c. day-to-day liaison with the PHSO's Office, except where other arrangements have been agreed

Full details of the procedures to be followed are provided by IMD Enquiry Services when they first refer cases to the appropriate Divisions (Stage 1 below).

When the PHSO decides to proceed with a complaint, the main stages in the handling of cases are as follows:

3.9.2 Stage 1

The PHSO writes to the Permanent Secretary [NEEDS CONFIRMING], enclosing the Statement of Complaint and requesting Highways England's comments on the complaint:

- The case is referred to the appropriate Division by IMD Enquiry Services
- The Division submits comments (in the form of a Highways England Report) through IMD Enquiry Services to the Permanent Secretary
- The Permanent Secretary writes to the PHSO within 3 weeks of the PHSO's request

3.9.2 Stage 2

The PHSO's investigation:

- The PHSO's Office calls for documentation (files, etc.) from the Divisions concerned, and may interview officers involved in the case.
- The Permanent Secretary is only involved at this stage if the investigation highlights further failings or significant issues.

3.9.3 Stage 3

The PHSO sends his draft results report to the Permanent Secretary for comment on the facts it identifies and its presentation of them:

- the case is referred back to the appropriate Division(s) by IMD Enquiry Services
- the Division prepares a draft reply for the Permanent Secretary to send to the PHSO, submitting this through IMD Enquiry Services
- the Permanent Secretary writes to the PHSO

3.9.4 Stage 4

The PHSO sends his final report to the Permanent Secretary. The Division(s) take any further appropriate remedial action.

The PHSO is empowered to call for information and documents that in their opinion are relevant to the investigation. However, the PHSO is debarred from access to information, whether oral or written relating to the proceedings of the Cabinet or any Cabinet committee. If the PHSO requests access to such information, or the Division concerned concludes that an investigation may lead to such a request, the matter should be referred to IMD Enquiry Services, who will consult the Cabinet Office.

A Highways England file opened on the complaint is not part of the material of the case under consideration (which is freely available to the PHSO) but is maintained purely for internal Highways England comments.

If an MP puts down a Parliamentary Question or writes direct to Ministers about a case under investigation, the appropriate Division should draft a reply along the following lines:

" that the PHSO is looking into the case and his (or her) report should be awaited."

Any references to Highways England which arise in the context of PHSOPCA cases involving other Government Departments may be handled by officers of SEO and above, who should consult IMD Enquiry Services as necessary.

Part B: Security and confidentiality Procedures

[4.1 Confidentiality](#)

[4.2 Intellectual Property](#)

[4.4 Use of Official information, publications, broadcasting, lectures and attendance at conferences and similar events](#)

Chapter 4.1 - Part B: Confidentiality

4.1.1 The Official Secrets Acts

The Official Secrets Acts 1911 - 1989 applies to you in relation to your past service in the civil service. Therefore the following sections should be read with that in mind.

The 1989 Act does not affect the operation of Section 1 of the Official Secrets Act 1911, which protects information useful to an enemy.

General information about the 1989 Act, and details of the **six categories** of information protected by the Act are at Chapter 4C Section 4.1.

4.1.2 Other legislation

Many other Acts of Parliament also contain criminal law sanctions against the unlawful disclosure of certain kinds of information. Further information about these can be obtained from your line management and HR.

4.1.3 Market testing/privatisation/contracting out

It is possible that you may find yourself in units of Highways England affected by proposals, which could lead to your area of work being market-tested, privatised or contracted out. You may have access to information that is commercially sensitive and the normal rules of propriety; loyalty and confidentiality to Highways England apply (see [Chapter 3A, Section 3.1.1](#) paragraph a) about disclosure of official information).

Further information will be available locally and HR will, as necessary:

- provide advice on any propriety issues likely to be raised by particular exercises and
- co-ordinate and issue guidance to all staff in areas affected who may have access to commercially sensitive information
- Obtain advice from Procurement Directorate in relation to any Freedom of Information enquiries relating to commercially sensitive information

4.1.4 Handling enquiries

Everyone who contacts Highways England in writing, by telephone or other means (e.g., e-mail) is entitled to be dealt with efficiently, promptly and without bias or maladministration and in a courteous and helpful manner.

In dealing with external enquiries you should consider under the Freedom of Information (FOI) Act 2000 and the Environmental Information Regulations 2004 (see Chapter 4B Section 4.1.5) and the Data Protection Act 1998 (see [chapter 4A, section 4.3](#)), whether the information you have been asked for can be released, particularly if it is sensitive or not due for general release until a later date. There is obvious scope for embarrassment to the Agency and our Ministers if an unguarded response is given, especially if there is a risk that what is being said may be taken as formal advice. Care needs to be taken, particularly over the telephone (further advice on the handling of telephone calls is explained below)

When dealing with the public, you should keep in mind the following basic questions:

- Is it appropriate for Highways England to give advice on the matter? If not, the inquirer should be helped to find the right organisation to approach. If another Department, agency or public body is in the lead on the policy issue they may be able to offer a fuller reply
- Can the information safely be given, either in writing or over the telephone? If a caller requests sensitive information or if the issue is complex or controversial, it is better to give a written reply that can be more carefully considered. You should give advice only when you are sure of the facts and would be prepared to confirm the advice in writing if asked to do so. If the request appears to be a Freedom of Information request you should ask the caller to put it in writing
- Is the inquiry from a journalist or member of the news media? If so it should be transferred to the Highways England's press office. Further information on relations with the media can be found in [Chapter 4A, Sections 4.4.4 to 4.4.7](#) and Chapter 4B [Section 4.4.4 to 4.4.7](#)

4.1.5 Freedom of Information (FOI) Act 2000, Environmental Information Regulations 2004

The Freedom of Information Act 2000 is retrospective and covers all the information that Highways England holds. Under the Act, Highways England has a legal obligation to the enquirer to release information requested which falls outside the exemptions included in the Act. The Environmental Information Regulations 2004 legally obliges Highways England to release information on environmental issues barring, which falls inside the exceptions included in the Regulations. Further guidance is available via the Import Community on the Portal.

4.1.6 Telephone callers

Attempts are sometimes made by members of the public to obtain official information which should not be disclosed (whether or not it is classified under the security classification policy) or which is not due for general release until some later date.

There have also been cases where telephone callers seeking information have falsely represented themselves as members of a Government Department or agency giving details which, upon investigation, have proved to be bogus.

All employees should be on their guard against such approaches and exercise discretion in dealing with the public on the telephone, as there are obvious dangers for potential embarrassment to Highways England and Ministers in giving unguarded responses to callers. You should always be vigilant when dealing with outside callers particularly if there is a risk that answers given to enquiries might subsequently be construed as advice.

4.1.7 Guidance for dealing with telephone enquiries

If you receive telephone enquiries, especially from members of the public, you should keep in mind the following basic questions:

- Who is the caller? A caller who cannot be satisfactorily identified should be asked to leave a telephone number to which a return call can be made. The number should be checked with the organisation to establish the validity of the call before official information is disclosed. Should the caller decline to give a number or gives a number or identity that proves to be false, the matter should be reported to line management. No attempt should be made to make further contact with the caller
- Is it appropriate for Highways England to give the advice being requested? If not, the inquirer should be helped to find the right organisation to approach. If another Department, agency or other body is in the lead on the policy issue they may be able to offer a fuller reply
- Is the information asked for considered "restricted" or has a "classified" marking? If the information is sensitive or has any protective markings you should ask the caller to put their request in writing

- Is the problem outlined in the call, complex or so far reaching that it is appropriate to give advice on the telephone? Where the matters are complex or controversial the caller should be advised that they would need to write to Highways England with all the details
- Is the caller a journalist or member of the news media? The caller should be transferred to the Highways England Press Office. Further information on relations with the Media can be found in Chapter 4A, Sections 4.4.4 to 4.4.7 and Chapter 4B [Section 4.4.4](#) to 4.4.7

There will be instances in the course of day-to-day business when you will judge it appropriate to give advice over the telephone. In those circumstances you should exercise discretion and take care to:

- establish the identity of the caller
- give advice only when you are sure of the facts and when you would be prepared to confirm advice in writing if requested. If you are in any doubt you should ask the caller to put their request to Highways England in writing
- ensure that you are aware of the use to which the advice will be put
- make a record for the file of the major, significant or controversial points as soon as possible after the advice has been given. This is particularly important if there are significant financial or legal implications; and
- check carefully for accuracy when the caller subsequently confirms advice received from Highways England. Write back immediately to register any misunderstanding, misrepresentation or discrepancy

4.1.8 Enquiries from Members of Parliament or Members of the European Parliament

Ministers will normally answer written enquiries from MPs and MEPs. If you receive a direct telephone call from an MP or MEP you should aim to be as helpful as possible in giving published information or in directing the Member to where the information may be obtained.

You should avoid giving a qualitative judgement or appearing to speak on behalf of the Minister. Should a request seem to need such a response, it would be appropriate to say that you would prefer (for reasons MPs will appreciate) to refer the request to the appropriate Minister for reply. This course would also be appropriate where a request requires the gathering of information before telephoning an MP back.

In both the situations in above, the Minister's office concerned should be advised of the information that has been passed on.

Where it is necessary to follow up a telephone conversation (usually where detailed facts are involved) you should consult the Highways England team dealing with official correspondence on whether the letter should be an official one or be sent by a Minister. Any such letter should firstly be cleared with the relevant Board Director and the relevant Minister's office.

4.1.9 Access to papers of a previous administration

In discharging your duties under the Highways England code of conduct (see Part A, [Chapter 3B Section 3.2](#)), you should maintain the long-standing conventions that new Administrations do not normally have access to papers of a previous Administration of a different political complexion. The conventions cover, in particular, Ministers' own deliberations and the advice given to them by officials, other than written advice from the Law Officers and those papers which were published or put in the public domain by the predecessor Administration. In applying the conventions to the devolved Administrations in Scotland and Wales, any information contained in Highways England's records belonging to a Minister of the Crown or a UK Government Department should be treated as if it were contained in papers of a previous Administration of a different political complexion.

4.1.10 Possible litigation

You should take special care to avoid public statements or expressions of opinion on matters that have become, or may become, the subject of legal proceedings. HR should be contacted before a statement or opinion is given in such circumstances.

Chapter 4.2 - Part B: Intellectual Property

Chapter 4A, Sections 4.2.1 and 4.2.3 set out your obligation to report an invention you make whether alone or jointly with any person or persons in the course of official duty to HR Business Partner. This is in your interest as:

- a. statutory compensation may be payable under sections 40 and 41 of the Patents Act 1977 in respect of an invention which is patented and from which the Crown derives outstanding benefit; and
- b. an ex-gratia payment may be made in respect of an invention that, if adopted, might improve the effectiveness of Highways England's work or that of other Departments through, for example, greater efficiency, reduced costs or increased safety.

HR acts as a focal point for inventions by Highways England employees and liaises on the necessary patenting and registration procedures with the Ministry of Defence (MOD) Procurement Executive, which acts as Highways England's Patent Agent. The MOD both obtain patents and register designs for inventions by employees of Highways England, and deals with Highways England's patent matters generally. Details of the current MOD contact point can be obtained from HR.

4.2.1 Patent protection - Disclosure of information

Protection of patent cannot be claimed if the device, process or technical improvement has been freely disclosed or shown to any member of the public. Where patent protection is to be sought it is most important that a specification that defines the invention in a clear and complete enough manner to a person skilled in the technical field is drafted and filed. The specification must be filed with the Patent Office before disclosure to any person who is not under an obligation of confidentiality.

4.2.2 Confidentiality

Even if you have made and own an invention outside the course of duty, or have done so with someone else and share its ownership, you may still have an obligation of confidentiality towards Highways England as employer if you have made use of official information gained in the course of official duties in making that invention. If you are in this position, you should consult HR Business Partner for advice.

You must transmit papers relating to patents within and between Government Departments under the privacy marking 'OFFICIAL-Sensitive'. This is particularly important in the period before an invention has been patented and registered. The Data Protection Team should be consulted about the privacy marking of papers sent to the Patent Office. Any unauthorised disclosure may be treated as a breach of the Official Secrets Act (see Chapter 4C Section 4.1

4.2.3 Contracts for technical work or technical collaboration

Where Highways England enters into a contract for technical work or technical collaboration, rights to use intellectual property and rights of ownership that may arise from the project should be agreed between the parties and be clearly and satisfactorily set out. Particular care should be taken to ensure that the information is not revealed to persons outside Highways England who are not under an obligation of confidentiality to Highways England.

Procurement Directorate can provide further details on the ownership and exploitation of Intellectual Property Rights (IPR). The contractual aspects of IPR are also covered in the Resource Management Guidance - Procurement.

4.2.4 Action in the line

Whenever you make an invention on official duty that is considered to be of potential use to Highways England or the Crown, it is vital that all available details should be recorded as early as possible in a register kept for that purpose within the Directorate to which you as the originator belong. This record should be independent of any held by you as the inventor and should contain a sufficiently full and detailed description for an expert in the relevant discipline to appreciate its scope and meaning. Drawings, etc., should be signed and dated on paper with the appropriate copyright marking, and file references noted, so that all the relevant papers can be produced (if necessary) to prove the date of the invention.

In practice, the registration of inventions is likely to be very rare event, and Divisions may wish to refer via HR to wider experience within government.

4.2.5 Disposal of rights in an invention owned by an employee

If you own an invention, it is open to you to offer rights in it to the Crown through Highways England. Any approach for this purpose should be made to HR, who will seek the comments of senior line managers on the merits of the invention. Acceptance of such an offer is at the discretion of Highways England. If it is accepted, negotiations on terms will take place with you as the inventor. If you own the rights in an invention, it is open to you to retain or dispose of them elsewhere than to the Crown and in that case you may, if the Crown acquires less than full rights, proceed as you desire, at your own expense, subject only to the obligation of confidentiality owed to Highways England as employer in respect of the rights owned by the Crown.

4.2.6 Copyright

Copyright subsists in written and recorded work, for example, scientific or technical papers, drawings, computer software, etc., and is equally important in relation to notes, books and computer software as in technical drawings. Under section 163 of the Copyright Designs and Patents Act 1988 all material produced by a Highways England employee in the course of official duty is subject to Crown copyright. Where there are prospects for commercial exploitation of information or software, you should exercise care to avoid premature or free disclosure of details. Further advice on aspects of copyright relevant to the work of employees of Highways England is given at [Annex C](#).

4.2.7 Registration of design

Registration covers exclusive rights to an original design observable as features of shape, configuration, pattern or ornament. Designs may be registered with the Design Registry, which is a department of the Patent Office under the control of the Comptroller-General of Patents, Designs and Trademarks. See also [Chapter 4A, 4.2.2](#).

4.2.8 Registered trade marks

A trademark is a distinctive device or word use in relation to goods in the course of trade to indicate the origin of the goods. Where the Highways England has a trading interest in goods, trademark registration can be of value in protecting the name given to the product concerned. Trademarks are also registered with the Patent Office. Queries regarding trademark registration should be directed to the Head of Creative Services.

Chapter 4.4 - Part B: Use of official information, publications, broadcasting, lectures and attendance at conferences and similar events

The Secretary of State and other Ministers are responsible for the policies of the Department for Transport and agencies while Highways England is responsible for the operation of England's motorways and trunk roads.

Highways England has its own press office staffed by professional press officers, some of whom are members of the Government Information and Communication Service. Highways England is accountable to the public for its actions in operating the strategic road network.

The Highways England press office is responsible for advising on the presentation of information, including relations with the press, television and radio, advertising campaigns, publications, exhibitions, films and reception of overseas visitors. You should seek the advice of the Highways England press office on dealing with the press. For other communications issues you should consult the regional communications manager for your region. For customer issues you should consult the customer champion team and for internal communications consult the internal communications team.

The Highways England press office should be consulted early on contentious issues. The press office should be consulted on the timing, method and content of press announcements before a submission is made to Ministers. The press office liaises with relevant parties to ensure your announcements are handled smoothly.

Submissions to Ministers should always include a section on handling. Each section on handling should be drafted in discussion with the HE press office.

4.4.5 Rules for Dealing with the media

All calls from the media must be handled by the Highways England press office and, except in the south east where the media is handled by the Guilford press office. The Highways England press office is authorised to speak to, and provide information to, the news media. All requests under the Freedom of Information Act or Environmental Information Regulations from the media should be referred to the Highways England Press Office.

4.4.6 Professional officers speaking about their work

If you are employed in a professional capacity and you are invited to speak to the media about your work, you must follow the rules at [Chapter 4A, Section 4.4.6](#), with the exception that it is not necessary for each contact to be cleared individually, provided that the Highways England press office is kept regularly informed of the content of the discussions.

Once the original reason for the contact with the journalist has passed, it may be difficult for you to break off contact, because the journalist will always turn to a source that has been useful in the past. You should, therefore, encourage journalists to obtain their guidance and information from the Highways England press office.

4.4.7 Letters to the Press

On rare occasions, writing an official letter to the press about an issue concerning Highways England may have value in setting the record straight.

If you believe that it can be justified to write to the press to set the record straight about an issue concerning Highways England, you must first consult the Highways England press office who will consult, as appropriate, the relevant board director.

a. Possible litigation

Special care should be taken to avoid public statements or expressions of opinion on matters that have become, or may become, the subject of legal proceedings. A HR Business Partner should be consulted before a statement or opinion is given in such circumstances.

4.4.8 Official contact with lobbyists

It is the right of everyone to lobby Parliament and Ministers. However, it is a duty of the public institutions to develop ways of controlling the reaction to approaches from professional lobbyists in such a way as to give due weight to their case while always taking care to consider the public interest.

The Government and Highways England does not ban contact between employees and lobbyists but insist that wherever and whenever such contact takes place it should be conducted in accordance with the Highways England code of conduct (Part A of this Staff Handbook, [Chapter 3.1.](#)) and the principles of public life set out by the Nolan Committee ("First Report of the Committee on Standards in Public Life"). See also [Section 4.4 paragraph 4.4. 8](#). A request under the Freedom of Information Act or the Environmental Information Regulations from a lobbyist must be treated in the same way as from any other requestor. It is not permitted to ask the reason for wanting the information, but the request can be clarified if it is unclear. Further guidance is available on the Import Community on the Portal.

a. Practical application to contacts with lobbyists

These basic principles apply to all contacts between Highways England employees and people outside Government, be they businesspeople, trade unionists, journalists or campaigners of any kind. What the principles mean in practice will depend on the circumstances of each case. It is not possible exhaustively to cover every situation that may arise, but the main points to have in mind in dealings with professional lobbyists, given the nature of their work, are found in Part A of this Staff Handbook, Chapter 4A, section 4.4.8.

The rules should, of course, be interpreted with common sense. If, for instance, you have a friend or family member who is a lobbyist you must ensure that in your personal and professional relationships the interests of Highways England is not brought into disrepute. You should also ensure that proper arrangements are in place to deal with any conflict of interest and that you do not get tempted into doing something which would lay you open to criticism or be misunderstood.

b. Lobbyists in other roles

The focus of this guidance has been on professional lobbyists - whether individuals, partnerships or companies - who earn their living by providing their clients with contacts, information and advice about how to persuade Government and other public sector bodies to do or give them what they want. Remember that you may meet a lobbyist in other roles: for instance as a journalist or consultant. Bear all their interests in mind in your discussions. You cannot expect lobbyists to keep their different roles in watertight compartments.

4.4.9 Surveys and questionnaires by outside organisations and individuals

Organisations or individuals seeking opinions or views as a contribution to particular research projects (including market research surveys) may approach you. Very often surveys of this kind may involve senior management and can take up a great deal of time.

This guidance is not intended to inhibit you taking part in surveys that are unconnected with the Highways England, its work or official matters when such approaches are made in a private capacity and out of official hours. Such approaches are not the concern of Highways England, provided that you remember that there should be no disclosure of official information which is held in confidence or which could have only been gained from your work within Highways England or previously the Civil Service.

What is of concern to Highways England is an invitation to participate in a survey of opinion or attitudes, which is directed at you solely or primarily because you have previously been a civil servant, or as a member of Highways England.

If you are invited by an outside organisation or individual to participate in a survey of opinion or attitudes, which is directed at you solely or primarily because you have previously been a civil servant, or as a member of Highways England you must report the fact to HR. HR will advise whether it is permissible for you to take part. In such cases, it would be helpful for the HR in reaching its decision if you could:

- a. find out who is conducting the survey, e.g., a commercial organisation; an agency (endeavour to find out for which organisation the agency is working); a non-commercial organisation (these will usually take the form of studies by research workers)
- b. ask the details of:
 - the aims of survey, and
 - the proposed method of operation
- c. where possible get details of the questions; have regard to the scope and depth of the questions likely to be asked and particularly to any matters which might be especially sensitive, and
- d. where possible obtain a list of other individuals being approached as part of the survey
- e. consider how far the outcome of the research activities will be of value to Highways England and whether there are any wider benefits to other Departments or Agencies.

Where you do have permission to participate in a survey, it remains open to you individually to decide whether or not to take part. If you decide to take part, you must have regard to the rules on protection of official information and the duty of confidentiality owed to the Highways England (see Part A of this Staff Handbook, [Section 4.1, paragraph 4.1.1](#) and the Highways England code of conduct). No comment must be made on Ministers, officials, private individuals or organisations in terms that the Crown and/or Highways England could regard as objectionable. Nor must any comment be made on the relations between Ministers and officials or on advice offered to Ministers.

4.4.10 Meetings between officials and members of the UK Parliament, the European Assembly, Scottish Executive, the Welsh and Northern Irish Assemblies and the House of Lords

This Section sets out the rules and guidance to be followed in considering whether you should attend events that may involve actual or quasi-political issues. It covers:

- a. Meetings between officials and Members of UK Parliament (MPs), Members of the European Assembly (MEPs), Members of the Scottish Executive (MSEs), Assembly Secretaries and the National Assemblies of Wales and Northern Ireland as a body, or Members of the House of Lords (Peers) without a Departmental Minister being present.

- b. Invitations to conferences, seminars or similar events, in either an official or a private capacity.

The policy for authorising attendance at conferences, etc., and on the circumstances in which a fee should be charged by officials who speak at such events, are given in [Chapter 4A, Section 4.4.14](#) to Section 4.4.16

- a. Roles and responsibilities of ministers and officials

Ministers should normally conduct meetings with MPs, MEPs, MSEs, Assembly Secretaries and Peers. Ministers are accountable to Parliament for their own actions and those of their officials, whose decisions are taken in their name.

Where officials meet MPs, MEPs, MSEs, Assembly Secretaries and Peers without Ministers, these conventions are open to misunderstanding, especially by third parties such as constituents who may be present. There is always a risk that more than was intended may be read into statements made by officials or that differences between Ministers or officials may be imputed, while many issues have political dimensions which MPs, MEPs, MSEs, Assembly Secretaries and Peers may wish to discuss but in which it is not appropriate for officials to become involved. This can lead to embarrassment for Ministers and officials alike.

Nevertheless, it is sometimes appropriate, when dealing with complex (often technical) matters and casework, for direct contacts to be arranged between officials and the Member concerned, with the Ministers agreement. In your official capacity, you must not meet with MPs, MEPs, MSEs, Assembly Secretaries and Peers without prior agreement of the Chief Executive and appropriate Minister. Where such approval is given, you must not discuss sensitive policy matters.

An exception applies to meetings with Members of the House of Lords holding executive positions; for example, running non-departmental public bodies or other organisations in regular contact with Highways England. Day-to-day contacts may take place between senior officials (Divisional Directors and above) and Peers clearly acting in an executive role, without automatic reference to Ministers. Officials dealing with Peers on this basis should exercise their judgement about when Ministers need to be involved.

4.4.11 Participation in party political functions and the activities of organisations on the margins of party politics

You must not attend in your official capacity a conference, seminar or other event convened by, or under the aegis of, a United Kingdom party political organisation. Exceptionally, your Divisional Director or Head of Division may approve your attendance at such events in your official capacity as an observer. In such cases you must not intervene or take part in public discussions except to correct gross errors of fact.

Section 4.4.12 and paragraphs a and b below set out the approach which should be adopted towards events which are organisations at the margins of party politics; i.e., which are associated either directly or in the public mind with a certain political party or whose activities show leanings towards one end of the political spectrum or the other.

4.4.12 Events organised by groups of which membership of a particular political party is a condition of membership

Example, The Bow Group, the Bruges Group

You must not in your official capacity attend events organised by groups of which membership of a particular political party is a condition of membership alone or in the company of Ministers. You can provide Ministers with factual briefing explaining Highways England's policies or actions, but you must not provide a prepared speech.

a. Events organised by groups without formal links to political parties, even though they may have leanings towards one end of the political spectrum

Examples: Confederation of British Industry, the Trades Union Congress, the Institute of Directors, and the Social Market Foundation

There is no objection to providing briefing to Ministers on matters of Highways England's interest. You may accompany Ministers to events to provide briefing and at Minister's request respond to factual questions. Authority may be given to you to speak if you are explaining declared Government policy or the processes of Government.

In deciding whether you should be allowed to attend alone, your Divisional Director or Head of Division should consider:

1. whether they are satisfied as to the character of the conference or occasion, the degree of involvement and the advantage likely to accrue to Highways England; and
2. whether they think it desirable for Highways England to be represented by an observer, even if the subjects to be discussed have a politically controversial aspect

If you attend an event organised by a group without formal links to a political party, even though it may have leanings towards one end of the political spectrum, you must not take part in public discussion of politically controversial matters.

b. Events organised by study groups with very strong public associations with political parties

Example, Action Centre for Europe, the Centre for Policy Studies, the Adam Smith Institute, the Institute of Economic Affairs, the Fabian Society, the Institute of Public Policy Research.

Your participation in events arranged by politically orientated research organisations might give rise to sensitivities if their aims are closely associated with a party objective. Ministers participating in events organised by these bodies will normally be doing so in a party political role. For the purposes of briefing or accompanying Ministers, these bodies should normally be treated as political like those in section 4.4.10 paragraph a) above. However, speech writing for Ministers explaining or enlarging on policies to bodies like the Adam Smith Institute or the Institute of Economic Affairs may be used as for those bodies in section 4.4.10 paragraph a) above, but applied with even more care to avoid giving the appearance of compromising political impartiality.

4.4.13 Background to policy studies etc.: disclosure of factual or analytical material

It is Highways England's and Government policy to publish background material used in completed major policy studies unless the Secretary of State or responsible Minister decides to the contrary in line with the requirements of the Freedom of Information Act, Environmental Information Regulations, and the Data Protection Act. The intention is to make it normal practice to publish background information that supports the framing of major policy announcements and decisions, such information will normally be available when policy and decisions are announced. Further guidance can be found on the Import Community on the Portal.

a. Sensitive material

When disclosing factual or analytical information for background material to policy studies, you must not, without authority, publish material that bears a current protective or security classification or privacy marking (see the Resource Management Guidance - Security). You should take care to ensure that the publication of unclassified material is not prevented by its inclusion in documents containing classified material.

b. Publication of background material

Background material should be published in the most cost-effective way; the following points should be noted during the progress of a Review or Study and at completion:

1. Action - during a Review or Study:

- Re-writing material especially for publication is costly. You should, therefore, prepare background material in a form suitable for publication. In particular, it should be attached to, rather than incorporated in, policy submissions to Ministers. This separation will assist Ministers to decide whether or not to publish it.
- The cost of printing and publishing documents falls to Highways England. Sponsor Divisions should, therefore, discuss ways of minimising costs with the HE press office and/or regional communications manager.
- You should assess the number of copies to be available in advance of demand with a view to avoiding waste rather than providing for an instant response; you should have regard to economies, which can be achieved through long print runs. The HE press office or regional communications manager will be able to advise on likely demand.
- Double printing - i.e., a separate print run for the published documents and another for Highways England - should be avoided. If appropriate, Ministers should be consulted at an early stage about the form of final publication.

2. Action - on completion of a Review or Study - Ministers should be asked to decide:

- what material, if any, should be withheld from publication; and
- on the form of publication for the remaining material. Less important material may be published in the form of journal articles, or by way of copies in the Information Centre.

3. Plans for publications must be discussed with the regional communications manager in Corporate Directorate, as early as possible before publication.

The HE press officer regional communications manager must be consulted as early as possible before publication so that appropriate handling plans can be achieved.

4.4.14 Attendance at conferences, symposia, seminars and other meetings and exhibitions arranged by outside bodies

The decision whether to accept an invitation to attend a conference or similar event - whether in the United Kingdom or overseas - should always take account of both the character of the event and whether the advantage to Highways England would justify the time and expenditure involved.

a. Reasons for attending

You may be authorised to attend an external conference, etc., in an official capacity, for one or more of the following reasons:

1. to represent or act as an observer on behalf of Highways England
2. to keep up-to-date with current thinking or exchange views on matters of official concern
3. to take part in discussion or present a paper
4. as a form of training

b. Use of official information

When you attend a conference, seminar or similar event, you must observe the rules set out in [Chapter 3A Section 3.1.1](#) of the Staff Handbook in particular, those relating to the use of official information.

c. Obtaining approval

An application for approval to attend a conference, seminar or similar events for any of the reasons set out in [Chapter 4 Section 4.4 paragraph 4.4.14](#) of this Staff Handbook must be made in writing to your Divisional Director or Head of Division. It should state the names of all those proposing to attend; the title, dates, venue and organisers of the proposed conference; and the amount of any registration, attendance or other incidental fees payable. The application should be made in good time, before any commitments are entered into (this is particularly important when places have to be booked or fees paid in advance or where the conference is to be held overseas).

Your Divisional Director or Head of Division will decide and set out in writing whether you may take a full part in discussions, or whether you should attend as an observer and are only authorised to intervene on questions of fact.

4.4.15 Overseas conferences etc

You must check the Foreign and Commonwealth Office (FCO) website [O](#) after having received Highways England/Departmental approval when you are visiting overseas on official business (including those on European Common Foreign and Security Policy (CFSP)), the exception to this is if the visit:

- a. is part of an established programme or commitment; or
- b. is in connection with NATO defence works and within Europe on non-CFSP European Community and European Political Co-operation business

If you have any queries you must contact the Security Team.

Notification should be given well in advance of the planned visit. See also [International Travel Guidance](#) about security in relation to overseas travel and Chapter 9C Section 9.2.3 Overseas Travel & Subsistence: Allowances at a glance.

You should consult the [International Travel Guidance](#) initially for advice on any necessary formalities required for overseas travel (e.g., passports, visas and inoculations and travel arrangements). Overseas subsistence rates can be found in Chapter 9C Section 9.2.3 Advice can also be sought from the Department's Travel Agents. You can also contact the Home Office Visa Department, whose address is The Passport Office, Room 203, Clive House, London, SW1H 9HD (Tel no. 020 7271 8616/8552) (personal applications to Counter 33). You should note that visas can take up to eight weeks to obtain for certain countries.

If you have any other queries about the country to be visited, these should be addressed to FCO.

a. Numbers attending

As a general rule, no more than one person should attend a conference from any one Division or equivalent unit.

Where representatives from several groups within a business area wish to attend a particular function, the Divisional Director or Head of Division should be consulted. Similarly, where different parts of Highways England have an interest, Divisional Directors or Head of Division should be consulted.

In these cases, six representatives will normally be regarded as the maximum number consistent with the needs of Highways England.

b. Attendance costs

All costs you incur when attending conferences, etc., should be charged to the budget held by your Directorate. Where attendance is primarily for training purposes, the cost should be charged to your Directorate's external training budget

c. Discounts and subscriptions to organisations

Highways England subscribes to a number of outside organisations. Reduced fees and/or discounts may be available through these memberships. Human Resources should be consulted before a booking is made to check if any benefits may be claimed.

4.4.16 Fees for contributing to conferences or similar events

It is Highways England's policy to charge a fee where an Employee contributes to an event which is for profit. In most cases, it should be clear from event organisers whether this is so. Events arranged by commercial conference organisers or other private sector organisations are likely to be for profit, while those run by public sector bodies, voluntary organisations and some representative organisation (e.g., trade associations) may well be for indirect benefit only.

Where Highways England has actively sought the opportunity to speak at an event organised by a profit-making organisation, or to contribute to a profit-making publication, there is some discretion over charging a fee. Normally, however, where the organisation would be expected to pay contributors, a fee should be charged. Where there is any doubt, advice should be sought from Human Resources.

An organisation may offer a fee on the basis of a standard tariff (i.e., one the organisation uses for all contributors). This should be accepted where it is judged to be broadly in line with the costs incurred by Highways England in contributing to the event or publication.

Where a standard fee is not offered or a standard fee is judged to be too low, the fee requested should be calculated by reference to the number of hours spent preparing and delivering the talk, on the basis of an hourly rate for the grade level/band concerned. Any other costs incurred (for example, those of producing slides or other presentational material, and travel and accommodation costs) should also be included. Value-Added Tax (VAT) must then be added to the fee and separately identified on Highways England's invoice to ensure correct attribution of the fee when it is received.

Fees will count against the appropriate cost centre receipts budget with the command of the officer concerned and may be retained for use within the command.

If you contribute to 'for-profit' events or publications and you have prepared and/or travelled to the engagement in your own time, you are entitled to apply for compensation by means of overtime pay or time off in lieu. Advice on the limited circumstances in which you may retain part of the fee is available from Human Resources.

d. Offers of gifts or other benefits in lieu of fees

On occasions, payment in kind rather than cash may be offered - for example, free or discounted attendance at the event in question, or at other events, for Highways England officials. If there is a genuine need for officials to attend, such offers may be accepted. Some organisations may offer gifts instead of cash fees. As a rule, these should normally be politely refused, and the organisation asked for a cash fee instead. Gifts should never be preferred to fees.

A gift may be accepted only if the item can be used officially (or, where it is consumable or perishable, used for the wider benefit of the relevant Command) or displayed in the office. The donor should be advised that the gift has been accepted on behalf of Highways England (i.e., that no individual has gained a personal advantage from the gift). Where this criterion is not met, the item concerned should be returned to the donor with a polite letter of refusal explaining Highways England's rules. All gifts, other than items such as diaries, calendars or other small items of modest value bearing a Company's name or insignia, must be reported, in writing, to Human Resources via your Divisional Director or Head of Division, who . Divisional Directors and Head of Divisions should then report gifts to the Finance and Business Services (FBS) Financial Control Division . Where there is any doubt, advice should be sought from Human Resources. Chapter 3A Section 3.5.7 of the Staff Handbook provides further information on the acceptance of gifts.

4.4.21 Crown copyright

Definition of copyright

1. "Copyright" is the legal and exclusive property right that subsists in three main categories of work:
 - original literary, dramatic, musical or artistic works and also includes computer software
 - sound recordings, films, broadcasts or cable programmes
 - the typographical arrangements of published editions
2. Briefly, this means that in the majority of cases the first ownership of copyright rests with the author, who is taken to be the person who creates the work, - e.g., typically a manuscript which is then published; the author owns the copyright in the text itself. But a publisher who accepts the text for reproduction is the first owner of the copyright only in the actual setting of the text and not the text itself.
3. It follows, therefore, that permission to use or quote from the text created by an author should first be obtained from the author.

Crown copyright

4. Crown copyright covers all published or unpublished material "made by Her Majesty or by an officer or servant of the Crown in the course of his duties". The Controller of [Her Majesty's Stationery Office \(HMSO\)](#) - (which operates as a Division of the Cabinet Office and is a separate entity from [The Stationery Office](#)) has been appointed by Letters Patent as the Queen's Printer and administrator of Crown copyright. The Letters Patent give the Controller the right to hold and exercise all rights and privileges in connection with Crown copyright as fully as if all such copyrights were his own property.
5. Permission to reproduce material in which Crown copyright subsists may only be granted by the Controller of [HMSO](#) or by the Department which has the necessary delegated authority.

Works produced other than by Highways England employees or Crown servants

6. Copyright in commissioned works will rest with the author(s) of the work (see paragraph 2 above) unless the copyright is claimed for the Crown as part of the commissioned contract. Contractors cannot publish work in which copyright has been assigned to the Crown without the prior approval of [HMSO](#).

Agency liaison point

7. The Information and Security Team is the liaison point in Highways England for all questions on copyright and consults [HMSO](#) in all matters of Crown copyright. To avoid confusion and possible infringement, all other matters of reproduction, including photographs, which may involve questions of Crown copyright should be referred to the Information and Security Team at the outset.

Joint productions and shared copyright

8. Complications in copyright can arise where Highways England joins with a non-Government body in the sponsorship of a research project and there is likely to be final report or other document produced. Joint copyright may complicate future reproduction and copyright fees.

9. [HMSO](#) will not allow a non-government body to be identified as a sponsor of a Government publication.

10. To overcome this objection, the simplest and least troublesome solution recommended by [HMSO](#), is for the non-Government body to agree that the publication should be protected by Crown copyright on a clear understanding that the non-Government body would have free and unlimited access to use and reproduce the material on due application to the Agency. The publication or document should then appear with the Crown copyright imprint. Only the name of Highways England will appear on the cover and title page, although the interest of the non-Government body could be mentioned elsewhere in the publication if required.

11. An alternative option would be for the non-Government body to publish the document as its own and with its copyright but making due acknowledgement to any Crown copyright content and including a concession (as in paragraph 10 above) about access to the material for use by Highways England.

12. All questions of Crown copyright in these circumstances and any questions of availability of copies of a printed document, should be resolved before an agreement or commitment is entered into for joint sponsorship of this nature. The Information and Security Team should be consulted for further advice.

Agency publications

13. All reports, studies and other publications (priced or unpriced) which issue from Highways England - i.e., not published by [the Stationery Office](#) - should bear the Crown copyright imprint in a conspicuous place and an inscription..."Published by Highways England ". The sponsor of the publication is responsible for obtaining permission to use the copyright material and for arranging the payment of any copyright fee(s).

Commercial value of Crown copyright

14. Drafting, editing and printing constitutes a charge on public funds and sponsors must bear this in mind when it is decided to disseminate information in the public interest. Sponsors must consider the possibility that such material may have potential commercial value and lend itself to exploitation for financial or other benefit. If it is decided that it has commercial value the material should bear the imprint ..."© Crown Copyright" ... to discourage unauthorised use.

Waiver of copyright

15. Where it is felt to be appropriate, however, as for example in the case of unpriced publications, the following imprint may be added to the documents:

"...© Crown Copyright - this material may be freely produced except for sale or advertising purposes..."

Work by employees of Highways England - copyright implications

16. A work produced by you in your own time and in your own words is not normally subject to Crown copyright but remains the private copyright of the author or producer of the work. If, however, any official material is used for such work, you must obtain clearance in respect of Crown copyright for that part.

Part B: Private Interests Procedure

[5.4 Reservist Procedure](#)

Chapter 5.4 - Part B: Reservist Procedures

[Part A: Policy](#)

[Part C: Guidance](#)

The Reservist procedures explain:

- what employees need to do if they are Reservists or if they want to become Reservists
- how to manage Reservists
- how to deal with requests for time off for training
- responsibilities when a Reservist is mobilised, demobilised and returns to work

a) Serving as a Reservist

1. If an employee is a Reservist, is considering renewing their commitment, known as re-engaging as a Reservist or is interested in joining the Reserve Forces, they must discuss this with their manager and obtain prior approval. Both the manager and the employee should familiarise themselves with the Reservist Policy, Procedure and Guidance.
2. Line managers must ensure that details of the Reservists training and mobilisation commitments are recorded and updated on the Shared Services arvato system or equivalent HR system.
3. Reservists must seek approval from their Divisional Manager or equivalent senior manager if they intend to volunteer for High Readiness Reservist status making them liable to be deployed with minimal notice.
4. Reservists are encouraged to give Highways England their permission for it to collect and share information about them as a Reservists for reporting and monitoring purposes, by completing the Reservist consent form at Chapter 5C Section 5.4.2 Completion is not compulsory.
5. Further details of the procedures to be followed by managers and Reservists are explained in this document and summarised in the Reservist summary flowchart in Chapter 5C Section 5.4.3.
6. Checklists highlighting the key actions and responsibilities for managers and Reservists can be found in Chapter 5C Section 5.4.4 and 5.4.5 respectively.
7. Reservists are given additional protection under the Employment Rights Act 1996. For further information, see Chapter 5C Section 5.4.6 Reservist FAQ.

b) Training

1. As far as practicably possible, time off for training, including initial basic training and initial officer training completed on commencement of Reservist activities, should be requested as early as possible and approved. To support this, Reservists should provide managers with details of their training commitments as soon as possible.
2. Reservists, including those on probation, are allowed a minimum of up to 10 days paid special leave a year to participate in the continuous mandatory period of training. This usually lasts 16 consecutive days, often referred to as the 'Annual Deployment Exercise' or 'annual camp'. There may be some variation between the Reserve Forces, particularly within specialist units, where this mandatory training element may be split over two or more shorter periods.

3. For any additional training, Reservists can request annual leave, flexi leave, time off in lieu, special unpaid leave or a combination. This should be applied for using existing arrangements and recorded by the Reservist on to the Shared Services arvato system or on to the equivalent HR system. Reservists should note however, that there is no automatic entitlement to special leave with or without pay and authorisation must be obtained from the manager.
4. Paid special leave for training will not affect the employee's continuity of service and reckonable service.
5. Unpaid periods of special leave for training will not count as reckonable service as set out in the Civil Service Pensions Manual, when taken to complete the continuous mandatory period of training. It is important that managers notify Shared Services arvato or equivalent HR system provider, by raising a service ticket that unpaid special leave taken in these circumstances is for the Reservist mandatory training period to ensure it is treated as reckonable service for pension purposes.
6. If the Reservist is granted unpaid special leave for any period of training, they will not accrue annual leave during this period.
7. See the Reservist summary flowchart in Chapter 5C Section 5.4.3 for an overview of the process for requesting and approving time off for training.

c) Mobilisation

1. To fulfil part of the UK's defence strategy Reservists are Mobilised or Called Out. Reservists will receive Call Out papers detailing mobilisation dates and must notify their manager of these dates. Managers will receive an Information Pack from the Ministry of Defence that contains a copy of the Reservist's Call Out Notice and a letter setting out the date and possible duration of mobilisation.
2. Managers should only apply for an exemption or deferral in truly exceptional circumstances that would cause the business obvious and significant harm, Details on how to do this are in the Information Pack.
3. During the period of mobilisation, the Reservist is granted unpaid special leave from Highways England.
4. Unpaid special leave granted for the Reservist's mobilisation does not affect the employee's continuity of service or reckonable service.
5. A discussion must take place between the manager and Reservist prior to mobilisation. The discussion should cover mobilisation, the impact on terms and conditions, keeping in touch arrangements and the subsequent return to work arrangements.
6. Following this discussion, the manager should complete the Departmental mobilisation letter found in Chapter 5C Section 5.4.7 and issue it to the Reservist. The manager should send a copy of the letter to Shared Services arvato or to the equivalent HR service centre by raising a service ticket on the Shared Services arvato portal, in order for the Reservists personal records to be updated prompt action to be taken.
7. See the Reservist summary flowchart in Chapter 5C Section 5.4.3 for an overview of the mobilisation process.

d) Keeping in touch

1. The manager and Reservist must discuss how to keep in touch during mobilisation and agree the frequency of contact. Responsibility for this discussion rests with both parties. The

Reservist must provide contact details to Shared Services arvato or to the equivalent HR services centre, by raising a request ticket on the Shared Services arvato portal, in order to be a member of the 'Keeping in touch' scheme. Details should include telephone numbers, email and postal addresses of where they can be reached Next of kin details should also be updated.

e) Treatment of terms and conditions during mobilisation

1. When mobilised, the Reservist is on unpaid special leave and highways England will stop paying the Reservist's salary. The Reserve Force will assume responsibility for the Reservist's salary for the duration of their mobilisation and pay a basic salary according to their military rank. If this basic element is less than their normal salary, it is the Reservist's responsibility to apply to the Reserve Force for the difference to ensure no loss of earnings. The Reserve Force will also cover the cost of contractual benefits. Details are available in the Call Out papers.
2. Pension details are requested as part of the Call Out papers and the Reservist should confirm the pension scheme choice before the first day of mobilisation. The manager is also required to provide details of the Reservist's Civil Service pension payee details as per the Information Pack. Contact details are as follows: Telephone: 0845 000 0012

Email: Pensions.customerservices@homeoffice.gsi.gov.uk

Address:

My Civil Service Pension
5th Floor
City Square
40 Tithebarn Street
Liverpool
L2 2BW

When corresponding with the Pension Service Centre please quote your National Insurance number.

3. Annual leave is accrued with the Reserve Force during mobilisation and not with Highways England. Before and after mobilisation, Highways England annual leave will need to be recalculated. Please see the Chapter 2A, on annual leave policy for further information.
4. There is no entitlement to any Highways England annual leave, bank holidays or privilege days whilst an individual employee is on unpaid special leave during mobilisation. Before and after mobilisation, Highways England I annual leave will need to be recalculated. Refer to the Annual Leave Policy for further information.

f) Demobilisation

1. When the tour of duty is complete, documentation will be provided detailing the last day the Reservist will be paid by the Reserve Force, also known as the last day of whole time service. This should be made available to the manager on or before return to work. Managers should note that demobilisation is not confirmation of a Reservist's fitness to return to work.
2. During the demobilisation process the Reservist must make contact with the manager and attend a return to work meeting. If appropriate this may take place over the telephone. If, due to injury or illness, the Reservist is not able to contact the manager, the Reservist's next of kin should contact the manager on their behalf.
3. At the meeting, the following should be discussed:

- the Reservist's fitness to return to work and any support they may need on return
 - any issues the Reservist wishes to raise
 - an update from the manager about key events in the Reservist's absence
 - the work the Reservist will be doing and any upskilling / retraining required
 - confirmation of the date the Reservist will return to work
4. Where the Reservist fails to make contact during demobilisation and does not return to work after the last day of whole time service Highways England should allow the Reservist to remain on unpaid special leave for a period of up to three weeks after the anticipated demobilisation date. During this period, the manager must use the agreed keeping in touch arrangements to contact the Reservist. If after three weeks it has not been possible to make contact, the manager must follow the attendance management procedure. Please see the Staff Handbook Chapter 10A for further information.
 5. See the Reservist summary flowchart in Chapter 5C Section 5.4.3 for an overview of the demobilisation and return to work process.

g) Return to work

1. Return to work will normally be the day following the last day of whole time service with the Reserve Force. Unpaid special leave will cease and managers must inform Shared Services arvato or equivalent HR service centre, by raising a service ticket to reinstate the Reservist's employment status, e.g. from unpaid special leave to paid special leave.
2. If the Reservist has any outstanding Highways England annual leave accrued prior to mobilisation, they may request to take it before physically returning to work. In this case, the first day of the leave period should be treated as their official date of return to Highways England.
3. If the Reservist is not fit to return to work immediately, attendance management procedures should be applied in the normal way and should take into account individual circumstances. This should include an assessment for ill health retirement, where necessary. Please see the Staff Handbook Chapter 10A for further information on attendance management policy.
4. Managers should provide Reservists with support to help their transition back into the workplace. This may include the provision of reasonable adjustments if appropriate. Line managers can contact the HR Advice Service for further advice if necessary.
5. Soon after the Reservist returns to work, the manager must have a further meeting with the Reservist to discuss:
 - issues arising since the initial return to work meeting
 - performance objective setting and exploration of how to make best use of the Reservist's transferable skills in the workplace
 - formal training completed during mobilisation
 - introduction to any new team members
6. Managers must agree a detailed induction plan, including post mobilisation support, following the return to work meeting.

Part B: Procedure - Legal Representation

6.1 Not currently available

Part B: Performance Management Procedures

[7.1 Performance Management Procedure from 1 April 2016 onwards](#)

[7.2 Managing Poor Performance Procedure](#)

Part B: Pay Related Procedures

[8.2 Payment of salaries procedure](#)

Chapter 8.2 - Part B: Payment of salaries procedure

[Part A: Policy](#)

[Part C: Guidance](#)

8.2.2 Interest-free loans for season tickets

To receive an interest free loan for a travel season ticket complete this [form](#) and submit as an attachment to a service-ticket via the Shared Service Portal.

8.2.3 Salary Advances

To receive an advance payment please complete the appropriate form and submit as an attachment on a service-ticket via the Shared Service Portal.

Mid-month advance of salary for new starters is available to new entrants up to SEO. The [advance of salary form](#) must be submitted to Shared Services Arvato by the 7th of the month in which payment is to be made. Full guidance is available on the form.

An advance of salary at Christmas is available to all employees up to 50% of their net pay. The form must be submitted to Shared Services Arvato by the 20th November. Full guidance is available on the [form](#).

8.2.5 Salary sacrifice childcare vouchers

Employees with children up to 15 years of age (or 16 if they are registered disabled) can receive £243 a month of their salary as childcare vouchers – free of National Insurance and tax.

Higher rate tax payers will have their tax and NI exemption restricted to £124 per month and additional rate tax payers will have their tax and NI exemption restricted to £97 per month.

You can apply for childcare vouchers or amend your existing account directly with Fideliti via their website - www.fideliti.co.uk, by sending an e-mail to enquiries@fideliti.co.uk or, if you prefer, call them on freephone: 0800 058 2507.

8.2.6 Staff appreciation and recognition scheme (STARS)

The STARS award scheme aims to recognise and commend members of staff who have demonstrated a special achievement and actions to improve Highways England's service through their behaviours and/or their actions, by going beyond their normal duties.

See [Full guidance](#)

Part B: Travel and Subsistence Procedures

[9.1 T&S Policy Principles UK Travel & Subsistence Claims Procedure](#)

Chapter 9.1 - Part B: T&S Policy Principles UK Travel & Subsistence Claims Procedure

[Part A: Policies](#)

[Part C: Guidance](#)

Chapter 9B – Travel and Subsistence Procedures

9.1.1 Claim Forms/Claims via Shared Services arvato Portal

You must claim reimbursement on the appropriate claim form or via iExpenses. Claims for Travel and Subsistence for additional journeys to your normal place of work must be claimed via the Shared Services arvato Portal.

9.1.2 General Points

You should complete your claim for reimbursement as quickly as possible. Regular travellers should do so at the end of each month.

You must claim for travel and subsistence expenses incurred on the same date at the same time, together with your claim for travelling time (if any). Travel time claims should be submitted via the Shared Services arvato Portal.

You must document the route of your journey by fully detailing your movements in their consecutive order.

You must enter each separate rail or other fare and detail the names of railway stations or other intermediate points.

You must enter the appropriate account codes on the front page of the claim form.

When you start and/or finish a journey at home and claim a subsistence allowance, you must enter both the times of start and/or finish at home. Highways England does not normally pay for travel and subsistence to and from home.

Under no circumstances may you claim for alcoholic drinks.

When you are claiming for longer periods of deployment, such as detached duty or excess fares, you must do so separately through the HR Team

When you claim mileage allowance, round it daily to the nearest mile. Round up half-miles. If you claim mileage allowance for a distance greater than the shortest practicable route, you must provide a full explanation on the claim form.

9.1.3 Submitting a Claim

Before submitting a claim to your line-manager, you are responsible for the following:

- the claim complies with the rules set out in the T&S policy and guidance. See Chapter 9A and Chapter 9C.
- you had received your line-manager's prior approval for the expenditure
- you chose the most cost-effective alternative
- you are claiming the correct amounts and have attached supporting documentation, including original tickets and receipts

9.1.4 Approving and Checking a Claim

As a line-manager, you have authority to approve claims in the following circumstances:

- you are at least at Grade HEO
- you have a formal, written financial delegation

As a line-manager at Grade HEO and above, you may approve claims where:

- you gave approval for the expenditure in advance
- the claim complies with the rules set out in the T&S policy and guidance (see [Chapter 9A and Chapter 9C](#))
- the claim contains a full breakdown of the journey and its related costs
- the rates claimed and the calculations are correct
- you are satisfied that the expenditure was incurred using the most cost-effective means
- the amounts claimed are consistent with the work undertaken, accurate and reasonable
- supporting documentation is attached, in particular original tickets and receipts
- the details given on related claims forms are consistent, particularly where travelling time is claimed
- the cost centre code and expenditure codes are correct

Approving Officers must sign and date the relevant box on the claim form, After approval, you must not hand the form back to the claimant.

Claim forms should then be sent under sealed cover to the Financial Services Payment Team for processing.

9.1.5 Advanced Payment

You can apply for a payment in advance to meet anticipated official expenditure, including travelling expenses and subsistence allowances.

The advance will not normally exceed 90% of the estimated costs. If you already know the full and precise costs, you may apply for an advance of up to 100%.

You should apply for an advance via the Travel and Meet section and include a detailed breakdown of the anticipated expenditure.

9.1.6 Regular Advances

Those who regularly incur high levels of official expenditure may apply for an ongoing advance. The amount should be sufficient to meet expenses for a period not exceeding three weeks of normal claims.

Those on detached duty or permanent transfer entitled to subsistence allowance may apply for a regular advance to meet normal anticipated allowances for a period not exceeding three weeks. They should continue to submit monthly claims for expenses during lengthy periods of detached duty.

Highways England will recover advances from the final reimbursement of expenses or by refund directly from the recipient.

9.1.7 Travelling Time Claims

The travelling time claim form is available on the [Travel and Meet section of the portal](#).

For further details see Chapter 9A Section 9.6.8.

Chapter 10.3 - Part B: Attendance Management Procedure

- [Part A Policy](#)
- [Part C Guidance](#)

Following a High Court ruling on the 3rd February 2015, the attendance management trigger points for formally managing short term absence have been reverted. The previous trigger points of 14 days or 7 spells in any rolling 12-month period have to be exceeded before formal action is considered under the attendance management policy, or before any member of staff is warned that they are at risk of formal action. However, any informal discussions about attendance issues and concerns should continue under the attendance management policy as they normally would.

If you have any questions that cannot be answered by the Attendance Management policy, procedures or advice – you should contact the HR Advice Team for assistance.

10.3 Attendance Management Procedure

The purpose of this document is to provide guidance on the procedure managers need to follow in applying the attendance management policy.

This document should be read in conjunction with the Attendance Management Policy and Guidance.

a) Welcome Back Meeting

A Welcome Back Meeting must be completed after **every** absence even if it is only for a single or part day. The main focus of the Welcome Back Meeting is the welfare of the individual and to ensure that the member of staff is fit enough to resume work and is provided with all necessary support. Guidance on conducting and recording the Welcome back meeting, along with an [interactive form](#), can be found on MyHR.

b) First Trigger Point

The line manager must hold an Informal Review Meeting when an absence has reached 5 working days or 3 occasions in a rolling 12 month period and adjusted (where appropriate) for those with an underlying health condition or disability. However a manager may give informal words of advice prior to the trigger if someone's absence is giving cause for concern e.g. a pattern of absence is emerging.

If the First Trigger point is breached, the line manager must hold an Informal Review Meeting with the employee to discuss the overall pattern of absence, determine whether there is any underlying cause, whether they require any additional support from Highways England and whether a referral for an occupational health assessment would be beneficial. This meeting may be combined with the Welcome Back Meeting where appropriate. The individual should also be reminded about the Attendance Management policy and procedure; provided with clear criteria for improvement in attendance; and advised of the potential for formal disciplinary action if there is further absence and the Second Trigger point is breached. The line manager must keep brief notes of this discussion and share these with the individual. The purpose of this meeting is to attempt to reduce the individual's level of sickness absence and avoid the need to move to formal action.

Immediately after the meeting a letter (Outcome - Informal Sickness Absence Review) must be sent to the individual, by the line manager who conducted the meeting.

c) Second Trigger Point

Managers should always **consider** whether formal action is appropriate taking into account the individual circumstances of each case, ensuring that reasonable adjustments have been identified and implemented where appropriate. Managers should always check the appropriate records to ensure they are aware of previous attendance action or warnings. All line managers must follow the Attendance Management policy and ensure they action the keeping in touch arrangements.

Managers should use the flow chart as a guide.

When a Formal Review Meeting related to attendance is required, it should not come as a surprise, as individuals should be fully aware of the attendance levels expected by Highways England and will be aware of their own attendance levels. They will have already attended an Informal Review Meeting (unless they have not returned to work before the trigger for a Formal Review meeting has been breached).

In cases where an individual has hit the Second Trigger point before the First Trigger point and an Informal Review Meeting hasn't taken place the line manager should carry out a combined Welcome Back meeting and Informal Review as per section 10.3.2 of the procedure explained above. This will serve as the investigation stage pending a Formal Review Meeting.

The manager will then need to consider, in line with the criteria contained in the Attendance Management Guidance, whether there is a reason that the Formal Review Meeting should not go ahead. If the manager decides not to hold the Formal Review Meeting, having fully considered and applied the criteria contained in the guidance they must fully document the outcome of the informal review including the reasons for not carrying out the Formal Review Meeting on this occasion.

If the criteria for discounting absences do not apply and the Formal Review Meeting is to go ahead then the procedure below should be followed.

d) Formal Review Meeting

Managers must hold a meeting with an individual in order to **consider** formal action for unsatisfactory attendance when absence has reached **8 working days or 4 occasions in a rolling 12 month period** and adjusted (where appropriate) for those with an underlying health condition or disability. However, this level of absence does not automatically mean a warning is appropriate and individual circumstances should be taken into account. There is a separate procedure for continuing long-term absence.

For guidance on whether to take formal action, please refer to the Attendance Management Guidance.

The line manager must conduct a Formal Review Meeting before taking action at stages 1, 2 or 3. Disciplinary action following a Formal Review Meeting for unsatisfactory attendance consists of:

Stage 1

- A First Written Warning;
- A period of up to six months to give the individual an opportunity to improve to a satisfactory standard (this is called the first written warning period for improvement);

Stage 2

- A final written warning if attendance does not improve during the first warning period for improvement;

- A further review period of up to six months to give the individual another opportunity to improve to a satisfactory standard (this is called the final written warning period for improvement);

Stage 3

- If the individual does not improve to the required standard, the case will be referred to the Decision Officer; and
- The opportunity will be provided for the individual to have an oral hearing with the Decision Officer before a decision is made whether to impose a disciplinary penalty/ dismiss;
- At least one referral for occupational health advice must have been made before reaching this stage.

Staff should be given at least five working days written notice of a meeting (Invite to first formal review to discuss unsatisfactory attendance or Invite to final formal review to discuss unsatisfactory attendance) as appropriate, by the manager who will be conducting the meeting. Any documentation which will be referred to during the meeting should also be made available to the individual at this stage.

Workers have a statutory right to be accompanied at the Formal Review Meeting. The chosen companion may be a fellow worker, a trade union representative, or an official employed by a trade union. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker.

To exercise the statutory right to be accompanied workers must make a reasonable request. What is reasonable will depend on the circumstances of each individual case. However, it would not normally be reasonable for workers to insist on being accompanied by a companion whose presence would prejudice the hearing nor would it be reasonable for a worker to ask to be accompanied by a companion from a remote geographical location if someone suitable and willing was available on site.

The companion should be allowed to address the hearing to put and sum up the worker's case, respond on behalf of the worker to any views expressed at the meeting and confer with the worker during the hearing. The companion does not, however, have the right to answer questions on the worker's behalf, address the hearing if the worker does not wish it or prevent the employer from explaining their case.

In the event of the employee or their representative being unable to attend a Formal Review Meeting, one further date will be arranged within five working days, however if there are clear mitigating reasons for either party being unable to attend a meeting within the five working days, Highways England may at its discretion arrange the meeting for a slightly later date. If the employee does not attend this meeting a decision on the outcome will be made by the manager in their absence, based upon the facts known at the time. The outcome will be communicated to the individual in writing (as outlined below).

At all formal meetings in this process a note taker will be present. The note taker should be made aware that they are to keep confidential any information from the interview and must take accurate notes. The individual will be provided with a copy of the notes as soon as they are typed up to agree or request amendments. Where agreement on amendments cannot be reached, the individual's comments will be included for the record.

The Formal Review Meeting aims to:

- Ensure that the employee is made fully aware of the issues about their level of attendance and explain that Highways England is concerned about the individual's health and welfare but also has to be concerned about the effect that unsatisfactory attendance has on the efficiency of Highways England

- Remind the individual of the requirement in their conditions of service to maintain a satisfactory level of attendance, conduct and performance and give appropriate guidance and encouragement.
- Give the individual the opportunity to challenge and correct any inaccuracies in their attendance record.
- Establish if there is any underlying cause for the absences, such as work or personal problems, underlying medical condition etc. Where this is established the individual should be referred for an occupational health assessment by the HR Casework team before any further action is considered. Once this has been obtained, formal action may still be required.
- Alert the individual to the availability of the [Employee Assistance Programme](#)/counselling services.
- Identify any supportive measures/[reasonable adjustments](#) in conjunction with HR and in line with occupational health advice which can be put in place by Highways England to aid an improvement in attendance levels.
- Set clear criteria for improvement in attendance.
- Explain to the individual that failure to achieve a significant and sustained improvement in attendance will lead to further stages of this procedure being invoked and ultimately could lead to termination of employment.

Immediately after the meeting a letter (Outcome - First formal written warning or decision not to issue first written warning / Outcome - Final formal warning or decision not to issue final written warning) must be sent to the individual, by the line manager who conducted the meeting.

e) Appeals

Where an employee feels that a formal warning issued under Stage 1 or Stage 2 is wrong or unjust they have the right to appeal against the decision. Employees should let employers know the grounds for their appeal in writing. An appeal is unlikely to be upheld on the grounds that an employee is dissatisfied with having a warning issued against them.

Appeals must be made in writing within 10 working days of receipt of the outcome letter, to the Appeals Officer, who will usually be the next in line manager to the manager who conducted the original meeting. Detailed reasons for the appeal must be clearly stated.

The Appeals Officer will review the facts of the case and the grounds of appeal and will invite them to an appeal meeting within 10 working days of the receipt of the appeal (Invitation to Appeal Meeting Letter). After the meeting they must put their decision in writing (Appeal Decision Letter) to the individual within 10 working days of agreeing notes of that meeting, copied to HR, together with the appeal letter.

f) Successful completion of the warning period

If at the end of a warning period, attendance is acceptable, the manager should inform the individual that they have sustained the required level of attendance (Satisfactory Completion of a Warning Period Letter).

g) Deteriorating attendance following the successful completion of a warning period

In some circumstances, expired warnings can be taken into account - for example where there is evidence of repeated absence after warnings have expired. You must seek HR advice before taking expired warnings into account.

h) Compensation payments

Any individual (with the exception of temporary employees), who has over one year's reckonable service and is a member of the Principal Civil Service Pension Scheme (PCSPS), may be paid compensation if they are dismissed because their attendance is unsatisfactory.

These payments are made under the Principal Civil Service Pension Scheme (PCSPS). These payments:

- acknowledge the efforts the individual may have made to improve their attendance; or
- if the medical condition means that the individual cannot return to work, they acknowledge that the failure to attend may be beyond their control.

The decision whether to award a compensation payment and at what percentage of the total award is made by the Decision Officer in conjunction with HR.

i) Deciding if compensation should be paid

Highways England has the discretion to decide the amount of compensation, which may be paid, based on the individual's efforts to improve their attendance or where an individual's medical condition precludes an improvement and is beyond their control. The Decision Officer in conjunction with HR may decide to award any amount from nil compensation up to 100% compensation.

The Decision Officer / HR should act reasonably taking into account the level of absence and the reasons that may have affected it when deciding how much compensation is to be paid.

The Decision Officer / HR should assess, in percentage terms, the extent to which they consider the unsatisfactory attendance to have been beyond the individual's control and how the individual has tried to help themselves.

Where the dismissal is due to a specific illness or an apparently poor level of general health, the Decision Officer / HR should base their decision about the level of compensation on:

- the nature and severity of the illness concerned, and
- whether the individual has done everything within their power, or has made some effort to help themselves return to work

The Decision Officer / HR should not award compensation if investigation establishes that the sick absence provisions are being abused. HR can advise on consistency.

j) Reasons for decision

The Decision Officer / HR must be objective when making a decision and record their reasons fully because they may have to justify it at a tribunal. Reasons for dismissal, and the reasons behind a decision on compensation, should be accurately recorded.

k) Long term absence

Long term sickness absence is defined as a continuous period of 21 calendar days.

Once an individual has been absent for 21 calendar days, the manager will be prompted to undertake a Formal Review Meeting to ensure all necessary prior Attendance Management action has been taken, plan the next steps, consider what supportive help is still required to help the individual return to work, and review the individual's past sickness record. Details of all action taken and planned must be recorded to inform all future discussions and action.

At no later than 21 calendar day's absence, the line manager must arrange for the individual to be referred by the HR Casework team for an [occupational health assessment](#). The purpose of the referral is for Highways England to receive independent medical advice, as far as is possible at the time, as to whether it is likely that the employee will be able to resume full contractual duties of the post that they hold, the date when this might occur, and any support that Highways England may offer to facilitate this.

On receipt of occupational health advice the individual will be invited to a formal review. The letter - Invitation to Formal Review at 21 days - Long term continuing absence letter should be used to give the individual five working days notice of the interview. This tells them that they have a right to be accompanied by a Trade Union representative or work colleague if they wish. If the individual is not able, or feels it not appropriate, for the interview to be held in the office, it can be held either at the individual's home or at an alternative mutually agreed venue.

The manager should always consider the individual circumstances of each case before attending the meeting, including their past sick record and length of service.

Either prior to the meeting, (with the invitation) or at the meeting the manager should provide a copy of Highways England's Sickness Absence procedure so the individual is familiar with the long term absence procedures and explain that if their absence continues then this could ultimately result in their dismissal with or without compensation. A note should be made that this specific point is raised so the individual is in no doubt about the potential consequences of long term absence. Managers should also discuss the following with the individual:

- the contents of the occupational health report;
- confirm that sick absence is still appropriate – there may be cases where the individual has a date to return to work at this stage;
- review previous sickness absences if appropriate;
- check what steps the individual is taking to help themselves, e.g. discussing with GP ways which may support an early return to work;
- consider the support available to help the individual to return to work including:
 - a temporary or permanent change in the individual's working hours or pattern of work;
 - a temporary or permanent change in the individual's duties. Of course this depends on the availability of more suitable alternative work; and
 - whether special aids or equipment can be provided;
 - whether there are particular barriers to return; and
 - assessing the possible impact of the absence on their employment.

The manager should always alert the individual to the [Employee Assistance Programme](#) (EAP) provision for counselling and may seek the individual's agreement to make a referral to them on their behalf, if this is considered to be appropriate. Individuals may also seek assistance from the [Charity for Civil Servants](#).

Immediately after the meeting a letter (Outcome Letter Long Term Absence) must be sent to the individual, by the line manager who conducted the meeting.

1) Review no later than 3 months

If an individual is continuously absent for 3 months they will be invited to another formal review meeting. The individual has to be given formal notice of the interview. The letter invitation to Formal Review at 3months/ 6months/ 9months/ 9 -12months, - Long term continuing absence letter should be used to give the individual five working days notice of the interview.

The manager should (using all relevant information e.g. sick absence history, the Welcome Back Meeting discussion records) arrange a formal meeting with the individual to discuss:

- progress made and prognosis,
- support available to help the individual return to work e.g.:

- seeking occupational health advice, particularly in relation to possible adjustments that could be made to the working environment. If occupational health advice has been received recently i.e. within the last 3 months there is no need to automatically refer again at this stage.
- a temporary or permanent change in the individual's working hours or pattern of work.
- a temporary or permanent change in the individual's duties. Of course this depends on the availability of more suitable alternative work;
- whether special aids or equipment can be provided.
- if the pattern of previous absences is cause for concern unsatisfactory attendance action should now be considered;
- whether ill health retirement may be an appropriate avenue to investigate; (Where it becomes clear that ill health will lead to the termination of employment, it must be stressed to the individual that the granting of ill health retirement is entirely at the discretion of the Pension Scheme, and Highways England cannot make any guarantees about the success of an application).
- review the written record of action taken and planned against the progress the individual has made; and
- using the latest occupational health advice if available, the manager and the individual will discuss and consider any suggested solutions and reasonable adjustments. They should bear in mind that occupational health advice must be considered in conjunction with reasonable operational requirements.

The manager should decide whether, based on the latest occupational health advice, previous sickness absence history and the prognosis for the individual's return, whether their absence could continue to be supported.

If after consideration of occupational health advice and the individual circumstances of the case, the manager believes they can no longer support the absence, they should consider the case and consult HR regarding whether or not it is appropriate to refer the case to a Decision Officer to consider dismissal.

Immediately after the meeting a letter Outcome Letter Long Term Absence must be sent to the individual, by the line manager who conducted the meeting.

m) Review no later than 6 months

The individual must be given formal notice of the Formal Review Meeting. The letter - invitation to Formal Review at 3months/ 6months/ 9months/ 9 -12months, - Long term continuing absence letter should be used to give the individual five working days notice of the interview.

Using the written record of action taken and planned, from previous reviews, the manager will check return to work progress against the level of support being provided, and review the next steps with the agreement of the individual.

Occupational health advice should be requested if this has not been done recently. If after consideration of occupational health advice, and the individual circumstances of the case, the manager believes they can no longer support the absence, consider the case and consult HR regarding whether or not it is appropriate to refer the case to a Decision Officer to consider dismissal.

In reviewing the case the manager should:

- review the written record of action taken and planned against progress, support required and options to support a return to work
- ask the individual what they are doing to help themselves return to work
- decide if the absence level can continue to be supported; and
- advise the individual of other options e.g. ill health retirement (IHR); provided they fulfill the criteria. IHR is subject to defined acceptance criteria and is not guaranteed

Immediately after the meeting a letter (Outcome Letter Long Term Absence) letter must be sent to the individual, by the line manager who conducted the meeting.

n) Review no later than 9 months

The individual has to be given formal notice of the Formal Review Meeting. The letter invitation to Formal Review at 3months/ 6months/ 9months/ 9 -12months - Long term continuing absence letter should be used to give the individual five working days notice of the interview.

In reviewing the case the manager should:

- review the written record of action taken and planned against progress, support required and options to support a return to work
- ask the individual what they are doing to help themselves return to work
- decide if the absence level can continue to be supported, and
- advise the individual of other options e.g. ill health retirement (IHR); provided they fulfill the criteria. IHR is subject to defined acceptance criteria and is not guaranteed

The line manager should ask the HR Casework team to arrange an occupational health assessment if this has not been done recently. If after consideration of OH advice, and the individual circumstances of the case, the manager believes they can no longer support the absence, they should discuss the case with HR to confirm whether or not it is appropriate to refer the case to a Decision Officer to consider dismissal.

Throughout the period of absence managers must constantly assess if a return to work is likely and what is going to happen to make a return to work realistic.

At this stage the manager will be considering referral to the Decision Officer, in all but exceptional cases. This will not inhibit their continuing to support the individual to help rehabilitate them back into work. The manager must confirm this view with HR and provide the individual with all the information to help them make an informed decision about their future.

In all cases which could lead to dismissal, **the manager will have sought, in all circumstances,** recent occupational health advice before referring the case to the Decision Officer (recent is defined as being around three months old). If the individual refuses consent the manager will reach decisions based on the information available.

Immediately after the meeting a letter (Outcome Letter - Long Term Absence) must be sent to the individual, by the line manager who conducted the meeting.

o) Between 9 and 12 months - further formal review (in exceptional cases)

The manager will continue to have regular contact with absent individuals and continue to use all available relevant information to monitor progress against the record of action taken and planned. They will update the record of action taken and planned following each interview with the individual.

In exceptional cases managers may continue to tolerate the absence. They will need to ask themselves, when deciding if they can continue to tolerate an absence, what is likely to happen to make a return to work realistic. They should now discuss the case with HR to consider what further action is necessary.

Immediately after the meeting a letter (Outcome Letter - Long Term Absence) must be sent to the individual, by the line manager who conducted the meeting.

p) Referrals for occupational health advice

The purpose of the referral is for Highways England to receive independent medical advice, as far as is possible at the time, as to whether it is likely that the employee will be able to resume the full contractual duties of the post that they hold, the date when this might occur, and any support that Highways England may offer to facilitate this.

If a definitive prognosis cannot be arrived at following the initial occupational health assessment, further appointments will be made for the individual in order that management can be kept fully aware of the individual's progress.

If occupational health advice is that the individual will be able to return to the full duties of their post, on a regular basis, within a reasonable time (taking into account the prognosis and the impact of the absence on Highways England) the line manager will maintain contact with the individual and await their return. During this period regular appointments (usually at least every two months but depending on the individual circumstances of the case) must be made for the individual to have occupational health assessments in order that their progress can be monitored and their support needs taken into account.

If it is deemed unlikely that the individual will be able to return to the full duties of their post within a reasonable time the following process will apply:

Advice will be sought from Occupational Health as to what adjustments could be made to the post to allow the individual to return to work and support them in regular attendance (which may include accepting a greater (but reasonable) level of absence as a result of a disability). Highways England will give full consideration as to whether the adjustments are feasible and reasonable for implementation and will confirm the outcome in writing to the individual.

If reasonable adjustments cannot be made to the post, consideration will be given as to whether any suitable alternative employment exists into which the individual could be redeployed. The individual must meet the basic requirements of the post and be able to achieve an acceptable standard of performance, with a degree of training, within a reasonable time frame. Any decisions made will be confirmed in writing to the individual.

While an individual is on a long-term absence, managers should use the flow chart as a guide.

q) Referrals to Decision Officer

Where stage 1 and stage 2 warnings have been given and the individual has failed to improve to the required standard, action will be taken at stage 3. In these circumstances the individual will be invited to a final meeting before referring to the Decision Officer (Summary of Final Interview – individual has failed Final Written Warning period).

Where the long term absence procedure has been followed and the employee has not returned to the full duties of their post on a regular and sustained basis within a reasonable time (and occupational health advice suggests that this will remain the case for the foreseeable future), no further reasonable adjustments can be made, and there have been no opportunities for redeployment into suitable alternative employment, the individual's employment may be terminated on the grounds of their ill health. In these circumstances one final 'options' discussion should be held with the individual before referring to the Decision Officer (Invite to 'options' discussion – long term absence letter).

The manager will refer the case to the Decision Officer and the opportunity will be provided for the individual to have an interview with the Decision Officer before a decision is made e.g. moved to a different post/ downgraded or dismissed.

The individual will be given written notice of the interview. The Decision Officer should send the letter recorded delivery if it is being posted. (Invitation to a meeting with the Decision Officer for Unsatisfactory Attendance letter).

The Decision Officer must allow at least five working days notice and agree a mutually convenient date and location, if they can, to avoid last minute delays or postponements.

If the representative or colleague cannot attend on the proposed date the individual has the right to offer an alternative date if it is within five working days following the original date.

Prior to the interview the individual will be invited to submit a written statement with the help of their Trade Union representative if they wish.

Before the interview, the Decision Officer will consider if they can do anything further to help the individual to return to work. The individual should have been referred for occupational health advice before the case is referred to the Decision Officer. If the individual refuses to give consent to the referral, the manager should document this and refer the individual to the Decision Officer.

At the interview the Decision Officer will:

- tell them that their continuing absence is cause for concern
- review recent occupational health advice
- ask them for their opinion on their condition and if there is a realistic possibility of a return to work in the near future
- ask if there is anything that can be done to help them return to work
- advise them that they may be dismissed

After the meeting the Decision Officer will issue the final decision letter setting out their decision (Final Decision Letter – Short Term and Final Decision Letter - Long Term).

Individuals have the right of appeal against the decision to terminate employment (and the non payment of compensation) to an Appeal Officer. Appeals must be submitted in writing, setting out the grounds for appeal, within 10 working days of receipt of the decision letter. If an individual decides to appeal, the Appeal Officer will invite them to an appeal meeting within 10 working days of the receipt of the appeal (Invitation to Appeal) which they will be expected to attend. After the meeting the Appeal Officer will write to the individual (Appeal Decision Letter) with their final decision within 10 working days of agreeing the notes of that meeting.

Part B: Grievance Procedure

[11.1 Grievance procedure](#)

Chapter 11.1 - Part B: Grievance Procedure

Part A Policy

Everyone, both staff and Highways England, have rights and responsibilities. Our staff have the responsibility to come to work and give their best at all times – in return we treat them properly and fairly.

It will be assumed that grievances are made in good faith. This means it is assumed that you genuinely believe your complaint to be justified, whatever the outcome of the case. Where your grievance is found to have been made in bad faith or maliciously, you may face disciplinary action.

Highways England takes grievances seriously. Therefore managers should allow their team members appropriate time out from their duties to fulfil their roles as Investigating Officers, Decision Officers, or other participating roles in a grievance, so that the grievance can be concluded without undue delay.

a) Guiding Principles

1. The objective is resolution of the grievance i.e. an outcome that allows the individual to feel that their points have been seriously considered and, if they have merit, acted upon in a way that enables the issue to be resolved.
2. Find out what outcome the person is seeking. The procedure expects the individual to explain what they want to happen to put things right. If they have not done so, find out why.
3. Take a balanced approach in considering the grievance. Consider what the individual tells you, but you are not required to pursue any particular line of inquiry unless you consider it important to do so.
4. Explain your decisions. This is so both the individual and any manager considering an appeal is clear about why you made your decision.
5. Consider the matter on the basis of current policy. It is not your role to recommend policy change – you must decide on the merits of the grievance by reference to the policy in force at the time.
6. Make a decision in a reasonable time. You should reach conclusions as soon as you reasonably can – grievances should take no longer than 30 days to be resolved unless there are exceptional circumstances. You must try to meet the individual within two weeks of receiving the grievance and you must try to give your decision within a further two weeks. If you cannot do this it is good practice to let the individual know you need longer and if so how much longer. The grievance procedure case management template and guidance (see

Chapter 11C Section 11.1.2) should be used to monitor and manage the progress of the case.

7. Ask for any documents that you think will help you. Do not just rely on documents that are given to you – ask for anything else you think might help you to come to a decision

b) HR intervention

HR reserves the right to assume control, direction and/or handling of any grievance.

c) Other processes

A grievance should only be raised in relation to other processes, where the appeals process has been exhausted and the individual still feels they have a valid grievance. This includes the disciplinary process.

In the vast majority of cases, concerns at work can be resolved informally without the need for formal procedures. Early and informal resolution is often the most effective way of successfully addressing any concern so staff are encouraged to talk to their line manager, or another manager if appropriate, about their concerns and to attempt informal resolution before using a formal procedure.

If an individual tells you about a concern or worry, you can help resolve this in a number of ways. Consider the following:

- Talk to the person to understand their worry or concerns and to establish what they would like done about it
- Think of it in terms of a problem for you as a manager to help resolve, not as a matter on which to take sides or apportion blame
- Encourage the person to speak directly to others about whom they are concerned
- With the person's consent, speak to the others involved yourself to understand their point of view. If you find a resolution, encourage everyone involved to accept it as the best way to move forward
- Make a note of actions and decisions taken as part of informal resolution. Keep all notes securely and in confidence.
- Make sure you follow up and check that any actions agreed as part of informal resolution are actually taken, otherwise the grievance may re-occur.

d) Mediation

Mediation is an informal approach that can be highly effective in resolving problems at work. The aim of mediation is to mitigate any breakdown of working relationships and involve a third party who is independent of the issues, with a view to reaching resolution at an early stage. Mediators do not impose solutions, or suggest them. Their role is to facilitate efforts by the parties to find their own resolution. If all parties agree, an attempt will be made to resolve the concern through mediation.

It is hoped that mediation or informal resolution is attempted before a formal grievance is raised and certainly Highways England encourages staff to consider these options. That said Highways England recognises that there may be cases in which the complainant feels mediation or informal resolution would not be appropriate, and in these cases a formal grievance will be heard.

Before beginning the formal stage managers must consult with HR Advice Service, who will provide support and guidance as part of ensuring that any investigation and grievance procedure is carried out reasonably and proportionately.

e) Grievance procedure stage 1 grievance hearing

Grievances must be raised without unreasonable delay and as soon as possible after the latest incident giving cause for concern. Grievances are unlikely to be heard if they are raised more than 3 months after the latest incident.

Grievances must be put in writing (see Chapter 11C section 11.1.1) (to the individual's line manager who will normally act as Decision Officer. Where the grievance concerns a matter outside the functional responsibility of the individual's line manager, the individual must refer the matter to HR, who will then select a Decision Officer (DO) who is not in the management chain and who has no connection to the matter being decided upon. Where the grievance is collective, it should be referred to HR to deal with, within the collective bargaining machinery.

The manager receiving the grievance must acknowledge the grievance using Grievance Letter A, and arrange for a meeting to be held promptly using Grievance Letter B. The manager must also advise those named in the grievance, using Grievance Letter C.

If there are witnesses involved in the grievance then the manager should invite them to an investigation meeting using Grievance Letter F.

Where the grievance concerns a matter outside the functional responsibility of the manager receiving the grievance, they must refer the matter to HR, who will designate a manager with the ability to consider and determine the grievance. Where the grievance is collective, it should be referred to HR to deal with within the collective bargaining machinery.

At the hearing, the manager must allow the individual to explain their grievance and how they think it should reasonably be resolved. The individual and their companion should make every effort to attend the hearing. A request to rearrange a meeting will only be considered exceptionally and only agreed once. On receipt of persistent requests a DO/AO will make their decision based on the evidence available.

Notes of the meeting should be sent to the person interviewed (Grievance Letter J). The individual and their TU representative can comment on the notes with the aim of coming to an agreed version. In cases where the notes cannot be agreed the comments should be appended to the note.

Following the meeting the manager should decide on what action, if any, to take. Decisions should be communicated to the individual and, where appropriate, should set out what action Highways England intends to take to resolve the grievance using Grievance Letter D.

The manager will be required to communicate the outcome of the meeting to the respondent using Grievance Letter E.

f) Grievance procedure stage 2 appeal

If an individual feels that they have grounds for appeal or their grievance has not been satisfactorily dealt with they can take the matter further on appeal. Appeals must be made in writing within 10 working days of the date of the decision letter.

The appeal must be sent to and dealt with, wherever practicable, by the next line manager senior to the manager who dealt with the first hearing, exceptionally an Appeal Officer at the same level but unconnected to the original case may hear it at appeal.

The manager receiving the grievance must acknowledge the grievance appeal using Grievance Letter G and arrange for a formal hearing meeting to be held promptly using Grievance Letter H.

An appeal hearing is not a re-investigation of the original grievance; it is a consideration of the grounds of appeal and determining whether the original decision appears to have been fair and reasonable.

Following the hearing, the manager should decide on what action, if any, to take. Decisions should be communicated to the individual without undue delay and, where appropriate, should set out what action Highways England intends to take to resolve the grievance. The hearing of an appeal concludes the grievance procedure.

The manager will be required to communicate the outcome of the appeal to the employee using Grievance Letter I.

g) Grievance procedure right to be accompanied

Staff have a statutory right to be accompanied by a companion (i.e. work colleague or Trade Union representative) at a formal hearing and an appeal hearing.

To exercise the right to be accompanied, staff must make a reasonable request. What is reasonable will depend on the circumstances of each individual case. However, it would not normally be reasonable for an individual to insist on being accompanied by a companion whose presence would prejudice the hearing/meeting nor would it be reasonable for an individual to ask to be accompanied by a companion from a remote geographical location if someone suitable and willing was available locally.

Highways England reserves the right to refuse to accept a companion whose presence would undermine the grievance process. The individual is also not obliged to agree to accompany the employee. Companions employed by Highways England will be given appropriate paid time off to allow them to accompany colleagues at a grievance appeal/investigation hearing/meeting. At any grievance meeting or subsequent appeal the chosen companion will be permitted to:

- address the hearing/meeting
- respond on the individual's behalf to any views expressed in the hearing/meeting
- sum up the individual's case

However the companion has no right to:

- answer questions on the individual's behalf, or
- to address the hearing/meeting if the individual does not wish it, or
- to prevent the manager from explaining their case

Where the chosen companion is unavailable on the day scheduled for the hearing/ meeting or appeal, the meeting will be rescheduled, provided that the individual can propose an alternative time within five working days of the scheduled date.

h) Acts of misconduct identified during the grievance procedure

If it appears to the manager hearing the grievance that a disciplinary offence for example, bullying, harassment, discrimination or other acts of misconduct may have been committed, they will discuss the matter with the relevant employee. Depending on the nature of the issue, it may be dealt with under the grievance procedure, or they may arrange for the matter to be investigated under the disciplinary procedure. The complainant's views will be considered in making that decision.

If a disciplinary offence appears to have been committed, the grievance procedure can be used as the investigation stage of the disciplinary procedure.

Note: The same manager cannot investigate and make the disciplinary decision.

i) Grievance procedure overlapping grievance and discipline

Where an individual raises a related grievance during a disciplinary process, the disciplinary process may be temporarily suspended to deal with the grievance. If both grievance and discipline issues are related they may be dealt with concurrently. You should not take any disciplinary action whilst the grievance is being investigated. Please contact HR for advice in these situations. HR will provide support and guidance as part of ensuring that any investigation and disciplinary procedure is carried out reasonably and proportionately.

j) Grievance procedure confidentiality

Everyone who is involved must only discuss the grievance with others who need to know or can help resolve it. A breach of confidentiality will be dealt with as a disciplinary matter.

k) Grievance procedure record keeping

All records relating to grievances should be treated as “Staff – Restricted” Managers should keep written records during grievances. You should arrange for a note of the grievance hearing to be produced and given to the individual for information. Staff and trade union representatives can comment on notes but there is no obligation on managers to accept those comments and managers decide which note is placed on file. In case of disagreement, append the comments to the note.

When you have made your decision send all the papers to HR who will retain them. For business units that utilise Shared Services arvato, HR will update Shared Services arvato. HR will monitor the operation of the procedure for its impact on diversity. This is a statutory requirement, so it is vital that you comply with this.

Part B: Procedure - Industrial Relations

[12.4 Procedure for consultation with the TUS](#)

Chapter 12.4 - Part B: Procedure for consultation with the TUS

[Part A Policy](#)

Chapter 12.4 is currently being amended

This procedure has been drafted to take account of the agreement between the Council of Civil Service Unions, CCSU and the Cabinet Office entitled 'Partnership Working in the Civil Service'.

Local

Matter	Consult	Inform	Time
Section A: Contractual Issues			
Core and Flexi time changes	*		
Shift Working	*		
Industrial Relations Machinery (Local Whitleys)	*		
Section B: Policy/Procedural Issues			
Recruitment of Casuals		*	5 working days
Local Training Schemes		*	
Local Health & Safety at work	*		
Smoking Policy	*		
Section C: Organisational Issues			
Local Accommodation	*		
Staffing Levels - Inter Divisional Moves of > 5 staff		*	
Staff Inspections/Human Resource Planning	* (i)	*	
Surveys/Questionnaires (Stress, Preference Exercises etc)	* (ii)	*	
Local Deputising: Changes from Allowances to Promotion Terms		*	5 working days

NB Time limits are assumed to be 2 weeks to reply by TUS on simple proposals or 4 weeks on complex ones unless otherwise stated.

i) Consultation if more than 12 posts affected

ii) Consultation if significant issues involved eg accommodation changes

Procedure for consultation with the Trade Union Side

This procedure has been drafted to take account of the agreement between the Council of Civil Service Unions, CCSU and the Cabinet Office entitled: 'Partnership Working in the Civil Service'.

National

Matter	Consult	Inform	Time
Section A: Contractual Issues			
Pay and Grading (JEGs)	*		
Redundancy	*		8 weeks before first redundancy
General Terms and Conditions	*		
Staff Appraisal Procedures	*		
Best Supplier Reviews (Outsourcing and Contracting Out)	*		
TUPE Transfers	*		
Industrial Relations Machinery - Whitleys	*		
Leave and Travel Rules	*		

Section B: Policy/Procedural Issues

Promotion Agreement	*		
Trawls/Recruitment Exercises		*	5 working days
Trawls/Recruitment Exercises	*		
Retirement Policy	*		
Training Policy	*		
National Health and Safety Issues	*		
Diversity Policy	*		
Equal Opportunities Policy	*		
Implementation of Legislation & EC Directives with implications for HA Staff		*	
Changes in Procedure for Consultation with the Trade Union Side	*		
HATS - 'Unit Costing System - New Technology Systems Agreement'	*		

Section C: Organisational Issues

Major Initiatives - Initial Consideration	*		
Major Initiatives - Implementation	*		
Major IT Projects		*	4 weeks
Agency and Directorate Staffing Levels	* (i)	*	
Staff Inspections/Human Resource Planning	* (i)	*	5 working days
Surveys/Questionnaires (Stress Preference Exercises etc)	* (ii)	*	
Agency Wide Accommodation - General	*		
Agency Wide Accommodation - Bulk Moves	*		

NB Time limits are assumed to be 2 weeks to reply by TUS on simple proposals or 4 weeks on complex ones unless otherwise stated

(i) Consultation if more than 12 posts affected

(ii) Consultation if significant issues involved eg, accommodation changes

Part B: Leavers Procedure

[13.1 Leavers](#)

[13.2 Retirement and Pensions](#)

[13.3 Redundancy Procedure](#)

Chapter 13.1 - Part B: Leavers

[Part A Policy](#)

13.1 Leavers

Terms of employment

Your various terms of employment relating to leaving Highways England are set out in Part A of this Staff Handbook, in addition to this chapter, see:

Chapter 13: [Leavers](#)

Chapter 3: [Personal conduct](#)

Chapter 4: [Security and confidentiality](#)

Chapter 5: [Private interests](#)

Chapter 8: [Pay](#)

The procedures below cover various aspects of leaving Highways England:

13.1.2 If you decide to resign

If you decide to resign, you should notify your line manager in writing. The letter of resignation - which, ideally, should give reasons for your decision - should be sent to the HR Advice team via a service ticket through [My HR](#).

13.1.3 Period of Notice

Details of the notice periods you are required to give are set out in 13A Section 13.1

13.1.4 Acceptance of resignation

The SSA will confirm in writing that your resignation has been accepted. Before you leave, you will be required to give your security pass and other official papers and equipment/uniform to your immediate line manager. The SSA will also remind you of your continuing responsibilities under the Official Secrets Act and of the need for certain staff to seek authorisation to take up outside appointments after Government Service (see Part A of this Staff Handbook, Chapter 3 - [Personal conduct](#)).

13.1.5 Pension benefits

For information on pension benefits, see Chapter 13B, Section 13.2

13.1.6 Outstanding annual leave

The SSA will calculate your leave entitlement up to the date of your last day of service. You should take any outstanding annual and flexi-hours leave before then. If your line manager confirms that you were unable to do so because of pressure of work or sickness, Highways England will make a payment in lieu of leave (see Chapter 2A Section 2.4). If you have taken more leave than your

entitlement, the appropriate deduction will be made from your leaving pay (see Chapter 2A Section 2.4).

13.1.7 Deductions from salary

As Highways England will no longer be making deductions from your salary in order to pay your subscriptions/contributions to any organisations you have nominated, you will need to contact these organisations direct to make any new arrangements.

13.1.8 Forwarding address

You should ensure that you inform the SSa if you changed address so that any correspondence can be forwarded to you. The SSa will not normally give the address to anyone else unless you agree in writing beforehand.

13.1.9 Withdrawal of notice

If you change your mind about resigning at any time before your last day of service you should contact a HR Business Partner and your line manager immediately and then confirm in writing giving reasons. Your request to withdraw your resignation will be considered, however there will be no obligation to accept the withdrawal and you will be notified of the decision in writing.

13.1.10 Reinstatement / Re-employment

If you leave Highways England and wish to return, you can apply for reinstatement or re-employment (see Part B of this Staff Handbook – Chapter 2). There is, however, no automatic right to reinstatement or re-employment.

13.1.11 Early payment of preserved benefits on medical grounds

If, after you have left Highways England, your health breaks down to the extent that, had you still been in the service, you would have been retired on grounds of ill-health, it may be possible for your preserved Principal Civil Service Pension Scheme (PCSPS) benefits to be paid before pension age. This option is only available to Classic Pension Scheme members. If you think you may be eligible for this benefit, you should apply to [MyCSP](#). They will refer your application to the Scheme's medical adviser who will decide whether or not you qualify.

13.1.12 Early payment of pension and lump sum on compassionate grounds

If you are aged 50 or over and feel you may have to resign because of extreme personal difficulties you should consult the Employee Assistance Programme (Chapter 2A Section 2.9).

If your circumstances cannot be improved, you may - before you leave or after you have resigned - apply for early payment of your pension entitlements. The application should be sent, together with supporting evidence, to [MyCSP](#) who will arrange for the application to be forwarded to the Cabinet Office. This option is only available to Classic scheme members.

The decision on payment rests entirely with the Cabinet Office and will only be considered where there is evidence that:

- a. you face such personal difficulties and problems that you are prevented from following any form of paid employment, either full or part-time

- b. no reasonable alternative arrangements can be made to overcome the immediate circumstances giving rise to the application (e.g. by the employment of a nurse or daily help where a dependent relative needs full-time care and attention), and
- c. the financial position is such that unless the pension and lump sum were brought into payment immediately, retirement would be impractical

Further information is provided in the PCSPS booklet - leaving or opting out of the PCSPS.

13.1.13 Employment references

You may apply for an employment reference, either before or after leaving Highways England. If you wish to apply, you should contact the SSa. You may also give details of this contact point to prospective employers.

Employment references will provide factual information on the nature and length of your service and details of the posts you have held. However, Highways England will not provide a new employer with an assessment on suitability for a specific post.

13.1.14 Financial references

If you wish for Highways England to provide a financial reference for a mortgage lender or licensed credit broker, you should refer the agency seeking the reference to SSa. Highways England will only disclose pay or employment details to bona fide financial organisations to whom you have given your permission to approach Highways England as the employer.

13.1.15 Personal references

Line managers who are asked to provide personal references for team members - both past and present - may do so. However, you must:

- a. not use official stationery;
- b. make it clear that you are not writing on behalf of Highways England;
- c. limit the information provided to your direct knowledge of the individual concerned; and
- d. consult a HR Business Partner if in any doubt about propriety.

13.1.16 References - general

All employment references - must be provided by SSa and include the following wording:

'This reference is confidential and is given in good faith and without acceptance of any legal liability on behalf of the writer or the Highways England. It is not to be disclosed in whole or in part to any third party including the subject of the reference without our prior written consent'.

Line managers should only provide personal references where a request is made.

Chapter 13.2 - Part B: Retirement and Pensions

[Payment of a preserved award early](#)

[Part A: Policy](#)

[Part C: Guidance](#)

13.2.1 Retirement or voluntary exit before normal retirement age

Approvals required

Offers of actuarially reduced retirement, are made subject to satisfaction of qualifying criteria and at management discretion taking account of the operational needs of Highways England. Note that if a voluntary exit is to be offered Cabinet Office approval must be sought before a voluntary exit is launched.

13.2.2 CSCS and PCSPS rules

The entitlement to benefits under the PCSPS and CSCS form part of your terms and conditions of employment, and these cannot be overridden. Therefore although the CSCS will no longer apply to staff post transfer as they will no longer be Civil Servants, where staff qualify for benefits within the scheme the calculations will be carried out in accordance with the equivalent terms to CSCS. Copies of these rules are available from [My CSP](#).

This Section describes the procedures under which you may retire early before reaching your normal retirement age. It covers:

- a. Medical Retirement (paragraphs 13.2.4 to 13.2.8)
- b. Circumstances where a preserved award can be paid early including Actuarially Reduced Retirement (paragraphs 13.2.9 to 13.2.14)
- c. Early departures including voluntary exit, voluntary redundancy and compulsory redundancy (paragraphs 13.2.15 to 13.2.23).

Employees who retire under the above procedures (other than those required to retire under the Medical Retirement and Compulsory arrangements) do so voluntarily. Details of the periods of notice required are given in Chapter 13A Section 13.1.

13.2.3 Exceptions

Early retirement etc. does not apply if you:

- a. are dismissed for failing probation or for disciplinary reasons, or
- b. are serving on a fixed term appointment

Medical Retirement

13.2.4 Application for medical retirement

If you are unable, for medical reasons, to give regular and efficient service, you may apply for retirement on medical grounds. The application must be in writing and accompanied by supporting medical evidence from a GP or consultant.

13.2.5 Referral to the Medical Adviser

When Highways England proposes to retire you on health grounds, or you seek retirement on such grounds (see paragraph above), the case will be referred to Highways England's Medical Adviser. The medical adviser's role is purely advisory; It is for your line manager to consult with the HR Business Partner and decide whether you are giving regular and efficient service. Both yourself and management at all levels may consult Highways England's Employee Assistance Programme. Notice period with medical retirement.

The Medical Adviser may arrange for a medical examination. If the Medical Adviser considers it unlikely that you will be able to give further effective service, you may be retired on medical grounds. You will be informed and will normally be given a period of notice as set out in Chapter 13A Section 13.1. You have a right of appeal against both being retired or not being retired on medical grounds. If you do not wish to appeal against the decision, a shorter period of notice may be agreed if this is mutually convenient.

You will not be considered for retirement on medical grounds if you are over 65 or if you have formally retired and have then been re-employed beyond the age of 60.

13.2.6 Pension benefits following medical retirement

The pension benefits you will be paid if you are retired on medical grounds depend on the Scheme you are a member of i.e. Classic, Classic Plus or Premium. Separate medical retirement arrangements apply to Partnership and Alpha scheme members. For further details please refer to the appropriate booklet available on the [Civil Service Pension Schemewebsite](#).

13.2.7 False Declaration

Highways England may treat retirement on medical grounds as resignation if you make a false declaration about your health, or deliberately suppressed a material fact, when applying to join Highways England.

13.2.8 Conduct and Propriety

Employees who retire on medical grounds are subject to the same rules on the disclosure and use of official information and on business appointments as are employees who retire normally or resign from the service. These rules are set out in Part A of this Staff Handbook - Chapter 3 - Personal Conduct.

Payment of a preserved award early

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13.2.9 Circumstances where a preserved award can be paid early

a. If you joined the pension scheme on or before 5 April 2006 you can receive your preserved award before reaching pension age if you are:

- 50 or over and choose an actuarially reduced award; or

- You are a classic member, in ill health and would have been eligible for medical retirement if you had remained in the Highways England; or
- If you are a classic member, 50 or over and can demonstrate compelling personal reasons for early payment. (The Cabinet Office Pension Schemes Executive, may bring a preserved award into payment on an unreduced basis where the member, who is over their minimum pension age, has personal circumstances that prevent them from working.) MyCSP Pension Service Centre will be able to give further advice.

b. If you joined the scheme on or after 6 April 2006 you can receive your preserved award before reaching pension age if you are:

- 55 or over and choose an actuarially reduced award; or
- You are a classic member, in ill health and would have been eligible for medical retirement if you had remained in Highways England.

13.2.10 Eligibility for Actuarially Reduced Retirement (ARR)

In line with 13.2.9 a & b if you meet the age criteria and have 2 or more years qualifying service (see [Civil Service Pension Scheme website](#) for a definition of qualifying service), you may be able to retire early with actuarially reduced benefits. This is at no additional cost to the exchequer. If you are taking actuarially reduced retirement you must give six months' notice, unless Highways England agrees to a shorter period. Further information is provided on the Civil Service Pension Scheme website.

13.2.11 Payment of ARR Benefits

Under ARR, benefits are paid immediately on retirement, but are actuarially reduced to allow for the longer time they are likely to be paid. You should contact [My CSP](#) if you require further information on this.

However, these benefits are only available if the ARP payable in respect of your reckonable service to 5 April 1997 will be higher (at the time you reach State Pension age) than the State Earnings-Related Pension would have been in respect of these years of service. Actuarially reduced benefits in respect of reckonable service after 5 April 1997 must comply with the test of pension scheme quality laid down in the Pensions Act 1995.

13.2.12 Decision to retire

If you wish to apply for Actuarially Reduced Retirement you should write to Shared Services arvato to obtain a quote from MyCSP. MyCSP will determine whether the ARR benefits payable meet the criteria described in the above paragraph. If the criteria are met, retirement can be arranged (the period of notice will run from the time of the original application).

13.2.13 Notice of retirement under ARR

If you contact Shared Services arvato about a possible application, this will not entail any obligation. You should note, however, that if you then go on to give formal notice of retirement under ARR the notice cannot be withdrawn without Highways England's agreement.

13.2.14 Payment of a preserved award early – all other circumstances

If you are applying for a preserved award to be paid early on grounds other than actuarially reduced payment you should contact MyCSP,

13.2.15 Early Departures

There are three categories of early departure all of which require approval prior to their launch.

- Voluntary Exit (VE) – Requires Cabinet Office approval and can be offered where there is a need to reduce staff numbers by offering an early exit scheme or an early exit package to an individual.
- Voluntary Redundancy (VR) – Voluntary redundancy will be offered where formal consultation has begun with the Unions about possible redundancies. VR will then be offered to all staff at risk of redundancy under that consultation.
- Compulsory Redundancy (CR) – Before this stage is reached and redundancy notices can be issued the protocols outlined in 13.3 will need to have been applied.

13.2.16 Voluntary Exit (VE)

A voluntary exit can be offered where there is a need to reduce staff numbers by offering an early exit scheme or an early exit package to an individual.

In advance of the launch of a scheme Cabinet office approval will have been sought.

If a scheme is to be offered the following information will be made available:

- An explanation of how to apply, and how the process will work (there is a step by step guide available on the MyCSP site.) This information will include return and contact details,
- the deadline for applications will be made clear, and
- the appropriate employee compensation calculator for the scheme will be made available on the portal

13.2.17 Voluntary Redundancy (VR)

This is a pre-redundancy measure where management calls for volunteers to avoid a declaration of compulsory redundancy.

Voluntary redundancy will be offered where formal consultation has begun with the Unions about possible redundancies. VR will then be offered to all staff at risk of redundancy under that consultation.

If voluntary redundancy is to be offered the following information will be made available:

- An explanation of how to apply, and how the process will work (there is a step by step guide available on the MyCSP site.) This information will include return and contact details,
- the deadline for applications will be made clear, and
- the appropriate employee compensation calculator for the scheme will be made available on the portal.

There is no compulsion on you to apply for VR at this stage but in these circumstances you would be made aware that you could be made compulsory redundant (CR) at a later stage.

If you apply but do not initially meet the criteria for release, you cannot be subject to CR terms at a later stage of the redundancy exercise. In this position you would be entitled to the VR terms.

13.2.18 Compulsory Redundancy (CR)

Before redundancy notices can be issued the Highways England protocol on redundancy will have been applied.

The VR scheme already offered must be linked to the CR scheme, covering the same staff.

If you were turned down for VR and is later selected for CR under the linked scheme you will receive VR terms. This protection does not extend to other CR schemes unless you have volunteered for the relevant preceding VR scheme.

13.2.19 Pension and lump sum for VR or CR

Arrangements for pension and lump sum payments under VR and CR are set out in the [Civil Service Compensation Scheme](#) rules. (Note that whilst the Civil Service Compensation Scheme will no longer apply to staff post transfer, where staff qualify for benefits within the scheme the calculations will be carried out in accordance with the equivalent terms.

13.2.20 Early departures - notice periods

For Voluntary Exits and Voluntary Redundancies the notice period is 3 months.

For Compulsory Redundancy if you are under age 60 the notice is normally 6 months unless you have a contractual right to a different period of notice. If you are between the age of 60 and 65 you may be entitled to a longer notice period depending on your length of service For Voluntary Exits and Voluntary Redundancies the notice period is 3 months.

Notice will commence from the date you sign the agreement to depart.

13.2.21 Early departures – buying added pension

You retain the right to use your compensation payment to buy added pension and can use the added pension calculator on the website to obtain an estimate. If you are interested in purchasing added pension you should attach a screen shot of the calculation with your Compensation Declaration form when you return it to your employer. These documents will be passed to MyCSP Pension Service Centre to process the compensation and pension payments..

13.2.22 Early departures - Re-employment

If you are re-employed in an organisation covered by the Civil Service pension and compensation arrangements within 28 days of leaving your current employer, your compensation will be cancelled and your service will be treated as continuous. You will have to repay the **full** compensation amount.

A compensation payment must be re-paid in full or in part if you are re-employed in an organisation covered by the Civil Service pension and compensation arrangements within the lesser of (a) 6 months and (b) the notional period of their compensation payment. Further details about repayment can be found on the MyCSP site.

13.2.23 Early departures - Reserved rights for employees who are in 'mobile grades'

If you served in a 'mobile grade' on 1 April 1987, and you leave under CR terms, aged between 40-49, you may have certain reserved rights, details can be obtained from MyCSP.

13.2.24 Pensions

This Section is designed to let you know where you can get information and assistance regarding the [Principal Civil Service Pension Scheme \(PCSPS\) and the Civil Service Compensation Scheme \(CSCS\)](#). (Note that whilst the Civil Service Compensation Scheme will no longer apply to staff post transfer, where staff qualify for benefits within the scheme the calculations will be carried out in accordance with the equivalent terms.

The rules of the [PCSPS and CSCS](#) are very complex and subject to change. This Section aims to give only very general information on the key points.

There are 4 different pension schemes in operation at this time. These are:

Classic - for members in post prior to 30/09/2002. 1.5% contribution rate for widow/er's benefits only. This scheme is not available to new entrants although it may be possible for re-employed staff to re-join this scheme

Classic Plus - for members in post prior to 30/09/2002 who opted to join this arrangement from 1/10/2002. 3.5% contribution rate. This scheme is not available to new entrants although it may be possible for re-employed staff to re-join this scheme

Premium - for new entrants after 1/10/2002. 3.5% contribution rate

Partnership pension account - for new entrants and certain casual or fee-paid staff after 1/10/2002. Contribution rate depends on age but is not compulsory

Alpha pension scheme – introduced on 1 April 2015. The majority of current members in classic, classic plus, premium and nuvos, and most new members from April 2015, will join the new scheme. Contribution rates depends on earnings.

Highways England will make contributions to whichever pension scheme you are a member of, at a level advised by the Cabinet Office.

13.2.25 Stakeholder Pensions

In addition to the above schemes, members of the Civil Service Pension arrangements or those who are not able to join one of the above, may also contribute to a Stakeholder pension with Standard Life, subject to eligibility. The Office will not make any contributions to this scheme but your contributions may be made through payroll. This option is not available to staff who opt out of the Civil Service pension arrangements. For further details see booklet [Stakeholder pensions](#).

13.2.26 Opting out of the PCSPS

Membership of the PCSPS is automatic, but you can opt out of the scheme at any time. If you opt out of the PCSPS in the first three months, your decision is back dated to the date of your entry to the scheme (see booklet 'Leaving or opting out of the PCSPS').

13.2.27 Widow/widower's pension

You will, should you choose to remain a member of the PCSPS, pay a contribution of 1.5% of your salary toward the payment of a widow/widower's pension (this is paid by Highways England on your behalf) and upon reaching the age of sixty you will be eligible to retire from = Highways England with a pension and lump sum based on your years of reckonable service and your salary during the last three years of employment (see booklet 'Your Pension Scheme Benefits Explained' for details of benefits).

13.2.28 Increased benefits

There are several ways in which you can increase your benefits in the PCSPS and you are invited to look into the options (see booklets 'Joining the PCSPS' and 'Increasing your Benefits') or contact the MyCSP.

13.2.29 Death benefit

If you should die in service death benefit will be payable (as well as a pension to your legal spouse). You may nominate whoever you wish to receive this benefit (it does not have to be a relative) or you can ask for it to go to a bank or firm of solicitors to administer on your behalf. To make the nomination you need to complete a 'Death Benefit Nomination' form (you are advised to ensure that this record is kept up to date). Further details can be obtained by contacting the Pension Help-line and/or reading the booklet 'Your Pension Scheme Benefits Explained'.

13.2.30 Industrial injury benefits

If you are absent from work as the result of an injury sustained at work, you may be eligible for industrial injury benefits. Any such injury must be reported immediately to your line manager - for further information about your benefits see 'Injury at Work'.

13.2.31 Civil Service Compensation Scheme

The Civil Service Compensation Scheme (CSCS) is designed to compensate those who leave the service early (i.e. before normal retirement age.): (Note that whilst the Civil Service Compensation Scheme will no longer apply to staff post transfer, where staff qualify for benefits within the scheme the calculations will be carried out in accordance with the equivalent terms.

There are three categories of early departure under the 2010 CSCS. They are:-

? Voluntary Exit,

? Voluntary Redundancy, and

? Compulsory Redundancy.

See paragraphs 13.2.15 – 13.2.23. Further information can also be found on the MyCSP website.

13.2.32 Internal Dispute Resolution Procedure (IDRP)

If you have a complaint about the way you have been treated under the PCSPS, you should first try and sort it out with MyCSP, who are your scheme administrator. If your complaint cannot be resolved in this way, there is a formal procedure for dealing with disputes known as the Internal Dispute Resolution (IDR) procedure.

The IDR procedure is explained in the PCSPS leaflet [If you have a complaint about your pension](#).

For a copy of this leaflet and further information about the IDR procedure, contact My CSP.

Chapter 13.3 - Part B: Redundancy Procedure

Part: A Policy

13.3.1 The review of measures to be taken before any compulsory redundancy situation is declared

The Director of Human Resources will appoint a member of HR (of at least Pay Grade 7 level) to carry out a review of present and future work patterns and staff numbers to establish whether a redundancy situation is likely to be unavoidable and how the surplus situation affects Highways England. The TUS will be consulted on the conduct of this review and informed of the nature and impact of the outcome.

The measures listed below (which are not set out in any order of priority) will be considered and, where practicable, implemented to avoid/reduce the need for compulsory redundancies. The TUS will be consulted with a view to reaching agreement on the proposed measures, including ways of:

- avoiding the dismissals
- reducing the number of staff to be dismissed and
- mitigating the consequences of the dismissals

The results of the review will be shared with the TUS before a compulsory redundancy situation is declared:

- suspending the use of agency staff, self-employed staff hired under a contract for services, consultants and casual staff and placing potentially redundant surplus staff in the posts formerly occupied by those staff
- calling for volunteers from appropriate pay bands / ranges from Highways England staff to leave under a voluntary redundancy scheme. Volunteers, if selected, would be offered the compulsory terms paid in accordance with the provisions of the Civil Service compensation scheme returning staff on secondment to Highways England to their parent organisations
- transferring staff to other suitable posts in the Highways England and
- retraining staff to enable them to fill suitable vacancies elsewhere within the Highways England temporary overbearing of staff or temporary blocking against vacant posts in the next lower pay grade
- withdrawing temporary promotion arrangements and placing staff acting above their substantive pay band into their substantive pay grade
- suspending the use of overtime working by Highways England staff
- shadowing by potentially surplus staff of posts where other staff are due to leave through reasons of retirement, resignation etc
- any other measures considered appropriate

If it is Highways England's view that the implementation of the measures listed in 13.3.1 has averted compulsory redundancy, the TUS will be notified of this in writing and their views sought as to whether any further action is necessary.

13.3.2 Action which may be taken following the review of measures taken before a compulsory redundancy situation is declared

Having considered and exhausted the pre-redundancy measures mentioned above, a compulsory redundancy situation is unavoidable if there are still staff to be re-deployed.

In such a case, consultation with a view to reaching an agreement with the Trade Union Side will take place as to:

- the appropriate unit of redundancy

- the number of staff and the pay band(s)/pay range(s) involved
- the order of discharge
- the selection criteria used to identify staff for redundancy within the unit of redundancy; and
- the timing and phasing of the redundancies

The measures listed in 13.3.1 to avoid or reduce the need for compulsory redundancies will continue as appropriate throughout the process set out below.

13.3.3 Unit of redundancy (UoR)

The UoR will be defined by reference to any of, or any combination of, the following factors:

- a. the pay grade(s)/pay range(s) of the posts
- b. the geographical location of work, defined by reference to one or more towns and/or cities, taking into account Highways England's Mobility Obligation
- c. group of staff recruited to a defined occupational specialism. This occupational specialism will be recognised by special pay arrangements and the need for specific educational/vocational qualifications to carry out the specialism

The UoR will comprise all staff in the appropriate pay grade (s)/pay range(s) within Highways England, unless (and in line with 10b and/or 10c above) the location or specialist nature of the work that has ceased, diminished or is expected to do so necessitates narrowing the UoR.

13.3.4 Order of discharge

Subject to consultation, the order of discharge will be:

- agency staff, self-employed staff hired under a contract for services, consultants and casual staff (in accordance with pre-redundancy measures)
- all other staff selected according to the criteria set out below

13.3.5 Selection criteria

All other staff will be selected for redundancy using a mix of criteria which have been the subject of consultation with a view to reaching agreement with the TUS and checked to ensure that they are in keeping with the Highways England policies on equality proofing and in accordance with best practice. The criteria proposed are likely to reflect the business needs of Highways England and might include assessments of work performance as measured by the overall assessment marking in the annual appraisal reports, disciplinary record for attendance and length of service (as a tie-breaker). In assessing length of service:

- any 'added years' purchased by the individual will not count towards length of service
- part-time service will count the same as full-time service and
- the length of service taken into account will exclude previous service which was terminated by early retirement, redundancy or voluntary resignation from former roles in the civil service. Service from previous employment which has been accepted as continuous service will be taken into account.
- unpaid maternity leave and unpaid special leave will count

The selection criteria will be consistently applied within the pay grade.

Depending on the criteria to be applied, it may be HR or line managers who make recommendations as to selection but it will always be the function of HR to ensure that adequate equality proofing has

taken place, to put together the definitive ranking of staff selected for redundancy and to draft notices.

Before the issuing of redundancy notices to affected staff, the TUS will be consulted on the specific details of the methodology and data used to draw up the list of the staff to be declared redundant and the list of staff selected. The TUS will also be given details of the staff in the Unit of Redundancy who were not selected.

13.3.6 Assistance to staff declared redundant

Assistance to staff declared redundant will be considered in each unit of redundancy in consultation with the TUS with a view to reaching an agreement.

Downgrading

Any officer who is selected for dismissal may request voluntary downgrading to fill a suitable vacant post in a lower pay band, or be offered downgrading to a suitable vacant post as an alternative to dismissal.

Where Highways England agree, such downgrading will be on a mark-time basis and the staff concerned will retain their existing pay on a mark-time basis.

These staff will retain the right to apply for posts at their former pay band/grade, when advertised on level transfer only.

In final retirement, a person downgraded who has a 'Classic' pension will be given the choice of being pensioned for their whole service on the best year in their last 3 year's pensionable pay, or of treating separately their earlier service before downgrading, thus drawing separate pensions for the two respective periods of service. Employees who are members of other pension schemes will be treated as per the terms of their scheme and provider.

Independent advice on pensions will be provided to staff on these issues

Resettlement

When redundancies occur, Highways England will introduce appropriate arrangements, which will include an outplacement service, access to retraining and assistance with other problems arising from the dismissal to the extent it is practicable and reasonable to do so.

Where a commitment has already been given to fund staff on courses at the time of their notice of redundancy then this commitment will still be honoured if the member of staff so chooses.

Where a member of staff is being funded to attend a longer term academic course (eg MBA) funding will not however be forthcoming for the continuance of that course beyond the term or year already committed to.

Period of notice

During the period of notice (which will be a minimum of six months), reasonable periods of time off on full pay will be allowed to seek other employment and to attend interviews for other posts.

Any officer declared redundant who cannot be retained in employment during the notice period will be granted compensation in lieu of notice (CILON) payment. This is a lump sum paid through the payroll which is made up of two elements:

- the gross salary the member would have received if they had remained in post during the full notice period
- an amount to compensate for the loss of pension benefits for the unexpired period of notice

Such payments are taxable.

If employees request an early release before the expiry of the notice period (provided this has been agreed by Highways England), their benefits will be calculated up to their last day of actual service, ie. they will not be paid beyond their last day of actual service. Highways England will also inform staff how their severance payments will be calculated.

Appeals

Employees who wish to appeal against their selection for redundancy must set out their grounds of appeal in writing within 28 calendar days from the formal issue of the redundancy notice, providing evidence to support the appeal where appropriate.

The appeal will be acknowledged within five working days and will be considered by an internal appeal board set up for this purpose by the Director of Human Resources in Highways England in consultation with the TUS.

This board will consider all appeals, including those on the grounds of hardship (any appeal on grounds of hardship will be subject to a definition of hardship agreed with the TUS).

Individuals will be able to make personal representations to the board and be represented at that meeting by their trade union representative.

13.3.7 Amendment/termination of arrangements

These arrangements may be amended or terminated at any time by Highways England by giving its employees six months' notice in writing of such action.

Human Resources will inform the TUS why Highways England's RA is being terminated and changes are needed. The TUS will be consulted with a view to reaching an agreement on any proposed changes.

Part B: Supplement to Highways England Staff Handbook for the Traffic Officer Service Procedures

[14.3 Personal Conduct](#)

[14.10 Attendance Management](#)

Chapter 14.3 - Part B: Personal Conduct

14.3.2 Escalation Process for Highways England -Safety Critical “Standing Down” Procedure

In the event that it is necessary for Health Management Ltd to remove an individual from “Safety Critical Duties” certain protocols will be followed and this is to ensure the agency guidelines in relation to this area are met.

“Standing Down” confirmation must be reported back to Highways England within three days of the individual being notified. However, the escalation process below will ensure notification is given to all concerned parties on the same day as the individual’s medical takes place.

Step 1

The Occupational Health Advisor (OHA) conducting the clinical assessment will notify the individual during their medical and provide clarification as to the concern they have with their clinical fitness.

Step 2

At this stage, the individual will be asked to step outside of the examination room for a few moments and that they should not leave the building. The OHA will explain that this is to allow the OHA to contact Health Management Ltd to discuss the area of concern with the Company Medical Advisor or Doctor in attendance.

Step 3

Once alone and in strictest confidence the Occupational Health Advisor will immediately contact Clinical Operations at Health Management Ltd by phone.

Once connected, the OHA will be transferred to the Company Medical Officer (CMO) or Doctor in attendance at Health Management Ltd and a discussion will take place. At this stage the Company Medical Officer will confirm to the OHA if the individual needs to be placed on “Stand Down”.

If “Stand Down” is not Required

If the individual is not to be placed on Stand Down, the OHA will provide confirmation to the officer when they re-enter the clinical examination room. There will be no need to contact the Duty Operations Manager and the medical will progress.

If “Stand Down” is Required

If the individual is to be placed on “Stand Down” the OHA will provide confirmation to the officer first when they re-enter the clinical examination room.

However, it then becomes the responsibility of the Company Medical Officer or Doctor in attendance at Health Management Ltd to notify two designated representatives within the Agency.

Firstly, the Occupational Health Advisor (OHA) will contact the Duty Operations Manager using the telephone number provided by Highways England. The Duty Operations Manager will be asked to join the OHA and individual in the clinical assessment room and the Duty Operations Manager should bring their mobile phone with them.

On arrival and when the Duty Operations Manager is seated with the individual the Company Medical Officer or Doctor in attendance at Health Management Ltd will then ring the Duty Operations Manager via their mobile phone. The CMO will confirm the individuals name and they will receive verbal confirmation that it is necessary to place the person concerned on “Stand Down”.

Please note that no further details will be discussed with the Duty Operations Manager.

The Duty Operations Manager in Attendance on the Day

Following the telephone call with the Company Medical Officer or Doctor in attendance at Health Management Ltd it then becomes the Duty Operations Manager’s responsibility to stand the individual down in line with Highways England’s policy on standing down for staff employed in safety critical posts.

The Duty Operations Manager will place the individual on “Stand Down” verbally and this also needs to be confirmed in writing to the Officer. The letter must be copied to HR and the individual’s Line Manager and Trade Union Representative.

It is important to remember that when an individual is stood down from “safety critical” duties, such action does not constitute a disciplinary penalty.

Human Resources

The Human Resources team will be notified verbally by the Company Medical Officer or Doctor in attendance and importantly, Human Resources will be provided with clinical confirmation as to why the individual is being placed on “Stand Down”.

The telephone call to Human Resources will be followed up by a confirmatory letter to the Human Resources team confirming the decision.

Step 8

Human Resources will follow standard procedure and a Management Referral will be opened and progressed accordingly with the full knowledge of the individual and the full support and guidance of the Clinical Operations team and Company Medical Officer (CMO) at Health Management Ltd.

Chapter 14.10 - Part B: Attendance Management

[Part A: Policy](#)

[Part C: Guidance](#)

14.10.1 Highways England Drugs and Alcohol Procedure for Staff in Safety Critical Posts

Drug and Alcohol 'For-cause' Testing Procedure

This procedure covers the Drug and Alcohol testing arrangements for employees in Safety Critical posts. The arrangements have been developed in consultation with the Highways England Medical Advisors.

Employees working in Safety Critical posts will be subject to drug and alcohol testing for defined circumstances as outlined in the policy e.g. following an accident/incident where there are reasonable grounds for suspicion that drugs and/or alcohol may be an influencing factor.

Any manager wishing to instigate a formal test on an individual must first obtain authorisation through the management line (area manager, head-of, strategic lead or SOOC for out of hours requests). Once the circumstances have been outlined and a request has been approved (which should be noted in writing and timed and dated by both parties, this can be completed electronically), the manager should contact the testing company immediately on 0845 643 6446.

In addition, your HR Business Partner must be informed immediately or as soon as practicable if outside of normal office hours and an appropriate 'request to test' confirmation form completed (see Chapter 14.10C Section 14.10.1 paragraph c). In exceptional circumstances, it may be necessary to advise Highways England's media representatives. If this course of action is warranted, the manager concerned must first seek the advice of the Strategic Lead or designated deputy.

Once the testing company has received a request to test they will initiate the testing process. A testing team will be sent to the required location (e.g. Outstation, Regional Control Centre) within 3 hours.

Employees required to participate in the Highways England testing programme will be contacted by a Manager shortly before the test is to be carried out.

Urine testing procedure

Employees will be asked to give written consent for a Urine test to be carried out. Additionally, each person will be asked to declare any medication they are currently taking as this will be detected in the test and may provide a positive result.

If, in the opinion of Highways England, an individual refuses without good reason to undertake a test either by Highways England or an authorised third party, their refusal may be treated as a 'positive' test result and be dealt with under Chapter 14.10A Section 14.10.1 paragraph f) of the Drugs and Alcohol policy.

When attending a test facility, employees will receive an information sheet explaining the procedure. Employees will also be asked for photographic identification, e.g. Highways England ID card.

Highways England medical advisors have recommended Urine analysis as the least invasive but effective method of screening. Urine specimens are used to look for recent alcohol consumption and

will give a quantitative result (i.e. how much alcohol has been consumed). Similarly the specimen can be tested for drug abuse.

Employees will be asked to provide a sample of urine, this will take place in an area prepared by the testing company and a trained agent will collect samples. The collection agent will be a nurse or a scientific technician. Upon a sample being collected a strict chain of custody procedure will follow to ensure the results reported on relate beyond all reasonable doubt to the specific sample provided by the individual.

The collection agent will decant the sample to provide two sealed specimens. This will be completed in the presence of the employee.

Once complete, the collection agent will complete all necessary documentation and seal the package for transfer to the Laboratory (The employee will be present and witness this process at all times).

The collection agent will at all times ensure the area used for testing is secure and that there is no opportunity for cross contamination, swapping or dilution of the sample.

Test integrity

Security and privacy will be key factors of any testing to both the employee and Highways England. To ensure these issues are dealt with properly Highways England requires all tests to be carried out in a professional manner and in accordance with current industry standards. This is to uphold confidentiality and the dignity of the individual and to ensure that the necessary security standards are employed to maintain the integrity of each sample.

Test samples are sent to an accredited laboratory where the analysis takes place. The equipment used allows the sample tube to be directly analysed without further need for decanting, allowing the sample to retain its integrity.

Maintaining the chain of custody ownership is managed by use of a tamper proof sealing process and barcodes on each test kit. Using these procedures ensures that each result will directly relate to the individual who undertook the test.

Each sample is first screened using an enzyme multiplied immunoassay technique (EMIT). Samples that indicate a positive result using the EMIT process will undergo further confirmatory analysis, using gas chromatography/mass spectrometry (GCMS). The GCMS analysis is used to confirm the presence of, and identify the nature of, the drug entity or metabolite responsible for any positive test result.

Test Parameters

The following drugs are either illegal and/or will have a serious effect on an individual's performance in Safety Critical posts. Samples collected for analysis will be tested for the following:

- Alcohol (*maximum limit of 39 mg/100ml of urine, (less than half the legal limit which is 107 mg/100ml of urine)*)
- Amphetamines
- Cocaine
- Benzodiazepines
- Opiates
- Methadone
- Cannabis
- Propoxyphene
- MDMA (Ecstasy)
- PCP (Phencyclidine)

- Methaqualone
- Barbiturates

Highways England will amend and update this list at any time to reflect latest medical advice, industry standards and/or legislation.

Outcome of Test Results

A person will be deemed to have a positive test result if:

- the sample tested has a concentration of alcohol greater than 39mg/100ml of urine. This is lower than the legal drink drive limit and is based on medical advice on levels of alcohol that could be regarded as impacting upon Health and Safety
- the presence of drug(s) or alcohol are established as defined in this policy
- the presence of any prescription or other drug(s) are established, which the employee has not been prescribed and/or has not declared
- the individual fails any drug or alcohol test undertaken by the police in respect of an "on duty" Highways England employee
- without good reason, an individual refuses to undertake a test

Positive test results will be dealt with under Chapter 14.10A Section 14.10.1 paragraph g) of the Highways England Drug and Alcohol Policy.

Advising of Test Results

Each test will provide one of three possible outcomes listed below:

- Negative
- Positive - consistent with declared medication
- Positive

The result of each test will be reported directly to your HR Business Partner. An initial result will be made available within 24 hours of the sample being taken. If the test shows a positive result, the individual may be suspended on full pay to allow for further confirmatory analysis to take place, the result of which should be made available within 5 days. All results will be managed confidentially and in accordance with current Data Protection Act requirements. Individuals also have the right of access to their own results and this can be arranged by contacting your HR Business Partner.

No medication that has been previously declared will be treated as a disciplinary matter. As such, it will be dealt with under chapter 14.10A section 14.10.1 paragraph g) of the Drugs and Alcohol Policy.

Where a test result is positive, but consistent with medication already declared, the results will be advised to the testing company's Medical Referral Officer, enabling confirmation to be obtained that the positive result is in line with the declared medication. Where appropriate, the employee may be required to attend a meeting with the Medical Referral Officer. If the current medication has a detrimental effect on the individual's or others performance and/or health and safety, advice may be given to the employee on alternative medicaments. However, it is **not** for Highways England medical representatives to prescribe alternative medications and any alternative medication must be approved by the employee's own General Practitioner (GP).

Following consultation and/or additional medical advice from his/her GP, in certain circumstances it may be considered that the individual should be referred to Occupational Health for further support. It is the employee's responsibility to make a decision based on the advice given as to their own suitability to attend work.

Employees should be aware that they may be subject to disciplinary action if returning to work when it is deemed by Highways England that they are not fit to carry out their duties in accordance with the policies set out in this document.

If an employee is tested for any reason other than pre-employment purposes Highways England reserves the right to take immediate interim action e.g. suspension from duty with full pay. This is as a preventative measure for Health and Safety reasons pending the result of any subsequent test result.

Managing Information

Highways England will manage all sensitive information in accordance with the Data Protection Act. In doing so it will undertake to only retain test results and associated documentation where it is deemed necessary. The length of time this information will remain on file is dependant on a number of factors, as detailed below;

Positive result - Details of the test and associated documentation will be recorded and will remain on file until such time as any subsequent disciplinary action has expired, upon which all evidence will be destroyed. If disciplinary action warrants dismissal, details pertaining to the test and any associated documentation will remain on file for a period no longer than six months or until such time as any subsequent appeal has been resolved, at which point all evidence will be destroyed.

Negative result - All records of the test will be destroyed immediately.

Storage/access - Any retained result and associated documentation will be stored in a separate, secure location with your HR Business Partner. Access to this information will be limited to your line manager or deputy and your HR Business Partner.

Appeals

As outlined, each sample is subject to a two stage testing process to ensure that false positives do not occur. Firstly the sample is screened using the enzyme multiplied immunoassay (EMIT) method, to establish any presence. If this shows a positive result, then the same sample is subject to a more rigorous screening, gas chromatography & mass spectrometry (GCMS), this will identify the already established presence. Using these methods of testing eliminates false positives.

Employees have the right to appeal against the result of their test. If you dispute the result you should inform your HR Business Partner as soon as possible, but within 48hrs of the result being declared to you.

Following an appeal, an investigation will be carried out by Highways England and/or its Medical Advisors into the facts surrounding the test and a report will be made available. If appropriate the original sample will be retested at another accredited laboratory. The result of any subsequent test will be final with no right of appeal.

The contents of this annex have been informed by medical advice provided by Highways England's medical advisors:

People Asset Management Limited, 13 – 15 Springfield Street, Palmyra Square Chambers,
Warrington, WA1 1BB

Authorised 'for cause' tests can be implemented by calling 0845 643 6446. An appropriate place for testing will need to be assigned by the requestor together with arrangements being in force to ensure the affected person can safely attend the nominated location without causing risk or danger to others.