

LEAVING POLICY

Date policy adopted: 01/04/2011

Date of last review: 01/06/2021

1. Purpose and Scope

This policy sets out obligations, rights, expectations and practices to be employed when leaving the Ethical Standards Commissioner (ESC). It is intended for the guidance of managers and employees and covers both employee resignations and dismissals. Specifically the policy covers:

- employee resignation
- redundancy
- retirement
- dismissal.

This policy applies to all employees regardless of working pattern or nature of employment contract. It will not apply to others carrying out work on behalf of ESC (agency staff, contractors etc) who will be governed by the contract under which they have been employed or contracted.

When an employee is leaving the employment of ESC it is expected that they will return all property issued during employment.

1. Implementation, monitoring and review of the policy

Overall responsibility for policy implementation, monitoring and review lies with ESC. Everyone covered by the scope of the policy is obliged to adhere to, and facilitate implementation of, the policy. Appropriate action will be taken to inform all new and existing employees and others covered by the scope of the existence of the policy and their role in adhering to it. The policy will be reviewed at such times as legislation or a change to the ESC policy position requires it. The policy will be made available to the general public.

2. Resignation

On tendering resignation with ESC, employees should note that:

- notice will not normally be able to be withdrawn once resignation is tendered and accepted.
- they will usually be offered the option to attend an exit interview. This will enable ESC to understand more fully an employee's reasons for leaving and, where appropriate, improve policies and practices

3. Notice Periods

Notice periods will be as stated in an employee's contract of employment. Subject to an employee being dismissed for gross misconduct, or being employed on a fixed term contract whereby the contract will end on the date specified in the contract (unless notice is

given to terminate the contract early), normal periods of notice are shown in the tables below:

From ESC to the Employee:

Continuous Length of Service	Notice Period
During first three months	1 week
3 months to 4 years	4 weeks
Over 4 years	One week plus one week for every year of service up to a maximum of 13 weeks

From the Employee to ESC:

Continuous Length of Service	Notice Period
During first three months	1 week
3 months to 4 years	4 weeks
Over 4 years	One week for every year of service up to a maximum of 8 weeks

Please note that the table above details the minimum periods of notice. ESC welcomes longer periods of notice from the employee.

Employees must be aware that, during any notice period they remain ESC employees. This means that they continue to:

- be bound by any terms of their contract of employment including any implicit or explicit duties of confidentiality and loyalty
- be prevented from acting in any way which is against ESC best interests.

Employees should note the following conditions which will apply during notice periods:

Payment in Lieu

ESC reserves the right to pay salary as a net payment in lieu of notice. This means that ESC is not obliged to make a payment to an employee in lieu of notice period and any payment which is made will be made net of any deductions of tax and national insurance contributions and, within the law, any sums due to ESC as at date of leaving.

Garden Leave

ESC reserves the right to require employees to remain on 'garden leave' throughout the duration of the notice period. This means that employees will not carry out any work for ESC; they will remain away from ESC premises, but remain available to ESC during normal working hours. During this period employees may not work for anyone else.

Employees should also note that during this period ESC may also restrict access to other ESC employees and/or stakeholders as well as to ESC IT systems such as shared drives, telephony and website login access.

Other duties

Where required during notice periods, ESC reserves the right to require an employee to carry out other duties as ESC may require provided that these duties are appropriate to an employee's job description.

Other employment

ESC will consider all requests to be released early from a contract of employment during an employee's notice period and consent will not be unreasonably withheld.

Confidentiality

During any period of notice employees will continue to be bound by their duty of confidentiality. Employees must note any ongoing duty of confidentiality beyond the notice period as referenced in their individual contract of employment or the Confidentiality Policy.

Holidays

ESC reserves the right to request and will normally expect employees to take any unused holidays and flexi-leave during a notice period. Where this is not possible due to the needs of the business, the employee may receive payment in lieu of any outstanding entitlement. If the employee has exceeded their annual leave entitlement at the point of leaving the ESC's employment, a deduction will be made from their final salary payment. More information on holidays' accrual calculation is provided in ESC's working hours and annual leave policy.

4. Terminating Employment

Circumstances may arise where ESC may find it necessary to act to terminate an employee's employment. Depending on the circumstances relating to this termination, the employee may or may not be entitled to a period of notice as described above.

5. Dismissal

Gross misconduct

In the event of an employee having been considered to have breached the disciplinary policy with an act of Gross misconduct, ESC reserves the right to dismiss the employee immediately and without notice of termination or payment in lieu. Employees should refer to the Disciplinary Policy for more details.

Poor Performance and Attendance

Where an employee fails to achieve and sustain satisfactory levels of performance or attendance, ESC will investigate the reasons, discuss it with the employee and support the employee in accordance with the Disciplinary Policy or Absence Policy. Where termination of employment is identified as the only remaining option, the employee will be dismissed with appropriate notice. In relation to attendance this refers to circumstances where the employee is not leaving under Ill Health Retirement provisions, which are laid out below.

Where appropriate, ESC may consider that compensation should be paid in accordance with the requirements of the Civil Service Compensation Scheme and this will be notified to the employee at the time of dismissal. The employee will retain their right to appeal both against the dismissal and / or failure to pay compensation or the amount of compensation paid.

6. Ill Health Retirement

Details relating to the standards and expectations governing attendance are provided in the Absence Policy. Employees who fail to achieve ongoing standards of attendance following the identification of an underlying, medical problem may be eligible for ill health retirement in accordance with the Civil Service Compensation Scheme or the requirements of the Principal Civil Service Pension Scheme. Copies of the relevant documentation can be

provided to employees on request to the Corporate Services Team. Employees should note that any decision to terminate employment on the grounds of ill health will only be made once all other reasonable alternatives have been explored.

7. Redundancy/Restructuring and Redeployment

ESC seeks to avoid redundancies by forward planning and the adoption of sound management practice. However, ESC recognises that, from time to time, business needs may require a reduction in staffing levels as a result in a reduction of work or due to restructuring. When there is a potential need for a programme of redundancy and/or restructuring, ESC will investigate ways and means of minimising the numbers affected, particularly by redeployment and retraining, where possible.

ESC will ensure that meaningful consultation is carried out with all employees and / or representatives in relation to both the process to be employed and the content of the discussions. ESC will also ensure that employees are afforded the minimum statutory rights or their contractual rights whichever is the greater during any redundancy and/or restructuring programme. ESC redundancy programmes will follow the Civil Service Compensation Scheme requirements. Employees are referred to the Civil Service Compensation Scheme, details of which are available from a member of the senior management team.

ESC undertakes, in co-operation with employees affected, (or their workplace representatives if applicable), to make every effort to find alternative employment within ESC, initially within the same work area, but also in any other work area where suitable opportunities may exist. When no alternative employment is available, ESC may help individuals to look for employment outside of the office.

8. Retirement

ESC does not have a compulsory retirement age. The age at which an individual retires depends on their personal circumstances and on the pension scheme to which they belong. Employees approaching pensionable age should be aware of the following process:

- ESC will write to employees no more than 12 months or less than six months in advance of their normal pensionable age. This letter will provide employees with written notice of their pension arrangements and options.
- Normally, the employee can choose to retire or to continue to work and has the right to request flexible working (see the Supporting Work-Life Balance Policy).
- ESC will arrange a meeting with the employee to discuss their options and agree the way forward.

9. References for Employees

All employment offers with ESC are subject to satisfactory references being obtained. References are for verifying information given by an applicant.

ESC considers that the taking up of references is an integral part of the recruitment procedure and as such should only be carried out by authorised employees, following the specified procedure.

ESC will normally supply references when requested. ESC will not provide 'to whom it may concern' references.

References ESC gives will provide facts about a person's employment with ESC.

ESC can provide one of two types of reference:

- where we have substantive information on an individual's performance in a role, such as evidence of good or poor performance recorded in the performance management system, this may be used as content for a reference.
- where no such information on individuals is held, references may only refer to other factual information held on that individual (such as length of term served)

The Commissioner can delegate the authority to provide references as appropriate. Any reference must be given in the name of the person writing it – not on behalf of the Commissioner or any other employee.

Equality Impact Assessment

Does this policy comply with the general Public Sector Equality Duty (s149 Equality Act 2010)?

This policy applies to all employees. Its impact was considered when drafting. We consulted with all employees prior to publication to identify and address any issues.

Data Protection Impact Assessment

Have we considered any effect the policy may have on the collecting, processing and storing of personal data?

The records generated by this policy will contain personal data and may contain sensitive and special category personal data. Suitable retention and destruction policies are in place to manage this material.

Information Security Impact Assessment

Have we considered the impact any policy may have on our cyber-resilience?

This policy should have no impact on our cyber-resilience.

Records Management Impact

Have we considered the impact any policy may have on our ability to manage our records?

This policy should have no impact on our ability to manage our records.

Version	Description	Date	Author
1.0	First draft	01/06/21	Public Appointments Officer