

Northern Ireland Policing Board Policy on the Removal of a Member of the Policing and Community Safety Partnership (PCSP) from Office

The Board's Policy on the Removal of a PCSP Member from Office is governed by Schedule 1 Paragraph 8¹ of the Justice Act (Northern Ireland) 2011 which states the following:

Removal of members

8(1) The Policing Board, or the council with the approval of the Policing Board, may remove a person ("P") from office as a political or independent member of a DPCSP if satisfied that –

- (a) in the case of an independent member, P failed to make the necessary disclosure in relation to P's conviction for a criminal offence in Northern Ireland or elsewhere;
- (b) in the case of an independent member, P has acted in breach of the terms of a declaration against terrorism;
- (c) P has been convicted in Northern Ireland or elsewhere after the date of P's appointment of a criminal offence (whether committed before or after that date);
- (d) P has become bankrupt or made a composition or arrangement with P's creditors;
- (e) P has failed to comply with the terms of P's appointment; or
- (f) P is otherwise unable or unfit to discharge P's functions as a member of the DPCSP.

(2) The "necessary disclosure", in relation to a conviction of an independent member, means full disclosure of it -

- (a) before the nomination of that member, to the council which nominated that member; and
- (b) before the appointment of that member, to the Policing Board.

(3) Section 6 of the Elected Authorities (Northern Ireland) Act 1989 (c. 3) applies to determine whether an independent member has acted in breach of the terms of a declaration against terrorism as it applies to determine whether a person who has made a declaration required for the purpose of section 3, 4 or 5 of that Act has acted in breach of the terms of the declaration.

(4) As applied by sub-paragraph (3), section 6 of the Elected Authorities (Northern Ireland) Act 1989 applies with the following modifications –

- (a) in subsection (1), for the words from "after" to "the Assembly" substitute "when he is an independent member of a DPCSP";

¹ Schedule 2, Para 8 of the Justice Act (Northern Ireland) 2011 deals with the removal of DPSCP members
224060

- (b) omit subsection (4);
- (c) in subsection (5), in the definition of “public meeting” after paragraph (c) insert -
 - “(d) any meeting of a PCSP or a DPCSP or a committee of a PCSP or DPCSP (whether or not a meeting which the public is permitted to attend), and”.

Definition of a Criminal Offence

A PCSP Member may be considered for removal from office if they have been convicted of a criminal offence however there is no definition in the legislation as to what constitutes a criminal offence. To assist in developing this policy, the Board obtained the following legal advice:

“the distinguishing feature of a criminal offence is that it entails a liability to punishment by the State and not the payment of damages to the injured party”

Application of Unable or Unfit to Discharge the Functions as a Member of the PCSP

A PCSP Member may be considered for removal from office if they are unable or unfit to discharge the functions as a Member of the PCSP.

If a PCSP Member’s behaviour, by word or deed, is such that it is deemed to have brought the PCSP into disrepute, the Board may decide, having considered the matter, that they are unfit to discharge their functions as a PCSP Member.

If a PCSP Member fails to attend the meetings of the PCSP, the Board, having considered the matter, may decide that they are unable or unfit to discharge their functions as a PCSP Member. Consistent with policy relating to the attendance of Councillors, the Board will consider all cases where a Member has not been in attendance for a period of 3 months without prior agreement with the PCSP Chair.

In the case of a Member who has been charged with a criminal offence, the Board may decide, having considered the matter, that the process set out at points 1 to 19 of this policy is followed for the purposes of considering the Member’s temporary removal from office pending the conclusion of these criminal proceedings when the Board may consider the matter again or consider reinstating the Member.

The Principle of Discretion

Schedule 2 Section 8(1) of the Justice Act places a discretionary responsibility on the Board with regard to the action it **may** wish to undertake.

The legal advice provided to the Board in relation to the above states:

*“The use of the word **may** would therefore suggest that it was Parliament’s intention to give the Board a discretion.”*

A guiding principle for each case will be for the Board to consider the degree to which the PCSP Member’s behaviour or action resulting in their case being referred to the Board for consideration will lead to a loss of confidence on the part of the public in the PCSP Member’s ability to carry out the roles and responsibilities required of them.

Taking account of all of these factors the Board has developed a process detailed at points 1 to 19 of this policy. In developing this process the Board has not attempted to define those circumstances which may lead to the Board considering a PCSP Member’s position. Instead the Board will consider each case on its merit.

Process by which the Board will Consider the Removal of a PCSP Member from Office

Stage 1

1. Board Officials become aware² that a PCSP Member’s behaviour or circumstances are such that they may require the Board to consider the removal of the PCSP Member from Office in accordance with the terms of the its Policy.
2. Officials establish if there are grounds on which removal may be considered and obtain appropriate evidence, which may include details of the PCSP Member’s attendance record, media reports, Certificate of Conviction from the Court Service or, in the case of bankruptcy, an extract of the entry from the Belfast Gazette.
3. Officials collate the information concerning the case and prepare a paper which goes to the Partnership Committee.

Stage 2

² Officials could become aware of these matters in a number of ways including media reports, monitoring attendance, someone drawing the matter to the Board’s attention, a report from the police following a court case or an individual member notifying the Board of a change in their circumstances.

4. The Committee considers the case and shall make one of the following recommendations which shall be put before the next meeting of the Board for the Board's consideration;
 - (i) that the Committee concludes and recommends that the PCSP Member's circumstances are such as not to require their removal from office;
 - (ii) that the Committee concludes and recommends that the PCSP Member's circumstances are such as may require consideration of their removal from office;
 - (iii) That the Committee perceives a charge or pending case as having a negative effect on the Member's ability to carry out their role and concludes that the member should be asked to step aside from their post temporarily pending the outcome of due process.

If the recommendation is that the Board should consider the PCSP Member's removal from office, then the Board's Chief Executive will inform the PCSP Member of the action the Board is proposing to take. The PCSP Member will be provided with a copy of the Policy on the Removal of a PCSP Member from Office and informed that the Board will now consider whether they should be removed from membership of the PCSP. The PCSP Member will be asked to provide the Board with any relevant information relating to their circumstances which they believe the Board should be aware of.

Stage 3

5. The Board will consider the recommendation from the Committee together with any information gathered by Officials or provided by the PCSP Member, and determine whether action is required.
6. If the Board decides that the PCSP Member's circumstances do not require their removal from office then the decision is recorded in the minutes of the meeting and the matter is deemed to be closed.
7. If, having considered all the information, the Board decides that the circumstances are such that may result in the PCSP Member being removed from office then the Board's Chief Executive will inform the PCSP Member of the time and place at which their position will be considered.

8. The Board's Chief Executive will invite the PCSP Member to make written or oral representation to the Board as to why the Board should not exercise its discretion to remove them from office.
9. The Board's Chief Executive will inform the PCSP Member that if they wish to make oral representation they have the right to bring someone with them. While this may be a legal representative the process does not involve cross examination and the other person does not have the right to speak.
10. The Board will allow the PCSP Member reasonable time to prepare a written submission or to arrange to attend the Board meeting where their case will be considered.
11. The Board's Chief Executive will provide the PCSP Member with full details of the circumstances giving rise to the consideration of their position and clearly set out the reasons why the Board is considering their removal from Office prior to their attendance at the Board meeting.
12. At the Board meeting when the PCSP Member's position is being considered, a Board Official will provide the details of the case and set out the reasons as to why removal of the PCSP Member is being considered.
13. Following the Board Official's submission, the PCSP Member will be asked to make their written or oral representation to the Board as to why the Board should not exercise its discretion to remove them from office as a PCSP Member.
14. Once the PCSP Member has made their representation they will be asked to withdraw and the Board will consider in light of all the information in their possession if the PCSP Member should be removed from office. In making their decision the Board will:
 - a. Act rationally
 - b. Consider all relevant factors
 - c. Disregard all irrelevant factors
15. Whenever a decision has been reached the Board's Chief Executive will inform the PCSP Member in writing of the outcome providing them with a fully reasoned letter of decision.