

NORTHERN IRELAND POLICING BOARD

POLICY ON THE REMOVAL OF PCSP/DPCSP MEMBERS

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

Removal of a PCSP Member

The removal of a member of the PCSP/DPCSP will be enacted following a recommendation from the Partnership Committee and approval of the Board as part of the implementation of the policy as outlined below.

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 PCSP 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 PCSP.

(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

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

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 PCSP”;
- (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”

In the case of a Member who has been charged with a criminal offence, the Board may decide that the Member should be temporarily removed from office pending the conclusion of these criminal proceedings when the Board may consider the matter again or consider reinstating the Member.

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 the policy relating to the attendance of Councilors, the Board will consider all cases where a Member has not been in attendance for a period of 3 months (or three meetings) without prior agreement with the PCSP Chair and where the matter was not able to be resolved locally or through following the Guidance on the Managing a Breach of the PCSP Code of Conduct.

The Principle of Discretion

Schedule 1 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.

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

The process for consideration of removal of a member will consist of two stages:-

Stage1

The PCSP Member will be notified by the Chief Executive of the Board’s intention to commence consideration of their removal. The PCSP Member will be issued with the Policy for Removal and invited to attend a meeting with a review panel, comprising 3 members of the Partnership Committee and will be provided with full details of the circumstances giving rise to the consideration of their position.

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The PCSP Member will also be advised that 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.

Board officials will provide the review panel with full details of the case in advance of the meeting and will attend the meeting to take notes.

At the review panel meeting, the PCSP Member, will be given the opportunity to provide details of any mitigating circumstances that may be relevant to the matter. The panel may also wish to ask questions to the member for clarification purposes.

Once the PCSP Member has made their representation they will be asked to withdraw and the panel will consider in light of all the information in their possession if their recommendation to the Board should be to remove the member from office. In making their decision the Panel will act rationally and consider all relevant factors.

Stage 2

Following the meeting, Board officials will provide a note of the meeting including the panel recommendation which will be presented at the next Partnership Committee meeting. The Committee will be requested to agree that the recommendation is presented for approval to the Board at their next meeting.

Following this, the Board's Chief Executive will inform the PCSP Member in writing of the outcome providing them with a fully reasoned letter of decision.

Approved by the Board for publication – 1st April 2021

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DOCUMENT TITLE

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