



An Roinn Caiteachais
Phoiblí agus Athchóirithe
Department of Public
Expenditure and Reform

Guidelines on the management of probation in the Civil Service

Department of Public Expenditure and Reform

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Introduction

These Guidelines are to support Departments and Offices in the management of probationers from initial appointment to confirmation or termination of the appointment.

These Guidelines set out principles as guidance to employers of civil servants serving in a probationary capacity, whether as new entrants or on promotion to a higher grade.

These Guidelines do not establish terms and conditions of employment for employees. These Guidelines are not addressed to individual civil servants and do not give rise to any expectation (on the part of any individual civil servant) that any course of action will be followed by his or her employer. Terms and conditions of employment of probationers (and other civil servants) governed by the *Civil Service Regulation Acts 1956 to 2005* and are set out in applicable circulars. Nothing in these Guidelines limits the rights and obligations of any appropriate authority in the discharge of his or her functions under the *Civil Service Regulation Acts 1956 to 2005*.

These Guidelines may be amended or replaced from time to time.

Part 1 deals with the probation of new entrants to the Civil Service.

Part 2 deals with the probation of civil servants who have been promoted.

These Guidelines on probation are a guide to the management of the probation of staff employed in the Civil Service.

These Guidelines do not apply to the probation of a civil servant who is employed on a fixed-term contract of less than one year. The probation of a civil servant on a fixed-term contract is set out in the ***Guidelines for the Recruitment and Management of Fixed-Term Employees in the Irish Civil Service***.

It is the role of HR Units in Departments and Offices to ensure that the requirement to manage the performance of probationers is communicated to line managers.¹

¹ Reference to “performance” in these Guidelines should be read as encompassing conduct, performance and attendance, including punctuality.

IMPORTANT

Record Keeping

The formal reviews conducted during the probationary period should be comprehensively recorded on the probation form / eProbation system and should be discussed with the probationer. Any follow-up actions agreed at the review meetings, including any ongoing assessments of performance that take place between the formal reviews, should also be recorded and retained. These records may be transcribed into the eProbation assessment box at the formal reviews.

Any and all meetings held during the probationary period relating to performance, attendance and conduct should be recorded, as these records will normally be used as important information for decision-making and appeals in the probationary process.

Part 1- Probation of new entrants to the Civil Service

Section 1- What is probation for new entrants?

1. Probation is the process of assessing the performance of new entrants to the Civil Service. Any new entrant to the Civil Service is appointed on the basis of a one-year probationary contract. During probation, a new entrant's performance is fully evaluated so that the right decision is made as to whether or not he or she should be made permanent in the Civil Service.
2. If the probationer remains in the employment of his or her employer for the duration of his or her probationary period, three formal reviews should be conducted during that period. However it is recommended the probationer is made aware of the following matters.
 - (a) His or her employer is not obliged to wait for the entirety of his or her probationary period to conclude before making a determination in respect of his or her employment. Where an appropriate authority decides at any time during the civil servant's probationary period that the probationer has failed to satisfy the conditions of probation, the probationer's employment may be terminated by the appropriate authority.
 - (b) Where the probationer has been subject to three reviews and any issues occur at any time after the third review (but before the end of the probationary period), these issues could have consequences for the probationer being made permanent in the post.
3. The legislation governing probation is set out in the *Civil Service Regulation Act 1956* as amended. Section 5A of the *Civil Service Regulation Act 1956* as amended provides that a person may be initially appointed to be a civil servant on the basis of a probationary contract. The legislation also provides for termination of employment of a probationer at any time during the probationary period [Appendix A]. These Guidelines are subject to the provisions of the legislation and do not affect the statutory functions of an appropriate authority who makes the decision on whether or not the probationer is given a permanent appointment. Nothing in these Guidelines requires an appropriate authority to provide a permanent appointment to a probationer who has not satisfactorily completed his or her probation.
4. The Department of Public Expenditure and Reform template probationary contract² provides for the probationary period. It also provides for the possibility of termination either at the end of the contract term or at any time before the end of the contract term, provided that notice is given in accordance with the *Minimum Notice and Terms*

² <http://hr.per.gov.ie/contracts-for-one-year-probationary-contracts/>

of Employment Acts 1973 to 2005. These Acts do not affect the right of an employer to terminate a contract of employment without notice in the case of misconduct.

Principles of probation

5. Equity, effectiveness and accountability underpin the probationary process. It is important for line managers to provide probationers with feedback on their performance throughout the probationary process, and explain the standards of job performance and behaviour required. Line managers should ensure, where necessary and practicable, that probationers receive appropriate levels of training and support to reach the required standard of performance. The probationary process should be operated in an open, clear and supportive manner.

Objectives of probation

For the probationer

6. Probation offers a new entrant a fixed time-period to show that he or she can achieve, and maintain, the standards of job performance and behaviour required of a civil servant. It also provides new entrants with the opportunity to adapt to the Civil Service work environment and to decide if it is the career for them. In addition, a new entrant can gain an enhanced awareness of his or her strengths and identify areas that he or she needs to develop.

For the line manager

7. Probation allows a line manager³ to monitor a new entrant's progress in the job in order to establish his or her suitability for permanent appointment. A line manager should make sure that each probationer is aware of the standards of conduct, performance and attendance required and, where necessary, provide appropriate supports to help probationers achieve these standards.⁴ If the probationer does not meet the required standard(s) during the probationary period, the line manager is responsible for recommending, through the HR Unit, to the appropriate authority (who is the decision-maker in respect of the probationer) that his or her appointment be terminated, either at any time during or at the end of the probationary period.

³ A probationer may have more than one line manager over the course of his or her probation. A "line manager" in these Guidelines means any manager who is, for the time being, carrying out normal line management functions in respect of that probationer.

⁴ Interventions may include on-the-job training; coaching; self-managed learning and formal training course(s).

Civil Service Employee Assistance Service (CSEAS)

8. The advice of the CSEAS may be considered if problems arise during probation. The CSEAS can provide confidential support and assistance to both probationers and managers who may be experiencing work or personal difficulties. Further details are available at <http://cseas.per.gov.ie/>.

Section 2 - Managing the probation process for New Entrants

HR's role

9. It is recommended that Departments and Offices have an induction policy and retain a set of induction procedures for new entrants.
10. As part of the induction process, each new entrant should be provided with information on the Civil Service and on his or her terms and conditions of appointment. (*The Terms of Employment (Information) Acts 1994 to 2014* provide that an employer is obliged to provide an employee with a written statement of certain terms of employment within the first five days after the commencement of employment and certain other terms within the first 2 months after the commencement of employment). This information should include an emphasis on the importance of the probation process and that appointment to a permanent position is subject to the satisfactory completion of probation.
11. It is recommended that HR Units in Departments and Offices should provide information and support for managers on their role in the probationary process and adopt an oversight role on how probation is being conducted.
12. Training materials and guidelines to support managers to manage probation can be found at <http://hr.per.gov.ie/>.
13. It is also recommended that HR Units ensure that arrangements are in place for the maintenance of records and the conduct of reviews in an agreed timeframe. Please refer to the note "Record Keeping" at page 2.
14. In accordance with procedures agreed with the Staff Panel at General Council, a probationer should join the PMDS cycle as soon as possible. The first stage of the PMDS process is the setting of specific work goals, selecting the appropriate competencies to achieve these goals, and identifying learning and development actions.
15. During his or her probationary period, a probationer should be subject to probation reviews in accordance with the normal cycle determined by his or her starting date. While these probationary reviews should take account of any PMDS assessments, they should also involve a broader assessment of suitability for permanent appointment under the more general headings of the behaviours associated with satisfactory work performance, conduct and attendance.

Important

It is important that probationers understand the difference between PMDS and probation and that civil servants on probation must comply with both the PMDS process and the probationary process.

Line manager's role

Conducting formal reviews of performance

16. Formal reviews of probation are generally conducted by the probationer's line manager, but may be conducted by a higher level of manager, if appropriate. In the periods between these formal reviews, ongoing monitoring of performance and feedback is recommended. Records of these discussions should be kept. Please refer to the note "Record Keeping" at page 2.
17. The purpose of the reviews is to allow the line manager to assess whether the probationer is meeting the conditions of probation, namely that the probationer's:
 - work has been performed to a satisfactory standard;
 - attendance, including punctuality, is satisfactory; and
 - conduct and behaviour are of the required standard.
18. There are three possible outcomes to the first two reviews:
 - the probationer has (to date) satisfactorily fulfilled the conditions of probation. He or she needs to continue to satisfactorily fulfil the conditions of probation if he or she is to be appointed as a civil servant.
 - the probationer has (to date) not satisfactorily fulfilled the conditions of probation. He or she needs to demonstrate significant improvement if he or she is to be appointed as a civil servant.
 - the probationer has failed to satisfactorily fulfil the conditions of probation and a recommendation will normally be made to the appropriate authority, through the HR Unit, to terminate the employment of the probationer.

19. There are two possible outcomes to the final review:

- the probationer has satisfactorily fulfilled the conditions of probation. He or she should be appointed as a civil servant.
- the probationer has failed to satisfactorily fulfil the conditions of probation. A recommendation will normally be made, through the HR Unit, to the appropriate authority to terminate the employment of the probationer.

Important

If at any time during the probation period the line manager decides that it is his or her intention to recommend that the probationer's appointment should not be confirmed, it is advisable that the line manager informs the HR Unit as soon as possible. If a manager has concerns with regard to any aspect of an officer's performance while on probation, he or she should contact the HR Unit as soon as possible for further advice and guidance.

20. The following factors form the basis of the probationary review.

Standard of work

21. The standard required should be a matter for determination at local level. The PMDS form and the goals set – in consultation with the probationer – will be an important support to assessing performance. It may be necessary to review the PMDS goals and, if necessary, to clarify the requirements of the role. The completion of the PMDS process in respect of a probationer (which process may involve setting goals in respect of a period of time after the conclusion of the probationary period) does not give rise to an assumption that the probationer will successfully complete his or her probation.
22. The line manager should assess whether the probationer is able to complete the range of tasks that make up the job. If the probationer is failing to achieve the goals and not meeting the requirements of the role, the line manager may conclude that the work is not being performed to a satisfactory standard.
23. If at any stage a probationer asserts that he or she should receive (or should have received) any particular level of training and support then the line manager should consider the probationer's assertion. However it is not reasonable for a probationer to assert that he or she is or was entitled to disproportionate levels of training or support. In assessing a probationer's standard of work, the line manager should assess the standard of work actually performed, not the hypothetical standard of work that might have been performed in the event that the probationer had received any particular training or support.

Attendance levels

24. Attendance is an important element of overall performance. If absence levels are high this should be addressed with the probationer. He or she should know at the earliest possible stage that his or her level of absence is a cause for concern and may affect the outcome of his or her probation.
25. Departments may decide that an individual's attendance requires action when an individual reaches a "threshold" level i.e. certain number of days absence or pattern of absence (such as 56 days/25 instances over 4 years, pro-rated as required for probationers). It is important that these thresholds only operate as a "flag" that highlights the need to explore an individual's attendance record further. Other flags may include attendance patterns that are causing concern (e.g. frequent absences, absences regularly occurring on a Monday or Friday, etc.), absences of four weeks or greater, or four instances of short-term absences in a rolling one year period.
26. It is recommended that each case is assessed on its own merits and discretion to discount sick leave is applied where appropriate and taking account of the other elements to be assessed such as work performance, conduct and punctuality.
27. Where an individual attributes poor attendance to a medical condition, consideration should be given as to whether that individual may have a disability as defined under employment equality legislation. A HR Manager should consider his or her organisation's obligations under the *Employment Equality Acts 1998 to 2015* to provide reasonable accommodation, so that an individual with a disability can participate in and advance at work.
28. Please note that if a probationer's absence is due to sick leave, in terms of paid sick leave the pro-rated limits apply for the length of probation, which is 23 days of full pay and 23 days of half pay, for a one-year probationary period, as per the Public Service Management (Sick Leave) Regulations 2014 as amended. This does not take away from any other flags to highlight an attendance issue.

Conduct and behaviour

29. At induction, a new entrant should be advised of the standards expected of him or her in this respect.
30. The line manager is responsible for making a recommendation about the future employment of a probationer: i.e. whether or not the probationer should be appointed as a permanent civil servant. The recommendation should be made to the appropriate authority, through the HR Unit, based on the evidence recorded at the performance reviews.

Important

Where a probationer fails to meet the standards required, he or she should be clearly advised of the situation and that failure to improve could result in his or her appointment being terminated. The line manager should bear in mind that the record of discussions of all performance review meetings are very important. Please refer to the note “Record Keeping” at page 2.

Important

The assessment of a probationer should be based on the actual performance, attendance and conduct of the probationer during the probationary period. It should not include a hypothetical assessment of what the performance, attendance and conduct of the probationer might have been like if different circumstances had existed.

HR's role

31. Where the recommendation of the line manager is that the probationer has failed to satisfactorily complete probation, the probationer should be informed in writing by the HR Unit of that recommendation. This notification should state that it is proposed to recommend to the appropriate authority (who is the decision-maker in respect of the probationer) that the appointment should be terminated.
32. If the probationer wishes to appeal this recommendation, and if he or she is eligible to appeal further to the provisions of Section 3, then arrangements should be made to conduct a review by an Internal Appeals Officer. The appeals process is here <https://hr.per.gov.ie/appeals-process-for-new-entrant-probationers/>. The appeal should be conducted within the specified timelines outlined in the appeals process documentation.
33. If the probationer does not appeal the recommendation of the line manager to terminate his or her appointment (or if the probationer is not eligible to appeal – see paragraph 36 below) the HR Unit should submit the line manager's recommendation to terminate the appointment to the appropriate authority. This recommendation should be submitted to the appropriate authority in advance of the end of the probationary period. A decision on the case will then be made by the appropriate authority. The decision of the appropriate authority should be communicated to the probationer in writing.

Length of notice

34. A probationer is entitled to the statutory notice period if his or her employment is terminated during his or her probationary period. In accordance with the *Minimum Notice and Terms of Employment Acts 1973 to 2005*, a person who has been in employment for at least 13 weeks but for less than two years is entitled to a notice period of one week.
35. If the contract is being terminated for misconduct, no notice period is required.

Section 3- Appeal

36. New entrant probationers up to and including the grade of Principal **with the exception of those whose appointments have been terminated in the first 6 weeks of that appointment**, are eligible to seek an appeal of a decision to recommend the termination of his or her employment.
37. The appeal process for new entrant probationers is set out at <https://hr.per.gov.ie/appeals-process-for-new-entrant-probationers/>

Section 4- Probation pause/Transfer/Secondment

Circumstances in which probation can be 'paused'

38. There are circumstances where a 'pause' in the probationary period may occur by operation of law or by decision of the employer. The main such circumstances are as follows:

- (a) When the probationer has been absent due to maternity, paternity or adoptive leave⁵.
- (b) Section 25 of the Maternity Protection Act 1994 (as amended)⁶ provides that during a person's absence from work on protective leave while on probation, the probation stands suspended during such absence and shall be completed by the probationer on his or her return to work after such absence.
- (c) When the probationer has been absent on parental leave or carer's leave⁷. The employing Department may require probation to be suspended if the absence is not considered to be consistent with a continuation of the probation.
- (d) When the probationer has been absent from work for a significant period of time during his or her probation in circumstances that may justify 'pausing' the period of probation.

39. Where a civil servant's probation has been paused, his or her employer should notify him or her of the circumstances relating to that pause.

Transfer/Secondment

40. In order that probation can be properly conducted, a request for a transfer should not be considered during probationary period. Similarly a civil servant should not normally be seconded from his or her employing Department or Office until after he or she has satisfactorily completed his or her probation.

⁵ Maternity Leave (Circular 35/1995), <http://circulars.gov.ie/pdf/circular/finance/1995/35.pdf>; Adoptive Leave (Circular 30/2006) <http://circulars.gov.ie/pdf/circular/finance/2006/30.pdf>
<https://hr.per.gov.ie/wp-content/uploads/Circular-18-of-2016-Paternity-Leave-in-the-Civil-Service.pdf>

⁶ <http://www.irishstatutebook.ie/eli/1994/act/34/section/25/enacted/en/html>

⁷ Parental Leave (Circular 20/2008 Parental Leave) <http://circulars.gov.ie/pdf/circular/finance/2008/20.pdf> and Carer's Leave (Circular 39/2005) <http://circulars.gov.ie/pdf/circular/finance/2005/39.pdf>

Part 2 -Probation of Civil Servants who have been promoted

Section 1 -What is probation for civil servants who have been promoted?

41. A civil servant who is promoted from an internal, an interdepartmental or an open competition will serve a probationary period in the higher grade. At the end of the probationary period, the line manager should make a recommendation to the appropriate authority as to whether or not the civil servant should be confirmed in his or her appointment to the higher grade.
42. During the probationary period, three formal reviews are conducted.
43. If the civil servant's performance has not been satisfactory, his or her appointment to the grade should not be confirmed. A civil servant whose performance has not been satisfactory may be reverted to his or her former (or an equivalent) position subject to certain conditions. The arrangements in this regard are set out in section 7 of the Civil Service Regulation Act 1956 (as amended) [Appendix A].

Principles of probation

44. Equity, effectiveness and accountability underpin the probationary process. It is important for line managers to provide promoted civil servants with appropriate feedback on their performance, and explain the standards of job performance and behaviour required. The line manager should ensure, where necessary and practicable, that a civil servant who has been promoted receives, during the first year in the higher grade, appropriate levels of training and support to reach the required standard of performance. The probationary process should be operated in an open, clear and supportive manner.

Objectives of probation

For the civil servant

45. Probation offers the civil servant who has been promoted a fixed time-period to show that he or she can achieve, and maintain, the standards of job performance and behaviour required at the higher grade. In addition, the civil servant can gain an enhanced awareness of his or her strengths and identify areas that he or she needs to develop.

For the line manager

46. Probation allows the line manager⁸ to monitor a civil servant's progress following promotion in order to establish his or her suitability to be confirmed in his or her appointment to the higher grade. The line manager should make sure that the civil servant is aware of the standards of conduct, performance and attendance required and, where necessary, provide appropriate supports to help the civil servant to achieve these standards.⁹ If the required standards are not met, the line manager is responsible for recommending to the appropriate authority (who is the decision-maker in respect of the probationer) that the civil servant should not be confirmed in his or her appointment to the higher grade.

Civil Service Employee Assistance Service (CSEAS)

47. The involvement of the CSEAS may be considered if problems arise during probation. The CSEAS can provide confidential support and assistance to both probationers and managers who may be experiencing work or personal difficulties. Further details are available at <http://cseas.per.gov.ie/>.

⁸ A probationer may have more than one line manager over the course of his or her probation. A "line manager" in these Guidelines means any manager who is, for the time being, carrying out normal line management functions in respect of that probationer.

⁹ Interventions may include on-the-job training; coaching; self-managed learning and formal training course(s).

Section 2 - Managing the probation process for Civil Servants on promotion

HR's role

48. It is recommended that HR Units in Departments and Offices should provide information and support for managers in their role in the probationary process. This should include an emphasis on the importance of the probation process and that the confirmation of the promoted civil servant in the higher grade is subject to the satisfactory completion of probation.
49. It is recommended that HR Units in Departments and Offices should adopt an overseeing role on how probation is being conducted.
50. It is also recommended that HR Units ensure that arrangements are in place for the maintenance of records and the conduct of reviews in an agreed timeframe. Please refer to the note "Record Keeping" at page 2.
51. The probationary reviews should take account of PMDS assessment of performance but should also involve a broader assessment of suitability.
52. Training materials and guidelines to support managers to manage probation can be found at <http://hr.per.gov.ie/>.

Line manager's role

Conducting formal reviews of performance

53. Formal reviews of probation are conducted by the civil servant's line manager. In the periods between these formal reviews, ongoing monitoring of performance and feedback is recommended. Records of these discussions should be kept. Please refer to the note "Record Keeping" at page 2.
54. The purpose of the reviews is to allow the line manager to assess whether the civil servant is meeting the conditions of probation, namely that his or her:
 - work has been performed to a satisfactory standard;
 - attendance, including punctuality, is satisfactory; and
 - conduct and behaviour are of the required standard.

55. There are three possible outcomes to the first two reviews:

- The civil servant has (to date) satisfactorily fulfilled the conditions of probation. He or she needs to continue to satisfactorily fulfil the conditions of probation if his or her appointment to the higher grade is to be confirmed.
- The civil servant has (to date) not satisfactorily fulfilled the conditions of probation. He or she needs to demonstrate significant improvement if his or her appointment to the higher grade is to be confirmed.
- The civil servant has failed to satisfactorily fulfil the conditions of probation during the probationary period and a recommendation should be made to the appropriate authority, through the HR Unit, that his or her appointment to the higher grade should not be confirmed.

56. There are two possible outcomes to the final review:

- The civil servant has satisfactorily fulfilled the conditions of probation. His or her appointment to the higher grade should be confirmed.
- The civil servant has failed to satisfactorily fulfil the conditions of probation during the probationary period and a recommendation should be made to the appropriate authority, through the HR Unit, that the officer's appointment to the higher grade should not be confirmed. In these circumstances, the issue of reversion to the civil servant's previous grade normally arises (subject to the statutory provisions regarding (reversion)).

57. The following factors form the basis of the probationary review.

Standard of work

58. The standard required should be a matter for determination at local level. The PMDS form and the goals set – in consultation with the civil servant – should be an important support to assessing performance. It may be necessary to review the PMDS goals and, if necessary, to clarify the requirements of the role.

59. The line manager should assess whether the civil servant is able to complete the range of tasks that make up the role in the higher grade. If the civil servant is failing to achieve the goals and not meeting the requirements of the role,

the line manager may conclude that the work is not being performed to a satisfactory standard.

60. If at any stage a civil servant asserts that he or she should receive (or should have received) any particular level of training and support then the line manager should consider the civil servant's assertion. However it is not reasonable for a probationer to assert that he or she is or was entitled to disproportionate levels of training or support. In assessing a probationer's standard of work, the line manager should assess the standard of work actually performed, not the hypothetical standard of work that might have been performed in the event that the civil servant had received any particular training or support.

Attendance levels

61. Attendance is an important element of overall performance. If absence levels are high this should be addressed with the probationer. He or she should know at the earliest possible stage that his or her level of absence is a cause for concern and may affect the outcome of his or her probation.
62. Departments may decide that an individual's attendance requires action when an individual reaches a "threshold" level i.e. certain number of days absence or pattern of absence (such as 56 days/25 instances over 4 years). It is important that these thresholds only operate as a "flag" that highlights the need to explore an individual's attendance record further. Other flags may include attendance patterns that are causing concern (e.g. frequent absences, absences regularly occurring on a Monday or Friday, etc.), absences of four weeks or greater, or four instances of short-term absences in a rolling one year period.
63. It is recommended that each case is assessed on its own merits and discretion to discount sick leave is applied where appropriate and taking account of the other elements to be assessed such as work performance, conduct and punctuality.
64. Where an individual attributes poor attendance to a medical condition, consideration should be given as to whether that individual may have a disability as defined under employment equality legislation. The HR Manager should consider his or her organisation's obligations under the *Employment Equality Acts 1998 to 2015* to provide reasonable accommodation, so that an individual with a disability can participate in and advance at work.

Conduct and behaviour

65. On appointment on promotion, a civil servant should be advised of the standards expected of him or her in the higher grade.
66. The line manager is responsible for making a recommendation about the confirmation of the civil servant's appointment in the higher grade. The recommendation should be made to the appropriate authority, through the HR Unit, based on the evidence recorded at the performance reviews.

Important

Where a civil servant fails to meet the standards required, he or she needs to be clearly advised of the situation and that failure to improve could result in his or her appointment to the higher grade not being confirmed. The line manager should bear in mind that the record of discussions of all performance review meetings are very important. Please refer to the note "Record Keeping" at page 2.

Important

If at any time during the probationary period the line manager decides that it is his or her intention not to recommend that the civil servant's appointment to the higher grade be confirmed, it is advisable that the line manager informs the HR Unit as soon as possible.

HR's role

67. Where the recommendation of the line manager is that a civil servant has failed to satisfactorily complete probation, the civil servant should be informed in writing by the HR Unit of that recommendation. This notification should state that it is proposed to recommend to the appropriate authority (who is the decision-maker in respect of the probationer) that the civil servant's appointment to the higher grade should not be confirmed.
68. If it is decided by the line manager that the recommendation to the appropriate authority is that the civil servant should not be confirmed in the higher grade, the HR Manager should inform the civil servant that he or she has the right to request the Civil Service Disciplinary Code Appeal Board to review the line manager's recommendation. This review should take place

before the line manager's recommendation is sent to the appropriate authority for decision.

69. The probationary period will come to an end when the appropriate authority has made the decision.

70. If the civil servant does not appeal the recommendation of the line manager not to confirm his or her appointment to the higher grade, the recommendation of the line manager should be submitted, through the HR Unit, to the appropriate authority. This recommendation should be submitted to the appropriate authority in advance of the end of the probationary period. A decision on the case will then be made by the appropriate authority. The decision of the appropriate authority should be communicated to the probationer in writing.

Section 3 -Probation pause/Transfer/Secondment

Circumstances in which probation can be 'paused'

71. There are circumstances where a 'pause' in the probationary period may occur by operation of law or by decision of the employer. The main such circumstances are as follows:

- (a) When the probationer has been absent due to maternity, paternity or adoptive leave.¹⁰
- (b) Section 25 of the Maternity Protection Act 1994 (as amended)¹¹ provides that during a person's absence from work on protective leave while on probation, the probation stands suspended during such absence and shall be completed by the probationer on his or her return to work after such absence.
- (c) When the probationer has been absent on parental leave or carer's leave.¹² The employing Department may require probation to be suspended if the absence is not considered to be consistent with a continuation of the probation.
- (d) When the probationer has been absent from work for a significant period of time during his or her probation in circumstances that may justify 'pausing' the period of probation.

Transfer/Secondment

72. In order that the probationary process can be properly conducted, a request for a transfer should not be considered during the probationary period. Similarly a civil servant should not normally be seconded from his or her employing Department or Office until after he or she has satisfactorily completed his or her probation.

¹⁰ Maternity Leave (Circular 35/1995), <http://circulars.gov.ie/pdf/circular/finance/1995/35.pdf>; Adoptive Leave (Circular 30/2006) <http://circulars.gov.ie/pdf/circular/finance/2006/30.pdf>
<https://hr.per.gov.ie/wp-content/uploads/Circular-18-of-2016-Paternity-Leave-in-the-Civil-Service.pdf>

¹¹ <http://www.irishstatutebook.ie/eli/1994/act/34/section/25/enacted/en/html>

¹² Parental Leave (Circular 20/2008 Parental Leave) <http://circulars.gov.ie/pdf/circular/finance/2008/20.pdf> and Carer's Leave (Circular 39/2005) <http://circulars.gov.ie/pdf/circular/finance/2005/39.pdf>

Section 4 - Reversion

Reversion of Civil Servants who have been promoted

73. When a civil servant who has been promoted but has not been confirmed in his or her higher grade, the issue of reversion to the civil servant's previous grade normally arises. Reversion is subject to the statutory provisions set out in the *Civil Service Regulation Act 1956* as amended.

Appendix A

Legislation covering probation and termination of contract

The legislative provisions governing probation are set out in section 7 of the *Civil Service Regulation Act 1956* as amended by section 3 of the *Civil Service Regulation Act 1958* and in section 5A of the *Civil Service Regulation Act 1956* as inserted by section 7 of the *Civil Service Regulation (Amendment) Act 2005*, as follows:

“Where, in respect of a civil servant who has been appointed to an established position (in this section referred to as his probationary position) and who under his conditions of service is serving in a probationary capacity, the appropriate authority is at any time during the civil servant’s probationary period or such (if any) extension thereof as the appropriate authority may from time to time fix, satisfied that he has failed to fulfil the conditions of probation attaching to his probationary position, then, subject to section 4 (where applicable), the following provisions shall have effect—

- (a) the appropriate authority shall, notwithstanding section 5, terminate the services of the civil servant, unless, immediately prior to his appointment to his probationary position, he held another position in the Civil Service;
- (b) if the civil servant held, immediately prior to his appointment to his probationary position, an established position (in this paragraph referred to as his previous position), the appropriate authority shall terminate his appointment to his probationary position and, in that event, the civil servant may, if the Minister consents, forthwith be appointed to an established position (being a position which is, either, (i) in the same grade as that of his previous position, or (ii) in a grade or rank which, in the Minister’s opinion, is equivalent to or lower than the grade of his previous position) to be designated by the Minister;
- (c) where—(i) the civil servant is appointed to an established position under paragraph (b) of this section, and
(ii) he held, immediately prior to his appointment to his probationary position, his previous position in a probationary capacity,

then, the established position to which he is appointed shall have attached thereto such conditions of probation and such other conditions as the Minister may fix;

(d) if the civil servant held, immediately prior to his appointment to his probationary position, a position which is not an established position (in this paragraph referred to as his previous position), the appropriate authority shall terminate his appointment to his probationary position and, in that event, the civil servant may, if the Minister consents, forthwith be appointed to a position which is not an established position (being a position which is, either (i) in the same grade as that of his previous position or (ii) in a grade or rank which in the Minister's opinion is equivalent to or lower than the grade of his previous position) to be designated by the Minister.”

Appointment of civil servants on probationary contract

Section 5A of the *Civil Service Regulation Act 1956* as inserted by the *Civil Service Regulation (Amendment) Act 2005*.

“5A (1) Notwithstanding any other provision of this Act, a person may initially be appointed to be an established civil servant on the basis of a probationary contract.

(2) Where a civil servant to whom subsection (1) refers completes the probationary period concerned to the satisfaction of the appropriate authority, that civil servant shall be appointed as an established civil servant and subsection (1) shall cease to apply to that appointment

(3) Where a civil servant to whom subsection (1) refers does not complete the period of the probationary contract to the satisfaction of the appropriate authority, the provisions of section 7 shall apply

(4) Nothing in this section shall prevent the termination of an appointment under subsection (1) in accordance with the terms and conditions of the probationary contract prior to the expiry of the term of the contract.”

Please note that the legislative provisions in respect of the Civil Service Regulation Acts 1956 – 2005 apply as of the date of these Guidelines – 8 February 2019