

Terms of Reference

DISCIPLINARY PROCEDURE FOR SENIOR POST-HOLDERS

TERMS OF REFERENCE FOR APPEAL COMMITTEE (UNDER THE FORMAL PROCEDURE – SECTION 5)

1 Objective

- 1.1 The Appeal Committee shall consider an appeal by a senior post-holder against any oral warning, written warning or final written warning made under the formal procedure of the Corporation's Disciplinary Procedure for Senior Post-holders and shall decide the outcome of the appeal.

2 Membership

- 2.1 The Appeal Committee shall comprise 3 members of the Corporation drawn from amongst those that are eligible and according to their availability.
- 2.2 The Principal, staff and student members may not sit on the Committee. In addition, unless it is reasonably impracticable to avoid, no person may sit on the Committee who has any interest in its findings or has been involved in any way in any investigation or chairing a disciplinary hearing or other action leading up to the reference of the appeal by the senior post-holder to the Committee.
- 2.3 The Chair of the Committee will be selected by the Committee.
- 2.4 The quorum for meetings of the Committee shall be 3 members.
- 2.5 The Clerk to the Corporation shall act as the Clerk to the Committee.

3 Authority

- 3.1 The Appeal Committee is authorised by the Corporation to investigate any activity within its terms of reference. It is authorised to seek any relevant information it requires from any member of staff of the Corporation or any relevant third parties, and all members of staff are directed to co-operate with any reasonable request made by the Committee.
- 3.2 The Committee must adhere to the relevant sections of the Corporation's Disciplinary Procedure for Senior Post-holders including, but not limited to, the appeal process under the formal procedure, the scope and purpose and the general principles specified within the procedure.
- 3.3 The Committee is authorised by the Corporation to obtain guidance, if it considers it appropriate, from the most senior member of the Corporation's personnel section or to obtain legal or other independent professional advice and, if it considers necessary, to secure the advice or attendance of those with relevant experience.

4 Duties

- 4.1 The Appeal Committee shall convene as soon as reasonably practicable after a reference to it and in any event shall hold its first meeting within 10 working days of the reference.
- 4.2 The Committee shall examine the written statement received from the senior post-holder setting out the grounds for his or her appeal against the disciplinary decision reached under the formal procedure.
- 4.3 The Committee shall undertake any further investigations which it considers necessary as soon as reasonably practicable. This may involve obtaining documents or papers from members of the Corporation's staff or third parties, or speaking to members of the Corporation's staff. The investigation need not include, unless considered necessary by the Committee, a meeting with the senior post-holder concerned in advance of the appeal hearing.
- 4.4 The Committee shall convene an appeal hearing as soon as reasonably possible after receipt by the Clerk to the Corporation of the written appeal by the senior post-holder.
- 4.5 The Committee shall consider in advance of the appeal hearing how the hearing will be conducted. If any documentation is to be considered at the hearing, the Committee must ensure that it is circulated at least 5 working days in advance of the hearing. If the Committee considers that a full hearing rather than a hearing limited to the grounds of appeal is appropriate, the Committee shall ensure that the relevant parties are provided with reasonable prior warning and (unless not reasonably practicable) shall ask the person who investigated the matter under the formal procedure to present the case for the Corporation.
- 4.6 The Committee must provide the senior post-holder with at least 10 working days notice of the appeal hearing.
- 4.7 At the hearing, the Committee shall first ensure that the Committee's role and the procedure to be followed are understood by all the persons attending the hearing.
- 4.8 If the Committee has arranged for a full hearing, the evidence of the Corporation's representative shall be considered first, followed by the senior post-holder. The Committee shall allow the senior post-holder making the appeal to make representations to the Committee, either orally or in writing. If appropriate, the Committee shall allow the Corporation's representative, the senior post-holder and the person accompanying the senior post-holder (if any) to ask questions of any members of staff attending the hearing as witnesses, but with all questions being directed through the Chair of the Committee. The members of the Committee shall put such questions as they see fit to the Corporation's representative, the senior post-holder, the witnesses or any other persons attending the hearing.
- 4.9 The Committee shall have full discretion to admit or exclude information as it considers fit and to vary the procedure to be followed at the appeal hearing.
- 4.10 The Committee may adjourn the hearing if it considers further information needs to be gathered or considered. Any adjourned hearing will be reconvened as soon as reasonably practicable.

- 4.11 When examining the senior post-holder's appeal, the Committee shall consider whether the disciplinary action taken was fair and reasonable in the circumstances which may include (but is not limited to) reviewing as appropriate:
- 4.11.1 the reasons leading to and the substance of the complaint against the senior post-holder;
 - 4.11.2 any relevant documents (including the senior post-holder's terms and conditions of employment);
 - 4.11.3 any relevant representations or statements;
 - 4.11.4 any relevant legislation, statutory or Government guidance;
 - 4.11.5 the extent to which standards have been breached;
 - 4.11.6 past precedents (if any) of the Corporation to ensure consistency as far as possible;
 - 4.11.7 the senior post-holder's general record, the length of time he or she has held a senior role, his or her overall length of service;
 - 4.11.8 any special circumstances which might make it appropriate to adjust the severity of the penalty imposed.
- 4.12 On conclusion of the appeal hearing, the Committee shall deliberate over its findings in private and reach a decision regarding the senior post-holder's appeal. The Committee may review any disciplinary penalty imposed, but it cannot be increased.
- 4.13 The Committee's decision will be provided in writing to the senior post-holder within 10 working days of the appeal hearing. If it is not possible for the Committee to reach a decision within this period, the Clerk will write to the senior post-holder on behalf of the Committee with an explanation for the delay and when the written decision can be expected.

5 Reporting procedures

- 5.1 The Clerk to the Committee shall be responsible for the production and appropriate circulation of all minutes, papers and correspondence arising in connection with any meetings convened by the Committee or any investigations.