

PERFORMANCE AND CONDUCT PROCEDURE

SUMMARY

Introduction

1. This is a summary of the Trust's Performance and Conduct Procedure. Before any action is taken reference must be made to the complete procedure which is available from your manager, supervisor, personnel department or trade union representative.
2. This procedure applies to all staff with a Contract of Employment with the Trust. Where professional conduct is an issue then the requirements of Circular HC(90)9 must be complied with for Medical and Dental staff.

Purpose

1. The purpose of the procedure is to -
 - help an employee whose conduct or performance gives cause for concern
 - to provide guidance and help to improve that situation.
 - to clarify the rights and responsibilities of managers and employees
 - through effective managerial support reduce the need for formal action.
 - explains the process for formally dealing with performance and conduct issues.

Use of the Procedure

1. The main areas which might involve the use of the procedure are:
 - issues of competence
 - misconduct
 - gross misconduct

Operation of the Procedure

1. All stages of the procedure will be carried out as quickly but as carefully as possible in the interests of all concerned.
2. Employees may be placed on Special Leave on full pay for purposes of investigation or protection of individuals.
3. Formal measures could include:
 - First written warning
 - final written warning
 - down-grading
 - transfer
 - dismissal with or without notice

Employee's rights

1. At each stage in the procedure you have the following rights:
 - to be informed of the concerns raised
 - to state your case and call witnesses if necessary
 - to be accompanied by a trade union representative or friend, who will normally be a work colleague
 - to be given written reason for any decision taken
 - to have access to all relevant records and correspondence on file
 - to use the appeals procedure

Appeals

1. You have a right of appeal against any formal decision and you should put this in writing within 10 working days of written notification of that decision

Performance and Conduct Records

1. Following any formal action you will be informed of the length of time that any warning will remain on your file.
2. After satisfactory completion of the specified period all records will be removed from your personnel file.

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PERFORMANCE AND CONDUCT PROCEDURE**Introduction**

1. This procedure, applies to all staff with a Contract of Employment with the Trust. Where professional conduct is an issue then the requirements of Circular HC(90)9 must be complied with for Medical and Dental Staff.
2. This procedure is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and performance in accordance with the Oxford Radcliffe Hospitals NHS Trust's (the Trust) policies and procedures. Wherever possible an employee will always be given help, support and an opportunity to improve in circumstances where performance is not satisfactory.

The purpose of this procedure is to provide guidance for managing performance and conduct issues. It is each manager's responsibility to operate this procedure objectively, consistently and fairly and to ensure that they and their staff know about the procedure and how to use it.

3. The Trust accepts its responsibility to ensure through its managers that staff receive adequate training, guidance and support to carry out their jobs to the required standard. Except in serious cases any unsatisfactory conduct will normally be dealt with in the first instance informally and, if necessary, by further training or supervised practice. It is emphasised that these are not punitive measures but rather positive action to help employees improve their performance. Arrangements of this kind may, therefore, also be made to help employees improve their work performance even in cases where formal action is taken. Employees are reminded that they can refer to their union for guidance and advice at any time.
4. The formal procedure will only be invoked in cases when it is decided that:
 - Further training or counselling will not bring about the necessary improvement
 - The misconduct appears to warrant immediate action

Informal Approach

1. The day to day supervision of employees is part of the normal managerial process and is outside the scope of this procedure. In many cases the right word, at the right time and in the right way may be all that is needed and will often be a more satisfactory method of dealing with a problem than a formal approach. Any

shortcomings should be brought to the employee's attention as soon as possible in an effort to resolve the issue in an informal way, and may then be concluded without the necessity of progressing to formal action.

2. Where standards of work performance or behaviour of an employee has given cause for concern, the employee's manager/supervisor should discuss the matter with the employee to ensure that the employee concerned clearly understands the standards expected.
3. A manager/supervisor may be able to offer help and counselling or recommend agencies which could supply advice and support which may assist the employee in meeting the standard required.

For example:-

- Concerns about performance may be resolved by offering training/retraining
- Concerns about ill-health may be addressed by referral to the Occupational Health Department
- Where an employee's time-keeping falls below standard, a manager/supervisor may need to explore the issues such as transport arrangements, work start and finish times etc.
- Temporary domestic problems which impact upon an employee's ability to meet the required standards in the workplace may be managed by reference to the **Annual Leave and Special Leave Policy**.

4. A record of any meetings should be agreed in writing, detailing the following:-

- confirming who was present
- action to be taken by the employee to improve their work performance or behaviour to a satisfactory standard
- any help and support to be given by the Manager.
- a date when a formal review should be undertaken.

Both the Manager and the employee should retain a copy of the written record.

Performance Issues

1. The formal procedure should not be used to deal with poor performance unless there is evidence that some fault lies with the employee or that the employee is incapable of maintaining a satisfactory level of performance. It is not envisaged that this procedure will be used in cases of temporary or isolated difficulty.
2. It is in the interests of all concerned that these issues are addressed as quickly as is reasonably practicable. The employee will be advised that if, after these steps have been taken, his/her standard of performance is still considered to be inadequate the formal procedure will be brought into use.

The Formal Approach

If a member of staff's performance or conduct does not improve sufficiently after informal approaches or counselling, or in more serious cases, the manager may need to take the formal approach.

1. Rights of Representation

At any stage of the formal procedure an employee has the right to be represented by an accredited trade union representative, who will be a Trust employee or full time officer or to be accompanied by a friend or colleague. In cases where the employee is an accredited Trade Union representative, the full-time officer may be involved as their representative.

2. The Role of the Personnel Department

Personnel Managers will advise on the application of the formal procedure and have an important role in ensuring fairness and equity throughout the Hospital. Therefore:-

BEFORE ENTERING THE FORMAL PROCEDURE, MANAGERS ARE REQUIRED TO SEEK ADVICE AND GUIDANCE FROM THE APPROPRIATE PERSONNEL MANAGER.

3. Special Leave

Where serious or gross misconduct is alleged, to deal with a potentially difficult or inflammatory situation, or if it will help an investigation to proceed, a member of staff may be given Special Leave on full pay (i.e. this will be calculated on the average pay over the last three months) while investigations take place. Alternatively, the member of staff may be temporarily redeployed to other suitable employment within the Trust.

Special Leave is not a form of penalty and must not be used as such.

If the police are involved it may be necessary to delay a formal hearing, in some cases, until police enquiries have been completed. The important issue here is whether sufficient information is available to proceed. Conversely this does not preclude line managers from taking formal action on a work related issue even though police involvement has ceased.

Circumstances

An employee may be on Special Leave on full pay for a period of not normally more than 10 working days, for purposes of investigation, or the protection of individuals, after which time it must be reviewed by the Director of Personnel and Administration. The Director of Personnel and Administration or the Deputy Director of Personnel will then make a decision if no conclusion of the investigation has been reached. This decision could be to continue Special Leave for a further period not exceeding 10 working days, or end Special Leave.

Authority

An employee should only be placed on Special Leave by the most senior manager available at the time. It is also desirable for a Personnel Manager and a trade union representative/colleague to be present. The employee should be advised of the principal reason for being placed on special leave, and it must be made clear to the employee that this is not a penalty. **The guidance note on special leave (see Appendix 1)**, pending a Performance and Conduct investigation, must be given to the employee at this point.

Communications with Employee

When an employee has been placed on special leave a letter should be sent to the employee from the Personnel Department on the next working day, confirming the main reason for the Special Leave. It should confirm the offer of the assistance of an independent counsellor. It should also confirm the review date. **(Specimen letter in Appendix 2)**

4. A Check list for handling Performance and Conduct matters

Be clear about the cause for action in terms of the employees conduct, attendance or work performance. If the matter is minor deal with it under the informal approach. **(See 2.0)**

Whenever it is considered that the standard of work or behaviour of an employee may lead to formal action, it is essential that full and proper investigation is carried out. This should involve a collection of facts and must give an opportunity for the employee concerned to contribute.

A manager/supervisor shall be identified as being responsible for the investigation and collection of facts. The nominated manager/supervisor need not be in the same department but ideally should be in the same specialty.

Investigating manager/supervisor will need to as a matter of urgency:-

- Gather all relevant facts, promptly before memories fade
- Take statements and collect documents **(see Appendix 3)**
- Establish the facts relating to the standard of work or behaviour of an employee which has fallen outside acceptable limits
- Establish the standards of behaviour or work performance expected of the employee
- Keep the employee under investigation regularly informed.
- The manager/supervisor will carefully consider the results of the investigation and decide the appropriate course of action:
- No further action
- A referral to the informal approach. **(See 2.0)**
- Referral to a formal performance and conduct hearing

The manager/supervisor must inform the individuals concerned of this decision as soon as possible.

5. The Formal Performance and Conduct Hearing

Performance and Conduct hearings have three principal purposes -

- to establish whether there are reasonable grounds for believing the employee was at fault
- to decide any necessary remedial action to assist the employee in improving their performance, and
- to decide on the appropriate outcome.

The facts should be summarised by the investigating manager/supervisor in a brief written report, attached to which should be any written statements. The employee must be advised that a formal hearing is to take place and must be advised of the date, time and place of the hearing, the right to be represented and to call witnesses in support of his or her case. Copies of the management report should be presented to the employee and representative no less than five working days before the date of the hearing, unless this time period is mutually agreed to be different.

The person who investigates or alleges the employee's poor performance/misconduct, must not be the person who chairs the Performance and Conduct hearing. Line Managers should contact the Personnel Department who will arrange the hearing and select a Chair person. This will largely be dependent on the circumstances of the case and the resources available.

Responsibility for Chairing Performance and Conduct Hearings

- **Considering allegations of serious misconduct.**

This will normally be the manager of the employees department or the Service Delivery Unit (SDU).

In so far that this procedure applies, the Medical Director will be considered as the line manager for all medical staff.

- **Considering allegations of gross misconduct.**

The Trust views a decision to dismiss as being exceptional. Therefore the authority to take such an action is limited to the following:-

- The Chief Executive
- The Director of Personnel and Administration
- The Director of Nursing and Patient Services
- The Director of Planning and Information
- The Medical Director
- The Director of Finance
- The Director of Estates

The dismissing Director should not normally be the employee's immediate manager and where this would be the case, the Chief Executive would be the dismissing manager.

For staff directly accountable to the Chief Executive, a non-Executive Director should also be present at the hearing. **(see Appendix 4)**

6. The Conduct of the Hearing (see Appendix 4)

The following should be present throughout the hearing:

The Chair person
The Presenting Manager
The employee (and representative if applicable)
The Personnel Manager.

NB Observers may be present by mutual agreement.

The Chair person should start by introducing those present and the purpose and conduct of the hearing.

The Chair person may wish to ask questions at any point in the hearing. An explanation of the Chair person's role is given in Appendix 4.

The presenting manager will outline the results of his/her investigation and may be questioned by the employee or his/her representative. Witnesses in support of the management case may then be called. Each witness:-

- will be examined by the manager
- may be cross-examined by the employee or his/her representative
- may be re-examined by the manager presenting the management case on any point that has been raised during the cross examination.

The employee or his/her representative will present their case, and may be questioned by the manager presenting the management case. Witnesses in support of the appellant case will then be called. Each witness:-

- will be examined by the person appealing or his/her representative
- may be cross-examined by the line manager presenting the management case
- may be re-examined by the person appealing or his/her representative
- on any point that has been raised during the cross-examination.

A request for an adjournment may be made at any time. This is particularly relevant where new facts emerge requiring further investigation.

It is mandatory that a record of the Performance and Conduct hearing is made and held on the member of staff's personal file unless no action is taken. It may be appropriate to have an official minute taker.

7. Decision

In every case, an adjournment will be called before reaching a decision. The Chair person must come to a clear view about the facts, and if they have been disputed, decide on the balance of probability what version of the facts are true.

Before deciding the outcome consider:

- the gravity of the offence and whether the procedure gives guidance
- be consistent with similar cases in the past **(THIS IS VERY IMPORTANT)**
- the individual's performance and conduct record and general service
- any mitigating circumstances
- whether the proposed penalty is reasonable in all the circumstances.

Reconvene the Performance and Conduct hearing to clearly inform the individual of the decision and outcome. In the case of a warning, explain what improvement is expected, and what training and support will be provided to achieve this, how long the warning will last and what the consequences of a failure to improve may be.

8. Possible outcomes to the Performance and Conduct Hearing

No further action.

Referral to the informal approach.

Formal written warning

A formal written warning should not normally last for more than one year, and the manager should periodically review with Personnel advice the conduct or performance of the employee concerned and notify them of the position.

Final Formal Written Warning

A final formal written warning should be given where a first formal warning has failed to achieve the necessary improvement in performance or behaviour or where misconduct is considered not to be so serious as to justify dismissal but serious enough to warrant only one written warning (which will be both first and final). A final warning should not normally be given for more than two years, but exceptionally, there may be circumstances where the misconduct is so serious that it cannot realistically be disregarded for future disciplinary purposes. In such circumstances it should be made very clear that the final written warning can never be removed and that any recurrence will lead to dismissal.

The manager should periodically review the situation and should a reoccurrence of the problem arise, a further Performance and Conduct hearing should be convened.

Any formal written warning may also in addition include formal transfer or demotion.

Dismissal

- No improvement
- Reoccurrence
- Gross misconduct

Where either the required improvement detailed in a previous final formal written warning has not been achieved or where there has been a recurrence of similar or related conduct or performance, the employee concerned is liable to be dismissed from employment.

An employee will be summarily dismissed (i.e. with or without notice or payment in lieu of notice) if he or she is found to have committed an act of **Gross Misconduct**. Gross Misconduct generally includes conduct likely to damage the trust the employer has in the employee.

Examples of Gross Misconduct include the following:-

- Ill treatment of patients
- Theft and/or fraud
- Inability to perform duties to a satisfactory standard owing to the influence of alcohol or drug abuse
- Falsification of records
- Assault/Attempted Assault/Violence
- Breach of confidentiality
- Criminal conviction outside of work which would affect employment
- Dishonesty relating to employment matters
- Flagrant disregard of reasonable instructions
- Breaches of standards of business conduct.
- Breaches of Health and Safety Policy such as flagrant disregard of rules or misuse of equipment
- Harrassment/Victimisation. **See Equal Opportunities Policy**
- Breaches of the professional Codes of Conduct and Accountability.
- Misuse of Trust information resources (any data or equipment owned or used by the Trust, including Corporate Systems, the Trust Network, Internet Access provided by or through the Trust, PCs/Macintosh Desktop Computers, Trust E-mail, Financial Systems, Patient Administration Systems or similar).

The above list is not intended to be exhaustive and the omission of any other category of behaviour should not preclude it from being considered as Gross Misconduct.

It will be for managers considering such cases to decide whether there are exceptional mitigating circumstances which might allow the above examples to be treated less seriously than Gross Misconduct.

9. Follow Up Action

Any formal remedy imposed will be confirmed in writing to the employee by letter. The letter should include:-

- In the case of a warning how long it is to last, when it will be reviewed by what means and by whom.
- The improvement or standard of conduct that is expected in the future and what will happen if this does not occur.
- Arrangements for monitoring future performance. The object should be to encourage improvement. Progress should be monitored and regularly discussed with the employee.
- Any help, support or training that has been agreed to assist the employee in improving.
- A copy of the letter must be kept in the employees personal file located in the Personnel Department, and in the case of a warning destroyed when time expired: This action should be confirmed in writing to the employee concerned.
- Details of the right of appeal.

10. The Right to Appeal

Any member of staff has the right to appeal against formal warnings issued or dismissal :-

- Such appeals must be lodged within 10 working days of receiving written notice of the outcome
- Must be in writing
- Include grounds for appeal.

Arrangements will then be made by the appropriate Personnel Manager for the appeal to receive consideration as detailed below. Appeals against warnings will normally be heard by the next level of management:-

First Formal Written Warning	- Appeal to the next management level
Final Written Warning	- Appeal to Dismissing Manager or the next level of management
Dismissal	- Appeals against dismissal will be heard by a panel of Trust Board Directors including at least one non-Executive Director and an external member/members mutually acceptable to all parties involved in the appeal.

Where the dismissing officer is the Chief Executive, two of the Trust Board Directors on the panel shall be non-executive appointments plus external member/members acceptable to all parties involved in the Appeal e.g. Council for Racial Equality, JCC Assessors, external Executive Directors

The purpose of an appeal is to consider whether the formal action taken was fair and reasonable in the light of the evidence that was available at the time that the action was taken, and whether the correct procedure was applied in deciding the formal action.

Both the original decision to take formal action and the appeal decision are necessary elements in the overall process. To act fairly, an employer must take account of evidence emerging in the course of an internal appeal. Any formal penalty may be reviewed but it cannot be increased.

In consideration of an appeal against dismissal, it should be noted that whilst there is a requirement to consider evidence which comes to light between the dismissal and the hearing of the appeal, under no circumstances is a different reason for dismissal from that originally employed by management to be substituted.

Appeals against a formal warning should be heard, if possible, within two weeks of the appeal being lodged and appeals against dismissal should normally be heard within five weeks. The appeal secretary will inform the employee and his/her representative (if applicable), of the arrangements that have been made.

Managers should prepare a statement of particulars setting out the details of the case, appended to which should be any written statements from witnesses, and a list of witnesses that the managers intend to call to the appeal hearing.

The person appealing or his/her representative should in addition to indicating the grounds for appeal, make a written statement. This together with a list of any witnesses that they may wish to call, should be submitted to the appeal secretary in time for them to be circulated to the Appeals Panel. It is for each side to arrange for the presence of their witnesses.

Statements will be submitted by both sides in advance of the hearing, then copies will be exchanged 5 working days in advance of the hearing.

11. Conduct of the Appeal Hearing

The following should be present throughout the appeal hearing:
The Appeal Panel (**see Appendix 5 - Chairperson's role**)
The Presenting Manager

The person appealing (and representative if applicable)
The appeal secretary - a member of the Personnel Department.

NB Observers may be present by mutual agreement.

If witnesses are to be called to give evidence at the appeal, they should only be present at the hearing during the time that they are actually giving evidence. Witnesses may be re-called if required.

The stages of the appeals procedure are set out below:-

The person appealing or his/her representative will confirm the grounds of appeal.

The presenting manager will outline details of their investigation and may be questioned by the person appealing or his/her representative. Witnesses in support of the management case may then be called.

Each witness:-

- will be examined by the manager
- may be cross-examined by the person appealing or his/her representative
- may be re-examined by the manager presenting the management case on any point that has been raised during the cross examination.
- the appeal panel may ask questions at the appropriate juncture

The person appealing or his/her representative will present their case, and may be questioned by the manager presenting the management case. Witnesses in support of the appeal case will then be called.

Each witness:-

- will be examined by the person appealing or his/her representative
- may be cross-examined by the manager presenting the management case
- may be re-examined by the person appealing or his/her representative on any point that has been raised during cross-examination.

The manager presenting the management case will then have the opportunity to sum up, during which no matter that has not been considered earlier in the hearing may be introduced.

The person appealing or his/her representative will then have the opportunity to sum up, during which no matter that has not been considered earlier in the hearing may be introduced.

The panel hearing the appeal may ask questions at any point in the proceedings.

The decision will be notified to the parties concerned as soon as possible and confirmed in writing within 10 working days.

APPENDIX 1

GUIDANCE ON HANDLING A SPECIAL LEAVE SITUATION**Special Leave pending a Performance and Conduct hearing**

1. A brief period of Special Leave should be considered where:-
 - a case appears to involve serious or gross misconduct
 - to protect individuals
 - to aid the process of investigation
2. Out of normal office hours the most senior person on site is authorised to place a member of staff on Special Leave. Consideration should be given to contacting the Duty Manager prior to enacting the Special Leave.
3. Special Leave is with pay.
4. The employee should be given reasons for the Special Leave and advised that it is not a formal sanction and that a colleague may be present depending on the circumstances prevailing at the time.
5. The Special Leave should be for as short a period of time as possible.
6. During any period of Special Leave he/she is not entitled to attend the place of work except for the purpose of attending the Performance and Conduct hearing or unless seeking medical treatment or visiting a member of their family requiring health care..
7. The employee should not contact other employees to discuss the issue, except his/her representative. (It is recognised that it would be difficult to prevent the employee from engaging in ordinary social contact with colleagues outside working hours).
8. In some situations it is desirable to provide support from a fellow employee to the individual being placed on Special Leave.
9. Make sure your Link Personnel Manager is informed **as soon as possible** the next working day.

APPENDIX 2

SPECIMEN LETTER ON SPECIAL LEAVE

Dear

I am writing to confirm the outcome of our meeting held on.....when we met to discuss (state the issue).

I decided, following that initial meeting, that you should be placed on Special Leave to enable further investigation to take place.

During this period of Special Leave you must not contact your colleagues at work to discuss the matters, nor should you enter any Oxford Radcliffe Hospitals NHS Trust premises without first obtaining permission from.....or..... unless seeking medical treatment or visiting a member of your family requiring health care. However, it is recognised that it would be difficult to prevent you from engaging in ordinary social contact with colleagues outside your working hours.

I would advise you to seek guidance and support from a Trade Union representative should you have one. Telephone numbers for accredited Trade Union representatives can be obtained from the Personnel Department.

Should you wish it, access to an independent counsellor can be provided by the Trust details can be obtained by contacting.....Personnel Manager.

The decision to place you on Special Leave will be reviewed by the Director of Personnel and Administration or his Deputy in 10 days time, when we shall be in further contact with you.

Should you have any questions or concerns about the process then you can contact a Personnel Manager for further explanation.

Yours sincerely

Enc. Copy of Procedure
Copy on Personnel file

APPENDIX 3

GUIDANCE NOTES ON MAKING A STATEMENT

Making a statement as part of an investigation

Statements are often asked for when it appears that an incident or accident has occurred and it is necessary to determine a clear picture of what has occurred and who is involved.

You could be asked to produce a statement because you have witnessed an event or because you are involved or because you are the manager.

If you belong to a union you are encouraged to contact your representative before you submit your statement.

If you are ever asked to produce a statement these guidelines will help.

1. Prepare - if you cannot get your statement typed, use a black pen and write neatly. If possible use plain paper, you should avoid using headed paper, clinical record sheets etc.
2. Be clear about why you are writing a statement and who it is for, if you are unclear, ask.
3. Assume that your reader knows nothing about the facts of the matter.
4. Begin by stating your name, your qualifications, your experience and give details of the post you hold.
5. State the times that you were on and off duty on the day in question.
6. Put events in the order in which they occurred, giving precise dates and times.
7. Stick to facts - describe what you saw and heard - do not give opinion.
8. Give full names and job titles of others that you mention.
9. Write simply and clearly, avoid jargon and cover all the essential points.
10. If you mention procedures, explain what they are. Avoid expressions such as "routine observations". If protocols or procedures were not followed, explain first what the agreed or usual procedure is and then state why there was a departure from this.
11. Sign and date your statement.
12. Seek advice from your union.
13. Keep a copy of your statement, you may need to refer to it later, to give oral evidence at a hearing.

APPENDIX 4

THE PERFORMANCE AND CONDUCT HEARING

Manager's role

1. Check all witnesses are available
2. Check everyone has all the relevant documents
3. Introduce all present by name and title.
4. Explain the SEQUENCE OF EVENTS to follow.
5. Explain the PURPOSE OF THE HEARING is to consider all the evidence that is presented and whether any action is necessary.

6. INVITE THE PRESENTING MANAGER TO PRESENT THE RESULTS OF THE INVESTIGATION.
7. PRESENTING MANAGER questioned by EMPLOYEE OR REPRESENTATIVE.
8. WITNESS called to present his/her account. (STATEMENT)
9. WITNESS questioned by PRESENTING MANAGER.
10. WITNESS questioned by EMPLOYEE OR REPRESENTATIVE
11. WITNESS re-examined by PRESENTING MANAGER if required.
12. Repeat (7) (8) (9) (10) as necessary.

13. INVITE THE EMPLOYEE OR REPRESENTATIVE TO PRESENT THEIR CASE.
14. EMPLOYEE questioned by PRESENTING MANAGER
15. EMPLOYEE'S WITNESSES called as at (7) above.
16. WITNESS questioned by EMPLOYEE OR REPRESENTATIVE
17. WITNESS questioned by PRESENTING MANAGER.
18. WITNESS re-examined by EMPLOYEE OR REPRESENTATIVE if required.
19. Repeat (14) (15) (16) (17) as necessary.
20. INVITE THE PRESENTING MANAGER TO SUM UP.

21. INVITE THE EMPLOYEE OR REPRESENTATIVE TO SUM UP.
22. BE SATISFIED THAT YOU HAVE NO FURTHER QUESTIONS TO ASK OF EITHER SIDE AND HAVE OBTAINED ALL THE AVAILABLE EVIDENCE.
23. ADJOURN TO CONSIDER THE VERDICT.
 - Decide on the balance of probabilities what you believe has happened and on the basis of that belief decide whether any action is necessary.
 - Seek guidance from the Personnel Manager.
24. RE-CONVENE
25. Inform the EMPLOYEE of your decision and state it will be confirmed in writing within 10 working days.
26. Close.

APPENDIX 5

THE APPEAL HEARING - Chairman's role

1. Check all witnesses are available.

2. Check everyone has all the relevant documents.
3. Introduce all present by name and title.
4. Explain the SEQUENCE OF EVENTS to follow.
5. Explain the PURPOSE OF THE APPEAL is to consider whether the formal action taken by management was fair and reasonable in the light of the evidence that was available to management at the time the action was taken, and whether the correct procedure was applied in deciding the formal action.

6. INVITE THE EMPLOYEE OR REPRESENTATIVE TO PRESENT THE GROUNDS FOR APPEAL.
7. INVITE THE PRESENTING MANAGER TO OUTLINE THE CASE AND THE RESULTS OF THE PERFORMANCE AND CONDUCT HEARING.
8. PRESENTING MANAGER questioned by the EMPLOYEE OR REPRESENTATIVE.
9. WITNESS called to present his/her account. (STATEMENT).
10. WITNESS questioned by PRESENTING MANAGER.
11. WITNESS questioned by EMPLOYEE OR REPRESENTATIVE.
12. WITNESS re-examined by PRESENTING MANAGER if required.
13. Repeat (7) (8) (9) (10) as necessary.

14. INVITE THE EMPLOYEE OR REPRESENTATIVE TO PRESENT THEIR CASE.
15. EMPLOYEE questioned by PRESENTING MANAGER.
16. EMPLOYEE'S WITNESSES called as at (7) above.
17. WITNESS questioned by EMPLOYEE OR REPRESENTATIVE.
18. WITNESS questioned by PRESENTING MANAGER.
19. WITNESS re-examined by EMPLOYEE OR REPRESENTATIVE if required.
20. Repeat (14) (15) (16) (17) as necessary.
21. INVITE THE PRESENTING MANAGER TO SUM UP

22. INVITE THE EMPLOYEE OR REPRESENTATIVE TO SUM UP.
23. CONFIRM THE PANEL ARE SATISFIED AND HAVE NO FURTHER QUESTIONS TO ASK OF EITHER SIDE.
24. ADJOURN TO CONSIDER THE VERDICT.
 - was a proper investigation undertaken
 - was the Performance and conduct hearing held in accordance with the Procedure.
 - was the conclusion reasonable in light of the evidence available.
 - on the basis of the conclusion was the warning/dismissal reasonable.
 - has any new evidence, not available previously, been presented which should be taken into consideration.
25. RE-CONVENE
26. Announce the DECISION and state it will be confirmed in writing within 10 working days.
27. Close.