



**CABINET
OFFICE**

ANNUAL REPORT 1999/2000

CIVIL SERVICE APPEAL BOARD





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Civil Service Appeal Board



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THE CIVIL SERVICE APPEAL BOARD

During 1999/2000

Chair — J H Davies

Deputy Chair — N F Ledsome CB*

Deputy Chair — M E G Fogden CB**

Deputy Chair — P D Jones

BOARD MEMBERS

OFFICIAL SIDE PANEL

Mrs S Brown (DTI)

J Carling (Inland Revenue)**

S R Davie CB (Cabinet Office)

P S Draper CB (PSA)

T W Hall (DTp)*

R M Hastie-Smith CB (MOD)*

P Jefferson Smith CB (HM C&E)

E McGivern CB

T C Platt CB (HO)

D W Rayson (HM Treasury)**

G L Reid CB (DfEE)**

A Turner CBE (MOD)**

J Turner (Employment Service)**

TRADE UNION SIDE PANEL

NON INDUSTRIAL

Mrs A Berney (NUCPS)

Mrs P Braby (CPSA)

Ms L Clare (FDA)

Mrs P Cryer (PCS)**

Miss E Findlay (IPMS)*

Mrs D Hall Hall (NUCPS)

P J Kelly (PCS)**

J Renton MBE (SPOA)

T Thomson (NUCPS)

F R Winrow (IRSF)**

INDUSTRIAL

W J Edmunds BEM (GMBATU)*

N Tout BEM (GMB)

SECRETARIAT

Mrs A Khan (Secretary to the Board)

Ms C Callender

Miss R Fox

Miss J Outred

Mrs S Rosier

* Appointment ended during 1999/2000.

** New appointment during 1999/2000.

PEN PORTRAITS OF BOARD MEMBERS

As at 31 March 2000

CHAIR

J H Davies
Former Director Personnel,
Barclays Bank UK Banking Services,
Appointed May 1999

DEPUTY CHAIRS

M F FOGDEN CB
Former Chief Executive,
Employment Service Agency,
Appointed November 1999

P D JONES
Former Secretary,
Council of Civil Service Unions,
Appointed June 1992

OFFICIAL SIDE BOARD MEMBERS

MRS S BROWN
Formerly Department of Trade & Industry,
Appointed November 1998

J CARLING
Formerly Inland Revenue,
Appointed October 1999

S R DAVIE CB
Formerly Cabinet Office,
Appointed September 1995

P S DRAPER CB
Formerly Property Services Agency,
Appointed November 1996

P JEFFERSON SMITH CB
Formerly HM Customs & Excise,
Appointed September 1995

E MCGIVERN CB
Formerly Inland Revenue,
Appointed November 1998

T C PLATT CB
Formerly Home Office,
Appointed November 1996

D W RAYSON
Formerly HM Treasury,
Appointed September 1999

G L REID CB
Formerly Department of
Education & Employment,
Appointed September 1999

A TURNER CBE
Formerly Ministry of Defence,
Appointed November 1999

J TURNER
Formerly Employment Service Agency,
Appointed January 2000

TRADE UNION SIDE

NON INDUSTRIAL

MRS A BERNEY

Formerly NUCPS,
Appointed February 1995

MRS P BRABY

Formerly CPISA,
Appointed December 1994

MS L CLARE

Formerly FDA,
Appointed August 1998

MRS P CRYER

Formerly PCS,
Appointed September 1999

MRS D HALL HALL

Formerly NUCPS,
Appointed October 1996

P J KELLY

Formerly PCS,
Appointed September 1999

T THOMSON

Formerly PCS,
Appointed July 1998

F R WINROW

Formerly IRSF,
Appointed September 1999

INDUSTRIAL

N TOUT BEM

Formerly GMB,
Appointed April 1993

APPOINTMENTS

All appointments to the Civil Service Appeal Board are made in line with the guidance on public appointments to advisory non-departmental public bodies issued by the Office of the Commissioner for Public Appointments.

Prospective Board Members are selected for interview from those nominated either by the Council of Civil Service Unions for the trade union side or departments and agencies for the official side.

Normally members will be appointed for a three-year term with the opportunity for reappointment for a second three-year term making a maximum of six years. The contribution of all members is assessed annually by the Chairs and similarly the contribution of the Chairs is also assessed.

INTRODUCTION

This is the first Annual Report I have had the pleasure of introducing since my appointment as Board Chair on 1 May 1999. Since taking up the position, I have been impressed with the dedication and professionalism of the Board members and the enthusiasm and competent support offered by the members of the Secretariat, so ably led by Alison Khan. I have no doubt that the Civil Service Appeal Board plays an extremely important role in hearing cases from a wide variety of Civil Service departments and agencies.

For the first time in recent years the number of appeals received has risen during 1999/2000, namely 203 as compared with 165 in 1998/99. This is partly accounted for by the reduction in qualifying service from two years to one, effective for all dismissals from 1st June 1999. The percentage of appeals heard, which related to dismissal for inefficiency on attendance grounds, also rose significantly from 11% in 1998/99 to 17% in 1999/2000. This indicates that departments and agencies are attaching increasing importance to tackling this sensitive but important area.

The number of dismissals found unfair in 1998/99 was 21% rose slightly in 1999/2000 to 22%. Many of these cases were found unfair on procedural grounds, in that the correct procedures as laid down in departmental and agency rules and guidelines, and as agreed with the trade unions, had not been followed. With departments and agencies now wishing to devolve responsibility for handling disciplinary matters to line management for perfectly understandable and justifiable reasons, the challenge which that presents in terms of training all those who might become involved in handling such matters is formidable indeed. It is in the interests of all concerned — the individual, who is the subject of such procedures, and the employing departments and agencies — to ensure that all possible efforts are made to optimise the training and education of those in personnel sections and also line management.

The Board itself has an important role to play in this regard, and we have embarked upon a number of initiatives during the course of the year. We continue to take part in relevant seminars and training courses at the Civil Service College where we explain the role of the Board, and discuss current issues and concerns. We are planning to extend our participation at the College to cover other relevant courses. In addition, we welcome invitations from departments, agencies, and trade unions to attend appropriate seminars and training courses to explain and discuss the role of the Board, and the Deputy Chairs and I will be attending a number of such meetings in the months ahead. Please contact the Secretariat, should your department, agency or trade union consider that it might be useful for us to take part in any such event you might be planning.

From time to time deficiencies are exposed at hearings, which result in the Board deciding that the employee has been treated unfairly. We have recently issued to departments, agencies and trade unions some good practice principles to which we pay particular regard at our hearings in the hope that these will be of some assistance to those who have to deal with disciplinary cases.

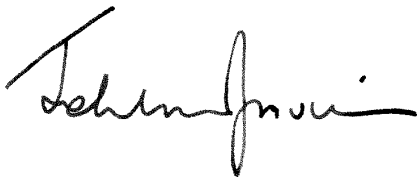
As the Board receives appeals from people working throughout the United Kingdom, we welcome opportunities to hold hearings from time to time away from London. During the last twelve months the Board held three hearings in Scotland, and we shall be visiting Glasgow again during 2000/2001. It is hoped that in the coming year there will be more occasions when it will be appropriate to hold hearings in other parts of the country. During the year, I visited Northern Ireland to attend and make a presentation to a seminar run by the Northern Ireland Civil Service Appeal Board. It was very interesting to have the opportunity to compare notes and to see how our procedures compared.

During the year, seven new members joined the Board, three of whom represent the trade union side and four the official side. They were selected in accordance with the latest rules governing such appointments, which involved being interviewed by a panel, amongst which were independent members from outside the Civil Service. As a result of this process, Pauline Cryer, Pat Kelly, Frank Winrow, John Carling, Don Rayson, Graham Reid, Alan Turner and John Turner have joined the Board. They are already making valuable contributions to the work of the Board and I am grateful to them and to all other Board members for all they have done during the past year.

Inevitably we have had to bid farewell to a number of Board Members whose terms of office have expired. Jimmy Edmunds, Betty Findlay, John Renton, Tom Hall and Richard Hastie-Smith left the Board and I should like to take this opportunity to pay tribute to them for all their hard work over many years, and to extend to them our very best wishes for the future.

During the course of the year, Neville Ledson, Deputy Chair, retired. After a long and distinguished career in the Civil Service, Neville served on the Board for 4 years as a member and for 5 years as Deputy Chair. His shrewd, wise and diligent approach to his duties was appreciated by all his fellow Board members. We were pleased to welcome as his successor, Mike Fogden, an existing Board member; Peter Jones, his fellow Deputy Chair, and I look forward to working with Mike in the years to come. I should like to express special thanks to Peter, whose guidance and experience I found to be invaluable during the early months of my Chairmanship.

I look forward to leading the Board, and to developing its work in the years ahead.



JOHN DAVIES

THE CIVIL SERVICE APPEAL BOARD

This report covers the financial year ending 31 March 2000. A statistical summary of the Board's work during the year is contained in Appendices 1 and 2.

1. APPEALS RECEIVED

The Appeal Board received 203 new appeals during the year, a 21% increase on the figure of 165 of the previous year. The contraction in the number of industrial civil servants continued and 20 appeals were received from this group (this represented 10% of appeals received).

2. APPEALS CONSIDERED

The Appeal Board considered 158 appeals during the year (last year 168) a 6% reduction on the number of appeals considered in the previous year. An analysis of appeals considered is set out in Appendix 3.

97 of the appeals were against dismissal on disciplinary grounds. This represents 61% of all appeals considered by the Board and is a 3% decrease in the figure for the disciplinary cases considered in the previous year.

One preliminary hearing was held to establish whether the appellant was eligible to appeal to the Board.

In addition three appeals were adjourned; one for the outcome of an internal appeal, one for the outcome of a National Audit Office report and one when a friend accompanying the appellant was taken ill.

See Appendix 6 for an analysis of appeals received and considered between 1990 and 1999/2000.

3. SUCCESSFUL APPEALS

Of the total number of appeals which were considered 35 were found in favour of the appellant. This represents 22% of all the cases considered; this shows an 1% increase in the number of successful appeals compared with the previous year.

In five of the successful appeals, the Board recommended that the appellant should be reinstated without qualification. The Department or Agency concerned rejected the Board's recommendation in one case, three persons were reinstated and a decision is awaited in one other case.

In seven cases the Board recommended that the appellant should be reinstated with the imposition of a lesser penalty than dismissal. The Department or Agency concerned accepted the Board recommendation in two of these.

In 18 cases having found in the appellant's favour, the Board considered that reinstatement was inappropriate and an award of compensation was made.

In five appeals involving inefficiency where the Department or Agency had decided not to pay compensation in full under the Civil Service Compensation Scheme, the Board concluded that compensation should be paid. In two cases the Board uplifted payment from 0% to 50%, two from 50% to 75% and one from 50% to 80%.

See Appendix 4 for a synopsis of unfair decisions.

4. INELIGIBLE APPEALS

Nine appeals were ruled as ineligible for the following reasons:

Appellant had insufficient length of service	6
Appeal had been submitted out of time	2
Board had no jurisdiction in matter	1

5. WITHDRAWN APPEALS

19 appeals were withdrawn for the following reasons:

Appellant voluntarily withdrew appeal	9
Appellant's internal appeal successful	5
Appellant failed to complete the appeal within the required timescale	3
Financial settlement reached between appellant and Department	2

6. REPRESENTATION OF APPELLANTS IN SUCCESSFUL APPEALS

Trade Union	24
Legal	5
Others	3
Appellant Not Represented	3

7. MAJORITY FAIR DECISIONS

If the Board comes to a majority rather than a unanimous conclusion that the department's or agency's decision was fair, the appellant has the right to make representations to the Head of Department before a final decision is made.

All decisions during the year were reached on a unanimous basis.

8. PERFORMANCE

1999/2000 was the first full year that the enhanced targets agreed by the Minister for the Cabinet Office, as recommended by the 1998 Quinquennial Review of the Board, came into effect.

The Board's targets are: appeals to be heard within 15 weeks of receipt in 95% of cases; decision letters to be sent out within 24 hours of hearings being held in 95% of cases and hearing reports to be issued within 20 working days in 95% of cases.

The Board was successful in achieving its targets for sending out decision letters (100%) and issuing hearing reports (98%). However, the Board was marginally unsuccessful in achieving its target for hearing appeals within 15 weeks of receipt (90%). This was due in the main to the non-availability of both departmental and appellant representatives during the specified four week listing period. Also only a reduced number of appeals were able to be heard at the beginning of the year as the Board only had the two Deputy Chairs available to hear appeals prior to the Chair taking up his appointment.

The analysis of the achievement of the targets is set out in Appendix 5.

To further improve the performance of the Board and its Secretariat both a Complaints Procedure and a Customer Satisfaction Survey were initiated during 1999/2000. Analysis of the Survey responses will be set out in the Annual Report for 2000/2001 when a whole year's data has been amassed.

9. COMPENSATION

The Board made awards of compensation amounting to £144,618 in 22 cases. The average award was £6574 with the highest award being £16945. This compared with an average and highest award of £5625 and £14253 in 1998/99.

10. NON ATTENDANCE OF APPELLANT

The Board considered 25 cases in the absence of the appellant; a decrease on last year's figures (29).

11. OBSERVERS

A total of 70 people attended Appeal Board hearings as observers in order to familiarise themselves with the Board's procedures prior to attending a hearing. Of this total 48 were representatives from Departments or Agencies with 12 coming from Trade Unions and ten others. The Board continues to encourage people to observe a hearing before attending, because this can be of great benefit.

12. COSTS AND BUDGET

The total cost of operating the organisation in 1999/2000 was £298,070 with the more significant categories detailed as follows:

	1998/99	1999/2000
Members fees and expenses	£151,164	£179,602
Tax on members fees	£14,521	£14,521
Staff costs	£118,370	£92,717
IT Equipment	£172	–
Miscellaneous	£8,848	£11,941
VAT REFUND	(£1,774)	(£711)
TOTAL	£291,301	£298,070

The cost per appeal considered was £1,886 compared with £1,734 in 1998/99.

APPENDIX I

Summary of Activity

	1998/99	1999/00	Change from previous year
Cases outstanding at the beginning of the year	97	61	-37%
Appeals received			
Non-Industrial	147	183	+24%
Industrial	18	20	+11%
TOTAL	262	264	0%
Appeals considered	168	158	-6%
Appeals found to be ineligible	10	9	-10%
Appeals withdrawn	23	19	-17%
TOTAL	201	188	-6%
Cases in process at the end of the year	61	78	+22%

APPENDIX 2

Appeals Heard Financial Year April 1999 to March 2000

Department	Number of Appeals
Benefits Agency	28 (18%)
British Museum	1
Child Support Agency	1
Court Service	3
Crown Prosecution Service	1
Department of Health	1
Department of Trade and Industry	3
Driving Standards Agency	3
Driver Vehicle Licensing Agency	3
Employment Service	8
Fire Service College	1
Forestry Commission	1
Government Car & Despatch Agency	1
Government Communications HQ	2
Health and Safety Executive	3
Health Service Ombudsman	1
HM Customs & Excise	7
HM Land Registry	2
HM Prison Service	17 (11%)
HM Treasury	1
Historic Scotland	2
Home Office	2
Immigration and Nationality Directorate	2
Inland Revenue	10 (6%)
Intervention Board	1
Ministry of Agriculture, Fisheries and Food	1
Ministry of Defence	30 (19%)
Ministry of Defence Agencies:	
Army Base Repair Organisation	1 (6%)
Defence Clothing & Textile Agency	1
Defence Evaluation & Research Agency	4
Defence Storage & Distribution Agency	1
Meteorological Office	1
Naval Base Supplies Agency	2
National Insurance Contribution Organisation	3
National Savings	1
Passport Agency	1
Public Records Office	1
Scottish Court Service	1
Scottish Executive	1
Scottish Prison Service	1
Stamp Office	1
Treasury Solicitor's Office	2
TOTAL	158

APPENDIX 3

Analysis of Appeals Considered

Reason for Appeal	Number	Appeals upheld by the Board
Discipline	97 (61%)	23 (24%)
Inefficiency	36	
Attendance	27 (17%)	4 (15%)
Performance	9 (6%)	1 (11%)
Part/Non payment of compensation	15 (10%)	5 (33%)
Redundancy	4 (3%)	1 (25%)
End of fixed term appointment	2 (1%)	1 (50%)
Failed probation	2 (1%)	
Culpability	1 (0.5%)	
To determine eligibility	1 (0.5%)	
TOTAL	158	35

APPENDIX 4

Synopsis of Appeals Upheld by the Board 1999/2000

1. CONSULTANT OTOLOGIST DISMISSED ON GROUNDS OF REDUNDANCY.

The Board were concerned that there had been a failure to meet with individuals and unions not included within the redundancy agreement. There had also been a failure to look for any other suitable posts for the appellant and his formal grievance had not been followed up.

RESULT: **COMPENSATION**
CONTRIBUTORY FAULT: **50% POLKEY FACTOR**
AWARD: **£9613**

2. SENIOR PRISON OFFICER DISMISSED WITH COMPENSATION ON INEFFICIENCY GROUNDS DUE TO UNSATISFACTORY ATTENDANCE.

The Board were concerned about the procedures followed in this case. The Agency had failed to adequately keep in touch with the appellant during his sick absence; had failed to inform him of the advice received about the likelihood of him providing regular service in the future. Also they had failed to warn him of the consequence of not returning to work and failed to inform him that BMI had concluded that he was ineligible for ill-health retirement and had told him incorrectly that he did not have the right of appeal against that decision.

RESULT: **COMPENSATION**
CONTRIBUTORY FAULT: **50% POLKEY FACTOR**
AWARD: **£9599**

3. LOCAL OFFICER II DISMISSED WITH COMPENSATION ON INEFFICIENCY GROUNDS DUE TO UNSATISFACTORY ATTENDANCE.

The Board considered that it was incumbent upon the Agency to take all reasonable steps before the dismissal. Giving information about the right of appeal against the decision not to allow medical retirement was a reasonable step in this context which had not been taken,

RESULT: **COMPENSATION**
CONTRIBUTORY FAULT: **100% POLKEY FACTOR**
AWARD: **£1980**

4. ADMINISTRATIVE ASSISTANT DISMISSED ON INEFFICIENCY GROUNDS WITHOUT COMPENSATION DUE TO UNSATISFACTORY PERFORMANCE.

The Board were concerned about the length of time taken to move forward through the various stages of the internal appeal procedure. Of more concern, however, was the Agency declining the appellant permission to appeal a Box 4 grading because by the time an Equal Opportunities Investigation had been completed the internal appeal time limit had lapsed.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	50% POLKEY FACTOR
AWARD:	£3994

5. COMMUNITY WORKER DISMISSED ON DISCIPLINARY GROUNDS FOR HAVING KNOWINGLY WITH HELD MONIES PAID TO HIM FOLLOWING SUBMISSION OF INCORRECT CLAIMS TO WHICH HE HAD NO ENTITLEMENT.

The Board were concerned that by a fine margin on the balance of probabilities there was insufficient evidence to support the finding that the appellant *knowingly* retained money to which he had not been entitled.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	75%
AWARD:	£4593

6. STOREKEEPER DISMISSED ON DISCIPLINARY GROUNDS FOR BEING ABSENT WITHOUT LEAVE.

The Board were not convinced that all avenues of possible investigation to ascertain the appellant's position at the crucial time had been explored. Had this been done, the extreme mental condition of the appellant would have been discovered, a condition that prevented the appellant from complying with the ultimatum letters he had received. For that reason the decision of the Board was that the dismissal was unfair.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	0%
AWARD:	£10069

7. RETIRED OFFICER GRADE II DISMISSED ON DISCIPLINARY GROUNDS FOR HAVING SUBMITTED A FALSE TRAVEL AND SUBSISTENCE CLAIM AND FOR ACCEPTING THE RESULTING PAYMENT.

The Board considered there were three procedural deficiencies in this case: first, that notes of the meeting between the Deciding Officer and the appellant's line manager had not been released to the appellant. Secondly, the Deciding Officer had not interviewed the appellant himself, but rather sought ex parte views from the line manager. Thirdly, no attempt was made during the investigation to examine the appellant's previous claims, so therefore it was not possible to assess whether the case in question was an isolated incident or whether other claims had been incorrectly submitted.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	50% AND 50% POLKEY FACTOR
AWARD:	£5046

8. LEADING HAND DRIVER DISMISSED ON DISCIPLINARY GROUNDS FOR BORROWING AN OFFICIAL VEHICLE WITHOUT PERMISSION, UNDERTAKING AN UNAUTHORISED JOURNEY WITH AN UNAUTHORISED PASSENGER AND THEFT OF DEPARTMENTAL PROPERTY.

The Board were concerned by the delays between suspension and charge and then between the hearing and dismissal. The hearing note was unsatisfactory with no firm recommendations and with the reason for dismissal not explained. The Board were also concerned that sufficiently transparent action had not been taken to deal with the disparity between custom and practice at the site and adherence to rules and regulations and as such considered the penalty unfair on proportionality grounds.

RESULT: **COMPENSATION**
CONTRIBUTORY FAULT: **50%**
AWARD: **£2067**

9. HIGHER SCIENTIFIC OFFICER DISMISSED ON DISCIPLINARY GROUNDS AS A RESULT OF HIS IMPRISONMENT.

The Board were concerned by what they regarded as incorrect application of the Department's frustration of contract procedures.

RESULT: **REINSTATEMENT**
ACCEPTED: **NO**
CONTRIBUTORY FAULT: **50%**
AWARD: **£6930**

10. HIGHER EXECUTIVE OFFICER DISMISSED ON DISCIPLINARY GROUNDS FOR MAKING A FALSE SUBSISTENCE CLAIM AND FAILURE TO DECLARE HOSPITALITY ARISING FROM OFFICIAL BUSINESS

The Board were concerned about the interpretation of the nature of an earlier offence and the weight placed upon it by the Deciding Officer. The Board concluded that there did not appear to be a clear intent to defraud by the appellant which was required to prove a charge of gross misconduct. Finally the Board considered that the Department's opinion of a breakdown of trust could not be sustained in the light of the Department's decision to retain the appellant's services for a further three months after the decision to dismiss was notified to him.

RESULT: REINSTATEMENT WITH A LESSER PENALTY

ACCEPTED: YES

11. AA DISMISSED ON DISCIPLINARY GROUNDS FOR ALLEGED MISUSE OF THE DEPARTMENT'S COMPUTER SYSTEM

The Board considered that as the Department had not attempted to define in its circulars for staff what was regarded as 'abuse' or 'misuse' it was not presumably reasonable for the management to judge the case on an arbitrary and unpromulgated definition. As such the Board did not believe that Gross Misconduct could be reasonably adduced and considered that dismissal was a disproportionate penalty.

RESULT: REINSTATEMENT WITH A LESSER PENALTY

ACCEPTED: YES

12. TAX INSPECTOR DISMISSED ON DISCIPLINARY GROUNDS FOR BEHAVING THREATENINGLY TOWARDS HIS LINE MANAGEMENT.

The Board were concerned that there was an absence of a charge letter and that the disciplinary hearing had been conducted by one of the officers making allegations against the appellant; it was also not clear that the evidence in support of the charges had been disclosed to the appellant

RESULT: COMPENSATION

CONTRIBUTORY FAULT: 2/3RDS AND 50% POLKEY FACTOR

AWARD: £2799

13. HIGHER EXECUTIVE OFFICER DISMISSED ON DISCIPLINARY GROUNDS FOR MISCONDUCT THAT HAD RENDERED HIM UNSUITABLE FOR CONTINUED EMPLOYMENT.

The Board was unable to satisfy itself that the evidence produced by the investigation justified the appellant's offences being treated more severely than those of others involved including the appellant's line manager.

RESULT: REINSTATEMENT WITH A LESSER PENALTY
ACCEPTED: NO
CONTRIBUTORY FAULT: 35%
AWARD: £16946

14. CATERING OFFICER DISMISSED WITH COMPENSATION ON INEFFICIENCY GROUNDS DUE TO UNSATISFACTORY ATTENDANCE.

The Board considered that there were sufficient procedural deficiencies to render the dismissal unfair. The Agency had failed to meet a procedural deadline and as such they were required to repeat the relevant previous stage, in this case, the final written warning to be repeated, which did not happen. This would have entailed a second referral to BMI for advice and consideration then of medical retirement.

RESULT: COMPENSATION
 100% POLKEY FACTOR
AWARD: £2200

15. PRISON OFFICER DISMISSED WITH COMPENSATION ON INEFFICIENCY GROUNDS DUE TO UNSATISFACTORY ATTENDANCE.

The Board were concerned that the procedures used had no provision for an individual in a long term sickness absence case to be warned in advance that dismissal was under consideration. The Board considered that the Agency's procedures were fatally flawed and that they did not comply with procedural fairness which would normally require that the individual is told the case for dismissal and is given the opportunity to state his case before a decision is taken.

RESULT: REINSTATEMENT
ACCEPTED: YES

16. BAND 5 DISMISSED ON DISCIPLINARY GROUNDS FOR REMOVAL OF UNLAWFUL GOODS.

The Board were concerned about the timescale in dealing with the disciplinary procedure and that too much reliance had been put upon the evidence for the criminal investigation and also evidence that preceded it. The Board were not satisfied that a sufficiently vigorous process was followed. The Board also considered that the Department had been remiss in not having convened a disciplinary hearing in this case.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	100% AND 100% POLKEY FACTOR
AWARD:	£0

17. SUPERVISING EXAMINER DISMISSED ON DISCIPLINARY GROUNDS FOR NEGLECTING DUTIES, DELIBERATELY FALSIFYING TEST RECORDS AND BEHAVING IN A MANNER THAT BROUGHT DISCREDIT ON THE AGENCY.

The Board were concerned that there had been an inadequate investigation which did not support the charges as the auditors had not sought explanations for each of the issues that they were uncertain about. Also office searches were made without the appellant, a trade union representative or an independent observer being present.

RESULT;	COMPENSATION
CONTRIBUTORY FAULT:	25%
AWARD:	£12868

18. DRIVING EXAMINER DISMISSED ON DISCIPLINARY GROUNDS FOR NEGLECTING HIS DUTIES, FALSIFYING RECORDS AND BEHAVING IN A MANNER WHICH BROUGHT DISCREDIT ON HIMSELF AND THE AGENCY.

The Board were not convinced that the Agency had paid due regard to its 'Complaints Against Examiners Procedures'. The appellant was not given the opportunity to comment on the allegations made against him and the Board was unable to agree with the Agency that the actions attributed to the appellant fell within the spirit of gross misconduct. Indeed the Board believed that the actions of the appellant justified recourse to the Inefficiency Procedures instead.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	20%
AWARD:	£13933

19. PRISON OFFICER DISMISSED ON DISCIPLINARY GROUNDS FOR HAVING COMMITTED A CRIMINAL OFFENCE.

The Board were unable to satisfy itself that the appellant had been dealt with in a consistent basis when compared with at least one specific named case brought to the Board's attention which seemed a close parallel to the facts in this case.

RESULT:	REINSTATEMENT WITH A LESSER PENALTY
ACCEPTED:	NO
CONTRIBUTORY FAULT:	60%
AWARD:	£10222

20. MEDICAL OFFICER DISMISSED ON DISCIPLINARY GROUNDS FOLLOWING AN ALLEGED BREACH OF TRUST AND PROVIDING MISINFORMATION ON HIS ORIGINAL JOB APPLICATION.

The Board considered that to discipline the appellant in 1998/99 on misconduct grounds which were known in 1996 when no action had been taken was a flawed and unsound decision. The Board believed that a better response to the circumstances of this case would have been to have invoked the Agency's inefficiency procedures.

RESULT: **COMPENSATION**
CONTRIBUTORY FAULT: **60% AND 50% POLKEY FACTOR**
AWARD: **£6750**

21. ADMINISTRATIVE ASSISTANT DISMISSED ON DISCIPLINARY GROUNDS FOR CONTINUED INSUBORDINATION.

The Board considered that the decision to dismiss had been reached without due process. None of the procedural requirements preceding a reasonable decision to dismiss had been followed. In these circumstances there had been a complete denial of natural justice.

RESULT: **REINSTATEMENT**
ACCEPTED: **DECISION STILL AWAITED**

22. PAY BAND 8 DISMISSED WITHOUT COMPENSATION ON INEFFICIENCY GROUNDS FOR UNSATISFACTORY ATTENDANCE.

The Board considered that the decision to dismiss had been taken without regard to the particular circumstances of the appellant and the promising prognosis of a BMI report, which stated that it was likely that within the near future his sickness absence would improve.

RESULT: **REINSTATEMENT**
ACCEPTED: **ACCEPTED**

23. ADMINISTRATION OFFICER DISMISSED FOR FAILING PROBATION ON GROUNDS OF UNSATISFACTORY CONDUCT.

The Board could find no evidence that the appellant had been given the opportunity to contest any of the allegations made against him and regarded that as being against the interests of natural justice. The Board were also concerned that the Personnel Officer who advised line management on procedures was the person who decided on dismissal and also the person to whom the appellant had the right of initial appeal.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	40%
AWARD:	£3396

24. CASUAL ADMINISTRATION OFFICER DISMISSED AT THE EXPIRY OF A FIXED TERM CONTRACT.

The Board considered that the Agency having chosen to deal with the dismissal in disregard of the employment rights that the appellant had acquired by working for more than 51 weeks, albeit through the result of an error which was not of the Agency's making, was sufficient to render the dismissal unfair.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	0%
AWARD:	£1282

25. PAY BAND 8 DISMISSED ON DISCIPLINARY GROUNDS FOR GIVING PREFERENTIAL TREATMENT TO A CLIENT.

The Board considered that whilst the appellant had been investigated with considerable vigour, other avenues of inquiry had not been pursued in a timely fashion. It was also regretted that all not relevant papers were released to the appellant timeously.

RESULT:	REINSTATEMENT
ACCEPTED:	YES

26. ADMINISTRATION OFFICER DISMISSED ON DISCIPLINARY GROUNDS FOR USING FOUL LANGUAGE, BEHAVING IN A THREATENING MANNER AND BRINGING DISCREDIT TO THE AGENCY.

The Board considered that the Agency's investigation had been inadequate. The complainant had not been interviewed or asked to make a statement. There had been inconsistencies in the evidence which the investigators and the Deciding Officer had failed to clarify.

RESULT:	REINSTATEMENT WITH A LESSER PENALTY
ACCEPTED:	NO
CONTRIBUTORY FAULT:	50%
AWARD:	£7809

27. PAY BAND 6 DISMISSED ON DISCIPLINARY GROUNDS FOR GAINING UNAUTHORISED ACCESS TO COMPUTER RECORDS AND DIVULGING CONFIDENTIAL INFORMATION.

The Board considered the decision to dismiss unfair on procedural grounds as the appellant had not been advised in a timely fashion that the offence had been recategorised from misconduct to gross misconduct, thus not conveying adequately that dismissal might therefore be the outcome of the process.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	75%
AWARD:	£3677

28. MESSENGER DISMISSED ON DISCIPLINARY GROUNDS ON THE BASIS OF A CONVICTION AND MAKING FALSE CLAIMS FOR OVERTIME.

The Board were concerned that at least three other staff, all senior to the appellant, two of whom were in the appellant's line management chain, had been closely associated with the offence. The Board considered that all those concerned should have been the subject of disciplinary action and the failure to do so meant that the appellant had been treated inconsistently.

RESULT: **COMPENSATION**
CONTRIBUTORY FAULT: **2/3RDS**
AWARD: **£2890**

29. SCIENTIFIC OFFICER DISMISSED ON DISCIPLINARY GROUNDS FOR USING THE OFFICE SOFTWARE FOR INAPPROPRIATE PURPOSES AND ACCESSING THE INTERNET VIA OFFICIAL NETWORKS FOR THE EXTRACTION OF PORNOGRAPHY AND OBSCENE MATERIAL.

The Board were concerned that the Agency had commenced internal disciplinary action prior to the conclusion of the Ministry of Defence Police investigation. The Board also could not discern (on the evidence given) sufficient distinction between this and two other cases where dismissal had not been the penalty imposed to justify the difference in treatment.

RESULT: **REINSTATEMENT WITH A LESSER PENALTY**
ACCEPTED: **NO**
CONTRIBUTORY FAULT: **50%**
AWARD: **£4950**

30. BAND IIA DISMISSED ON DISCIPLINARY GROUNDS FOR USING ABUSIVE AND THREATENING LANGUAGE TOWARDS A COLLEAGUE

The Board were not convinced that the colleague who was said to have been abused by the appellant had actually felt threatened or anxious about the incident in the way which had been inferred by management.

RESULT:	REINSTATEMENT WITH A LESSER PENALTY
ACCEPTED:	NO
CONTRIBUTORY FAULT:	50%
AWARD:	£8814

APPENDIX 5

Civil Service Appeal Board Performance Against Targets 1999/2000

PERFORMANCE

HEARINGS

Appeals to be heard within 15 weeks of receipt in 95% of cases

Month	Appeals Heard	Average Number of Weeks to Hearing	Within Target
April	8	14	88%
May	8	15	80%
June	16	14	66%
July	14	13	100%
August	19	12	95%
September	17	12	100%
October	13	13	85%
November	15	12	100%
December	8	12	100%
January	20	13	90%
February	13	11	100%
March	7	14	71%
AVERAGE	158	13	90%

DECISION LETTERS ISSUED

Reports to be issued within 24 hours of hearing

ALL decision letters were issued within the target period during 1998/99.

REPORTS ISSUED

Reports to be issued within 20 working days of hearing in 95% of cases

Month	Reports Issued	Average Number of Working Days to Issue	Within Target
April	10	10	100%
May	11	10	100%
June	9	9	100%
July	15	11	100%
August	14	12	93%
September	20	14	95%
October	15	11	100%
November	13	11	100%
December	15	11	100%
January	11	10	100%
February	17	9	100%
March	8	6	100%
TARGET	133	11	98%

APPENDIX 6

Appeals Received and Heard 1990–1999/2000

	Appeals Received	Appeals Heard	Successful Appeals
1990	240	202	16%
1991	281	198	24%
1991/92	327	214	24%
1992/93	362	281	25%
1993/94	344	266	20%
1994/95	326	253	19%
1995/96	306	242	21%
1996/97	269	238	24%
1997/98	231	192	21%
1998/99	165	168	21%
1999/00	203	158	22%

