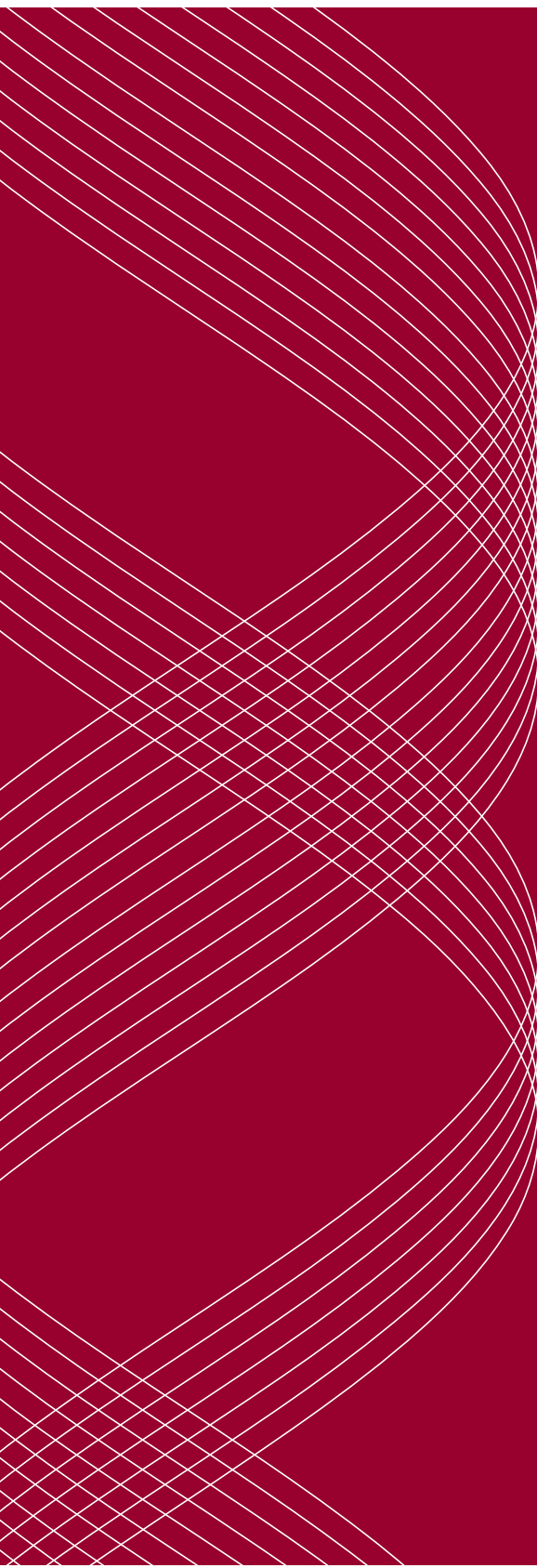




Annual Report 2005/2006



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The Role and Remit of the Civil Service Appeal Board

The Civil Service Appeal Board is an advisory non-departmental public body sponsored by the Cabinet Office. It was established in 1971 on the basis of an agreement between the two sides of the National Whitley Council to hear appeals by civil servants against dismissal and premature retirement.

Over time the role of the Board has developed. Its present remit is to hear appeals from civil servants and staff bodies which offer analogous terms and conditions of service against:

- dismissal and early retirement;
- the non-payment of compensation or the amount of compensation paid under the Civil Service Compensation Scheme to civil servants dismissed on inefficiency grounds;
- refusal to allow participation in political activities; and
- forfeiture of superannuation.

If the Board concludes that a Department or Agency's decision has been unfair it has the power as appropriate to:

- recommend reinstatement, reinstatement with a lesser penalty or re-engagement;
- order the payment of compensation in line either with Employment Tribunal guidelines (in dismissal appeals), or under the inefficiency terms of the Civil Service Compensation Scheme;
- recommend the granting of permission to take part in political activities; or
- order the payment of superannuation.

The Civil Service Appeal Board

During 2005/2006

Chair – J H Davies OBE
Deputy Chair – M E G Fogden CB
Deputy Chair – J Sheldon OBE

BOARD MEMBERS

MANAGEMENT SIDE BOARD MEMBERS

Miss C Banks (Office of Fair Trading)
G Bertram CB (Inland Revenue)
S Boys Smith CB (Home Office)
J Carling (Inland Revenue)
D W Rayson (HM Treasury)
G L Reid CB (Department for Education and Employment)
A Turner CBE (Ministry of Defence)
J Turner CB (Employment Service)
I Ward CBE (Prison Service)

TRADE UNION SIDE BOARD MEMBERS

Mrs C Alderson (Public and Commercial Services Union)
A Audley (Institution of Professionals, Managers and Specialists)
Mrs V Bayne (Public and Commercial Services Union)
A Churchard (Public and Commercial Services Union)
Mrs P R Cryer (Public and Commercial Services Union)
E Elsey (Public and Commercial Services Union)
D Evans (Prison Officers' Association)
P J Kelly (Public and Commercial Services Union)
F R Winrow (Inland Revenue Staff Federation)

SECRETARIAT

K Wright (Secretary to the Board)
Miss J Allen
C Bentley
Miss J Outred

Pen portraits of Board Members

As at 31 March 2006

CHAIR

J H Davies OBE

Former Director Personnel
Barclays Bank UK Banking Services
Appointed May 1999

DEPUTY CHAIRS

M E G FOGDEN CB

Former Chief Executive
Employment Service Agency
Appointed November 1999

J SHELDON OBE

Former Joint General Secretary
Public and Commercial Services Union
Appointed February 2001

MANAGEMENT SIDE BOARD MEMBERS

Miss C Banks

Formerly Office of Fair Trading
Appointed December 2004

G Bertram CB

Formerly Inland Revenue
Appointed September 2001

S Boys Smith CB

Formerly Home Office
Appointed December 2004

J Carling

Formerly Inland Revenue
Appointed October 1999

D W Rayson

Formerly HM Treasury
Appointed September 1999

G L Reid CB

Formerly Dept for Education and Employment
Appointed September 1999

A Turner CBE

Formerly Ministry of Defence
Appointed November 1999

J Turner CB

Formerly Employment Service Agency
Appointed January 2000

I Ward CBE

Formerly HM Prison Service
Appointed September 2001

TRADE UNION SIDE BOARD MEMBERS

Mrs C Alderson

Formerly Public and Commercial Services Union
Appointed December 2000

Mrs V Bayne

Formerly Public and Commercial Services Union
Appointed November 2004

Mrs P R Cryer

Formerly Public and Commercial Services Union
Appointed September 1999

D Evans

Formerly Prison Officers' Association
Appointed October 2000

F R Winrow

Formerly Inland Revenue Staff Federation
Appointed September 1999

A Audley

Formerly Institution of Professionals, Managers and Specialists
Appointed February 2001

A Churchard

Formerly Public and Commercial Services Union
Appointed November 2004

E Elsey

Formerly Public and Commercial Services Union
Appointed November 2004

P J Kelly

Formerly Public and Commercial Services Union
Appointed September 1999

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.

Members are usually 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. Similarly, the contribution of the Chairs is also assessed.

Introduction



During the financial year 2005/2006, the Board received a substantial number of new appeals, 376 in all. 253 appeals were heard, an increase of 16 over the previous year.

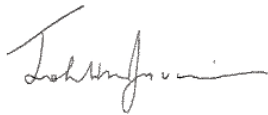
This was the first year when the impact of the standard statutory dismissal procedures embodied in the Employment Act 2002 (Dispute Resolution) Regulations 2004 emerged as a factor in cases presented to the Board. These procedures apply to all dismissals, where action was contemplated on or after 1st October 2004. From cases considered during the past 12 months, it is clear that Departments and Agencies do not always appreciate the importance of respecting the standard statutory procedures and it has, perhaps, not been fully appreciated that if there is a breach in that regard, the Board has no choice other than to find the dismissal automatically unfair. It is, therefore, extremely important that details of the employee's alleged misconduct or characteristics, which might lead to dismissal, are clearly set out in writing and sent to the individual, together with an invitation to attend a meeting to discuss. Employees should be advised of their right to be accompanied and should be given sufficient time before the meeting to consider their response. When the decision to dismiss is made, employees should be advised of their right of internal appeal and, if they choose to avail themselves of that opportunity, a meeting should be offered at which they may be accompanied. The officer hearing the internal appeal should, wherever reasonably practical, be undertaken by a more senior official than the one who made the original decision. Failure to follow any, or all of the above requirements, renders the dismissal automatically unfair and the Board will normally make an adjustment to the compensation award for unfair dismissal in the appellant's favour.

Another matter that has caused the Board concern over the last 12 months has been the time taken to complete the disciplinary or inefficiency procedures. In several instances cases have taken more than a year to reach their conclusion. Such timescales are often at considerable variance with those set out in Departmental and Agency disciplinary and inefficiency procedures and delays of this magnitude are also at variance with the principles of natural justice, in view of the anxiety caused to the individuals, who are subject to those processes. Whilst in some cases the cause of the delays does not rest solely with the employer, it is clear that in most cases the Department or Agency bears the responsibility. Following the example of the Employment Tribunals, the Board has, in several cases during the period under review, found dismissals to have been unfair on those grounds.

From time to time the Board has cause to question the basis upon which internal appeals are handled. In a number of cases, it seems that the primary concern of Departments and Agencies is to justify and uphold the basis upon which the original decision to dismiss was founded rather than to examine in an objective fashion all the relevant facts. As has been the case in previous years, I and fellow Board Members welcome invitations to run workshops and seminars for Departments and Agencies to share our experiences with you and to offer advice on good practice in managing dismissals. At a time when new legislation is beginning to make a significant impact, it is important that all those likely to become involved in managing cases that could culminate in dismissals are fully aware of the possible pitfalls. Please do not hesitate to get in touch with the Board, if you think a presentation would be useful.

I should like to thank the Deputy Chairs and Board Members for the conscientious and enthusiastic way in which they have carried out their duties during the past year. The Secretariat, under the leadership of Keith Wright, has, once again, provided invaluable support for which I am most grateful.

I commend this report to you. In particular I recommend that you look at the section which deals with the 22% of cases found unfair over the last 12 months. The narrative in each case gives reasons why the dismissals were regarded as unfair by the Board and I hope you will find these valuable.

A handwritten signature in black ink, appearing to read 'John Davies', written in a cursive style.

John Davies OBE

Chair

The Civil Service Appeal Board

This report covers the financial year ending 31 March 2006. 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 376 new appeals during the year, a 5% decrease on the figure of 396 of the previous year.

2. APPEALS CONSIDERED

The Appeal Board considered 253 appeals during the year (last year 237), a 7% increase on the number of appeals considered in the previous year. An analysis of appeals considered is set out in Appendix 3.

113 of the appeals were against dismissal on disciplinary grounds. This represents 45% of all appeals considered by the Board and a 4% increase on the number of appeals against disciplinary dismissal considered in the previous year in which dismissal on disciplinary grounds accounted for 46% of all appeals.

The continuing vigour in which Departments and Agencies are dealing with unsatisfactory attendance has translated into a 25% increase in the number of appeals heard for this reason compared with the number heard during 2004/2005. It is interesting to note that the number of appeals against dismissal for failing to satisfy the standards of probation fell by 28% compared with last year.

See Appendix 7 for an analysis of appeals received and considered between 1996/1997 and 2005/2006.

3. SUCCESSFUL APPEALS

Of the total number of appeals which were considered 55 were found in favour of the appellant. This represents 22% of all the cases considered; this shows a 15% increase in the number of appeals upheld compared with the previous year.

In 10 of the successful appeals, the Board recommended that the appellant should be reinstated without qualification. The Departments and Agencies concerned accepted the Board's recommendation in three cases.

In one case the Board recommended that the appellant should be reinstated with the imposition of a lesser penalty than dismissal. The Agency concerned rejected the recommendation.

There were two cases where the Board recommended re-engagement. However, the appellants concerned both subsequently changed their minds and the Board considered awards of compensation.

Having found in the appellant's favour in a further 28 cases, the Board considered that reinstatement or re-engagement was inappropriate and awards of compensation were made.

In 14 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 in part or full should be paid. The Board uplifted awards as follows:

Band	Number
0% to 100%	2
0% to 50%	3
25% to 50%	1
25% to 75%	1
25% to 100%	1
50% to 100%	2
66% to 100%	1
75% to 100%	2
80% to 100%	1

One of the two uplifts of compensation from 50% to 100% was made on the basis of a majority decision.

4. INELIGIBLE APPEALS

35 appeals were found to be ineligible for the following reasons:

Appellant had no right of appeal to the Board	19
Appellant beyond minimum pensionable age	3
Appeal had been submitted out of time	13

5. WITHDRAWN APPEALS

71 appeals were withdrawn for the following reasons:

Appellant voluntarily withdrew appeal	51
Appellant subsequently retired on medical grounds	10
Appellant's internal appeal successful	10

6. STRUCK OUT APPEALS

70 appeals were struck out because appellants or their representatives failed to submit written main statements of case to the Board within prescribed time limits as to the reasons they believed the decision by Departments and Agencies to dismiss was unfair.

7. REPRESENTATION OF APPELLANTS

Trade Union	165
Legal	6
Other	14
None	25

8. 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. No majority fair decision was made during the year.

9. PERFORMANCE

The Board's targets are:

- appeals to be heard within 18 weeks of receipt in 90% of cases;
- decision letters to be sent out within 24 hours of hearings being held in 95% of cases;
- hearing reports to be issued within 20 working days in 95% of cases; and
- compensation awards to be issued within 15 working days in 100% of cases following receipt of representations on contributory fault.

The Board was successful in achieving its targets for hearing appeals within 18 weeks of receipt in 90% of cases (100%), for sending out decision letters (100%) and issuing hearing reports (100%). However, the Board was unsuccessful in achieving its target for issuing compensation awards within 15 working days in 100% of cases following receipt of representations on contributory fault. Of the 38 awards issued, 34 (89%) were issued on time.

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

10. CUSTOMER SATISFACTION

To further improve the performance of the Board and its Secretariat, a Complaints Procedure and a Customer Satisfaction Survey were both initiated during 1999/2000.

Overall, 98% of appellants, 100% of their representatives and 99% of departmental/agency representatives were satisfied with the service they received.

An analysis of survey responses is set out in Appendix 6.

11. COMPENSATION

The Board made awards of compensation amounting to £300,234 in 38 cases. The average award was £7,901 with the highest award being £28,571. This compares with an average and highest award of £11,397 and £30,685 in 2004/2005.

12. NON-ATTENDANCE OF APPELLANTS

The Board considered 32 cases in the absence of the appellant. Of these, 12 appellants were nevertheless represented by a trade union official or relative. The remaining 20 appeals were constituted as paperboards with the Board considering those appeals following written statements from both parties.

13. OBSERVERS

A total of 192 people attended Appeal Board hearings as observers in order to familiarise themselves with the Board's procedures prior to participating in a hearing. The Board continues to encourage people to observe a hearing before attending as this can be of great benefit.

14. RAISING AWARENESS OF THE WORK OF THE BOARD

The Board made a presentation to the Disability Carers Service within the Department for Work and Pensions. It also received overseas visitors from Kosovo who were interested in learning about its work.

During the year the Board also improved its presence on the Internet and our website can be found at www.civilserviceappealboard.gov.uk. The site includes details of how an appeal is processed, who hears appeals as well as on-line copies of our Annual Reports, Guidance Notes and the Good Practice Principles applied by the Board. It also sets out the types of information which the Board has undertaken to make available to the public as a matter of routine under the Freedom of Information Act 2000.

15. COSTS AND BUDGETS

The total cost of operating the organisation in 2005/2006 was £357,047, with the more significant categories detailed as follows:

	2004/2005	2005/2006
Members' fees and expenses	£242,783	£230,863
Staff costs	£112,030	£119,534
Financial consultancy	£4,466	£3,443
Staff training	£1,228	-
Legal services	£1,076	£1,385
Miscellaneous	£2,818	£1,822
TOTAL	£364,401	£357,047

The cost per appeal considered in 2005/2006 was £1,411 compared with £1,375 in 2004/2005.

Appendices

APPENDIX 1

Summary of Activity

	2004/05	2005/06	Change from previous year
Cases outstanding at the beginning of the year	130	154	+18%
Appeals received	396	376	-5%
TOTAL	526	530	+1%
Appeals considered	237	253	+7%
Appeals found to be ineligible	37	35	-5%
Appeals withdrawn	60	71	+18%
Appeals struck out	38	70	+84%
TOTAL	372	429	+15%
Cases in process at the end of the year	154	101	-34%

APPENDIX 2

Appeals Heard in the Financial Year April 2005-March 2006

Department	Number of Appeals Heard
Child Support Agency	4
Crown Prosecution Service	2
Department for Constitutional Affairs(including HM Courts Service)	11
Department for Education and Skills	3
Department of Environment, Food and Rural Affairs	5
Department of Trade and Industry	10
Department for Work and Pensions (including The Pension Service)	21 (8%)
Driver and Vehicle Licensing Agency	1
Export Credits Guarantee Department	1
Foreign and Commonwealth Office	1
Forensic Science Service	3
Forestry Commission	2
Government Car and Despatch Agency	1
Health and Safety Executive	1
HM Land Registry	1
HM Prison Service	46 (18%)
HM Revenue and Customs	50 (20%)
Home Office	4
House of Commons	2
Immigration and Nationality Directorate	13 (5%)
Insolvency Service	2
Jobcentre Plus	37 (15%)
Maritime and Coastguard Agency	3
Meat Hygiene Service	1
Ministry of Defence	10
Ministry of Defence Agencies:	
Defence Analytical Services Agency	1
Defence Aviation Repair Agency	4
Defence Storage and Distribution Agency	2
Met Office	1
Office for National Statistics	1
Office for Standards in Education	1
Planning Inspectorate	1
Police Information Technology Organisation	1
Royal Fleet Auxiliary Service	1
Scottish Prison Service	3
United Kingdom Passport Service	2
TOTAL	253

APPENDIX 3

Analysis of Appeals Considered

Reason for appeal	Number	Upheld
Discipline	113 (45%)	18 (16%)
Inefficiency		
Attendance	85 (33.5%)	17 (20%)
Performance	3 (1%)	1 (33%)
Withholding of compensation	24 (9%)	14 (58%)
Failed probation	18 (7%)	3 (17%)
Redundancy	5 (2%)	1 (20%)
Repudiation of contract	1 (0.5%)	
End of casual or fixed-term appointment	4 (2%)	1 (25%)
TOTAL	253	55 (22%)

APPENDIX 4

Synopsis of Appeals Upheld by the Board

1. ADMINISTRATIVE OFFICER DISMISSED ON EXPIRY OF A CASUAL APPOINTMENT

As the appellant had been dismissed after 1 October 2004 the Board had regard to the Employment Act 2002 (Dispute Resolution) Regulations 2004 which require a minimum standard disciplinary procedure to be followed¹. In this case, the Department failed to set out in writing the circumstances leading to dismissal, they did not formally invite the appellant to attend a meeting to discuss the matter and subsequently failed to offer an internal appeal.

RESULT:	COMPENSATION
² CONTRIBUTORY FAULT:	NIL
³ ADJUSTMENT:	UPLIFTED BY 25%
AWARD:	£13,504.38

2. HIGHER EXECUTIVE OFFICER DISMISSED ON THE GROUNDS OF REDUNDANCY

The Board found the decision to dismiss unfair on procedural grounds. It was not satisfied that either the Department or the Executive Agency where the appellant was employed had adequately fulfilled their collegiate responsibilities in finding her an alternative post. No evidence was presented to suggest that either had fulfilled its role in seeking alternative employment in other Government Departments where posts were available. They had also been neglectful in not offering the appellant what was seen as a suitable post in the Department, subject to the necessary training. This left her to apply for the post as an external candidate.

RESULT:	RE-ENGAGEMENT
ACCEPTED:	YES (APPELLANT SUBSEQUENTLY WITHDREW FROM NEGOTIATIONS CONCERNING THE FINDING OF A SUITABLE POST)
CONTRIBUTORY FAULT:	50%
AWARD:	£540.00

¹ A three-stage process (abridged) 1) employer must set in writing the conduct or circumstances which led to the contemplation of disciplinary/dismissal action and send a copy of this to the employee; 2) employer must invite the employee to a meeting to discuss the issues; 3) internal appeal.

² Contributory fault – the extent to which the appellant is responsible for the circumstances leading to dismissal.

³ Adjustment made under the terms of the Employment Act 2002 (Dispute Resolution) Regulations 2004. Compensatory part of the award can be uplifted or reduced by 10% - 50%.

3. ADMINISTRATIVE OFFICER DISMISSED ON DISCIPLINARY GROUNDS FOLLOWING ALLEGATIONS OF THEFT

The Board paid due regard to the established employment law test, BHS vs Burchell (Employment Appeal Tribunal, endorsed by the Court of Appeal, 1980) i.e. the employer must genuinely believe, on the balance of probabilities, that the appellant was guilty; there must have been reasonable grounds to sustain that belief and as much investigation into the matter as was reasonable in the circumstances should have been carried out. It concluded that the Burchell test had not been satisfied as the case appeared to centre around general shortcomings in the work unit rather than those being solely attributable to the appellant. There were also omissions in the investigation which rendered the conclusion that the appellant was guilty of theft unsafe.

RESULT:	REINSTATEMENT
ACCEPTED:	NO
CONTRIBUTORY FAULT:	25%
AWARD:	£13,810.28

4. ADMINISTRATIVE ASSISTANT DISMISSED ON INEFFICIENCY GROUNDS FOR POOR PERFORMANCE

The Board, whilst acknowledging that the Department had made admirable attempts to support the appellant, concluded that it had failed in properly managing the formal review period in that there were delays and a lack of co-ordination in the production of reports, the implementation of reasonable adjustments and communication with the appellant.

RESULT:	REINSTATEMENT
ACCEPTED:	NO
CONTRIBUTORY FAULT:	25%
AWARD:	£17,766.48

5. EXECUTIVE OFFICER DISMISSED ON INEFFICIENCY GROUNDS FOR UNSATISFACTORY ATTENDANCE

Whilst the Board had some sympathy with the Department in dealing with an appellant who refused to keep in contact, the procedures stated that in such circumstances the employer must contact their occupational health service provider for advice. The Board concluded that the Department's failure to do so before moving to dismissal constituted a material procedural flaw as the decision to dismiss had been taken without all the relevant information having been gathered and considered.

RESULT:	REINSTATEMENT
ACCEPTED:	NO
CONTRIBUTORY FAULT:	50%
	75% ⁴POLKEY FACTOR
AWARD:	£11,139.12

⁴ Polkey refers to the "Polkey" factor and applies when cases are found unfair on procedural grounds (Polkey vs A E Dayton). The Board can reduce the compensatory part of the award to reflect the likelihood of dismissal taking place had the procedures been followed correctly.

6. ADMINISTRATIVE OFFICER DISMISSED ON INEFFICIENCY GROUNDS FOR UNSATISFACTORY ATTENDANCE

Although the appellant had periods of sickness absence during the final formal review period, insufficient attention had been paid to the occupational health service provider's advice which stated that her health was improving. Furthermore, the Board concluded that it was unfair to dismiss on the basis of absences during the review period as, in the three months between the end of the review period and dismissal, the appellant had returned to work and had had no further periods of absence.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	25%
AWARD:	£7,407.26

7. HIGHER EXECUTIVE OFFICER DISMISSED ON INEFFICIENCY GROUNDS FOR UNSATISFACTORY ATTENDANCE

Having given an unconditional undertaking to the appellant that dismissal action would not take place until a decision regarding medical retirement had been reached, the Department subsequently reneged on this on the grounds that this had been precipitated by changed circumstances as a result of pressure to reduce the departmental headcount. The Board concluded that these circumstances were of insufficient weight to justify revoking the undertaking and that the appellant had consequently been treated unfairly.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	NIL
AWARD:	£6,451.21

8. ADMINISTRATIVE OFFICER DISMISSED ON INEFFICIENCY GROUNDS FOR UNSATISFACTORY ATTENDANCE

Given that the appellant suffered from a specific medical condition, the Board felt that the Agency's approach in finding an alternative post had been somewhat narrow and mechanistic. Its efforts appeared to have been concentrated upon providing assistance to meet productivity targets. There was no evidence that the Agency had attempted to have serious discussions with the appellant, perhaps supported by an expert adviser on his condition, with a view to establishing whether a job elsewhere could be found for him where his performance would not have been unduly hampered by his condition. This led the Board to conclude that the appellant had not been treated fairly and reasonably.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	50%
AWARD:	£2,279.23

9. PRISON OFFICER DISMISSED ON DISCIPLINARY GROUNDS FOR BULLYING AND HARASSMENT

Whilst the Board was content that, as a result of a satisfactory investigation, the Agency was entitled to reach its conclusion that the appellant had been guilty of bullying, it found the penalty of dismissal disproportionate. The Deciding Officer stated that a final warning would have been the preferred penalty had it not been for what she termed aggravating factors and it was the weight that had been placed on these that concerned the Board. There was no compelling evidence to suggest that the appellant's alleged bullying and harassment of others had increased following her having entered into a relationship with a more senior manager nor should an incident some 10 years previously have been taken into account, particularly as no disciplinary action had been taken at that time.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	50%
AWARD:	£8,131.99

10. PRISON OFFICER DISMISSED ON INEFFICIENCY GROUNDS FOR UNSATISFACTORY ATTENDANCE

Having developed a condition that appeared to have been caused by an accident at work, the Board concluded that the appellant had not been treated fairly when, due to budgetary constraints, the Agency withdrew treatment that was likely to bring about improvement. Furthermore, some two months prior to dismissal occurring, management had held a meeting with the appellant to discuss his future but failed to mention that dismissal was a possible outcome. The first inkling the appellant had of the possibility of dismissal was when the intention to dismiss letter was issued. The Board also considered that the Agency should have kept the appellant informed of the efforts they had made with regard to his possible redeployment.

RESULT:	REINSTATEMENT
ACCEPTED:	NO
CONTRIBUTORY FAULT:	50%
AWARD:	£9,240.00

11. MANAGER F DISMISSED ON DISCIPLINARY GROUNDS FOR BREACHING THE AGENCY'S RULES IN RELATION TO THE SELLING OF REPAIRED GOODS

The Board concluded that the Agency's decision to dismiss was both procedurally and substantively unfair. Procedurally, the Agency failed to interview the appellant during the preliminary investigation, nor was he given a copy of the investigation report findings or the witness statements, thus denying him the opportunity to respond. The Board also determined that the period of 10 months which elapsed between the internal appeal and the appellant being made aware of its outcome was wholly unacceptable. Substantively, he having been charged with being negligent in his duties and breaching the Agency's rules having sold goods at undervalued prices, the Board considered that the investigator had made insufficient efforts to trace and interview the individual to whom the goods had been sold and relied on estimated pricings from an individual who, by his own admission, was not an expert in that particular field.

RESULT:	REINSTATEMENT
ACCEPTED:	NO
CONTRIBUTORY FAULT:	NIL
	50% POLKEY FACTOR
AWARD:	£28,570.76

12. ADMINISTRATIVE OFFICER DISMISSED ON INEFFICIENCY GROUNDS FOR UNSATISFACTORY ATTENDANCE

The Board felt that the Agency had acted unreasonably as it had shown a lack of sympathy to its employee and had acted contrary to the spirit of its obligations under the Disability Discrimination Act. It reached this conclusion as, having made some reasonable adjustments, the Department failed to make any additional allowance for the appellant's absence level despite having being aware, when the appellant was recruited, of a medical condition that would inevitably mean a higher absence rate than average. Moreover, an unrelated incident which resulted in the appellant being absent from work following an assault was not discounted, either in part or in full, when considering the sickness absence record prior to the decision to dismiss being taken.

RESULT:	REINSTATEMENT
ACCEPTED:	NO
CONTRIBUTORY FAULT:	NIL
AWARD:	£12,533.84

13. ADMINISTRATIVE OFFICER DISMISSED ON INEFFICIENCY GROUNDS FOR UNSATISFACTORY ATTENDANCE

The way in which the Department had failed to apply its procedures led the Board to conclude that the dismissal was procedurally unfair and that those failings had also prevented the appellant from being treated fairly and reasonably. It found it indefensible that, having dealt with the case in accordance with the policy relating to long-term sickness absence, the Department then notified the appellant that consideration was being given to the termination of her employment on the grounds of performance and conduct, without recourse to the normal procedures. Furthermore, from that stage onwards the Department's actions paid scant regard to its long-term sickness absence procedures. It failed to advise a date by which the appellant should return to work and did not react positively to her assertion that she was fit to return to work. On this point, the Board failed to understand why, when she had provided a medical certificate stating that she was fit to return to work, the Department chose to suspend her instead, which was an action available in conduct and discipline cases rather than in inefficiency of attendance cases. With regard to the internal appeal, the Board considered it inappropriate for the Appeal Officer to have cited issues other than those relating to her absence to justify the decision to dismiss.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	50%
	NIL POLKEY FACTOR
AWARD:	£2,542.59

14. ADMINISTRATIVE ASSISTANT DISMISSED ON DISCIPLINARY GROUNDS FOR CONTINUING TO CLAIM BENEFIT AFTER ENTITLEMENT ENDED

Whilst the Burchell test was satisfied the Board concluded that the dismissal was procedurally unfair. The Department's policy emphasised that individuals were entitled to reasonable treatment from their employer, including timely conduct of disciplinary investigations and any subsequent action against them. In the light of this, the Board felt that it was unreasonable to conduct a fact-finding interview with the appellant 26 months after the alleged incident and that there was a further delay of six months to the decision to dismiss being made. Furthermore, the Board noted that despite the seriousness of the allegations, the Department chose not to suspend the appellant pending the outcome of the disciplinary investigation.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	100%
	100% POLKEY FACTOR
AWARD:	£0.00

15. PRISON OFFICER DISMISSED ON GROUNDS OF FAILED PROBATION DUE TO THE FAILURE TO REACH THE NECESSARY STANDARD OF INTEGRITY AND HONESTY

Although issues had arisen relating to attendance and behaviour during the probation period, the Agency extended it by one month following a formal warning during which the appellant's attendance and performance would be monitored. The Board concluded that the decision to dismiss was procedurally unfair as the letter confirming dismissal informed the appellant that issues had arisen in the trial period which cast doubt on her honesty and integrity. In the Board's view, there was no firm evidence to support those assertions as far as the one-month trial period was concerned nor had the appellant been given sufficient guidance as to what was expected of her in order to successfully pass probation.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	75%
	100% POLKEY FACTOR
AWARD:	£70.00

16. EXECUTIVE OFFICER DISMISSED ON GROUNDS OF FAILED PROBATION DUE TO UNSATISFACTORY ATTENDANCE

Following the preliminary steps towards dismissal a hearing was arranged. Two weeks prior to the hearing the appellant was declared fit for work but, based on a discussion between his trade union representative and management, his return was delayed pending the outcome of the hearing and the decision regarding dismissal. The Board had no alternative other than to find the case unfair when the Decision Maker subsequently stated that the reason for dismissal was the appellant's failure to return to work by a set date, an agreement having been made to set that date aside pending the outcome of the meeting.

RESULT:	REINSTATEMENT WITH A FURTHER PERIOD OF EXTENDED PROBATION
ACCEPTED:	YES

17. PRISON OFFICER DISMISSED ON INEFFICIENCY GROUNDS DUE TO UNSATISFACTORY ATTENDANCE

The Board found the dismissal procedurally unfair as the Agency had used two different sets of procedures which had caused confusion and had been misleading to the appellant. Following an oral warning the Board felt that he had good reason to believe that a further written warning would be issued but the Agency then adopted a second set of procedures and moved to dismissal instead. Moreover, the Board felt that despite the appellant making the Agency aware of his obvious stress, their failure to refer him to the occupational health service provider showed a lack of care. Nor should he have been asked to sign a statement that if any further periods of sick absence occurred during the ensuing 12-month period he would be referred to their occupational health service provider and face the possibility of dismissal.

RESULT: COMPENSATION
CONTRIBUTORY FAULT: NIL
AWARD: 50% POLKEY FACTOR
 £6,160.00

18. WATCH OFFICER DISMISSED ON DISCIPLINARY GROUNDS FOR BEING DRUNK ON DUTY

The Board found this case procedurally unfair because the Agency had failed to implement its policy relating to alcohol misuse despite management's knowledge that the appellant had an alcohol problem. Had the policy been implemented, then there would have been an opportunity for the problem to have been resolved and an avoidance of the circumstances which led to dismissal. Dismissal was also deemed to be an inappropriate penalty as it was difficult for the Agency, having allowed the appellant to remain on duty at work for some eight weeks after the incident that led to dismissal, to argue that an irretrievable breakdown of trust had occurred. This, together with the fact that it was a first disciplinary offence in 12 years' service, led the Board to conclude that the offence should have been treated as serious rather than gross misconduct.

RESULT: REINSTATEMENT WITH A LESSER PENALTY
ACCEPTED: NO
CONTRIBUTORY FAULT: 50%
 50% POLKEY FACTOR
AWARD: £21,203.87

19. PRISON OFFICER DISMISSED ON INEFFICIENCY GROUNDS DUE TO UNSATISFACTORY ATTENDANCE

Five months after receiving a final written warning, the appellant received a letter congratulating her on her improved attendance and advising her that formal action would cease as her attendance had improved. The Agency had sent the appellant the wrong letter, sending one normally despatched at the conclusion of a 12-month monitoring period. Consequently, she had been misled and had reasonable grounds to believe that the administrative action had come to an end. The Agency's subsequent action in proceeding immediately to dismissal rather than preceding this by imposing a new final written warning was, in the Board's view, procedurally wrong.

RESULT: COMPENSATION
CONTRIBUTORY FAULT: 75%
AWARD: 50% POLKEY FACTOR
 £1,857.87

20. ASSISTANT IMMIGRATION OFFICER DISMISSED ON DISCIPLINARY GROUNDS FOR THE MISUSE OF AN OFFICIAL VEHICLE, FALSIFICATION OF AN ACCIDENT REPORT AND THE MISAPPROPRIATION OF FUNDS

Whilst the Board was satisfied that the Department had reasonable grounds to conclude that the appellant had committed the disciplinary offences and that these amounted to gross misconduct, it had concerns regarding how the procedures had been carried out and the Department's view that they had lost trust in him as an employee. Procedurally, there were delays at various stages of the process which were unacceptable, coupled with inadequate contact between the Department and the appellant in order to keep him updated with regard to the progress of his case. Despite an investigation report which set out charges that would be laid against the appellant he was allowed to continue working in an area requiring trust and the Board concluded that it would therefore not have been unreasonable for him to assume that whatever disciplinary penalty was imposed it would fall short of dismissal.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	100%
	100% POLKEY FACTOR
AWARD:	£0.00

21. ADMINISTRATIVE ASSISTANT DISMISSED ON INEFFICIENCY GROUNDS DUE TO UNSATISFACTORY ATTENDANCE

The Department failed to advise the appellant that he was likely to be subject to administrative action under their sickness absence procedures, nor was any formal process set in train. He was not given an intention to dismiss letter, nor was he offered the opportunity to make representations prior to a decision being taken in that regard. As a result of these failings the Board had to find the dismissal procedurally unfair.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	75%
	100% POLKEY FACTOR
AWARD:	£962.81

22. BAND B DISMISSED ON INEFFICIENCY GROUNDS DUE TO UNSATISFACTORY ATTENDANCE

Following a delay in sending the case to the Decision Maker, the Board felt that it was remiss that an updated occupational health service provider's report was not sought particularly as the appellant, by that stage, had declared her intention to return to work. It was also regrettable that the Decision Maker disregarded the fact that the appellant returned to work shortly after this and commenced a period of training. Compounding this, the decision letter went astray and the appellant did not know the outcome until some three weeks after the decision was taken when she enquired about it. The Board felt that it was then unreasonable not to allow extra time for the appellant to prepare for an internal appeal. The internal appeal was, itself, equally flawed as the Appeal Officer disregarded the return to work and the fact that the medical advice was out-of-date. His letter confirming the result was uninformative and contained no justification for reaching his decision. Furthermore, the record of the hearing displayed no evidence of any meaningful dialogue with the appellant having taken place.

RESULT:	REINSTATEMENT
ACCEPTED:	YES

23. IMMIGRATION OFFICER DISMISSED ON DISCIPLINARY GROUNDS FOR ALTERING INFORMATION ON OFFICIAL DOCUMENTS

The Board concluded that the decision to dismiss was procedurally unfair. There were significant and unacceptable delays in the way in which the Department handled the case, which disadvantaged the appellant. The investigation left too many questions unanswered for the Board to be satisfied that the appellant had been treated fairly and reasonably.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	50%
	50% POLKEY FACTOR
AWARD:	£4,660.38

24. PRISON OFFICER DISMISSED ON INEFFICIENCY GROUNDS DUE TO UNSATISFACTORY ATTENDANCE

The Board found that the dismissal was procedurally unfair as the Agency failed to follow the two-stage process that was outlined in its procedures. Rather than issuing an intention to dismiss letter and providing the appellant with the opportunity to make representations, the Agency advised, without prior warning, that dismissal would occur if medical retirement was not granted. The Board found this illogical as the latest occupational health report (which was received less than two months before dismissal) stated that a return to work would be likely in three to six months. Not only was the appellant not advised of his right of internal appeal but also, when it eventually took place, this too was flawed as it was heard by a retired senior manager who then made a recommendation to an Area Manager. The appellant was thus denied the opportunity to make face-to-face representations to the person who made the final decision.

RESULT:	REINSTATEMENT
ACCEPTED:	YES

25. IMMIGRATION OFFICER DISMISSED ON DISCIPLINARY GROUNDS FOR ABUSING HIS OFFICIAL POSITION, VERBALLY ABUSING A SENIOR OFFICER AND MISREPRESENTING FACTS ON A WORK PERMIT APPLICATION

Because of the significant and unacceptable delays in the handling of the case by the Department, the Board concluded that it was procedurally unfair, as the appellant had been disadvantaged to the extent that he had not been treated fairly or reasonably.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	100%
	100% POLKEY FACTOR
AWARD:	£0.00

26. CHILDCARE INSPECTOR DISMISSED ON DISCIPLINARY GROUNDS FOR BREACHING THE CODE OF CONDUCT

The Board found this case automatically unfair as the Department failed to follow the Employment Act 2002 (Dispute Resolution) Regulations 2004, in that it did not set out in writing the appellant's alleged conduct which had led to consideration of disciplinary action and possibly dismissal, nor had the statement or a copy of it been sent to the appellant. The Board also felt that the investigation, in certain areas, had been insufficiently thorough and it was unclear whether sufficient consideration had been given to the mitigating circumstances advanced by the appellant.

RESULT:	REINSTATEMENT
ACCEPTED:	NO
CONTRIBUTORY FAULT:	50%
ADJUSTMENT:	UPLIFTED BY 10%
AWARD:	£18,922.72

27. ADMINISTRATIVE ASSISTANT DISMISSED ON INEFFICIENCY GROUNDS DUE TO UNSATISFACTORY ATTENDANCE

The Board found this case automatically unfair as the Agency failed to respect sufficiently one of the procedures enshrined in the Employment Act 2002 (Dispute Resolution) Regulations 2004. Because the Agency suggested that a meeting to discuss the position with the appellant prior to dismissal action being taken would only be worthwhile if new medical evidence was available, the Board determined that they had been overly prescriptive as to the nature of the meeting and in so doing had failed to follow the statutory procedure.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	100%
ADJUSTMENT:	UPLIFTED BY 10%
AWARD:	£0.00

28. IMMIGRATION OFFICER DISMISSED ON INEFFICIENCY GROUNDS DUE TO UNSATISFACTORY ATTENDANCE

Despite an agreement between the appellant's representative and the Department not to have a meeting prior to dismissal because they both considered that it was the wish of the appellant to have her employment terminated, the Board had to find the case automatically unfair as the Department failed to respect sufficiently the Employment Act 2002 (Dispute Resolution) Regulations 2004 and the requirement to meet with the appellant to discuss the position prior to dismissal action being taken.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	100%
ADJUSTMENT:	NIL (TO REFLECT THAT THE DECISION NOT TO MEET WAS A JOINT ONE BETWEEN MANAGEMENT AND REPRESENTATIVE)
AWARD:	£0.00

29. SPAN 3 DISMISSED ON DISCIPLINARY GROUNDS FOR COMPUTER ABUSE

The Board identified procedural problems and issues relating to proportionality. Procedurally, the time taken to hear the internal appeal was excessive and detrimental to the appellant because she was not being paid at that stage. A failure to provide her with a copy of the documentation, even in anonymised form, relating to two other individuals who had committed similar breaches of the Code of Conduct was likely to have disadvantaged the appellant in preparing her defence in terms of consistency. In relation to proportionality, the Board was unable to reconcile the Department's assertion that an underlying reason for the appellant's dismissal was that there had been a serious breach of trust with their failure to suspend her and also with the fact that she was allowed to continue in her job without any adjustments to her duties.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	100%
	50% POLKEY FACTOR
AWARD:	£0.00

30. SENIOR EXECUTIVE OFFICER DISMISSED ON INEFFICIENCY GROUNDS DUE TO UNSATISFACTORY ATTENDANCE

The Board concluded that the Agency, having been made aware that the appellant was suffering from work-related stress, had not been sufficiently mindful in its duty of care towards her. There was no evidence that, when the appellant moved to part-time working, her workload was decreased. A formal risk assessment had not taken place, she did not appear to have been advised of her right to seek medical retirement prior to the decision to dismiss being taken, nor was she given adequate opportunity to state her case before that decision was taken.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	25%
AWARD:	£22,654.11

31. REGIMES OFFICER DISMISSED ON DISCIPLINARY GROUNDS FOR ASSAULTING A PRISONER

The Board concluded that the decision to dismiss was unfair as the investigation into the incident which led to dismissal had been insufficiently thorough to satisfy the Burchell test. The investigator had not felt it appropriate to interview the unit manager who had dealt with the incident nor had he sufficiently tested the evidence of other prisoners, particularly as some of that evidence had previously been considered inconsistent and unreliable. The Board also had difficulty in accepting the Governor's view that the allegation of assault had been found proven on the balance of probabilities. The fact that the prisoners declined to give evidence meant that he could not test their statements to the investigating officer and he also appeared to have disregarded the testimony of an officer present during the alleged assault, which provided no evidence that the appellant had assaulted the prisoner.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	NIL
AWARD:	£16,776.30

32. SENIOR MANAGER DISMISSED ON DISCIPLINARY GROUNDS FOR FINANCIAL IMPROPRIETY IN THE COMPLETION AND AUTHORISATION OF TRAVEL AND SUBSISTENCE CLAIMS

Whilst the Board was satisfied that the appellant should have been subject to a penalty, having inaccurately completed her own travel and subsistence claims and authorised inaccurate claims on behalf of junior colleagues, it could not support the decision to dismiss. The Board concluded that there had been inconsistency of treatment as other members of staff, subject to the same investigation, had been given more lenient penalties and the appellant's line manager had escaped one of the charges that was levelled at her, namely authorising inaccurate claims for junior colleagues. Dismissal was also seen as a disproportionate penalty as the Agency failed to convince the Board that there was the necessary fraudulent intent for the offence to be considered gross misconduct.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	25%
AWARD:	£17,496.46

33. C2 DISMISSED ON DISCIPLINARY GROUNDS HAVING BEEN RENDERED UNFIT FOR DUTY DUE TO DRUNKENNESS

Whilst the Board was content that the Department was entitled to conclude that the offence had occurred, it was concerned about two procedural aspects of the case which were deemed serious enough to render the dismissal unfair. Firstly, the timescale of the dismissal process (which took some 20 months from the offence occurring to the decision to dismiss being taken) was in the Board's view, indefensible. Secondly, the fact-finding interview was mishandled in that the Department failed to issue a letter of invitation nor was a note-taker present, which led to the appellant treating it as an informal meeting rather than part of a formal disciplinary process. As the appellant had not therefore been warned of the formality, nature and possible consequences of the meeting he had been denied the opportunity to prepare himself accordingly.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	100%
	100% POLKEY FACTOR
AWARD:	£0.00

34. ADMINISTRATIVE ASSISTANT DISMISSED ON DISCIPLINARY GROUNDS FOR CONDUCT LIABLE TO DISCREDIT THE AGENCY

The Board found this case automatically unfair as the Agency failed to conform with the requirements of the Employment Act 2002 (Dispute Resolution) Regulations 2004 because the appellant was not offered an oral hearing for his internal appeal, the matter having been dealt with by consideration of his written representations. The Board also felt that the disciplinary investigation undertaken prior to the charges being laid appeared somewhat superficial. Subsequently, no effort appeared to have been made to interview the appellant's supervisor or colleagues regarding workplace practices which the appellant claimed were in existence at the time of the alleged offence. This led the Board to the conclusion that the Burchell test had not been satisfied.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	NIL
ADJUSTMENT:	UPLIFTED BY 10%
AWARD:	£4,954.61

35. EXECUTIVE CHEF DISMISSED ON DISCIPLINARY GROUNDS FOR REPEATEDLY FAILING TO DECLARE A POTENTIAL CONFLICT OF INTEREST

The Board concluded that the decision to dismiss was unfair due to the composition of the disciplinary hearing panel which was chaired by the appellant's line manager. Although the employer's procedures allowed for this, the Board felt that the circumstances of the case were such that it would have been reasonable and prudent to seek an alternative chair. It was not persuaded that there were insurmountable difficulties in making such alternative arrangements. The Board was concerned about the significant difference of opinion between the appellant and his line manager with regard to the issues raised in the disciplinary charge and felt that these could have been tested much more effectively had the panel been led by an independent chair.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	75%
AWARD:	£14,927.15

36. BAND C DISMISSED ON DISCIPLINARY GROUNDS FOR UNAUTHORISED ABSENCE

Given the appellant's recent previous history prior to dismissal, the Board found that the Agency had failed in its duty of care, in that management failed to implement the alcohol misuse policy which might have dealt with the problem. They subsequently failed to investigate properly whether or not the appellant's absences had been attributable to alcoholism. Furthermore, in the Board's view, the Agency had acted too hastily in referring the case to the Decision Maker before an up-to-date occupational health service report had been received.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	75%
AWARD:	£9,481.22

37. BAND E1 DISMISSED ON INEFFICIENCY GROUNDS DUE TO POOR PERFORMANCE

The Board found the dismissal procedurally unfair. The Department had cut short the appellant's performance monitoring period from four months to just over two months despite their procedures stating that such a period must run for at least three months. Reducing the length of the monitoring period was also unreasonable as it meant that the appellant had been given insufficient time to demonstrate improved performance particularly as a reasonable adjustment, namely working part-time, had only recently been put in place which might have assisted the appellant in improving her performance. The Department also failed to follow its procedures in relation to the appellant being invited to bring a representative to meetings.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	50%
	50% POLKEY FACTOR
AWARD:	£3,593.86

38. ADMINISTRATIVE ASSISTANT DISMISSED ON THE GROUNDS OF FAILED PROBATION DUE TO SERIOUS MISCONDUCT DURING A PERIOD OF EXTENDED PROBATION

Having committed an act of what was considered to be serious misconduct during an extended period of probation the appellant was advised that this would be made known to the Decision Maker who would be considering whether or not he had successfully passed his extended period of probation. The Board concluded that this was a serious procedural flaw. The Department's procedures made it clear that if an act of serious misconduct occurred during a probationary period the individual should be invited to present his/her case, either orally, or in writing, to the person who would make a decision regarding the allegation that had been made.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	100%
	100% POLKEY FACTOR
AWARD:	£0.00

39. ADMINISTRATIVE OFFICER DISMISSED ON DISCIPLINARY GROUNDS FOR FAILURE TO REPORT A CRIMINAL CONVICTION AND MAKING FRAUDULENT CLAIMS

The Board found the dismissal automatically unfair because the Agency failed to follow the requirements of the Employment Act 2002 (Dispute Resolution) Regulations 2004 by failing to provide an internal appeal. Following her dismissal, the appellant had been informed that arrangements would be made to hear her internal appeal. However, the Agency subsequently informed her some seven months later that they had not yet developed an internal appeal process and that consequently she would not be given the opportunity of an internal appeal.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	50%
ADJUSTMENT:	UPLIFTED BY 50%
AWARD:	£23,800.35

40. OPERATIONAL SUPPORT GRADE DISMISSED FOR BREACH OF CONTRACT FOR SUPPLYING FALSE INFORMATION TO THE EMPLOYER

Although the appellant had been charged with breach of contract and had, as a result, been liable to summary dismissal, the Board concluded that it was reasonable for him to have believed, given the way in which the case had been handled and the information contained in the dismissal and internal appeal letters, that his case had been managed under the disciplinary procedures. It therefore had some sympathy with his view that he had, as a result, been denied the opportunity to have his case investigated by an independent officer. Beyond this, the Board found that the Agency had failed to set out the allegation in writing to the appellant, that he had not been provided with the evidence on which the charge was based nor had he been given adequate time to prepare a defence or to present grounds of mitigation. As these were requirements enshrined in the Employment Act 2002 (Dispute Resolution) Regulations 2004 the case was found automatically unfair.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	50%
ADJUSTMENT:	UPLIFTED BY 10%
AWARD:	£6,544.09

41. PASSPORT OFFICER DISMISSED ON INEFFICIENCY GROUNDS DUE TO UNSATISFACTORY ATTENDANCE

Whilst the Board felt that the Agency had gone to some lengths to treat the appellant fairly and reasonably, it found the dismissal procedurally unfair due to the way in which the dismissal and internal appeal had been handled. When the appellant forwarded representations to the Decision Maker for consideration at the intention to dismiss stage she did not receive a reply. Instead a response was sent from the Chief Executive informing her that the decision to dismiss had been upheld. There was no evidence that the Decision Maker had considered the representations or that the appellant had been sent a letter informing her of the decision to dismiss. It was wrong for the Chief Executive to have treated the representations as an internal appeal when they were clearly against the intention to dismiss. This confused process meant that the appellant had been denied the normal opportunities of making representation, both prior to dismissal and subsequently as part of an internal appeal.

RESULT:	COMPENSATION
CONTRIBUTORY FAULT:	30%
AWARD:	£784.00

APPENDIX 5

Performance Against Targets 2005/2006

Hearings

Hearings to be heard within 18 weeks of receipt in 90% of cases.

Month (2004/2005 figures in brackets)	Appeals Heard		Average Number of Weeks to Hearing		% Within Target
April	21	(20)	14	(14)	100%
May	22	(24)	14	(14)	100%
June	17	(22)	14	(15)	100%
July	19	(22)	14	(14)	100%
August	19	(17)	15	(15)	100%
September	29	(24)	15	(15)	100%
October	22	(22)	14	(15)	100%
November	28	(21)	15	(15)	100%
December	16	(11)	14	(14)	100%
January	25	(27)	15	(14)	100%
February	15	(10)	15	(14)	100%
March	20	(17)	15	(14)	100%
	253	(237)	15	(14)	100%

Decision Letters Issued

Letters to be issued within 24 hours of hearing in 95% of cases.

All decision letters were issued within the target period during 2005/2006.

Reports Issued

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

Month (2004/2005 figures in brackets)	Reports Issued		Average Number of Working Days To Issue		% Within Target
April	24	(17)	9	(10)	100%
May	18	(27)	10	(12)	100%
June	18	(22)	12	(12)	100%
July	19	(24)	11	(10)	100%
August	20	(20)	9	(8)	100%
September	26	(17)	9	(7)	100%
October	21	(27)	10	(10)	100%
November	24	(28)	11	(11)	100%
December	25	(7)	12	(7)	100%
January	21	(25)	10	(8)	100%
February	18	(12)	10	(8)	100%
March	18	(13)	9	(11)	100%
	252	(239)	10	(10)	100%

Compensation awards

Awards to be issued within 15 working days in 100% of cases.

Month <i>(2004/2005 figures in brackets)</i>	Awards Issued		Average Number of Working Days To Issue		% Within Target
April	0	(0)	0	(0)	-
May	0	(0)	0	(0)	-
June	1	(1)	11	(13)	100%
July	5	(1)	14	(15)	80%
August	2	(4)	12	(8)	100%
September	0	(1)	0	(17)	-
October	1	(3)	12	(12)	100%
November	6	(3)	14	(8)	66%
December	8	(3)	11	(9)	100%
January	3	(4)	11	(13)	100%
February	2	(2)	11	(6)	100%
March	*10	(9)	8	(10)	88%
	*38	(31)	12	(11)	89%

* Includes six awards made in 2006/2007 in respect of unfair decisions taken by the Board in the previous financial year.

APPENDIX 6

Results of Customer Satisfaction Surveys Issued 2005/2006

Number of forms issued: 642 **Number of forms returned: 288 (45%)**

Appellant	49
Appellant's representative	59
Department or Agency representative	180

Written information about the CSAB

2. Understanding the guidance notes – were they easy or difficult?

	Easy	Difficult
Appellant	86%	14%
Appellant's representative	98%	2%
Department or Agency representative	99%	1%

3. Did the guidance notes provide enough information to assist you in preparing your case?

	Yes	No
Appellant	86%	14%
Appellant's representative	92%	8%
Department or Agency representative	99%	1%

Your dealings with the Secretariat

4. Did you telephone the Secretariat?

	Yes	No
Appellant	42%	57%
Appellant's representative	81%	19%
Department or Agency representative	77%	23%

5a. Were the staff helpful?

	Yes	No
Appellant	100%	-
Appellant's representative	100%	-
Department or Agency representative	99%	1%

5b. Was your query answered to your satisfaction?

	Yes	No
Appellant	95%	5%
Appellant's representative	96%	4%
Department or Agency representative	99%	1%

6. Did you write to the Secretariat?

	Yes	No
Appellant	57%	43%
Appellant's representative	58%	42%
Department or Agency representative	27%	73%

7. Were you sent a response within 10 working days?

	Yes	No
Appellant	100%	-
Appellant's representative	100%	-
Department or Agency representative	100%	-

8. Were you satisfied with the response?

	Yes	No
Appellant	96%	4%
Appellant's representative	100%	-
Department or Agency representative	98%	2%

The hearing

9. When the format of the hearing was explained to you was it easy to understand?

	Yes	No
Appellant	92%	8%
Appellant's representative	98%	2%
Department or Agency representative	99%	1%

10. Did you receive a copy of the hearing report within 20 working days of the hearing?

	Yes	No
Appellant	92%	8%
Appellant's representative	98%	2%
Department or Agency representative	99%	1%

11. Overall, were you satisfied with the service you received from the Secretariat?

	Yes	No
Appellant	98%	2%
Appellant's representative	100%	-
Department or Agency representative	99%	1%

APPENDIX 7

Appeals Received and Heard 1996/1997 – 2005/2006

	Appeals Received	Appeals Heard	Successful Appeals
1996/1997	269	238	24%
1997/1998	231	192	21%
1998/1999	165	168	21%
1999/2000	216	158	22%
2000/2001	238	161	27%
2001/2002	255	207	26%
2002/2003	321	210	24%
2003/2004	357	257	21%
2004/2005	396	237	20%
2005/2006	376	253	22%

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