



ANNUAL REPORT 1997-98
CIVIL SERVICE APPEAL BOARD



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COMPOSITION OF CIVIL SERVICE APPEAL BOARD

As at 31 March 1998

Chairman — Miss P Downs OBE
Deputy Chairman — Mr N F Ledsome CB
Deputy Chairman — Mr P D Jones

BOARD MEMBERS

OFFICIAL SIDE PANEL

S R Davie CB (Cabinet Office)	P Jefferson Smith CB (HM C&E)
P S Draper CB (PSA)	Mrs S P Maunsell (DSS)
M E G Fogden CB (ES)	N E A Moore (MPO)
T W Hall (DTp)	T C Platt CB (HO)
R M Hastie-Smith CB (MOD)	Miss E Rees (Companies House)

TRADE UNION SIDE PANEL

NON-INDUSTRIAL

Mrs A Berney (NUCPS)
Mrs P Braby (CPSA)
K Crowley (IRSF)
Miss E Findlay (IPMS)
Mrs D Hall Hall (NUCPS)
P Palmer (NUCPS)
J Renton (SPOA)
A F Stem (IRSF)

INDUSTRIAL

W J Edmunds BEM (GMBATU)
T R Graves MBE (UCATT)
N Tout BEM (GMB)

SECRETARIAT

Mrs A Khan (Secretary to the Board)

Miss L Fisher
Miss R Fox
Miss J Outred
Mrs S Rosier

PEN PORTRAITS OF BOARD MEMBERS

CHAIRMAN

MISS P DOWNS OBE

Former Personnel Director
F W Woolworth plc
Appointed June 1990

DEPUTY CHAIRMEN

N F LEDSOME CB

Former Grade 3
Department of Trade & Industry
Appointed May 1990

P D JONES

Former Chairman
Council of Civil Service Unions
Appointed June 1992

OFFICIAL SIDE BOARD MEMBERS

S R DAVIE CB

Former Grade 3
Cabinet Office
Appointed September 1995

P S DRAPER CB

Former Grade 3
Property Services Agency
Appointed November 1996

M E G FOGDEN CB

Former Grade 3+
Employment Service
Appointed September 1997

T W HALL

Former Grade 3
Department of Transport
Appointed October 1987

R HASTIE-SMITH CB

Former Grade 2
Ministry of Defence
Appointed July 1992

P JEFFERSON SMITH CB

Former Grade 2
HM Customs & Excise
Appointed September 1995

MRS S MAUNSELL

Former Grade 3
Department of Social Security
Appointed March 1993

N E A MOORE

Former Grade 3
Cabinet Office
Appointed October 1987

T C PLATT CB

Former Grade 2
Home Office
Appointed November 1996

MISS E REES

Former Grade 7
Companies House
Appointed December 1993

TRADE UNION SIDE BOARD MEMBERS :

NON-INDUSTRIAL

MRS A BERNEY
NUCPS
Department of Trade & Industry
Appointed February 1995

MRS P BRABY
CPSA
Metropolitan Police Service
Appointed December 1994

K CROWLEY
IRSF
Inland Revenue
Appointed March 1991

MISS E FINDLAY
IPMS
Ministry of Defence
Appointed February 1993

MRS D HALL HALL
NUCPS
Ministry of Defence
Appointed September 1996

P PALMER
NUCPS
Department of Social Security
Appointed March 1991

J RENTON MBE
Former General Secretary
SPOA
Appointed February 1993

A F STEM
Former Official
IRSF
Appointed August 1988

TRADE UNION SIDE BOARD MEMBERS :

INDUSTRIAL

W J EDMUNDS BEM
GMBATU
Property Services Agency
Appointed June 1991

T R GRAVES MBE
Chairman
Joint Co-ordinating Committee
Appointed May 1994

MR N TOUT BEM
GMB
Property Services Agency
Appointed April 1993

INTRODUCTION

The past 12 months have seen a number of developments which are likely to influence both the work of the Board and the position of its members.

The Government's publication "Fairness at Work" is aimed at providing a framework for positive employer/employee relationships in the workplace. Secondary legislation is proposed which will reduce the qualifying period for protection against unfair dismissal to one year, and will remove the maximum limits to compensation awards for unfair dismissal. On this latter point, a key issue for management will be to ensure that before deciding to dismiss they have had full regard to the normal standard of reasonableness. The alternative will be the risk of facing an unlimited award related to earnings.

Reference is made within the document to the Employment Rights (Dispute Resolution) Act which encourages greater use of internal appeals machinery and provides for a new arbitration scheme intended as a voluntary alternative to the use of Employment Tribunals. The exact mechanism of the scheme has still to be determined and the effect this may have on the Board is not yet known.

Within the Civil Service, changes to the CSCS and PCSPS (from 1 April 1998) have affected the provisions for awarding compensation to staff dismissed on grounds of inefficiency, to the extent that compensation will be awarded on a sliding scale within the maximum payable in these circumstances. Staff will continue to have rights of appeal to the Board against decisions to dismiss on grounds of inefficiency, and not to pay compensation, with the added right to appeal against the amount of compensation paid.

In the same context, the recommended new Guidelines on Managing Attendance are intended to provide support to line management in their role as managers of people. The guidelines cover many of the areas already currently examined by the Board in appeals for inefficiency but the Board's main concerns continue to be the extent to which welfare and occupational health services are used and the stage at which they become involved when inefficiency problems arise, most especially in cases of poor attendance.

In general terms, the main emphasis within the new developments — whether imposed by legislation, expressed in Fairness at Work, or contained in Civil Service proposals — is on good personnel practice as the best means of developing positive working relationships. The Board welcomes this endorsement of its own firm belief that a proactive approach to personnel problems on the part of line management is the most effective way of avoiding unfair dismissals. And whilst they recognise that some of these changes contain the potential for an increased number of appeals, they are hopeful that as a result of improved personnel expertise at ground level, appeals may be reduced or avoided. In line with its secondary, educative role as promoter of best personnel practice, and as an aid to management in avoiding unreasonable decisions, the Board has provided a synopsis of its reasons in some recent unfair appeal decisions (Appendix 4).

Arising from the report of the Nolan Committee the Office of Commissioner for Public Appointments (OCPA) has produced guidance for appointments to public bodies and as an Advisory Non-Departmental Public Body at Tier 3 level, specific procedures concerning the appointment and reappointment of Chairmen and members will apply in future. The overall objective is to ensure that appointments are transparent and have public confidence. Reference was made to this development at last year's AGM and we are now able to provide further details of the manner in which the Board recommends that the guidelines should be implemented, viz:

The selection and nomination processes for members will be brought within the guidelines and will involve job and personal specifications. The Chairman will continue to be involved in the early stages of the selection of members and there will be no appointments without independent scrutiny.

Normally members will be appointed for a three-year term with the opportunity of reappointment for a second three-year term making a maximum of six years. Any further appointment beyond six years will be made only in the most exceptional circumstances.

The contribution of all members will be assessed annually by the Chairmen, and similarly the contribution of the Chairmen will be assessed also.

A Code of Practice for members and Chairmen will operate based on the "Seven Principles of Public Life". In order to avoid a conflict of interests situation, members and Chairmen will be required to declare any interests which may be perceived to influence their judgement; a Register of Interests will be maintained. The Board views the more structured approach as helpful, in the belief that client users can have confidence that members are able to contribute to the work of the Board solely on the basis of their professional merits.

Turning now to the effectiveness of the Board's operation, for the past two years our performance has been measured against specific targets and we can record that substantial progress has been sustained in all areas of the Board's work. In the light of this evidence the targets will be reviewed, and in addition we are seeking to introduce new target areas with the ultimate objective of completing the appeals process within a shorter time frame. This is necessary, not only for the benefit of both parties to the appeal, but also to satisfy the demands of a recently accelerated Employment Tribunals process (Appendix 5).

A major characteristic of the past year has been a decline in the number of appeals received in comparison with previous years. Statistics indicate that the number has been reducing since 1992 and figures for the first period (one third) of the current year confirm this trend. One possible reason for this is suggested by Mandate statistics which confirm a steady decrease in the total number of civil servants employed from 1990 onwards (ie 567,000 to 494,000). This trend is reflected also in figures produced by Departments and Agencies which establish that the number of

people employed by the Board's major user Departments has fallen substantially during the same period.

Notwithstanding these facts however, it is interesting to note that since 1991 the percentage number of dismissed employees who have appealed to the Board (allowing for those ineligible to appeal) has remained at the level of approximately 31%.

During the past year considerable work on the Quinquennial Review of the Board has been carried out by a wide variety of interested parties and the Steering Group, which includes the Secretary to the Board, is aiming for completion by Autumn 1998. Whilst it is not possible to speculate on the final outcome the Board has already received some helpful information which can be put to practical use and we are entirely optimistic that, reinforced by the new legislation, the role of the Board will continue to be perceived as a useful service.

On a personal note, this year sees the completion of my eight-year appointment as Chairman, and in a post of this nature it is not surprising that as well as continued interest and fulfilment, at times there have been some difficult and frustrating episodes. But the burden of these has been greatly diminished by the support and loyalty of the Deputy Chairmen, members of the Board and the staff of the Secretariat, not only during the past year but throughout my tenure. For this I am most grateful, and likewise I am glad of the contacts I have made with many other civil servants and trade unionists all of whom have helped to make my task interesting and rewarding.

I wish the Board many successful years ahead.

A handwritten signature in black ink, appearing to read 'Patricia Downs', with a horizontal line underneath.

Patricia Downs OBE
Chairman, Civil Service Appeal Board

THE CIVIL SERVICE APPEAL BOARD

This report covers the financial year ending 31 March 1998. 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 231 new appeals during the year, a 16% decrease on the figure of 269 of the previous year. The contraction of the number of industrial civil servants continued and only 23 appeals were received from this group (this represented 10% of appeals received).

2. APPEALS CONSIDERED

The Appeal Board considered 185 appeals during the year (last year 238), a 22% reduction on the number of appeals considered in the previous year.

122 of the appeals were against dismissal on disciplinary grounds. This represents 66% of all appeals considered by the Board and is a slight increase over the figure for the disciplinary cases considered in the previous year.

Two preliminary hearings were held to establish whether the appellant was eligible to appeal to the Board.

In addition five cases were adjourned; three for the department or agency to consider medical retirement, one for the result of an internal appeal to be decided and one for all parties to appear in person so that a judgement on eligibility could be made.

3. SUCCESSFUL APPEALS

Of the total appeals considered 39 were found in favour of the appellant. This represents 21% of all the cases considered, a slight decrease over the figures for successful appeals (24%) in the previous year:

In six 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 three cases; three persons were reinstated.

In 23 cases, having found in the appellants' favour, the Board considered that reinstatement was inappropriate and an award of compensation was considered.

In two cases the Board recommended that the appellant should be reinstated with the imposition of a penalty other than dismissal.

The Department or Agency concerned rejected the Board's recommendation in each of these.

In seven cases involving inefficiency, where the Department or Agency had chosen not to pay compensation in accordance with the Civil Service Compensation Scheme, the Board concluded that compensation should be paid.

In one case the Board recommended that the appellant should be allowed to stand for political office.

See Appendix 4 for synopsis of unfair decisions.

4. INELIGIBLE APPEALS

19 appeals were ruled as ineligible for the following reasons:

Appeal had been submitted out of time	6
Appellant was above minimum retirement age	6
Board had no jurisdiction in matter	3
Appellant was not a civil servant	2
Appellant had signed away rights of appeal	1
Appellant had insufficient length of service	1

5. WITHDRAWN APPEALS

48 appeals were withdrawn for the following reasons:

Appellant voluntarily withdrew appeal	21
Financial agreement reached between appellant and Department/Agency	18
Appellant failed to complete the appeal within the required timescale	4
Appellant reinstated by Department/Agency before hearing was held	2
Appellant retired on ill-health grounds	2
Appellant's internal appeal successful	1

6. REPRESENTATION OF APPELLANTS IN SUCCESSFUL APPEALS

Trade Union	31
Legal	1
Others	6
Appellant Not Represented	1

7. MAJORITY DECISIONS

The Board was unable to reach a unanimous decision in seven cases where the majority view decided that the dismissal was fair. Following a further appeal to the Head of Department, the original decision was upheld in all seven cases.

8. COMPENSATION

The Board made awards of compensation amounting to £202,701 in 26 cases. The average award was £7,796 with the highest award being £16,522.

The Board considered that the appellants had contributed to their dismissal in 16 cases and as a result deductions from the overall compensation award were made. In one case the Board concluded that a 100% deduction should be made to reflect the culpability factor.

9. NON ATTENDANCE OF APPELLANT

The Board considered 20 cases in the absence of the appellant, a significant decrease on last year's figure (39).

10. OBSERVERS

A total of 75 people attended Appeal Board hearings as observers in order to familiarise themselves with the Board's procedures prior to attending as a representative. Of this total 57 were representatives from Departments or Agencies with 17 coming from Trade Unions plus one other. The Board continues to encourage people to observe a hearing before attending as a representative because this can be of great benefit.

11. COSTS AND BUDGET

The total cost operating the organisation in 1997/98 was £295,623 with the more significant cost categories detailed as follows:

	1996/7	1997/8
Members fees and expenses	£149,347	£144,221
Tax on members fees	£17,322	£13,200
Staff Costs	£145,189	£127,911
Equipment hire and maintenance	£3,017	£3,327
IT equipment	£5,916	£150
Miscellaneous	£5,484	£6,814
VAT REFUND	(£463)	
TOTAL	£325,812	£295,623

The cost figures above do not include any element in respect of Cabinet Office overheads or central costs. A calculation can be made for the average cost per case processed for the financial year. This figure is £1,540 compared with £1,368 for the last financial year.

APPENDIX 1

Summary of Activity

	1996/7	1997/8	Change from previous year
Cases outstanding at the beginning of the year	205	191	-7%
Appeals received			
Non-Industrial	248	208	-19%
Industrial	21	23	+10%
TOTAL	474	422	-11%
Appeals considered	238	192	-19%
Appeals found to be ineligible	20	19	-5%
Appeals withdrawn	25	48	+92%
TOTAL	283	259	-8%
Cases in process at the end of the year	191	163	-14%

APPENDIX 2

Appeals Heard Financial Year April 1997 to March 1998

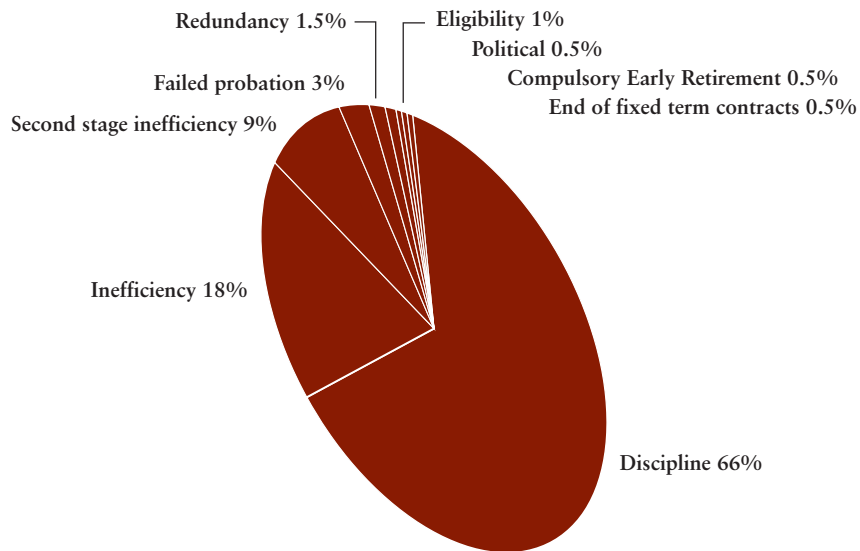
Department	Number of Appeals
Accounts Services Agency	1
Army Base Repair Organisation	1
Army Base Storage and Distribution Agency	1
Benefits Agency	42 (22%)
British Museum	1
Child Support Agency	1
Contribution Agency	1
Crown Prosecution Service	1
Defence Bills Agency	11 (6%)
Defence Evaluation and Research Agency	2
Department of Health	1
Department for Education and Employment	2
Driving Standards Agency	2
Employment Service	15 (8%)
Employment Tribunal Service	1
Farming and Rural Conservation Agency	1
Health and Safety Executive	1
HM Customs and Excise	4
HM Prison Service	18 (9%)
HMSO	1
Home Office	8
Imperial War Museum	1
Independent Review Service	1
Inland Revenue	9
Intervention Board	2
Land Registry	1
Medicine Control Agency	1
Metropolitan Police	4
Military Service	1
Ministry of Defence	32 (17%)
Natural History Museum	1
Naval Aircraft Repair Organisation	1
Naval Base and Supply Agency	3
Office of National Statistics	3
Radiocommunication Agency	1
Registers of Scotland	1
Scottish Office	2
Scottish Prison Service	3
Security Facilities Executive	1
Treasury Solicitors Department	1
Valuation Office Agency	5
War Pensions Agency	1
Welsh Office	1
TOTAL	192

APPENDIX 3

Analysis of Appeals Considered

	Reason For Success of Appeal	Appeal Decided
Discipline	125 (66%)	27 (69.5%)
Inefficiency	35 (18%)	2 (5%)
Second stage inefficiency	18 (9%)	7 (18%)
Failed Probation	6 (3%)	1 (2.5%)
Redundancy	3 (1.5%)	–
Eligibility	2 (1%)	2*
Political	1 (0.5%)	1 (2.5%)
Compulsory Early Retirement	1 (0.5%)	–
End of Fixed Term Contract	1 (0.5%)	1 (2.5%)
TOTAL	192 (100%)	39* (100%)

* Not included in total of successful appeals



APPENDIX 4

Synopsis of Appeals Found To Be Unfair 1997/98

1. AO DISMISSED FOR FAILING TO REPORT A COURT SUMMONS

The Board found that both the disciplinary hearing and the internal appeal had been unsatisfactorily handled in that they failed to identify and concentrate on key issue. There was no adequate record of the disciplinary hearing. No formal letter setting out the reasons for dismissal.

RESULT : **COMPENSATION**
 CULPABILITY : **80%**
 AWARD : **£2,939**

2. FITTER DISMISSED DUE TO CONSUMPTION OF ALCOHOL

The Board found that there had been a failure to investigate the matter thoroughly, with no evidence of a proper interview; not all the witnesses had been interviewed and there had been no testing of allegation by Principal Medical Officer. Insufficient evidence to sustain a genuine belief of guilt.

RESULT : **COMPENSATION**
 CULPABILITY : **NONE**
 AWARD : **£12,875**

3. LOII DISMISSED FOR THE HARASSMENT OF WORK COLLEAGUE

The Board were concerned by the length of period of suspension and the introduction of extraneous factors which undermined the objectivity of the Deciding Officer. Substantive Issue not proven and the penalty not within range of reasonable responses

RESULT : **REINSTATEMENT**
 ACCEPTED : **NO**
 CULPABILITY : **NONE**
 AWARD : **£15,104**

**4. REVENUE OFFICER DISMISSED ON GROUNDS OF INEFFICIENCY
DUE TO ILL HEALTH**

The Board found that the Department had not asked for appropriate reports from OHSA, which were required under their procedures; they had not acted on OHSA advice and had not consulted the OHSA before decision to dismiss was taken.

RESULT : **COMPENSATION**
CULPABILITY : **NONE**
AWARD : **£14,258**

**5. REVENUE OFFICER DISMISSED ON GROUNDS OF INEFFICIENCY
DUE TO ILL HEALTH**

The Board found that the Department had failed to follow their procedures for dealing with long term sick absence, they had not challenged a clearly unsatisfactory response from OHSA, they failed to respond to appellant's requests to be referred to OHSA and the dismissal letter made statements that the Department were not able to substantiate on the evidence presented.

RESULT : **COMPENSATION**
CULPABILITY : **NONE**
AWARD : **£6,189**

**6. LOII DISMISSED AT THE EXPIRY OF A CONTRACT OF
EMPLOYMENT**

The Board found that the appellant had accepted a permanent appointment in good faith although the offer had been the result of an administrative error, which had not been identified by the Personnel section when the appellant returned her signed agreement. The changes in terms and conditions had not been communicated to line management and letters sent from Personnel were unsigned or undated or both.

RESULT : **COMPENSATION**
CULPABILITY : **NONE**
AWARD : **£9,984**

7. LOII DISMISSED FOR COMPROMISING HER OFFICIAL POSITION

The Board were concerned with the lack of supervision and found that line management had failed to take effective action contrary to the Agency's disciplinary procedures.

RESULT : REINSTATEMENT WITH LESSER PENALTY
ACCEPTED : NO
CULPABILITY : 25%
AWARD : £8,601

8. AO DISMISSED FOLLOWING CRIMINAL CONVICTION

The Board found that the Agency had unfairly applied criminal conviction procedures rather than normal disciplinary procedures. Agency could give no reason for decision to prosecute. The Decision Maker confirmed at the hearing that he had been influenced by his belief of the appellant's involvement in the wife's fraudulent activities, including evidence not put to the appellant, in spite of the fact that the internal fraud team found no evidence to support the Decision Maker's suspicions.

RESULT : COMPENSATION
CULPABILITY : 20%
AWARD : £8,876

9* AND 10† 2 PRISON OFFICERS DISMISSED FOR MAKING FALSE T & S CLAIMS

The Board found there had been inconsistent treatment with others who had submitted false claims; 2/3rds of the cases cited had not been dismissed. The Agency had failed to demonstrate that their cases had been serious enough to warrant dismissal. Pleas of mitigation not fully taken into account.

RESULT : COMPENSATION* COMPENSATION†
CULPABILITY : 50%* 50%†
AWARD : £4,980* £4,837†

11. NURSE DISMISSED FOR MAKING FALSE CLAIMS

The Board found the appellant's statement had been largely untested and plea of mitigation had not been adequately investigated nor taken into account. Issue of consistency of approach. (as above).

RESULT : COMPENSATION
CULPABILITY : 25%
AWARD : £1,432.18

12*,13†, 14‡ 3 AOs DISMISSED FOR ABUSE OF SEASON TICKET LOANS

The Board were not convinced that officers at AO level could be reasonably expected to have a proper understanding of their employers' intentions. Dishonest intent could not be demonstrated.

RESULT :	REINSTATEMENT*	REINSTATEMENT†	COMPENSATION‡
ACCEPTED :	NO*	NO†	NO‡
CULPABILITY :	20%*	10%†	10%‡
AWARD :	£14,488*	£16,522†	£4,624‡

15. STOREKEEPER DISMISSED FOR COUNTERMANDING A LAWFUL INSTRUCTION FROM A SENIOR OFFICER

The Board found that other issues had been taken into account in reaching the decision to dismiss; these had not been put to the appellant. The superior officer whose order had been countermanded was involved in the decision. In the Board's view gross misconduct was not proved.

RESULT :	COMPENSATION
CULPABILITY :	10%
AWARD :	£2,168

16. GRADE 7 DISMISSED FOR HARASSMENT, MISUSE OF AN OFFICIAL CAR AND INAPPROPRIATE BEHAVIOUR.

The Board found that the appellant had not been cautioned before interviews, not shown the letter of complaint until the interview, not shown full text of investigation report and a slanted and prejudicial summary had been put to the Deciding Officer. There had been no attempt to quantify the extent of the fraud and the substantive issue of misuse of the official car could not be proved. Other issues not proved likewise.

RESULT :	REINSTATEMENT
ACCEPTED :	YES, SETTLEMENT MADE

17. SECURITY OFFICER DISMISSED FOR ASSAULT ON WORK COLLEAGUE

The Board found that continuing and unjustified delays had caused a breach of natural justice. The Agency gave disciplinary matters a low priority with the disciplinary process taking 12 months to complete.

RESULT :	COMPENSATION
CULPABILITY :	80%
AWARD :	£1,688

18. EO DISMISSED FOR MISAPPROPRIATION OF COMPUTER EQUIPMENT

The Board found that the note of investigators' interview was not sent to the appellant until the day after dismissal and the investigators' report was not submitted until a month after dismissal. Disciplinary issues were not put to him as required and he was not offered a disciplinary hearing.

RESULT : **COMPENSATION**

CULPABILITY : **100%**

AWARD : **£0**

19. EO DISMISSED FOR SEXUAL HARASSMENT OF A WORK COLLEAGUE

The Board found that there had been a breach of procedures in the conduct of the investigation. Charge too narrowly defined to justify dismissal with breakdown of trust not included as grounds for dismissal. Issue of consistency — the appellant's attitude to management had been a factor in their consideration.

RESULT : **COMPENSATION**

CULPABILITY : **NONE**

AWARD : **APPELLANT REFUSED TO ACCEPT THAT HE WAS NOT BEING REINSTATED
REFUSED AWARD**

20. LOII DISMISSED FOR WORKING IN A SECONDARY OCCUPATION WHILST ABSENT FROM HIS USUAL POST DUE TO SICKNESS

The Board found that line management had been aware of the part time work but had failed to investigate the matter. Medical enquiries were not instigated until 15 months later when contemporaneous advice was not possible.

RESULT : **COMPENSATION**

CULPABILITY : **50% POLKEY FACTOR**

AWARD : **£1,273**

21. HEO DISMISSED FOR THE CONSUMPTION OF ALCOHOL AT WORK

The Board found that there had been a failure to take action at the time it was noticed that the appellant was under the influence of alcohol. There was no clear evidence to support charge and the substantive issue could not be proved.

RESULT : **COMPENSATION**

CULPABILITY : **70%**

AWARD : **£4,254**

22. PRISON OFFICER FAILED PROBATION FOR FAILING TO PASS FITNESS TEST

The Board found that there was an issue of consistency of treatment since other probationers had been granted longer extensions in order to improve their levels of fitness.

RESULT : **COMPENSATION**

CULPABILITY : **NONE**

AWARD : **£11,720**

23. EO DISMISSED ON GROUNDS OF ASSAULTING A COLLEAGUE, THREATENING BEHAVIOUR AND USING FOUL AND ABUSIVE LANGUAGE

The Board found that the investigating officer had failed to follow up adequately possible conflicts of evidence nor had the deciding officer followed up points of conflicting evidence raised in appellant's submission. The substantive issue was difficult to prove given failures highlighted above. Agency should have followed the EAT decision in *British Airways v Mafe*.

RESULT : **COMPENSATION**

CULPABILITY : **50% POLKEY FACTOR**

AWARD : **£8,646**

24. ASSISTANT COOK DISMISSED FOR UNAUTHORISED BORROWING OF PROPERTY AND TO RECEIVE FINANCIAL GAIN

The Board found that there had been very long delays in the disciplinary process, with procedures not followed correctly; the penalty was regarded as disproportionate to the offence.

RESULT : **REINSTATEMENT WITH A LESSER PENALTY**

ACCEPTED: **YES, BUT NO JOB FOR APPELLANT TO GO BACK TO, SETTLEMENT
TO BE MADE**

25. EO DISMISSED FOR FRAUDULENT ACTIVITIES NAMELY FALSIFYING RECORDED ENTRIES

The Board found that certain documents had been omitted from the disciplinary minute and as such the appellant was disadvantaged because he had no chance to respond fully to the charges; some unjustifiable delays in process also.

RESULT : **COMPENSATION**

CULPABILITY : **80%**

AWARD : **£1,642**

26. PRISON OFFICER DISMISSED FOR ACCEPTING A HOLIDAY PAID FOR BY A PRISONER

The Board found that the appellant had not received a copy of all the evidence used at disciplinary hearing; statements from crucial witnesses were not obtained. Delay from the receipt of information in May 1996, until start of investigation in November 1996 and hearing of appeal in May 1997.

RESULT : **COMPENSATION**
CULPABILITY : **40%**
AWARD : **£9,674**

27. MUSEUM TECHNICIAN DISMISSED FOR ATTEMPTED THEFT

The Board found the evidence produced was insufficient to support the view of a genuine belief in appellant's guilt.

RESULT : **COMPENSATION**
CULPABILITY : **33%**
AWARD : **£10,189**

28. STORES OFFICER DISMISSED FOR SUBMITTING FALSE CLAIM

The Board found that there had been an inadequate investigation; the collection of evidence had been incomplete. Lack of interviews with possible witnesses and there was no clocking system and no systematic management record of attendance.

RESULT : **COMPENSATION**
CULPABILITY : **50%**
AWARD : **£7,172**

29. AO DISMISSED ON GROUNDS OF ABUSE OF ANNUAL SEASON TICKET ADVANCE

The Board found that there was inconsistency of treatment because two other employees had received lesser penalties for the same offence. Management should have made further enquiries into the appellant's state of mind at the time of the incident.

RESULT : **REINSTATEMENT WITH A LESSER PENALTY**
ACCEPTED: **NO**
CULPABILITY : **25%**
AWARD : **£12,642**

30. A SLINGER DISMISSED FOR FALSELY OBTAINING SICK PAY

The Board found that the Department had failed to inform TU official in accordance with their procedure; they had been delays in the disciplinary process, a failure to obtain medical evidence and hearsay evidence had been taken into account

RESULT : REINSTATEMENT
ACCEPTED : YES, SETTLEMENT MADE

31. TYPIST DISMISSED FOR REFUSING TO RETURN TO WORK AFTER A CAREER BREAK

The Board found that the Department had failed to follow disciplinary procedures; failed to consult OHSa after the appellant had submitted a GPs certificate for the day of her return.

RESULT : COMPENSATION
CULPABILITY : 75%
AWARD : £1,103

APPENDIX 5

Civil Service Appeal Board Performance Against Targets | 1997/98

TARGETS

1. Appeals to be heard within 20 weeks of receipt in 85% of cases.
2. Decisions letters to be issued within 48 hours of hearings in 85% of cases.
3. Hearing reports to be issued within 6 weeks of hearings in 85% of cases.

HEARINGS

Target : Appeals to be heard within 20 weeks of receipt in 85% of cases.

(1996/7 figures in brackets)

	Appeals Heard	Average number of Weeks to Hearing	Within Target
April	23 (28)	18 (18)	70% (82%)
May	17 (20)	14 (20)	100% (65%)
June	18 (19)	21 (21)	77% (63%)
July	18 (25)	16 (19)	88% (64%)
August	17 (22)	17 (19)	80% (73%)
September	20 (17)	17 (20)	85% (59%)
October	19 (28)	17 (17)	79% (79%)
November	14 (21)	14 (18)	100% (86%)
December	10 (12)	13 (14)	100% (92%)
January	15 (15)	15 (18)	87% (80%)
February	6 (17)	11 (17)	100% (82%)
March	15 (14)	15 (17)	93% (93%)
TOTAL	192 (238)	15 (18)	88% (76%)

DECISION LETTERS ISSUED

Target : Decision letter to be issued within 48 hours of hearing in 85% of cases.

ALL decision letters were issued within the target period during 1997/1998.

REPORTS ISSUED

Target : Report to be issued within 6 weeks of hearing in 85% of cases.

(1996/97 figures in brackets)

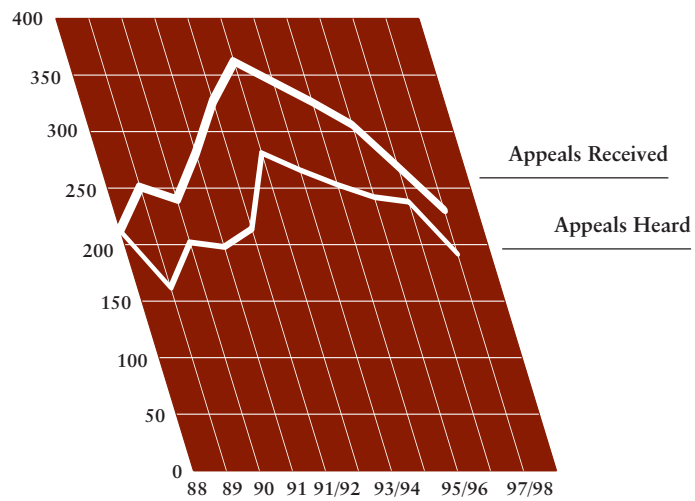
	Reports issued	Average number of working days to issue	Within Target
April	16	12	94%
May	25 (19)	20 (88)	76% (24%)
June	15	16	81%
July	21	17	90%
August	11 (34)	11 (65)	91% (28%)
September	22	15	100%
October	22	15	82%
November	16 (82)	17 (29)	81% (59%)
December	11	15	100%
January	14	15	100%
February	6 (78)	15 (18)	100% (78%)
March	15	15	93%
TOTAL	194 (213)	15 (50)	90% (47%)

(NOTE: only quarterly figures available for 1996/97)

APPENDIX 6

Appeals Received and Heard 1988–1997/98

	Appeals Received	Appeals Heard
1988	213	212
1989	251	162
1990	240	202
1991	281	198
1991/92	327	214
1992/93	362	281
1993/94	344	266
1994/95	326	253
1995/96	306	242
1996/97	269	238
1997/98	231	192



APPENDIX 7

Analysis of Appeals Considered 1988–1997/98

Year	Heard	Disciplinary	Inefficiency	Failed Probation	Redundancy	Other Appeals	Successful
1988	212	113 (53)	48 (23)	37 (17)	13 (6)	1	40 (19)
1989	162	104 (64)	24 (15)	33 (20)	0	1	26 (16)
1990	202	110 (54)	22 (11)	55 (27)	1	14 (7)	33 (16)
1991/2	214	91 (43)	38 (18)	61 (29)	6 (3)	18 (8)	52 (24)
1992/3	281	146 (52)	46 (16)	47 (17)	14 (5)	27 (10)	69 (25)
1993/4	266	117 (44)	49 (18)	64 (24)	17 (6)	19 (7)	53 (20)
1994/5	253	138 (55)	49 (19)	23 (9)	15 (6)	28 (11)	49 (19)
1995/6	242	156 (64)	55 (23)	3 (1)	11 (5)	7 (7)	53 (21)
1996/7	238	154 (65)	37 (15)	6 (3)	12 (5)	29 (12)	58 (24)
1997/8	192	125 (66)	35 (18)	6 (3)	3 (1)	23 (12)	39 (21)

(percentage figures in brackets)

