

# Senior Postholder Disciplinary Policy Lambeth College



## 1 SCOPE AND PURPOSE

- 1.1 This procedure applies to the Principal and all senior post holders as defined in the Corporation's Articles of Government. References to section numbers are to the numbered sections of this document.
- 1.2 Where the Clerk to the Corporation is also a member of staff at the institution, the clerk is to be treated as a senior post-holder. In such circumstances the Corporation shall appoint an appropriate person to fulfil the tasks of the Clerk to the Corporation under these sections.
- 1.3 The purpose of the procedure is:
  - 1.3.1 To help and encourage senior post-holders to achieve and maintain acceptable standards of conduct and job performance.
  - 1.3.2 To ensure that fair, consistent and reasonable action is taken where acceptable standards of conduct or job performance are not maintained.
  - 1.3.3 To ensure consistent and fair treatment for senior post-holders in relation to disciplinary action taken in response to unacceptable conduct and job performance.

## 2 GENERAL PRINCIPLES

- 2.1 These rules and procedures will be reviewed regularly and applied in accordance with the Corporation's Articles of Government and taking into account developments in employment legislation and good practice and current guidance provided by the Advisory, Conciliation and Arbitration Service.
- 2.2 Every effort will be made to avoid the use of disciplinary action where alternatives are appropriate. Where the matter is not resolved informally or is of a serious nature, this procedure will be implemented.
- 2.3 The Corporation is committed to resolving each stage of the procedure as soon as reasonably possible, taking into account the need to investigate any alleged misconduct fairly and adequately.

- 2.4 A senior post-holder has the right to be accompanied and represented by a workplace colleague, or trade union representative of their choice, at all formal stages of this procedure. It is also advisable to allow a senior post-holder to be accompanied at an investigation meeting.

The senior post-holder should notify the Clerk to the Corporation if they are to be represented/accompanied and provide name and contact details as soon as possible.

- 2.5 In circumstances where a disciplinary hearing has been arranged but the trade union representative or workplace colleague is unable to attend the proposed hearing, the hearing may be postponed if both the senior post-holder and the selected companion can offer an alternative date and time which is reasonable and falls within 5 working days after the day on which the original hearing was proposed.
- 2.6 A workplace colleague chosen to accompany a senior post-holder (or any other member of staff attending) at a disciplinary hearing will be permitted to take paid time off during working hours to attend the hearing.
- 2.7 No senior post-holder will be dismissed for a first breach of discipline except in the case of serious or gross misconduct, gross incompetence or gross negligence. In circumstances of gross or serious misconduct, the penalty will normally be dismissal without notice and without payment in lieu of notice. Before imposing any disciplinary penalty, all relevant factors will be considered including the extent to which standards have been breached; the employee's general record, position and length of service and any special circumstances which might make it appropriate to adjust the severity of the penalty.
- 2.8 Normally, the procedure will be followed in the order of the stages set out in sections 4, 5 and 6. However, depending on the seriousness of the alleged misconduct, the procedure may be commenced at any stage.
- 2.9 At every stage of the formal procedure a senior post-holder will be advised in writing of the nature of the complaint against him or her and will be given the opportunity to state his or her case before any decision is made.
- 2.10 If a senior post-holder fails to attend without good reason a disciplinary (or appeal) hearing which he or she has been instructed to attend, the hearing will take place and a decision will be made notwithstanding his or her absence.
- 2.11 Accurate, timely and agreed records must be kept of all meetings and all correspondence. Warnings will be kept but will be disregarded for disciplinary purposes as provided in section 5.7.
- 2.12 All reasonable steps will be taken to maintain confidentiality and written records of any disciplinary proceedings shall be kept and maintained by the Corporation in accordance with the Data Protection Act 1998.

### **3 INVESTIGATIONS**

- 3.1 Save where section 7.2 applies, no disciplinary action will be taken against a senior post-holder until the matter has been fully investigated by an individual nominated by the Corporation.

- 3.2 An investigatory meeting is not a formal disciplinary hearing. If, following an investigation, the Corporation believes that there may be a case to answer; a formal disciplinary hearing will be arranged in accordance with this procedure.
- 3.3 If appropriate, the Corporation, or the Principal where the power to suspend has been delegated by the Corporation, may suspend a senior post-holder in accordance with section 8.
- 3.4 When a disciplinary matter arises which is likely to require consideration under the formal procedure, the relevant investigator will first establish the facts promptly before recollections fade and, where appropriate, will obtain statements from any available witnesses. Having established the relevant facts, the investigator will decide whether to drop the matter, to arrange informal coaching or counselling or to arrange for the matter to be dealt with under the formal procedure.
- 3.5 An investigation carried out following a student complaint, staff complaint or grievance, or under any of the Corporation's other procedures may form all or part of an investigation under this procedure, as appropriate.
- 3.6 Any investigation will not necessarily include an investigatory meeting. Where the investigator considers that an investigatory meeting is appropriate and a meeting is arranged with the senior post-holder (or other member of staff) but the senior post-holder (or other member of staff) fails to attend without good reason, the matter will be progressed without the investigatory meeting taking place. Subject to the requirements of particular sections of this procedure, it is up to the discretion of the investigator to determine whether or not the senior post-holder should be allowed to be accompanied at an investigatory meeting and on what terms.

#### **4 INFORMAL PROCEDURE**

- 4.1 If appropriate, before taking formal disciplinary action, reasonable effort will be made to resolve matters by informal discussion with the senior post-holder. This will be dealt with either by the Principal or, if the Principal is the senior post-holder concerned, by the Chair of the Corporation, or in his or her absence the Vice-Chair of the Corporation.
- 4.2 Many minor disciplinary matters will be resolved through informal advice or counselling. Minor disciplinary matters may also result in an informal, oral warning which will not be recorded by the Corporation nor relied upon in any subsequent disciplinary proceedings.
- 4.3 If despite an informal discussion or informal oral warning a senior post-holder's conduct does not meet acceptable standards (or if the informal procedure would not be appropriate), the formal procedure set out in section 5 should be used.

#### **5 FORMAL PROCEDURE**

- 5.1 This section applies in circumstances where the corporation is considering taking disciplinary action short of dismissal against a Senior Post-Holder. In those circumstances a disciplinary hearing will be convened in accordance with the provisions of sections 5.1 - 5.4. A disciplinary hearing should be conducted by a panel consisting of one, two or three members of the Corporation as determined by the Corporation, including the Principal (unless the senior post holder is the Principal). The disciplinary hearing will not be chaired by the investigator appointed to investigate the alleged misconduct and, where possible, will be chaired by

somebody more senior than the investigator. The panel should not include the student or staff members of the corporation.

- 5.2 The senior post-holder will be advised in writing of the nature of the complaint against him or her, including the employee's alleged conduct, or characteristics, or other circumstances, which lead the Corporation to contemplate taking disciplinary action against him or her. The senior post-holder will also be informed of the basis for including in that written statement the ground or grounds given in it.
- 5.3 The senior post-holder will be given at least 5 working day's notice of any disciplinary hearing. Documentation to be used at a disciplinary hearing and the names of any witnesses who will be asked to attend the hearing will be exchanged between the senior post-holder and the Corporation at least 5 working days before such hearing.
- 5.4 At any disciplinary hearing, the senior post-holder will be given an opportunity to state his or her case and will have the right to be accompanied as set out in sections 2.3 and 2.4. The companion is allowed to state the case on behalf of the senior post-holder where the senior post-holder so wishes.

### **STAGE 1: ORAL WARNING**

- 5.5 If the senior post-holder's conduct does not meet acceptable standards, the senior post-holder will normally be given a formal oral warning.
- 5.6 The senior post-holder will be advised of the reason for the warning and, in appropriate cases, the improvement required and the time scale for improvement. It will also warn that further disciplinary action in accordance with Stage 2 of this procedure will be considered if there is no satisfactory improvement, or any repetition of misconduct. The senior post-holder will also be advised of his or her right of appeal.
- 5.7 A brief note of this warning will be kept on the senior post-holder's personnel file, but will be disregarded for disciplinary purposes after 6 months (or any longer period specified at the time) provided that the Corporation is satisfied with the senior post-holder's conduct.

### **STAGE 2: WRITTEN WARNING**

- 5.8 If further misconduct of any kind occurs or if the misconduct is sufficiently serious to warrant a written warning, but not serious enough to justify a final written warning, the senior post-holder will normally be given a written warning.
- 5.9 This written warning will give details of the complaint against the senior post-holder and, in appropriate cases, will state the improvement required and the time scale for improvement. It will also warn that further disciplinary action in accordance with Stage 3 of this procedure will be considered if there is no satisfactory improvement, or any repetition of misconduct. The senior post-holder will also be advised of his or her right of appeal.
- 5.10 A copy of this written warning will be kept on the senior post-holder's personnel file, but will be disregarded for disciplinary purposes after 12 months (or any longer period specified in the written warning) provided that the Corporation is satisfied with the senior post-holder's conduct.

### **STAGE 3: FINAL WRITTEN WARNING**

- 5.11 If further misconduct of any kind occurs or if the misconduct is sufficiently serious to warrant only one written warning, but not serious enough to justify dismissal, the senior post-holder will normally be given a final written warning.
- 5.12 This final written warning will give details of the complaint against the senior post-holder and, in appropriate cases, will state the improvement required and the time scale for improvement. It will also warn that further disciplinary action in accordance with section 6 of this procedure will be considered if there is no satisfactory improvement, or any repetition of misconduct. The senior post-holder will also be advised of his or her right of appeal.
- 5.13 A copy of this final written warning will be kept on the senior post-holder's personnel file, but will be disregarded for disciplinary purposes after 18 months (or any longer period specified in the final written warning) provided that the Corporation is satisfied with the senior post-holder's conduct.

#### **APPEALS AGAINST STAGES 1 TO 3**

- 5.14 A senior post-holder may appeal against any oral warning, written warning or final written warning under the formal procedure by writing to the Clerk to the Corporation within 5 working days of the date of receipt of the decision against which the appeal is to be made, setting out in a written statement the grounds on which the appeal is based. In the conduct of any appeal, the Corporation shall have regard to, but not necessarily be bound to follow all of the provisions of; the document entitled "Suggested Terms of Reference for Appeal Committee (Under the Formal Procedure, Section 5)."
- 5.15 The appeal will be heard by a Committee of the Corporation ("the Appeal Committee") consisting of three members of the Corporation (excluding the Principal, the staff members, the student members and, unless not reasonably practicable, any other members investigating or chairing a disciplinary hearing earlier in the procedure).
- 5.16 The appeal hearing will be conducted as soon as reasonably possible after receipt of the written statement containing the appeal.
- 5.17 The senior post-holder will be given at least 5 working day's notice of the appeal hearing.
- 5.18 The Appeal Committee will determine the conduct of the appeal hearing and any formalities (such as the exchange of documentation in advance). The appeal hearing will be limited to consideration of the grounds of appeal unless the Appeal Committee considers that a full hearing is appropriate, in which case the relevant parties will be provided with reasonable prior warning. In any event, the senior post-holder will be given the opportunity at the appeal hearing to state his or her case and will have the right to be accompanied as set out in section 2.4.
- 5.19 The Appeal Committee may review any disciplinary penalty imposed, but it cannot be increased. The Appeal Committee's decision will be notified in writing by the Clerk to the Corporation to the senior post-holder within 10 working days of the appeal hearing. If it is not possible for a decision to be reached within this period, the Clerk will write to the senior post-holder on behalf of the Appeal Committee with an explanation for the delay and when the written decision can be expected. The Appeal Committee's decision will be final.

## 6 STAGE 4 - DISMISSAL

- 6.1 Save for cases of summary dismissal which fall within section 6.9, if the Chair of the Corporation, or in his or her absence the Vice-Chair, or a majority of the members of the Corporation consider that it may be appropriate for the Corporation to dismiss a senior post-holder, the matter will be referred to a Special Committee of the Corporation which shall be convened as soon as is possible to examine and determine the case for dismissal.
- 6.2 For further clarification regarding level of action and panel make up see figure 1.

*Figure 1.*

<b>LEVEL OF ACTION</b>	<b>HEARING</b>	<b>APPEAL</b>
Formal Disciplinary action short of dismissal (oral, written etc)	Disciplinary Panel chaired by The Principal, (or Board Member if SPH is The Principal) plus one or two members of Corporation.	Appeal Committee
Dismissal	Special Committee	Appeal Committee (if the corporation has delegated the power to hear the appeal)

## 6.3 SPECIAL COMMITTEE

The Special Committee shall consist of at least 3 members of the Corporation (excluding the Chair, the Vice-Chair, the Principal and the staff and student members of the Corporation).

- 6.4 The person whose proposed dismissal is to be considered and determined by the Special Committee shall be entitled to receive from that Committee a written statement of the alleged conduct, characteristics or other circumstances which led to that person being considered for dismissal (and the basis for including in the statement the grounds given in it). That person shall be afforded a reasonable opportunity to respond to it, and any response must be submitted in writing. When sending the written statement, the Special Committee shall invite the senior post-holder to attend a meeting with the Committee. No disciplinary action shall be taken against that person until that meeting with the Special Committee has taken place. Documentation to be used at the hearing together with the names of any witnesses who will attend the hearing should be exchanged by the Special Committee and the senior post-holder at least 3 days before such hearing. If the senior post-holder does not intend to attend the meeting but wishes the Special Committee to consider any written representations, he or she must submit those written representations to the Special Committee at least 3 days in advance of the meeting.
- 6.5 The senior post-holder shall have the right to make representations, including oral representations, at the meeting referred to in section 6.3. For this purpose the senior post-holder may be accompanied and represented in accordance with section 2.4. The Special Committee will decide how the hearing is to be conducted subject to the senior post-holder having the right to make written or oral representations to the Special Committee.

- 6.6 After taking any representations into account, the Special Committee shall take such action as it considers appropriate, which may include dismissal. It shall communicate its decision in writing to the senior post-holder concerned, notifying that person of his/her right to appeal against it, without unreasonable delay. The written notification shall set out in at least summary form the grounds for any action which it considers appropriate.
- 6.7 The senior post-holder shall have the right to appeal to the Corporation against the decision of the Special Committee and if he/she wishes to exercise this right, must submit the appeal in writing, to the Chair of the Corporation, within 14 days of receipt of that decision. When such an appeal is made, the senior post-holder must be invited to a meeting of the Corporation at which he/she may make representations, including oral representations, and he/she may be accompanied and represented in accordance with section 2.4.
- 6.8 The Corporation shall consider the decision of the Special Committee and any representations of the senior post-holder and take such action as it considers appropriate and communicate its decision in writing to the senior post-holder and to the Special Committee. The Corporation may delegate to an appeal Committee of Members of the Corporation the power to determine an appeal as provided in sections 6.7 and 6.8. If the said power is delegated, then references in sections 6.7 and 6.8 to “the Corporation” shall as appropriate be read as references to the appeal Committee of the Corporation.
- 6.9 The Chair of the Corporation, or in his or her absence the Vice-Chair, may dismiss the holder of a senior post with immediate effect, without any need for prior notice and without referral to a Special Committee, where the circumstances are such that the Chair, or in his/her absence, the Vice-Chair, is entitled to do so by reason of the serious or gross misconduct of the senior post-holder. In such cases the provisions of sections 6.1 to 6.8 shall not apply, and instead the provisions of section 7 shall apply.
- 6.10 Where a senior post-holder has been dismissed pursuant to section 6.9, the Chair or Vice-Chair as appropriate, shall provide that person with a written statement of the alleged misconduct which led to the dismissal, and the reasons why the Chair or Vice-Chair, as appropriate, considers that that person was guilty of such misconduct and notifying that person of the right to appeal to the Corporation against the dismissal.
- 6.11 The senior post-holder shall have the right to appeal in writing to the Corporation within 14 days of receiving a written statement under section 6.9. The Corporation shall, as soon as reasonably practicable after receipt of that appeal, invite the senior post-holder to attend a meeting at which he/she can make representations, including oral representations. For the purposes of such an appeal hearing, the senior post-holder may be accompanied in accordance with section 2.4.
- 6.12 The Corporation shall determine the appeal referred to in section 6.11, having taken into account any representations, and shall notify the senior post-holder of its decision in writing without unreasonable delay. The Corporation may delegate to a Committee of Members of the Corporation the power to determine an appeal as provided in sections 6.10 and 6.12. If the said power is delegated, then references in sections 6.10 and 6.12 to “the Corporation” shall as appropriate be read as references to the Committee of the Corporation.
- 6.13 A failure by the Corporation or Special Committee to take any action within a time limit set out in this article shall not relieve them of the duty to take that action.

- 6.14 The provisions of this section 6 shall also apply to senior post-holders employed under fixed term contracts, which upon expiry, have not been renewed.

## **7 SUMMARY DISMISSAL**

- 7.1 This section 7 sets out procedures for the dismissal of senior post-holders in the circumstances described in section 6.9.
- 7.2 If the Chair, or in the Chair's absence, the Vice-Chair, considers that the circumstances are such that the Corporation would be entitled, by reason of the serious or gross misconduct of the senior post-holder to dismiss that senior post-holder without the need to undertake the process of investigation and hearing detailed in section 7.3 to 7.6, then the Chair or Vice-Chair as appropriate may dismiss the senior post-holder without undertaking any process of investigation or hearing. This will normally be confined to the most exceptional cases, where the evidence of the serious or gross misconduct is clear and compelling, and there is no realistic possibility that the senior post-holder can produce evidence which either casts doubt on the fact of his/her being guilty of serious or gross misconduct, or by way of mitigation of possible penalty and the dismissal occurred at the time the Corporation became aware of the conduct or immediately thereafter. In the event of dismissal in such circumstances, the provisions of section 6.9 to 6.11 shall nevertheless still apply.
- 7.3 In the event of a proposed dismissal for serious or gross misconduct which falls within the circumstances described in section 6.9, but does not fall within section 7.2, then the procedure set out in sections 7.3 to 7.6 shall be followed. The Chair, or in his or her absence the Vice-Chair shall appoint a member of the Corporation or a Committee of the Corporation or another senior post-holder ("the Investigator") to investigate the circumstances.
- 7.4 The senior post-holder may be suspended in accordance with section 8.
- 7.5 The senior post-holder will be advised in writing of the complaints against him or her and the identity of the Investigator and if the senior post-holder wishes to make representations to the Investigator (whether written or oral), he or she must inform the Investigator within two working days of receipt of the written complaints. If the senior post-holder wishes to make oral representations or if the Investigator otherwise decides, the Investigator will arrange an investigatory meeting with the senior post-holder, the timing of which will be determined by the Investigator. The senior post-holder may be accompanied at such meeting in accordance with section 2.4. The Investigator will prepare written recommendations for the Chair of the Corporation, or in his or her absence the Vice-Chair of the Corporation.
- 7.6 The Chair of the Corporation, or in his or her absence the Vice-Chair of the Corporation, shall arrange a disciplinary hearing, the timing and conduct of which shall be determined by him or her. The Clerk to the Corporation shall write to the senior post-holder informing him or her of the disciplinary hearing and confirming the Chair's or Vice-Chair's decision on how the hearing shall be conducted and the timetable for any formalities determined by the Chair or Vice-Chair (such as the exchange of documentation to be referred to at the hearing, the names of any witnesses to be called and the deadline for receipt of any written representations by the senior post-holder). The notice must set out the conduct of the senior post-holder which leads the Corporation to contemplate dismissing him, and the basis for having formed that view. The senior post-holder must take all reasonable steps to attend

the disciplinary hearing and he or she may be accompanied in accordance with section 2.4. In addition to attending at the meeting, the senior post-holder may submit written representations to the Chair or Vice-Chair in accordance with any stipulations made by the Chair or Vice-Chair.

- 7.7 The Chair, or in his or her absence the Vice-Chair, may dismiss a senior post-holder with immediate effect without any need for prior notice in the circumstances set out in section 6.9. The following is a non-exhaustive list of offences of serious or gross misconduct which are normally regarded as grounds for summary dismissal:
- 7.7.1 theft, or unauthorised possession of any property or facilities belonging to the Corporation, or to any member of staff or any student;
  - 7.7.2 serious, deliberate or negligent damage to Corporation property;
  - 7.7.3 deliberate falsification of Corporation registers, reports, accounts, expense claims, self-certification forms or records;
  - 7.7.4 bribery or corruption;
  - 7.7.5 refusal to carry out duties or reasonable instructions or to comply with Corporation rules;
  - 7.7.6 serious acts of insubordination;
  - 7.7.7 serious incapability as a result of being intoxicated by reason of alcohol or drugs;
  - 7.7.8 violent, dangerous or intimidatory conduct;
  - 7.7.9 violation of the Corporation's rules and procedures concerning health and safety at work;
  - 7.7.10 any act of discrimination, victimisation or harassment against another member of staff, a student or a third party relating to race, ethnic origin, sex, sexual orientation, marital status, religion, disability or age;
  - 7.7.11 a criminal offence, which may (whether it is committed during or outside a senior post-holder's hours of work for the Corporation) adversely affect the Corporation's reputation, the senior post-holder's suitability for the type of work he or she is employed by the Corporation to perform or his or her acceptability to other members of staff or to students;
  - 7.7.12 a serious breach of confidentiality (including a failure to maintain confidentiality in an investigation relating to a complaint of harassment) but subject to the Public Interest Disclosure Act 1998;
  - 7.7.13 unauthorised use or access of computer or other IT systems;
  - 7.7.14 misuse of e-mail or of the Internet (including downloading or transmission of material which is defamatory, offensive, obscene, malicious, sexist, racist or protected copyright material).
- 7.8 Such a dismissal will be without notice or payment in lieu of notice. The Chair's or the Vice-Chair's decision will be confirmed in writing to the senior post-holder in accordance with section 6.9.

- 7.9 The senior post-holder may appeal against the decision to dismiss him or her, and such appeal shall be made in accordance with sections 6.11-6.12.

## **8 SUSPENSION**

- 8.1 The Chair of the Corporation, or in the Chair's absence the Vice-Chair, or the Principal where the power to suspend has been delegated by the Corporation, may suspend from duty with pay the holder of a senior post, for misconduct or any other good and urgent cause. Such a suspension should only be imposed after careful consideration and it should be made clear to the senior post-holder that it is not considered a disciplinary act. A senior post-holder who is suspended is entitled to receive from the Chair, Vice-Chair or Principal written notification of the suspension, setting out the grounds on which the decision to suspend has been taken.
- 8.2 A senior post-holder cannot be suspended without pay unless both (i) such suspension is expressly provided for under his or her contract of employment; and (ii) he or she has been notified of the grounds for the proposed suspension and invited to a meeting to discuss the proposed suspension, that meeting has taken place, and he or she is offered the right to appeal (in accordance with the statutory disciplinary procedure under the Employment Act 2002).

## **NOTES RELATING TO MODEL DISCIPLINARY PROCEDURE**

### **SECTION 6**

Following the *Replacement of Instruments and Articles of Government Order 2007*, there is no longer a requirement for a Special Committee of the Corporation to consider the case for dismissal of a senior post-holder. However, the Articles still state that the Corporation is responsible for the consideration of dismissal of senior post-holders, and that function may only be delegated to a Committee of members of the Corporation (Article 10(1)). Article 10(2) states that The Corporation shall make rules specifying the way in which such a Committee will be established and conducted. We have therefore retained the section on the make-up of the Special Committee as a model of good practice for colleges to follow.

### **SECTION 8**

If a college wishes to include the option of suspension without pay, any appeals against such suspension should be dealt with as follows:

Any appeal by a senior post-holder against suspension without pay shall be considered by the Corporation or a Committee of Members of the Corporation as soon as possible and the suspension shall continue until the determination of the appeal. The Corporation's (or Committee's) decision will be confirmed in writing to the senior post-holder by the Clerk to the Corporation as soon as possible. The Corporation's (or Committee's) decision shall be final.

## **DISCIPLINARY PROCEDURE FOR SENIOR POST- HOLDERS**

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

#### **9 OBJECTIVE**

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

#### **10 MEMBERSHIP**

- 10.1 The Appeal Committee shall be appointed by the Corporation and shall comprise 3 members of the Corporation.
- 10.2 The Principal, staff and student members may not sit on the Committee. In addition, unless it is reasonably impracticable to avoid, no person may sit on the Committee who has any interest in its findings or has been involved in any way in any investigation or chairing a disciplinary hearing or other action leading up to the reference of the appeal by the senior post-holder to the Committee.
- 10.3 The Chair of the Committee will be selected by the Committee.
- 10.4 The quorum for meetings of the Committee shall be 3 members.
- 10.5 The Clerk to the Corporation shall act as the Clerk to the Committee.

#### **11 AUTHORITY**

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

#### **12 DUTIES**

- 12.1 The Appeal Committee shall convene as soon as reasonably practicable after a reference to it and in any event shall hold its first meeting within 10 working days of the reference.
- 12.2 The Committee shall examine the written statement received from the senior post-holder setting out the grounds for his or her appeal against the disciplinary decision reached under the formal procedure.

- 12.3 The Committee shall undertake any further investigations which it considers necessary as soon as reasonably practicable. This may involve obtaining documents or papers from members of the Corporation's staff or third parties, or speaking to members of the Corporation's staff. The investigation need not include, unless considered necessary by the Committee, a meeting with the senior post-holder concerned in advance of the appeal hearing.
- 12.4 The Committee shall convene an appeal hearing as soon as reasonably possible after receipt by the Clerk to the Corporation of the written appeal by the senior post-holder.
- 12.5 The Committee shall consider in advance of the appeal hearing how the hearing will be conducted. If any documentation is to be considered at the hearing, the Committee must ensure that it is circulated at least 3 working days in advance of the hearing. If the Committee considers that a full hearing rather than a hearing limited to the grounds of appeal is appropriate, the Committee shall ensure that the relevant parties are provided with reasonable prior warning and (unless not reasonably practicable) shall ask the person who investigated the matter under the formal procedure to present the case for the Corporation.
- 12.6 The Committee must provide the senior post-holder with at least 5 working days notice of the appeal hearing.
- 12.7 At the hearing, the Committee shall first ensure that the Committee's role and the procedure to be followed are understood by all the persons attending the hearing.
- 12.8 If the Committee has arranged for a full hearing, the evidence of the Corporation's representative shall be considered first, followed by the senior post-holder. The Committee shall allow the senior post-holder making the appeal to make representations to the Committee, either orally or in writing. If appropriate, the Committee shall allow the Corporation's representative, the senior post-holder and the person accompanying the senior post-holder (if any) to ask questions of any members of staff attending the hearing as witnesses, but with all questions being directed through the Chair of the Committee. The members of the Committee shall put such questions as they see fit to the Corporation's representative, the senior post-holder, the witnesses or any other persons attending the hearing.
- 12.9 The Committee shall have full discretion to admit or exclude information as it considers fit and to vary the procedure to be followed at the appeal hearing.
- 12.10 The Committee may adjourn the hearing if it considers further information needs to be gathered or considered. Any adjourned hearing will be reconvened as soon as reasonably practicable.
- 12.11 When examining the senior post-holder's appeal, the Committee shall consider whether the disciplinary action taken was fair and reasonable in the circumstances which may include (but is not limited to) reviewing as appropriate:
  - 12.11.1 the reasons leading to and the substance of the complaint against the senior post-holder;
  - 12.11.2 any relevant documents (including the senior post-holder's terms and conditions of employment);
  - 12.11.3 any relevant representations or statements;

- 12.11.4 any relevant legislation, statutory or Government guidance;
  - 12.11.5 the extent to which standards have been breached;
  - 12.11.6 past precedents (if any) of the Corporation to ensure consistency as far as possible;
  - 12.11.7 the senior post-holder's general record, the length of time he or she has held a senior role, his or her overall length of service;
  - 12.11.8 any special circumstances which might make it appropriate to adjust the severity of the penalty imposed.
- 12.12 On conclusion of the appeal hearing, the Committee shall deliberate over its findings in private and reach a decision regarding the senior post-holder's appeal. The Committee may review any disciplinary penalty imposed, but it cannot be increased.
- 12.13 The Committee's decision will be provided in writing to the senior post-holder within 10 working days of the appeal hearing. If it is not possible for the Committee to reach a decision within this period, the Clerk will write to the senior post-holder on behalf of the Committee with an explanation for the delay and when the written decision can be expected.

### **13 REPORTING PROCEDURES**

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

## **GRIEVANCE PROCEDURE FOR SENIOR POST HOLDERS**

### **1. SCOPE AND PURPOSE**

- 1.1. This procedure applies to all holders of senior posts as defined in the Corporation's Articles of Government, including the Principal.
- 1.2. The purpose of this procedure is to enable senior post holders who consider that they have a grievance or complaint arising from their employment to have it dealt with at the appropriate level as expeditiously as possible.
- 1.3. This procedure applies to all senior post holders and is designed to promote fairness and consistency in the process by which grievances or complaints arising from their employment are considered.
- 1.4. In operating this procedure, account will be taken of the current guidance provided by the Advisory, Conciliation and Arbitration Service.
- 1.5. This procedure will not apply to any grievances concerning complaints or disputes which are covered by separate procedures or arrangements of the Corporation.

## **2. GENERAL PRINCIPLES**

- 2.1. It is anticipated that the majority of senior post holders' grievances can be resolved directly with the person or persons concerned. This procedure sets out the process for grievances to be considered where this is not possible or the grievance is unresolved.
- 2.2. The Corporation is committed to resolving each stage of the procedure as soon as reasonably possible, taking into account the need to investigate any grievance fairly and adequately and any constraints imposed by staff availability.
- 2.3. A senior post holder (and any other member of staff asked to attend) has the right to be accompanied at any grievance hearing at any stage of the formal procedure by a relevant representative of a trade union or a workplace colleague. The Corporation reserves the right to refuse a senior post holder (or any other member of staff) being accompanied by a workplace colleague whose presence would prejudice the hearing or who might have a conflict of interest.
- 2.4. In circumstances where a grievance hearing has been arranged under the formal procedure but the trade union representative or workplace colleague who is to accompany the senior post holder (or to accompany any other member of staff asked to attend) is unable to attend the proposed hearing, the hearing will be postponed if the senior post holder (or member of staff affected) can offer an alternative date and time which is reasonable and falls within 5 working days after the day on which the original hearing was proposed.
- 2.5. A workplace colleague chosen to accompany a senior post holder (or any other member of staff attending) at a grievance hearing will be permitted to take paid time off during working hours to attend the hearing.
- 2.6. At least 5 working days in advance, a senior post holder (and any other member of staff attending) must alert the person or Committee who is considering his/her grievance to the identity of any person which the senior post holder (and other member of staff) proposes to accompany him/her at a grievance hearing.
- 2.7. Matters investigated as part of a grievance may, in appropriate circumstances, lead to and be used as part of disciplinary proceedings under the Corporation's disciplinary procedure.
- 2.8. The fact that a senior post holder has invoked the grievance procedure will not (in the absence of exceptional circumstances) preclude the Corporation from instituting, continuing with or concluding disciplinary proceedings, whether they involve the senior post holder or other members of staff.
- 2.9. All reasonable steps will be taken to maintain confidentiality and written records of any grievance proceedings shall be kept and maintained by the Corporation in accordance with the Data Protection Act 1998.

## **3. PROCEDURE**

### **INFORMAL PROCEDURE**

- 3.1. A senior post holder who has a grievance should first raise it informally with the Principal or, if the grievance is against the Principal or the Principal has a grievance, it should be raised with the Chair of the Corporation, or in his or her absence the Vice-Chair of the Corporation.

- 3.2. The grievance may be raised either orally or in writing.
- 3.3. The person considering the grievance will take such steps he/she considers necessary to resolve the grievance as quickly as possible, on an informal basis.
- 3.4. If the matter is very serious or in other exceptional circumstances where there are good reasons for not raising the matter informally, the senior post holder may proceed straight to the formal stage of the procedure.

### **FORMAL PROCEDURE**

- 3.5. If the grievance cannot be resolved under the informal procedure, a senior post holder must prepare a written statement of his/her grievance.
- 3.6. The written statement should be sent to the Clerk to the Corporation for the grievance to be considered at this stage by the Chair of the Corporation. If the Chair of the Corporation is absent or has already considered the grievance at the informal stage, the grievance will be considered by the Vice-Chair of the Corporation and references in sections 3.7 to 3.9 below to the Chair will include the Vice-Chair (as appropriate).
- 3.7. The Chair shall undertake all reasonable investigations as soon as reasonably possible.
- 3.8. The Chair shall convene a grievance hearing with the senior post holder to take place within 20 working days of the Clerk receiving the written statement, or as soon after that as reasonably possible. The senior post holder will be given as much notice as reasonably possible of the grievance hearing and the conduct of the hearing will be at the Chair's discretion. If the grievance involves another member of staff, the Chair may require the attendance of such a member of staff or any other members of staff who may be able to provide relevant information. If any documentation is to be considered at the hearing, it will be circulated to all relevant parties at least 5 working days in advance of the hearing.
- 3.9. The Chair's decision will be confirmed in writing to the senior post holder by the Clerk to the Corporation within 10 working days of the hearing. If it is not possible for a decision to be reached within this period, the Clerk will write to the senior post holder on behalf of the Chair with an explanation for the delay and when the written decision can be expected. The decision will include a reminder that the senior post holder has a right to appeal against the decision if he/she is not satisfied with it.

### **APPEAL**

- 3.10. If a senior post holder is dissatisfied with the decision at the conclusion of the formal procedure, he or she may appeal. The appeal must be made in a written statement setting out the grounds for the appeal and the statement must be sent to the Clerk to the Corporation within 10 working days of receipt by the senior post holder of the written decision following the formal procedure.
- 3.11. The Corporation will appoint a committee of the Corporation ("the Appeal Committee") which, if not already appointed by the time the appeal by the senior post holder is received by the Clerk, will be appointed as soon as reasonably possible.

- 3.12. The Appeal Committee shall undertake any further investigations which it considers necessary as soon as reasonably possible.
- 3.13. The Appeal Committee shall convene an appeal hearing with the senior post holder to take place within 20 working days of its appointment or receipt by the Clerk of the appeal (whichever is the later), or as soon after that as reasonably possible. The conduct of the hearing will be at the Appeal Committee's discretion. If the grievance involves another member of staff, the Appeal Committee may require the attendance of such member of staff or any other members of staff who may be able to provide relevant information. If any documentation is to be considered at the hearing, it will be circulated at least 5 working days in advance of the hearing.
- 3.14. The Appeal Committee's decision will be provided in writing by the Clerk to the Corporation to the senior post holder within 10 working days of the appeal hearing. If it is not possible for a decision to be reached within this period, the Clerk will write to the senior post holder on behalf of the Appeal Committee with an explanation for the delay and when the written decision can be expected.
- 3.15. The Appeal Committee's decision shall be final.

## **TERMS OF REFERENCE FOR APPEAL COMMITTEE**

### **4. OBJECTIVE**

- 4.1. The Appeal Committee shall consider an appeal by a senior post holder against a decision made under the formal procedure of the Corporation's Grievance Procedure for Senior Post Holders regarding a grievance or complaint and shall decide the outcome of the appeal.

### **5. MEMBERSHIP**

- 5.1. The Appeal Committee shall be appointed by the Corporation and shall comprise at least 3 members of the Corporation.
- 5.2. The Chair of the Corporation, the Principal, staff and student members may not sit on the Committee. In addition, unless it is reasonably impracticable to avoid, no person may sit on the Committee who has any interest in its findings or has been involved in any way in any investigation or other action leading up to the reference of the grievance or complaint on appeal by the senior post holder to the Committee.
- 5.3. The Chair of the Committee will be selected by the Committee.
- 5.4. The quorum for meetings of the Committee shall be 3 members where the Committee consists of 3 members or at least 60% of the membership of the Committee if the Committee has more than 3 members.
- 5.5. The Clerk to the Corporation shall act as the Clerk to the Committee.

### **6. AUTHORITY**

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

### **7. DUTIES**

- 7.1. The Appeal Committee shall convene as soon as reasonably practicable after its appointment by the Corporation and in any event shall hold its first meeting within 10 working days of the appointment.
- 7.2. The Committee shall examine the written statement received from the senior post holder setting out the grounds for his or her appeal against the decision reached under the formal procedure.
- 7.3. The Committee shall undertake any further investigations which it considers necessary as soon as reasonably practicable. This may involve obtaining documents

or papers from members of the Corporation's staff or third parties, or speaking to members of the Corporation's staff. The investigation need not include, unless considered necessary by the Committee, a meeting with the senior post holder concerned in advance of the appeal hearing.

- 7.4. The Committee shall convene an appeal hearing within 20 working days of its appointment by the Corporation or receipt by the Clerk to the Corporation of the written appeal by the senior post holder (whichever is the later), or as soon after that as reasonably practicable.
- 7.5. The Committee shall consider in advance of the appeal hearing how the hearing will be conducted. If any documentation is to be considered at the hearing, the Committee must ensure that it is circulated at least 5 working days in advance of the hearing.
- 7.6. At the hearing, the Committee shall first ensure that the Committee's role and the procedure to be followed are understood by all the persons attending the hearing. The Committee shall allow the senior post holder making the appeal to make representations to the Committee, either orally or in writing. If the Committee considers it necessary for any members of staff or members of the Corporation who may have relevant information to attend the hearing, it shall allow the senior post holder to ask questions of such members of staff or members of the Corporation but with all questions being directed through the Chair of the Committee. The members of the Committee shall put such questions as they see fit to the senior post holder or any other persons attending the hearing.
- 7.7. The Committee shall have full discretion to admit or exclude information as it considers fit and to vary the procedure to be followed at the appeal hearing.
- 7.8. The Committee may adjourn the hearing if it considers further information needs to be gathered or considered. Any adjourned hearing will be reconvened as soon as reasonably practicable.
- 7.9. When examining the senior post holder's appeal, the Committee shall consider as appropriate:
  - 7.9.1. the reasons leading to the grievance and its substance;
  - 7.9.2. steps the senior post holder and the Corporation have taken to resolve the grievance;
  - 7.9.3. any relevant documents (including the senior post holder's terms and conditions of employment);
  - 7.9.4. any relevant representations or statements;
  - 7.9.5. any relevant legislation, statutory or Government guidance.
- 7.10. On conclusion of the appeal hearing, the Committee shall deliberate over its findings in private and reach a decision regarding the senior post holder's appeal.
- 7.11. The Committee's decision will be provided in writing to the senior post holder within 10 working days of the appeal hearing. If it is not possible for the Committee to reach a decision within this period, the Clerk will write to the senior post holder on behalf of the Committee with an explanation for the delay and when the written decision can be expected.

## **8. REPORTING PROCEDURES**

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