**Chairmans Checklist for Disciplinary Hearings**

**PROCEDURAL STEPS TO BE FOLLOWED BY**

**THE CHAIRMAN OF A DISCIPLINARY HEARING**

The Chairman must follow sequentially the steps outlined below and tick (\_) the appropriate space when completed.

A Secretary of the hearing, if appointed, is responsible to the Chairman for recording the exact events during the disciplinary hearing.

The Chairman must observe and ensure that the Secretary does not fall behind *in re*cording the proceedings.

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| 1. | The Chairman introduces all present; records their attendance; establishes the designation and capacity of each attendee. |  |
| 2. | Confirms that the accused was properly notified of the nature of the complaint against him/her and records that confirmation. |  |
| 3. | Confirms that the accused has had sufficient opportunity to prepare his/her case and records that confirmation. |  |
| 4. | Confirms the right to representation and that the representative qualifies to represent the employee - e.g. a friend or colleague who is also a fellow employee; a shop steward and fellow employee. |  |
| 5. | Ensure that the accused and his representative are satisfied with the interpreter (if one is required). |  |
| 6. | Explain the rights of the representative - *i.e.* can ask questions and speak on behalf of the accused; address the hearing on the merits of the evidence adduced; address the hearing in mitigation. |  |
| 7. | Inform everyone of the necessity to direct any question via the Chairman as and when the opportunity arises. |  |
| 8. | Request any witness who has not yet given evidence to leave the room and to remain outside until called. |  |
| 9. | Read the statement of the alleged misconduct to the accused and ensure that it is understood. |  |
| 10. | Record the plea of the accused:  if "guilty", move to Step 18;  if "not guilty", continue as follows: |  |
| 11. | Require the complainant to state the facts known to him which resulted in the case being brought against the accused. |  |
| 12. | Require the complainant to complete his/her evidence and only then permit the accused or his representative to question the complainant *in re*gard to the evidence given. (NB If the accused is not represented, the Chairman has the right to do this. If the accused is represented, the Chairman may still do so but should normally wait until the representative has finished and should ask any question needed to clarify any issue which may have arisen). |  |
| 13. | Call the witnesses of the complainant one by one to give their evidence; proceed with each as per Step. 12. |  |
| 14. | Having heard and recorded the evidence of the complainant and his/her witnesses, decide whether the evidence given establishes aprima facie case against the accused. If "no", record a finding of "not guilty" and conclude the hearing; if "yes", proceed as follows: |  |
| 15. | Ask the accused if he/she wishes to give evidence and, if so, record that evidence. The Chairman has the right to put questions to the accused to clarify any issue which may have arisen. |  |
| 16. | Call one by one any witnesses for the accused to give their evidence; follow Step 15 *in re*gard to each. |  |
| 17. | On completion of the defence evidence, the Chairman either withdraws to a private office or adjourns the hearing so that he/she may consider all the evidence given and decide whether the finding is one of "guilty" or "not guilty", recording briefly the reasons for that decision. |  |
| 18. | Re-convene the hearing and, in the presence of the accused, read out the finding and the summarised reasons. If it is "not guilty", conclude the hearing. If it is "guilty", or if, at Step 10, the accused pleased "guilty", the accused or his/her representative must be given the opportunity to address the hearing in mitigation of sentence **before** any decision is taken *in re*gard to a finding. |  |
| 19. | After hearing any mitigation statement, call for and record the service record of the accused, noting particularly the length of service and previous disciplinary record. Confirm this service record with the accused, noting remarks made. |  |
| 20. | The Chairman again either withdraws to a private office or adjourns the hearing so that he/she may consider the statement in mitigation and the service record and decide on an appropriate sentence; this is written into the record together with brief reasons therefore. |  |
| 21. | Re-convene the hearing and, in the presence of the accused, read out the sentence with the summarised reasons. |  |
| 22. | Advise the accused of his/her right of appeal and record the fact of having done so - the right of appeal is regarded as important *in re*lation to fairdismissal.  Grounds for appeal probably fall within four categories:  (a) lack of jurisdiction  (b) procedural irregularities  (c) findings of fact  (d) penalty awarded. |  |
| 23. | Sign and date the record; file it appropriately. |  |

This document should be kept on file as part of the recordings of proceedings of the hearing.