
Capability/Inefficiency Policy

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1. PURPOSE

- 1.1 This is a guide to the procedures used by the Library when handling Capability/Inefficiency matters, the purpose of which is to provide a procedure to help staff whose performance falls below the required standard to improve their performance to an acceptable level, not to punish them for failing to meet the required standard. However, if after support and guidance as set out in this policy, performance still does not reach an acceptable level then the Formal Warnings procedure (see below) may be invoked.
- 1.2 It provides clear procedures, which are in compliance with current legislation and ACAS codes of practice to ensure that the procedures are effective, fair, transparent, well understood and consistently applied. Proper procedures are an aid to good management and should not be viewed principally as a means of imposing sanctions.

2. SCOPE

- 2.1 This policy applies to all staff except those in their probationary period or any extension of that probationary period who are covered by a separate policy.

3. POLICY STATEMENT

- 3.1 The Library believes that clear rules benefit both staff and the Library. They are necessary because they set standards and make it clear to staff what is expected of them. The Library has recognised standards of performance and expects staff to maintain these standards (See Staff Handbook Section on Performance Management). Where staff consistently fail to achieve the required standards, informal or formal action may be taken where appropriate.
- 3.2 The maintenance of standards of performance is the responsibility of line managers at all levels. Line managers are best placed to identify unacceptable performance and should take early action to prevent serious problems arising, specifying what the performance standard is. The aim is to offer support to staff to overcome problems and help them reach an acceptable level of performance. Human Resources can give advice and more detailed guidance on individual cases. However, if after support and guidance listed in this policy, performance still does not reach an acceptable level the Formal Warnings procedure (see below) may be invoked. This policy does not cover situations more appropriately dealt with under the following procedures:
 - a. the Discipline Policy should be used where staff deliberately/wilfully ignore instructions or deliberately/wilfully produce sub-standard work.
 - b. the Managing Attendance Policy should be used for below standard levels of attendance or ill-health.
 - c. the Diversity Policy and DDA Guidelines should be used for colleagues with disabilities, or who become disabled, whose performance standard is connected with their disability.

4. GENERAL PRINCIPLES

- 4.1 Staff must know what is expected of them.
- 4.2 The Library will ensure that adequate training is provided so that managers are able to operate this policy.

- 4.3 Shortcomings must be pointed out as and when they arise.
- 4.4 Staff must be given help, advice, guidance, the opportunity and time to improve their performance.
- 4.5 This policy must be applied in accordance with the Library's Diversity Policy.
- 4.6 Each member of staff may seek assistance and support as necessary from a Trade Union representative or a colleague at any stage of this policy. Normally the informal stages will involve a discussion between the member of staff and the line manager.
- 4.7 All members of staff have the right of appeal. (see [Section 20](#)).

5. DEFINITION OF CAPABILITY/INEFFICIENCY

- 5.1 Capability/Inefficiency is defined as below-standard performance where a member of staff is unable to achieve the appropriate standard.
- 5.2 Examples of inefficiency-related issues might be:
 - a. Work-related problems such as an inability even after appropriate training or retraining and guidance to do the work at the level or standards required, e.g.:
 - o where the person has been promoted beyond ability;
 - o or a low output of work where an individual is capable of producing work to the required standard but is so slow that he/she cannot cope with the required daily amount (Managers should take into account if the required workloads and targets are reasonable). (See also Paragraph 7.3)
 - b. Personal problems such as domestic difficulties or responsibilities which impinge upon performance so that the job is not carried out satisfactorily. Managers are reminded that in these circumstances measures such as special leave, or part-time working may help staff. Staff may also wish to contact the Library's Employee Assistance Programme provider but this is not obligatory.
- 5.3 Where line managers are unclear as to which is the appropriate procedure to apply in any specific circumstance they should discuss the matter with their manager and/or Human Resources (see [Who's Who](#) on the Intranet or on staff notice boards).

6. PERFORMANCE APPRAISAL

- 6.1 Where a line manager establishes that a member of staff's performance is below the standards required, he/she must not wait until the annual Performance Appraisal meeting before addressing the issue. Instead, an informal meeting should be held as soon as is practicable with the member of staff under the terms of this policy.

7. SUPPORT AND ASSISTANCE FOR STAFF (PRE-WARNINGS STAGE)

- 7.1 It is important that managers understand that guidance, support, training, retraining, or advice is, in most cases, a more satisfactory method of resolving issues than formal action. Managers should seek to identify the cause(s) of the below-standard performance and determine what support and assistance can be given. The objective of such support is to help the member of staff reach the required standard. Therefore, guidance and support will be offered and further training, or retraining should be considered. Managers should bear in mind that they may have to advise a member of staff more than once about the same aspect of his/her performance before the desired improvement is achieved.
- 7.2 By agreement, options for a member of staff to undertake alternative roles at the same or a lower level may be considered (see the Staff Handbook, Section C - Starting Pay on Downgrading).
- 7.3 If it is decided that the below-standard performance results from a change in the Library's standards or working methods, those revised standards or working methods will be explained to the member of staff. Any necessary guidance, training or retraining will be offered to help the member of staff achieve the appropriate standards. Managers should also consider whether changes in the standards expected and working methods (including workloads) are reasonable.
- 7.4 However, if after support and guidance, performance still does not reach an acceptable level then it may be appropriate to move to the informal warnings stage.

8. INFORMAL ORAL WARNINGS

- 8.1 When managers find they have reached the informal oral warning stage they should make it clear to their staff that they are giving an informal oral warning. Managers should note that these are not part of the Formal Warning procedures (see below), but should retain their notes of all informal oral warnings, as they will be relevant if formal action is considered necessary at a later stage. A printed version of an electronic record will normally be sufficient. It is essential that these notes are kept securely and confidentially and are **not** sent to Human Resources for their file. The manager should give a note of the meeting to the individual confirming the key issues discussed and should not normally keep a copy of this note for longer than 12 months.
- 8.2 If the informal action has not led to the necessary improvements, or if exceptionally the issue requires more serious action, then the Formal Warning procedure (see below) should be invoked promptly.

9. GATHERING THE FACTS PRIOR TO A POSSIBLE FORMAL INTERVIEW OR HEARING

- 9.1 Prior to a possible formal interview or hearing being held at any of the stages of the formal procedure set out below, it will be necessary for the manager to obtain all the relevant information regarding the member of staff's performance and any other relevant facts.

- 9.2 It may be that the manager decides that formal action should not be taken, having considered all the information, or it may be that the manager decides that training, re-training, or further guidance is more appropriate. The consideration of formal action should take into account the guidance for managers given in Section 7 (Support and Assistance for Staff).
- 9.3 However, if a formal interview or hearing is considered necessary, the procedures outlined in the sections below should be followed. The decision, at this point, is based solely on whether the below standard performance record is sufficiently serious to justify a formal interview or hearing being held.
- 9.4 Where line managers are unclear as to which is the appropriate procedure to apply in any specific circumstance they should discuss the matter with Human Resources (see *Who's Who* on the Intranet and on staff notice boards).

10. FORMAL STAGES IN THE PROCEDURE

- 10.1 Set out below are the stages of formal warnings. Managers should be careful about linking conduct, performance or attendance issues, as it is not always appropriate to do so. Advice should be obtained from Human Resources (see *Who's Who* on the Intranet and on staff notice boards).

11. KEY AIMS OF THE FORMAL INTERVIEW OR HEARING

- 11.1 The key aims of the capability/inefficiency hearing are set out below.
- a. explain and discuss clearly the shortfall between the member of staff's performance and the required standard;
 - b. carefully examine all the information in order to identify if the failure to meet performance levels is due to a need for training or other support or other factors in the workplace (including workloads). If it is established that the below-standard performance is deliberate or wilful, the Library's Discipline Policy must be used;
 - c. determine what remedial assistance can be given. This may include further training, retraining or closer guidance and support;
 - d. set a specific trial period for the member of staff to reach the standard. Interim reviews should take place to monitor progress.
- 11.2 The factors to be taken into account during the review process are:
- a. the member of staff's length of service and previous levels of performance
 - b. the time that the member of staff has spent in the current role or post
 - c. the nature and scope of the required improvements.

12. STAGE 1 OF THE FORMAL WARNING PROCEDURE: FORMAL ORAL WARNING

12.1 Where the manager's advice, guidance, and support, or an informal oral warning has not resulted in the required improvements or change, or where the issue warrants moving directly to the formal procedure, a Formal Oral Warning may be necessary. Managers must take into account Section 7 of this policy (Support and Assistance for Staff).

If a Formal Oral Warning is necessary the member of staff will be required to attend a formal interview where he/she will have the right to be accompanied by a trade union representative or by a companion.

12.3 In order to convene the interview the manager must write to the member of staff concerned:

- a. confirming the date of the interview and its status, i.e. that it is a formal stage 1 interview to consider their performance;
- b. identifying the concern (s) under consideration;
- c. outlining the key facts as established so far;
- d. notifying the individual of the names of the managers who will be present, and informing them that they may make observations on the composition of the panel to the Manager chairing the interview (who should take advice from Human Resources);
- e. confirming that he/she has the right to be accompanied by their trade union representative or a companion.

12.4 Full details of the reasons for the interview plus a copy of this policy will be made available to the member of staff in advance of the interview. Where possible this information will be sent at the time of the notification and at the very least within 1 day of the interview. The member of staff will then be given the opportunity to respond.

12.5 A minimum of 5 working days notice will be given for this interview. The member of staff may request a postponement of up to a further 5 days, where there are exceptional circumstances, e.g. to enable his/her trade union representative or companion to attend the formal interview. The manager conducting the interview may be accompanied by another manager, or by a member of Human Resources. The member of staff will be informed that his/her performance is expected to improve to an acceptable standard within a period of not less than 3 months, except where the impact on the Library's service is critically/seriously affected or there is a danger to the collections or to other staff. Guidance on the achievement of standard required will be given to the member of staff. The manager must keep a file note of the key details. A copy of these notes will be given to the member of staff within 5 working days.

12.6 When a Formal Oral Warning is issued it will specify that if the member of staff's performance does not reach the required standard then Stage 2 may be invoked. The member of staff will also be advised of their right to appeal (see Section 20).

12.7 The member of staff will receive confirmation in writing if he/she has achieved the required standard at the end of the period of the warning.

- 12.8 Any warning given at this stage will remain "active" for 12 months following the formal interview. Staff may request that warnings be removed from their files when the warning ceases to be active and may enlist the support of their Trade Union representative in making this application.
- 12.9 In the event that a serious lapse or repeated lapses occur, these should be dealt with promptly. The next stage of the Formal Warning Procedure (see below) may be invoked if appropriate.

13. STAGE 2 OF THE FORMAL WARNING PROCEDURE: *FIRST WRITTEN WARNING*

- 13.1 During any formal warning period guidance needs to be given to staff so that they are clear about the improvement required of them. **Again it is important to stress that warnings must not be automatic and should only be given after careful consideration of the nature of, and the reasons for the under performance. Managers must take into account Section 7 of this policy (Support and Assistance for Staff).**
- 13.2 In the event that the member of staff does not reach the required standard following the Formal Oral Warning, it will be necessary to go to Stage 2.
- 13.3 In order to convene the interview the manager must write to the member of staff concerned:
- a. confirming the date of the interview and its status, i.e. that it is a formal stage 2 interview to consider performance;
 - b. identifying the concern (s) under consideration;
 - c. outlining the key facts as established so far;
 - d. notifying the individual of the names of the managers who will be present, and informing them that they may make observations on the composition of the panel to the Manager chairing the interview (who should take advice from Human Resources).
 - e. confirming that he/she has the right to be accompanied by their trade union representative or a companion.
- 13.4 Full details of the reasons for the hearing plus a copy of this policy will be made available to the member of staff in advance of the interview. Where possible this information will be sent at the time of the notification and at the very least within 1 day of the interview. The member of staff will then be given the opportunity to respond.
- 13.5 As with the Formal Oral Warning, the member of staff will be required to attend a formal interview where he/she will have the right to be accompanied by a trade union representative or by a companion. A minimum of 5 working days notice will be given for this interview. The member of staff may request a postponement of up to a further 5 days, where there are exceptional circumstances, e.g. to enable his/her trade union representative or companion to attend the formal interview. The manager conducting the interview may be accompanied by another manager, or by a member of Human Resources.

- 13.6 If a First Written Warning is necessary, the member of staff will be informed that if his/her performance does not reach the required standard within a period of not less than 3 months, then Stage 3 may be invoked. The exception would be where the impact on the Library's service is critically/seriously affected or there is a danger to the collections or to other staff, when Stage 3 may be invoked earlier. As in Stage 1, performance will be expected to improve to an acceptable standard within the specified timescale. Guidance on the achievement of the standard required will be given to the member of staff.
- 13.7 The outcome of the interview will be confirmed to the member of staff in writing, normally within 5 working days of the interview, and a copy of the letter will be retained on the individual's file held by Human Resources. The member of staff will also be advised of their right to appeal (see [Section 20](#)).
- 13.8 The member of staff will receive confirmation in writing if he/she has achieved the required standard at the end of the period of the warning.
- 13.9 Any warning given at this stage will remain "active" for 12 months following the formal interview. Staff may request that warnings be removed from their files when the warning ceases to be active and may enlist the support of their Trade Union representative in making this application.
- 13.10 In the event that a serious lapse or repeated lapses occur, these should be dealt with promptly. The next stage of the Formal Warning Procedure ([see below](#)) may be invoked if appropriate.

14. STAGE 3 OF THE FORMAL WARNING PROCEDURE: *FINAL WRITTEN WARNING*

- 14.1 During any formal warning period guidance needs to be given to staff so that they are clear about the improvement required of them. **Again it is important to stress that warnings must not be automatic and should only be given after careful consideration of the nature of, and the reasons for, the under performance. Managers must take into account Section 7 of this policy (Support and Assistance for Staff).**
- 14.2 If the required improvement has not been made following the First Written Warning (Stage 2), a Final Written Warning, may be appropriate.
- 14.3 In order to convene the interview the manager must write to the member of staff concerned:
- a. confirming the date of the interview and its status, i.e. that it is a formal stage 3 hearing to consider performance;
 - b. identifying the concern (s) under consideration;
 - c. outlining the key facts as established so far;
 - d. notifying the individual of the names of the managers who will be present, and informing them that they may make observations on the composition of the panel to the Manager chairing the interview (who should take advice from Human Resources).
 - e. confirming that he/she has the right to be accompanied by their trade union representative or a companion.

- 14.4 Full details of the reasons for the formal interview plus a copy of this policy will be made available to the member of staff in advance of the interview. Where possible this information will be sent at the time of the notification and at the very least within 1 day of the interview. The member of staff will then be given the opportunity to respond.
- 14.5 The member of staff will be required to attend a formal interview where he/she will have the right to be accompanied by a trade union representative or by a companion. A minimum of 5 working days notice will be given for this interview. The member of staff may request a postponement of up to a further 5 days, where there are exceptional circumstances, e.g. to enable his/her trade union representative or companion to attend the formal interview. The formal interview should be chaired by the next senior manager above the member of staff's immediate manager, unless the member of staff reports directly to a Director, in which case it will be the Director who will chair the interview. The manager chairing will be accompanied by the line manager, and by a member of Human Resources.
- 14.6 If a Final Written Warning is necessary, the member of staff will be informed that if his/her performance does not reach the required standard then Stage 4 may be invoked and action may be taken which could include dismissal. As in the other stages, performance will be expected to improve to an acceptable standard within a period of not less than 3 months. The exception would be where the impact on the Library's service is critically/seriously affected or there is a danger to the collections or to other staff, when Stage 4 may be invoked earlier. Guidance on the achievement of the standard required will be given to the member of staff.
- 14.7 The outcome of the formal interview will be confirmed in writing, normally within 5 working days of the formal interview and a copy of the letter will be retained on the member of staff's file held in Human Resources. The member of staff will also be advised of their right to appeal (see [Section 20](#)).
- 14.8 The member of staff will receive confirmation in writing if he/she has achieved the required standard at the end of the period of the warning.
- 14.19 Any warning given at this stage will remain "active" for 12 months following the formal interview. Staff may request that warnings be removed from their files when the warning ceases to be active and may enlist the support of their Trade Union representative in making this application.
- 14.10 In the event that a serious lapse or repeated lapses occur, these should be dealt with promptly. The next stage of the Formal Warning Procedure ([see below](#)) may be invoked if appropriate.
- 15. STAGE 4 OF THE FORMAL WARNING PROCEDURE: HEARING TO CONSIDER DISMISSAL**
- 15.1 During the final warning period guidance needs to be given to staff so that they are clear about the improvement required of them. **Again it is important to stress that warnings must not be automatic and should only be given after careful consideration of the nature of, and the reasons for, the under performance. Managers must take into account Section 7 of this policy (Support and Assistance for Staff).**

- 15.2 If the required improvement has not been made following the Final Written Warning (Stage 3), a Stage 4 hearing will be convened (see sections 17 and 18), which may result in dismissal.
- 15.3 The member of staff will be asked to attend a hearing which will be chaired by a senior manager, who works directly to another Director and who has not previously been involved in, or connected with, the case. The Chair will be joined on the panel by two other managers of sufficient seniority who have also not previously been involved in, or connected with the case. One of the managers will be from Human Resources and will not be primarily assigned to the Directorate from which the case has arisen.
- 15.4 After consideration of the facts (and the member of staff's general service record) and after any appropriate adjournments to consider what action should be taken, if the decision is taken to dismiss the member of staff, the reasons for the dismissal will be provided within 5 working days of the decision being made. In any event it should be confirmed in writing within 14 calendar days of the date of the decision to dismiss and staff notified of their right to appeal.
- 15.5 Management will prepare a record of the meeting, which will be sent out with the letter. The member of staff has a right to comment formally on the record and both the record and the member of staff's comments will be kept together on their personal file.
- 15.6 This hearing will decide whether dismissal is appropriate. There will not be a separate Approving Officer as Human Resources are represented at this hearing.
- 15.7 The hearing will also decide whether compensation is appropriate and the level of that compensation. (See Section K: Retirement and Superannuation: Part I: Retirement Policy: Section 8: Inefficiency).

16. OTHER OUTCOMES

- 16.1 Listed below is a range of outcomes, which may be used as alternatives to dismissal:
 - a. a warning, whether formal or final;
 - b. demotion (either for a specified period or until the promotion is re-earned), if the hearing considers this appropriate and reasonable in light of the concerns and issues under consideration; (see the Staff Handbook, Section C - Starting Pay on Downgrading)
 - c. in exceptional circumstances transfer to another work area in the same directorate and/or another location within the Library, as considered reasonable by the Library.

17. CONVENING A STAGE 4 HEARING TO CONSIDER DISMISSAL (CAPABILITY/ INEFFICIENCY)

- 17.1 In order to convene the hearing the manager must write to the member of staff concerned:
- a. confirming the date of the hearing and its status, i.e. that it is a formal stage 4 hearing to consider dismissal (Capability/Inefficiency);
 - b. identifying the concern (s) under consideration;
 - c. outlining the key facts as established so far;
 - d. notifying the individual of the names of the managers who will be present, and informing them that they may make observations on the composition of the panel to the Manager chairing the hearing (who should take advice from Human Resources).
 - e. confirming that he/she has the right to be accompanied by their trade union representative or a companion.
- 17.2 In this event the member of staff will be required to attend a hearing where he/she will have the right to be accompanied (see Section and Appendix 1) by a trade union representative or a companion.
- 17.3 For this hearing different timescales will apply. Normally 10 working days' notice of the hearing will be given. However, in exceptional circumstances and by agreement between the parties the hearing may take place at an earlier time or up to 20 working days from notice being given.
- 17.4 For a hearing to consider dismissal the Secretary of the appropriate Trade Union will be notified that a member of staff in a grade represented by the Union is subject to dismissal (capability/inefficiency) proceedings. This will be done at the same time as the member of staff is notified of the hearing.
- 17.5 Full details of the reasons for the hearing plus a copy of this policy will be made available to the member of staff in advance of the hearing. The member of staff will then be given the opportunity to respond. Where possible this information will be sent at the time of the notification and at the very least within 1 day of the hearing. The member of staff will then be given the opportunity to respond. An individual has the right to question any aspect of the procedure up to the commencement of the hearing by writing to the Chair. Any question of procedure arising during the hearing should be taken up at once with the Chair.

18. CONDUCTING A STAGE 4 HEARING TO CONSIDER DISMISSAL (CAPABILITY/ INEFFICIENCY)

- 18.1 In order to carry out the Library's duty of care to all its staff, managers attending hearings must note that staff subject to such proceedings or present as witnesses must be treated with courtesy and respect at all times. The member of staff is likely to find the proceedings to be stressful and difficult. At times the information discussed during the hearing may touch on personal and sensitive matters for the member of staff. He/she must be treated with due care and sensitivity. All

information must be treated as confidential. The proceedings must be conducted in an impartial way in order to examine the evidence and if a decision to dismiss is taken it must be reasonable given the facts. The Library's Diversity policy must also be adhered to in spirit and in letter.

- 18.2 At the hearing the procedure will normally be as follows:
- a. the Chair will begin by detailing the reason for the hearing;
 - b. the appropriate manager will set out the information relevant to the case;
 - c. the member of staff, or their trade union representative, or their companion, will then be given the opportunity to state the member of staff's case. The Chair will ensure that the evidence is examined and discussed giving the member of staff every opportunity to respond until the full circumstances have been explored and clarified. This should include any mitigating circumstances. The trade union representative or the companion should not normally respond to questions put directly to the member of staff; however the trade union representative or the companion may assist the member of staff in replying to questions where this would be helpful. At any time the trade union representative or the companion may confer with the member of staff (including a brief adjournment if appropriate) and make a statement on his/her behalf.
 - d. if any new facts emerge, the chair will decide whether further investigation is required and if so adjourn the hearing and reconvene when the investigation is complete;
 - e. the member of staff will be informed once the relevant information has been gathered and provided with dates for the recommencement of the hearing. If a further adjournment is needed the member of staff will be informed as soon as possible of the appropriate arrangements;
 - f. following the conclusion of the hearing, the member of staff will be informed in writing (see [Paragraph 15.4](#)) as to what action, if any, is being taken (which must be reasonable in all the circumstances) and notified of their right of appeal (see [Paragraph 20](#)).
- 18.3 Management will prepare a record of the meeting, which will be sent out with the letter. The member of staff has a right to comment formally on the record, and both the record and the member of staff's comments will be kept together on their personal file.

19. TRADE UNION REPRESENTATIVE OR COMPANION

- 19.1 Each member of staff may seek assistance and support as necessary from a Trade Union representative or a colleague at any stage of this policy. Normally the informal stages will involve a discussion between the member of staff and the line manager.
- 19.2 The person chosen by the member of staff as his/her trade union representative or companion may be one of the following:

- a. a local trade union representative;
 - b. a work colleague (but not a family member, or partner);
 - c. a regional/headquarters official employed by a trade union.
- 19.3 Where the member of staff has a communication issue, for example any disability or where the member of staff's first language is not English, in the interests of equality and fairness an appropriate translator from outside the Library may attend, in addition to the companions listed in paragraph 19.2. The Library will normally pay for this service.
- 19.4 Appendix 1 will be provided to a companion in order to assist in explaining his/her role at a hearing.
- 19.5 If there is a clear conflict of interest, with the Trade Union representative or companion, management may suggest that an alternative be found.
- 19.6 Human Resources may be consulted with regard to any queries or concerns over the appropriateness of a particular companion and will be the final arbiter in any disagreement. This does not apply to Trade Union representatives.

In all cases where this procedure is being used against a trade union representative, the representative may be the appropriate regional/headquarters official of the relevant Trade Union should the representative so wish.

20. APPEALS

- 20.1 Any member of staff who is dissatisfied with the outcome at any formal stage of the process may appeal to a member of line management immediately senior to the line manager (or other nominated manager) who has taken the decision. This appeal must be received by the nominated manager within 10 working days of the warning decision, or decision to dismiss (see Paragraph 15.4) being communicated to the member of staff. The appeal must be made in writing and should clearly state the basis on which the appeal is being made.
- 20.2 Only one appeal will be allowed at each stage of the formal procedure. There is no right of appeal against informal oral warnings or meetings at which support, advice, and guidance are given.
- 20.3 For an appeal, the member of staff will normally be asked to attend an appeal hearing where he/she has the right to be accompanied by a trade union representative or companion (see Appendix 1). The appeal hearing should be held within 10 working days of receipt of the appeal, but may be postponed by up to 10 days to enable the member of staff's chosen representative or companion to attend. The arrangements for the appeal hearing will be confirmed in writing.
- 20.4 The appeal hearing will consider the grounds for the appeal, which may be in respect of procedure, findings of fact or the decision. The appeal hearing will pay particular attention to any new evidence and allow the member of staff to comment on it. However other than in exceptional circumstances the appeal hearing will not hear all the evidence again as this appeal is not intended to repeat the detailed examination of the original interview or hearing.

- 20.5 For appeals against *formal warnings (1, 2 & 3)*, the appeal hearing should be chaired by an appropriate senior manager, plus a Human Resources representative. The manager should be independent i.e. not have been previously involved, directly or indirectly with the case. At the appeal the decision will be reviewed. After consideration of all the facts (usually following an adjournment to consider the appeal carefully), the manager will reach a decision. The member of staff will be informed of the result of the appeal and the reasons for the decision as soon as possible (normally within 5 working days) and should be confirmed in writing. The decision is final.
- 20.6 Appeals against *dismissal* will be heard by at least a Director who is not in the line management chain and an appropriate member of Human Resources. At the appeal, the decision will be reviewed. After consideration of all the facts (usually following an adjournment to consider the appeal carefully) the Director will reach a decision. The member of staff will be informed of the results of the appeal and the reasons for the decision as soon as possible (normally within 5 working days) and this should be confirmed in writing. The decision will be final. If the decision to dismiss is upheld, the dismissal date set at the Stage 4 hearing will stand unless the Appeal hearing decides otherwise. In the event that the Stage 4 decision is revoked at the Appeal hearing, reinstatement or re-engagement with continuous service will apply.

21. APPEAL TO CIVIL SERVICE APPEAL BOARD (CSAB) (SEE ALSO STAFF HANDBOOK SECTION B: APPOINTMENT OF STAFF AND CONDITIONS OF EMPLOYMENT: PART IV: CIVIL SERVICE APPEAL BOARD AND MEDICAL REVIEW BOARD)

- 21.1 This section is in relation to the Civil Service Appeal Board and has been subject to change. Please refer to Office Notice Number 29/2011 21 July 2011.

The CSAB no longer handle dismissal appeals. However some provisions are made for individuals who wish to bring appeals to the CSAB in areas of forfeiture of superannuation benefits and the non-payment of part-payment of compensation under the Civil Service Compensation Scheme to those dismissed on inefficiency grounds due to unsatisfactory attendance or poor performance.

If you wish to take any further action if you are dismissed you can make an application to an Employment Tribunal.

Any enquiries in relation to the above in the context of eligibility and submitting appeals should be sent to the Secretary of the Board: keith.wright@cabinet-office.x.gsi.gov.uk or telephone: 0207 276 3832.

22. STATUTORY RIGHT OF APPEAL AGAINST UNFAIR DISMISSAL

- 22.1 British Library staff may also have a statutory right under the provisions of the Employment Rights Act 1996 to appeal against unfair dismissal to an employment tribunal.

23. THE APPLICATION OF THE FORMAL WARNINGS PROCEDURE TO TRADE UNION REPRESENTATIVES

- 23.1 Should any formal action regarding capability/inefficiency against a Trade Union Representative be considered, then before any action is taken the appropriate regional/Headquarters union official should be notified by Human Resources.

24. CONFIDENTIALITY

- 24.1 If a member of staff has received a formal warning a record of this will be placed on their confidential file in Human Resources. Such files are kept in locked cabinets and treated as strictly confidential.
- 24.2 Any member of staff who has received a formal warning may at the expiry of an appropriate interval, not less than 12 months, apply to the Director of Human Resources, to have the record of the proceedings removed from their confidential file and may enlist the support of their Trade Union in making such an application.

25. EQUAL OPPORTUNITIES MONITORING

- 25.1 Human Resources will compile the personal details such as the race, gender, age and disabled status of all staff receiving a formal warning, other penalties, or who are dismissed by the Library. This information will be kept confidentially by Human Resources and will be used for no other purpose than to enable the Library to fulfil its obligations for monitoring and ensuring Equal Opportunities. (See also the Diversity Policy).

26. RESPONSIBILITY

- 26.1 All members of staff referred to within the scope of this policy are required to adhere to its terms and conditions.
- 26.2 All line managers are responsible for ensuring that this policy is applied within their own area. Any queries on the application or interpretation of this policy must be discussed with Human Resources prior to any action being taken.
- 26.3 Human Resources has the responsibility for ensuring the maintenance, regular review and updating of this policy. Proposed changes to the policy will follow the process as described in section A: Introduction: paragraph 1.1 of this Staff Handbook.

APPENDIX 1 - THE ROLE OF THE COMPANION AT A HEARING

N.B.: This does not apply to Trade Union Representatives

This document is to help you if you have been asked to act as a companion at a formal hearing. It sets out what you may and may not do and what your overall role is. If you have any more questions please contact Human Resources

1. What is the role of companion?

Your main role is to support your colleague whom you are accompanying at the hearing. You may not normally answer questions put directly to your colleague. You may request an adjournment for a reasonable period to confer with your colleague. You may also ask to address the hearing if you so wish. You should think of yourself as being there as a 'friend' and witness to support your colleague.

2. Do I have to have legal knowledge and expertise?

No. You do not have to know the law but you should be familiar with the facts of the particular case. You should get together with your colleague before the hearing to discuss the issues being considered at the hearing so that you are fully informed. If you want any additional information before the hearing please contact Human Resources.

3. Will I get paid for the time off?

Yes. Companions can attend the relevant hearing without loss of pay. You will also be given the time not only to attend the hearing, but also reasonable time to familiarise yourself with the case and to confer with your colleague before, during and after the hearing. If you choose to accept the request to act as a companion you are entitled to ask for a reasonable amount of paid time off in order to complete these duties. Please refer to Human Resources if you have any queries.

4. Do I have a duty to accept a request to act as a companion?

No. There is no compulsion on an individual to accept the role of companion. However, it is an important and helpful role and if you do choose to carry out the role then you will not be in any way disadvantaged by the Library. However you are not obliged to agree to accompany a colleague at one of these hearings. No pressure should be placed on you to attend and you do not have to give a reason for your decision not to attend.