



Privileges and Procedures Committee

Deputy Robert Ward
Chair, Care of Children in Jersey Review Panel
By email: r.ward2@gov.je

21st August 2020

Dear Deputy Ward,

Redress and Accountability Systems in Jersey

I refer to your letter dated 26th June 2020 in respect of the Care of Children in Jersey Review Panel's proposed review of Redress and Accountability Systems in Jersey. I write to respond to the various queries, numbered below as set out in your letter

(1) An overview of all complaints systems and processes within the States Assembly (including the States of Jersey Complaints Board) and any policies and documents that underpin them.

Within the States Assembly, there are a number of ways for the public to make a complaint. A brief overview follows:

A complaint about a staff member of the States Greffe, or the Deputy Greffier of the States.

This should be sent in writing to the Greffier of the States who would investigate and make a decision on the complaint. The matter would be considered in line with the relevant States of Jersey policy and guidelines (for example the disciplinary policy) but, as per Part 6 of the States of Jersey Law 2005 the staff of the States Greffe cannot be appointed or dismissed without the approval of the Greffier of the States.

The way in which the Deputy Greffier and officers of the States Greffe are appointed and dismissed is set out in Part 6 of the States of Jersey Law 2005.

A complaint about the Greffier of the States of Jersey.

This should be sent in writing to the Chair of the Privileges and Procedures Committee or, alternatively, the Bailiff to investigate.

The way in which the Greffier is appointed and dismissed is set out in Part 6 of the States of Jersey Law 2005.

A complaint about a States Member.

All States Members are expected to behave in accordance with the Code of Conduct for Elected Members (the Code), which is set out in Schedule 3 of the Standing Orders of the States of Jersey. If a member of the public believes that a States Member has breached the Code they can put this in writing to the Commissioner for Standards (the Commissioner) who can investigate (in accordance with the Commissioner for Standards (Jersey) Law 2017 and Standing Order 156).

The Commissioner is appointed by the Privileges and Procedures Committee (PPC) and may also initiate investigations of his or her own accord if they believe that a breach has occurred.

The Commissioner issued a statement (February 2018) which provided details of the matters which would fall inside, or outside, of his remit. A copy of the statement can be found at: <https://statesassembly.gov.je/sitecollectiondocuments/2018%20commonwealth%20youth%20parliament/jersey%20guidance%202018%20feb.pdf>

In summary, on receipt of a complaint, the Commissioner will decide whether there are grounds to investigate. If there are no grounds for an investigation, the complainant will be notified. Otherwise, the Commissioner will undertake an investigation and report to the PPC with his or her conclusions and recommendations as to what action, if any, should be taken. PPC will then review the Commissioner's report and give the States member who was the subject of the complaint an opportunity to address PPC (accompanied, should that member so wish). PPC must then decide whether the Code of Conduct has been breached and what action, if any, to take. It must then inform the member concerned of its decision. The Committee may also report its findings to the Assembly, either by means of a written report or by means of an oral statement by the Chairman of PPC.

A complaint about a Minister or Assistant Minister.

As with any complaint into a States Member, all Ministers and Assistant Ministers are expected to comply with the Code of Conduct for Elected Members. However, they are also expected to comply with the Code of Conduct and Practice for Ministers and Assistant Ministers, which is adopted by the Council of Ministers in accordance with Article 18(3A)(b) of the States of Jersey Law 2005.

The Commissioner for Standards is also responsible for investigating complaints against Ministers and Assistant Ministers. The procedures that apply to the Commissioner and PPC for complaints against States members also apply in respect of complaints against Ministers and Assistant Ministers. However, for complaints against Ministers and Assistant Ministers, PPC may choose simply to publish the Commissioner's report without taking any further action itself. This affords the Chief Minister, rather than PPC, the opportunity to decide whether the Code of Conduct for Ministers and Assistant Ministers has been breached and, if so, what action to take.

Taking a complaint to the States of Jersey Complaints Panel.

The States of Jersey Complaints Panel (the Panel) is established under the Administrative Decisions (Review) (Jersey) Law 1982, as amended, to look into complaints by members of the public into any matter of administration by any Minister or department of the States, or by any person acting on their behalf. The Panel members are independent and objective members of the public, who are not States Members and who provide their time on a voluntary basis.

If circumstances demand, a complaints hearing is convened by a Board made up of 3 Panel members; usually the Chair or Deputy Chair and two others. The Panel currently consists of 9 members, however, there has recently been open recruitment to appoint further individuals to ensure the Panel's diversity and to allow for succession planning.

For public confidence, there is an emphasis on independence and impartiality, therefore, if a member of the Panel has a conflict of interest they will not participate in a Board hearing.

The process for a complaint submitted for consideration by the Panel is as follows:

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- (1) a complaint is submitted to the Deputy Greffier of the States;
- (2) the Deputy Greffier requests a summary of the case from the Minister/department;
- (3) the Deputy Greffier sends the summary to the Chair and another Panel member, chosen on a rota basis;
- (4) the Chair and independent Panel member consider the submissions from the complainant and Department to decide if a hearing should be convened;
- (5) a public hearing is held where both the complainant and Minister/department present their case;
- (6) the Board presents its findings to the States; and
- (7) if the Board upholds the complaint, it will ask the Minister concerned to reconsider the original decision.

The Board does not have the power to overturn a decision made by a Minister, but it can decide whether the decision, act or omission about which the complaint has been made -

- (a) was contrary to law;
- (b) was unjust, oppressive or improperly discriminatory;
- (c) was based wholly or partly on a mistake of law or fact;
- (d) could not have been made by a reasonable body of persons after proper consideration of all the facts; or
- (e) was contrary to the generally accepted principles of natural justice.

If the Board believes that the complaint should be upheld, it can ask the Minister, Department or person concerned to reconsider the matter. It is then for the Minister, Department or person concerned, to decide whether to act on those findings.

(2) An overview of the various forms of redress available to people who have a complaint upheld with the States Assembly. We would also be grateful for copies of any documents or policies (where applicable) which outline how these forms of redress are administered.

Redress following a complaint about a staff member of the States Greffe, the Deputy Greffier of the States, or the Greffier of the States

As detailed in the response under section 1 (above), the initial matter would be considered in line with the relevant States of Jersey policy and guidelines (for example the disciplinary policy) but, as per Part 6 of the States of Jersey Law 2005 the staff of the States Greffe cannot be appointed or dismissed without the approval of the Greffier of the States.

Redress following a Complaint to the Commissioner for Standards

Per Article 9.7. of the Commissioner for Standards (Jersey) Law 2017, the Commissioner's conclusions and recommendations are not binding on the PPC. Therefore, if the complainant is still not satisfied once the Commissioner has completed findings, they may approach a States member to pursue alternative remedies with the States Assembly. Alternatively, if States Members felt that the PPC had not properly addressed the matter or complaint, it would be possible for them to raise a vote of no confidence.

Redress following a States of Jersey Complaints Board

Where a States of Jersey Complaints Board finds in a complainant's favour, the Board may ask the Minister or Department to reconsider the matter and will give them a set amount of time to do so. The Board will also make recommendations to ensure the situation does not arise again.

The Minister or Department should then tell the Board what it has done to reconsider the matter and the result of that reconsideration. The Board will receive copies of the Minister's reconsideration and this is presented to the States.

If the Board members think that the Minister or Department have not given a matter enough reconsideration, they may prepare a further response which is also presented to the States by the PPC.

It is open to the PPC, or any individual member of the States, to bring a proposition to the States about the decision, act or omission which was the subject of the complaint.

If the member of the public who brought the original complaint is not satisfied with the outcome, they can ask the Board to consider reconvening. If the Board considers that this is justified, it can ask for additional submissions.

If the complainant is still not satisfied once the Board has completed its findings, they may approach a States member or a legal representative to pursue alternative remedies.

(3) An overview of all disciplinary processes within the States Assembly and copies of the relevant policies that underpin these processes.

- States Greffe staff are States' employees within the meaning of the Employment of States of Jersey Employees (Jersey) Law 2005 and would be subject to the States of Jersey policy on disciplinary matters. A copy of the disciplinary policy is attached to this letter at Appendix A.
- States Members: Where the Commissioner for Standards has had grounds to investigate, the report and recommendation are presented to PPC who have the authority to decide on the next steps including any disciplinary action. If the Member concerned is a Minister or Assistant Minister it can be left to the Chief Minister to decide on the appropriate action to take following receipt of the Commissioner's report. The report is published and made public for the purpose of transparency.
- The Complaints Board: The process is set out above under section (1) of this letter. It is also set out in the guidance leaflet, 'How to complain to the States of Jersey Complaints Board' (see section (4) below for further information on this). There is not a specific written policy document to further detail the process as the requirements are taken from the Administrative Decisions (Review) (Jersey) Law 1982. Please note that the Complaints Board does not have specific disciplinary powers, or the power to overturn decisions made by a particular Minister.

(4) For all of the above systems and processes, could you please provide information on all of the places where they can be located by members of the public.

There is a complaints section on the States Assembly website which details how the public can register a complaint about States Members or States Greffe Employees:

<https://statesassembly.gov.je/pages/complaints.aspx>

Commissioner for Standards (Jersey) Law 2017: <https://www.jerseylaw.je/laws/enacted/Pages/L-04-2017.aspx>

Guidance from the Commissioner for Standards:

<https://statesassembly.gov.je/sitecollectiondocuments/2018%20commonwealth%20youth%20parliament/jersey%20guidance%202018%20feb.pdf>

Administrative Decisions (Review) (Jersey) Law 1982:

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<https://www.jerseylaw.je/laws/revised/Pages/16.025.aspx>

Guidance leaflet, 'How to complain to the States of Jersey Complaints Board':

<https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/ID%20ComplaintsBoard%2020091211%20AH.pdf>

(5) An overview of any future work programmes that you have in place in order to build trust and confidence in these systems of governance. We would also be grateful for any plans that you have to address the findings of the Independent Jersey Care Inquiry in relation to the perceived fear and lack of trust in systems of governance.

The States Greffe Business Plan sets out the focus and priority work programmes that are planned for supporting democracy in Jersey and the work of the States Assembly. The last Business Plan to be published was for 2019 (R.51/2019). The Business Plan for 2020 is in development and is yet to be published, however, the States Assembly adopted a Common Strategic Policy in 2018 (for 2018- 2022) (P.110/2018) and the elements that are most relevant to the work of the States Greffe will be reflected in the 2020 Business Plan.

Also, to note that the States Assembly approved P.32/2018 regarding the establishment of a Public Services Ombudsman, which was recommendation of the Clothier Report on the Machinery of Government in Jersey and the Jersey Law Commission. *Inter alia*, it requested 'the Chief Minister to bring forward primary legislation to establish the office of a Public Services Ombudsman, to replace the States of Jersey Complaints Board, as soon as is practicable, and to agree that the primary Law will include provisions for the detail and scope of the Ombudsman arrangements to be set out in Regulations and, where appropriate, Order-making powers and a consultation process in this regard was undertaken in 2019.' A consultation was undertaken during 2019 in respect of the establishment of a Public Services Ombudsman, however, in the interim, the Complaints Panel continues to operate. PPC considers that the present system, which relies on well respected, independent members of the community from a wide range of professional backgrounds, has many advantages and it has met the strict criteria set out by the British and Irish Ombudsman Association (of which the Island is a Complaint Handler Member) as an effective scheme. The Panel, particularly in recent years, has been quite forthright in its findings, as one would expect of an independent entity, and its findings reports have strongly challenged Ministers and Departments when processes and procedures have failed or not been correctly followed.

No public sector Ombudsman in the U.K. can make binding findings and there is no logical reason to expect that Ministers would be more responsive to the findings of an Ombudsman than they are at present to the findings of Boards. It would be unreasonable to expect that the findings of Boards should be made binding as this would effectively empower an independent, unelected body to override the decisions of democratically elected politicians. We consider that Ministers should be required to make statements in the Chamber when their response to a findings report is published, and this suggestion was put forward to the Chief Minister by this Committee in 2019, but no Minister has made such a statement since this was agreed. Similarly, the Chair and members of Boards have attended one meeting of the Council of Ministers to discuss the findings and this was regarded as successful. We think that making these mandatory aspects of the Complaints process would greatly enhance the existing system and would be willing to bring forward such changes to the Administrative Decisions Review (Jersey) Law in order to ensure the process is formalised. PPC also supports the idea of extending the Panel's remit to include third party housing providers, Ports of Jersey and other areas of public service which have been incorporated, in order to give Islanders a path for redress.

In essence, PPC is supportive of any improvements which can be made to the existing system, especially if there is a direct benefit to the public and we would also be willing to enter into discussions with the Council of Ministers to identify other ways in which the Complaints Panel's voice could be

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strengthened. Whilst the Panel cannot make binding recommendations, there is an opportunity to explore whether the Council could place pressure on a Minister to accept findings and act upon them.

PPC considers that, as laypeople, the Complaints Panel members more than ably fulfil their remit and we are very grateful for the outstanding service they provide. The present system is undertaken at virtually no cost to the taxpayer. A new Government Customer Feedback policy came into effect in September 2019 which introduced a standardised, three-tiered approach to complaint handling within Departments that allowed for complaints to be resolved at source and encourages a positive and receptive approach to feedback. The Complaints Panel remains the external review option should matters not be resolved to the customer's satisfaction.

PPC and the Complaints Panel welcomes the introduction of a consistent template for complaint handling across the Government of Jersey. We feel that it would be advisable to see how this system impacts, not just on the way in which complaints are handled, but also the number which are escalated to the Complaints Panel for further review, before an Ombudsman's office is established. The Ombudsman system appears to mirror the service currently available, but at a significant increased cost and it is difficult to see what material gain will be made in pursuing its establishment at this point in time, especially if improvements to the internal complaints process could see a reduction in the number of cases which remain unresolved and in need of arbitration. However, the Committee accepts that there is always room to improve, and it is more than willing to make changes to the current Legislation in order to provide further support to the Complaints Panel to continue and enhance the excellent service it currently provides.

I trust that the above information is of assistance, however, should you or the Panel have any further queries, please do not hesitate to contact me.

Yours sincerely,



Deputy R. Labey
Chair, Privileges and Procedures Committee

CC. Dr. Mark Egan, Greffier of the States
Lisa Hart, Deputy Greffier of the States
Andrew Harris, Principal Committee and Panel Officer

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Appendix A: States of Jersey Disciplinary Policy

DISCIPLINARY POLICY



This policy is currently under review. This version should be used until further notice.

Title	Disciplinary
Author	Employment Relations
Document	Policy
Effective Date	01/07/2014
Review Date	01/07/2016
Version	1.2
This policy supersedes all previous policies, circulars and agreements connected with Equality & Diversity within the States of Jersey.	

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Cases which solely involve allegations of Personal Misconduct against Medical Staff will be dealt with in accordance with this disciplinary procedure only after the procedure for investigating allegations of Personal Misconduct referred to in the States of Jersey Health and Social Services ***Policy for the Handling of Concerns and Disciplinary Procedures relating to the Conduct and Performance of Doctors and Dentists*** has been completed.

1 Policy statement for disciplinary

It is the policy of the States of Jersey to deal with all disciplinary matters promptly, fairly and consistently. Employees should maintain acceptable standards of job performance and behaviour. If they fail to do so, they will be managed under this Disciplinary Policy.

(The Capability Policy will apply when an employee, cannot maintain the performance standard expected of them.)

2 Policy aims

2.1 The purpose and aims of this policy are to:

- Provide clear guidance to managers and employees about the disciplinary procedure and how the associated investigation process should operate;
- Eliminate or reduce unacceptable behaviour and/or conduct;
- Ensure equality and consistency with regards to the management of breaches of the relevant codes of conduct applicable to the employee.

3 Key principles

3.1 A standard set of underpinning principles have been developed for this Policy and will apply to all States of Jersey Human Resources Policies, terms and condition of service. (See Policy Principles)

In addition the following principles also apply:

- No formal disciplinary action will be taken against an employee without a prior investigation (see glossary) and a hearing where appropriate
- No employee will be dismissed for a first breach of discipline, except in the case of gross misconduct where the sanction may be dismissal without notice
- The employee may be accompanied or represented by a workplace colleague or a recognised Trade Union representative, at all stages of the procedure, including the investigation stage
- Legal Representatives are not recognised at any stage of this policy and associated procedure, save in exceptional circumstances relating to fitness to practice, which must be agreed with Employment Relations
- The procedure must be completed within a suitable timeframe and cannot be protracted due to a lack of availability of a person on either the Employer or employee side
- If the employee fails to attend a Disciplinary or Appeal Hearing, depending on the circumstances, the hearing may take place in their absence.

4 Links to other policies

4.1 Other policies and documentation to consider include:

- Code of Conduct (relevant to the employee)
- Capability
- Social Media: Email & Internet
- Conflict of Interest
- Dignity at Work

5 Who this policy applies to

5.1 This policy applies to the following at all times:

- Employees of the States of Jersey on permanent and non-permanent contracts of employment:

5.2 This policy does not apply to:

- Those employees subject to a separate disciplinary procedure, (e.g. Police)
- Workers who work for the States of Jersey through a contract for services on an interim, locum, self-employed or agency basis
- Voluntary staff or those on honorary contracts where there is no implied contract of employment
- Workers covered by Zero Hours Agreements.

6 Roles and responsibilities

6.1 **Employees** are responsible for:

- Complying with the relevant codes of conduct at all times;
- Maintaining confidentiality
- Acting in accordance with their terms and conditions and contract of employment at all times
- Carrying out their role to the expected and required standards
- Co-operating fully with any investigation held under this policy
- Attending meetings required
- Giving as much notice as possible if they or their representative are unable to attend meetings and be reasonable when alternatives are suggested
- Informing their Line Manager if they are involved or likely to be involved in any criminal proceedings (see glossary), as soon as they are aware
- Following the terms of any suspensions, or exclusion.

6.2 **Line Managers** are responsible for:

- Notifying the employee of any concerns relating to unsatisfactory conduct and/or behavior at the earliest opportunity
- Dealing with all disciplinary matters promptly, fairly and in the strictest of confidence
- Attempting to resolve minor issues informally
- Ensuring that appropriate disciplinary investigations are carried out;
- Informing HR of an formal disciplinary action
- Declaring any conflict of interest they may have when involved in any stage of the disciplinary process
- Maintaining confidentiality.

6.3 **Human Resources (HR)** are responsible for:

- Providing policy and procedural advice to Line Managers
- Being involved with all cases that are likely to result in gross misconduct and with earlier stages if requested by a Line Manager
- Informing the appropriate full time Union Officer or Head of the Association at the earliest possible opportunity where a recognised representative of a registered Trade Union or recognised staff representative body may be the subject of a disciplinary procedure

- Declaring any conflict of interest they may have when involved in any stage of the disciplinary process
- Maintaining confidentiality.

6.4 **Chief Officers (or their nominee)** are responsible for:

- Defining and providing clear standards of acceptable conduct and behaviour and ensuring employees are aware of the consequences of not complying with the relevant codes of conduct
- Ensuring that all disciplinary matters and associated procedures within their department are handled in accordance with this policy and 'Best Practice
- In liaison with HR, sanctioning the suspension or temporary redeployment of an employee from duty, where appropriate.

7 Unacceptable behaviour

This is considered to be anything outside the boundaries of the Code of Conduct relevant to their post which has adverse impact on other individuals, reputation or delivery of services.

7.1 Examples of behaviour which may be considered as either misconduct or gross misconduct are given in the Managers Guidelines covering disciplinary matters.

7 Investigation (See Glossary and Investigation Guidelines)

8.1 Criminal offences or charges are not automatic reasons for taking disciplinary action. Human Resources, in accordance with the States of Jersey Memorandum of Understanding Agreement will advise in potential criminal cases before proceeding with an investigation into a disciplinary matter and before any disciplinary action is contemplated.

This will determine whether the charge/offence is relevant to the person's employment and sufficiently serious to warrant investigation and action under this policy.

8.2 Subject to 10.2.1 below, before any formal disciplinary action is taken, an investigation will be promptly undertaken by management to establish the facts of the situation, taking into account relevant witness statements, associated documentation, and relevant States of Jersey Codes of Conduct, policies and procedures.

8.3 The length and depth of the investigation (determined by management), will be dependent upon the gravity and complexity of the allegation.

8.4 The employee should be kept regularly advised of the progress of the investigation.

8.5 Subject to 8.1 above, a disciplinary investigation may run in parallel to an external and/or criminal investigation. In these circumstances, other professional bodies may become involved. Care should be taken not to prejudice any criminal investigation and the officer responsible for a criminal investigation should be consulted prior to a disciplinary investigation.

9 Suspension (See Suspension Review Panel Code of Practice)

9.1 The States of Jersey reserves the right to suspend or redeploy an employee during any stage of the disciplinary procedure (although it is recognised that this normally precedes disciplinary action). Suspension is in itself a neutral act, does not constitute or imply guilt on the part of the employee and will be kept to a minimum.

9.2 Suspension may be appropriate:

- Where the employee is accused of gross misconduct, and in addition the following should be taken into consideration
- When it is necessary to allow a thorough investigation to be carried out
- Where there are potential risks to the employee, other employees, service users or the public.

9.3 Whilst suspended an employee will receive full pay and allowances, excluding non-contractual overtime. Annual Leave will continue to accrue during the period of suspension.

For conditions applicable to suspensions, refer to Suspensions Code of Practice.

9.4 Suspensions will be kept under regular review.

10 Outcome following disciplinary action

10.1 Informal Action and Outcome

10.1.2 In certain circumstances, breaches of the expected standards of work or behaviour are able to be dealt with informally at the discretion of the Line Manager. This should be managed at the earliest opportunity in a private one-to-one meeting, between the employee and Line Manager.

Informal action should not be confused with management of day to day issues.

A note should be made of the meeting, to include a brief summary of the outcome and details of any actions agreed; a copy should be given to the employee for their own records and the original should be placed on the employee's personal file.

10.1.3 The outcomes of informal action could be either one of the following:

OUTCOME	SANCTION
No action, where there is no case to answer	There is no sanction imposed.
Informal warning	Valid for 6 months, except in instances of safeguarding, where this remains indefinitely.

10.2 Formal Action and Outcome

10.2.1 An employee must be notified prior to being investigated and advised of any allegation made against them.

- 10.2.2 Formal action should be taken where the allegation is more serious (see glossary), or informal action has not brought about a significant or sustained improvement.
- 10.2.3 At least 10 working days (see glossary) notice must be given in writing to an employee prior to a Disciplinary Hearing. Where appropriate, both parties can agree to move the Hearing forward to an earlier date.

The notification should include the following:

- The allegation against them
- Whether the Hearing could result in dismissal
- Their right to representation.

(See Formal Hearing and Appeal Procedure)

- 10.2.4 The Disciplinary Hearing should be chaired by a Manager (determined by the Employer) appropriate to the severity of the allegation who should not have had any prior involvement in the investigation.
- 10.2.5 The rationale for the outcome;
- Where applicable, the improvement required, with any relevant timescales;
 - Any further action that may be incurred if there is no satisfactory improvement or if further misconduct occurs;
 - Their right to appeal.
- 10.2.6 All disciplinary warnings will remain in force for a fixed period, as defined in the outcome letter sent to the employee following the Disciplinary Hearing.
- 10.2.7 All records of Disciplinary Hearings, decisions and warnings will be kept on the employee's personal file in accordance with Data Protection legislation.
- 10.2.8 All warnings will be applied with effect from the date of the hearing irrespective of whether an appeal is pending.
- 10.2.9 The outcomes of a Disciplinary Hearing could be any one of the following:

OUTCOME	SANCTION
No action, where there is no case to answer	There is no sanction imposed
Written warning	Valid for 9 months, except in instances of safeguarding, where this remains indefinitely.
Final written warning	Valid for 12 months except in instances of safeguarding, where this remains indefinitely.
Dismissal	The employee's contract is terminated with or without notice

10.3 Dismissal

- 10.3.1 In cases where the outcome is dismissal (except in the case of gross misconduct) the employee will be paid in lieu of notice, at the rate of pay being paid at the date that notice is given, irrespective of whether an appeal is pending.
- 10.3.2 Dismissal following cumulative warnings will be normally with pay in lieu of notice.
- 10.3.3 Employees dismissed with pay in lieu of notice will not be required to work their notice.

10.3.4 In the case of gross misconduct, the employee will be dismissed with immediate effect and without notice, irrespective of whether an appeal is pending.

10.3.5 Criminal offences or charges are not automatic reasons for dismissal. The Line Manager together with HR should consider the facts and whether the charge or offence is relevant to the individual's employment.

11 Appeal **(See Formal Hearing & Appeal Procedure)**

11.1 Employees have the right to:

- Appeal against all formal stages of the disciplinary process
- Appear personally in front of an Appeal Hearing, either alone or accompanied by a recognised Trade Union representative or workplace colleague.

11.2 The appeal should be heard by the next level of management in terms of seniority to the Manager who conducted the original Disciplinary Hearing. In the case of dismissal, the appeal will be heard by their Chief Officer or their senior nominee.

11.3 An Appeal Panel may, in upholding an appeal, impose a lesser sanction.

11.4 An Appeal Panel cannot impose a greater sanction than that is being appealed against.

11.5 If an employee is reinstated following an appeal against dismissal, they will be reinstated from the date of dismissal and contractual pay will be restored taking into account any pay received in lieu of notice.

11.6 The decision of the Appeal Hearing is final.

12 Glossary (of Terms used in this Policy)

TERM	MEANING
Gross Misconduct	<p>Misconduct that is so serious that the bond of trust and confidence between employer and employee is completely broken or fundamentally breaches the contract of employment for example</p> <ul style="list-style-type: none"> ➤ Theft ➤ Assault ➤ Malicious or willful damage to property ➤ Misuse of information ➤ Breaches of the Data Protection Act ➤ Bullying and harassment <p>If established the employee maybe liable to summary dismissal for the first offence. (see Disciplinary Rules)</p>
Misconduct	<p>Incidents that infringe rules and regulations, including unsatisfactory or irresponsible behaviour for example</p> <ul style="list-style-type: none"> ➤ Poor timekeeping ➤ Misuse of Employer facilities ➤ Failure to comply with departmental rules on clothing, safety or hygiene. <p>These are generally not serious enough to warrant dismissal for a first offence. (see Disciplinary Rules)</p>
Codes of Conduct	<p>Set out the standards of performance and behaviour at work. This includes:</p> <ul style="list-style-type: none"> ➤ The States Code of Conduct applicable to all public sector employees; and ➤ Professional Codes of Conduct applicable to relevant professions.
Investigation	<p>An exercise to establish the objective facts about an allegation or allegations. This may be a straightforward exercise to confirm facts which may not necessarily require an ACAS trained investigator. A more detailed investigation may be appropriate where, depending on the circumstances, the allegation(s) may be potentially more severe and complex.</p>
Working days	<p>Monday to Friday 9:00 am until 5:00pm, excluding Bank or Public holidays.</p>
Workplace colleague	<p>Normally someone you work with in the same area or department and this may not be a friend or relative. Lawyers are not permitted, save in exceptional circumstances relating to fitness to</p>

	practice, which must be agreed with Employment Relations.
Serious disciplinary allegation	An allegation or cumulative repeated minor allegations which cannot be resolved informally.
Criminal Proceedings	Any action being taken against an individual by the Police or Honorary Police
Safeguarding	Both for adults and children, means protecting them from harm. In relation to children, this may include preventing impairment of children's health or development; ensuring that children are growing up in circumstances consistent with the provision of safe and effective care; and taking action to enable all children to have the best life chances. In relation to adults, their circumstances may be such that they may be deemed to be 'at risk' of abuse or neglect and to require safeguarding from that risk. For example, adults requiring extra support, because of frailty, a learning disability, physical disability, sensory impairment or mental health problem which makes them unable to protect themselves against harm and abuse, may need to be safeguarded.