

LOWER SEVERN (2005) INTERNAL DRAINAGE BOARD

Governance & Probity Meeting

Wednesday 4th April 2018

**The Gables Hotel
10.30am**

LOWER SEVERN (2005) INTERNAL DRAINAGE BOARD

GOVERNANCE and PROBITY COMMITTEE TERMS OF REFERENCE

Matters for recommendation by the Committee to the Board

1. Consideration of proposals affecting the structure, size or composition of the Board.
2. Consideration of any proposal to alter the Board's overall corporate governance arrangements and committee structure.
3. Formulation or revision of Standing Orders, Procedural Rules and Financial Regulations.
4. Terms of reference of, and delegations to, committees.
5. Delegations to Officers.
6. Formulation or revision of Codes of Member and Officer Conduct or related Protocols.
7. Formulation or revision of any policy document relating to the Board's policies or practices under Data Protection, Freedom of Information or Anti - Fraud or Bribery legislation.
8. Formulation or revision of Complaints Procedures.
9. Formulation of any protocols intended to clarify and/or facilitate the efficient administrative operation of the Board or its Committees.
10. To keep under regular review the content and effectiveness of the Board's corporate governance arrangements generally and to make appropriate recommendations.

**Minutes of the Governance & Probity Committee Meeting
Of the Lower Severn (2005) Internal Drainage Board
Held Wednesday 10th May 2017 at 10.30 am
At The Gables Hotel Falfield**

Present: Cllr B Behan Chairman
Cllr J Jones
Mr J Hore Deputising for Cllr M Riddle
Mr G Littleton

Staff: Kieran Warren Principal Officer Designate POD
Colin Spencer Head of Governance HoG
Sue Williams Minutes

2485.	Principal Officer Designate The Committee welcomed Kieran Warren to the Meeting. He would officially start his post as Principal Officer on the 12 th June 2017; in the interim period he was already assisting the Board from time to time.	
2486.	Appointment of Governance & Probity Committee Chairman This being the first meeting of the Committee since the Annual Meeting the Head of Governance asked for nominations for Committee Chairman. Resolved that: <ul style="list-style-type: none"> • Cllr B Behan be appointed Chairman of the Committee for the remainder of the current Board year. 	
2487.	Apologies Apologies were received from Mr Ractliffe, Cllr Riddle and Mr Withers.	
2488.	Minutes of the Previous Meeting Resolved that: <ul style="list-style-type: none"> • The minutes of the Meeting held 4th May 2016 be approved as a true and accurate record. 	<u>Action 1</u> Include 'Extended Absence Guidance' with documents sent to new members.
2489.	Internal Audit Office Report 'Internal Drainage Boards' The National Audit Office had published its report on the activities and practices of Internal Drainage Boards. The report focussed on three areas; governance, raising concerns and conflicts of interests. On the whole the LSIDB had in place procedures and practices that adequately addressed these issues. The POD had prepared a paper to highlight areas for the Board to consider. <u>Governance</u> There was no statutory governance provision for IDB operations. The Land Drainage Act 1991 was very outdated. The Committee would strongly support ADA to lobby government for new legislation. The Committee recognised the importance of continued member training and the Principal Officer would investigate and report back on this matter in due course. <u>Oversight of IDBs Operations</u> The report highlighted the inconsistency of information submitted on the Annual Return to Defra and external audit statements. It was suggested that DEFRA should amend the IDB1 form to avoid the variation of reporting.	

	<p>Raising Concerns The POD considered that the existing Complaints Procedure was robust and effective. Currently the procedure and complaint form were published on the LSIDB website. The Committee could consider raising the prominence of the procedure but the POD considered that the current visibility was satisfactory.</p> <p>Conflicts of Interest The POD considered that members were fully aware of the need to report and register interests annually and at meetings when specific matters were discussed any conflict of interest would be declared and recorded.</p> <p>It was resolved that:</p> <ul style="list-style-type: none"> • The content of the National Audit Office Report be noted and its conclusions accepted and the general tenor of its recommendations be agreed. • ADA be urged to make representation to central government to introduce comprehensive legislation to reflect a contemporary framework for the operations of Internal Drainage Boards. 	<p><u>Action 2</u> POD - Write to ADA</p>
<p>2490.</p>	<p>Gifts and Hospitality – new policy recommendation The Committee considered a policy prepared by the HofG</p> <p>The Committee reviewed the policy and suggested that it would be helpful to include additional guidance for clarity. The Committee agreed to delete the sentence in item 5 of the prepared document:</p> <p style="padding-left: 40px;">“Where invitations are received to make visits to inspect equipment, supplies or services, Members and employees should ensure that the Board meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.”</p> <p>It was considered that this was not practicable, particularly when the Board were looking to purchase large items of equipment.</p> <p>Recommended that:</p> <ul style="list-style-type: none"> • The Gifts and Hospitality Policy contained in Appendix A to these minutes be adopted. • A short guidance note, with practical examples of how the policy would operate, be issued to members and employees. 	
<p>2491.</p>	<p>Media Protocol – New policy recommendation The HofG explained to the Committee that currently it was that the Chairman was the only person authorised to make statements about the Board and its activities to the media.</p> <p>A key change proposed to the present arrangements, was that in future a distinction would be drawn between ‘policy’ (where the Chairman would still have a primary responsibility) and ‘operational matters’, which would be dealt with at officer level subject to prior appropriate members consultation.</p> <p>Recommended that:</p> <ul style="list-style-type: none"> • The Media Protocol contained in Appendix B to these minutes be adopted. • 	
<p>2492.</p>	<p>Disciplinary Code The HofG reported that this document had still to be drafted. He suggested that it would be helpful if, initially, the S&P Committee and the Governance & Probity Committee held a joint Committee Meeting to consider this matter.</p> <p>It was suggested that such a meeting could be convened on the morning</p>	<p><u>Action 3</u> POD - Arrange a joint meeting of S&P</p>

	of the next Board meeting.	and G&P
2493.	<p>Review of Existing Policy Documents and Regulations The Committee reviewed the existing policies and regulations and made the following recommendations to reflect the revised management structure.</p> <p>Recommended that:</p> <ol style="list-style-type: none"> 1. Subject to the recommendations made below, the wording of the following policies and regulations be retained as at present: <ul style="list-style-type: none"> • Anti-Bribery Policy. • Anti-Fraud and Corruption Policy • Complaints against Board Members • Complaints Procedure • Data Protection Policy • Freedom of Information Act 2000 • Whistleblowing Policy • Financial Regulations 2. The words 'Principal Officer' be substituted for the word 'Clerk' in all the above policy documents. 3. The key officer in the 'Complaints against Board Members Procedure' be changed from the Head of Governance to the Principal Officer, but that this matter be kept under review. 4. The 'Complaints against Board Members Procedure' be amended by deleting the following words from the second bullet point of the section headed "What will happen on the receipt of a complaint?" 'and will be requested to submit any comments in response within 10 working days.' (the effect of this deletion is that a Board Member will not be required to respond to a complaint unless it is decided that an investigation into it should be pursued). 5. The Principal Officer should be included in the Financial Regulations where previously the Clerk had a role. 6. In connection with Freedom of Information requests, it be made clear that in the first instance requests for information should be dealt with within 20 working days of receipt by the officer most conversant with the matters involved and that any review request should be dealt with by a separate officer (normally the Principal Officer) within a period of 20 working days from the date of receipt of the request for review. 	
2494.	<p>Schedule of Policies and Regulations to be Introduced or Reviewed Subject to the policies reviewed under minute 2493, the Committee considered the list of Board policies more generally. The policies that remained to be drafted and adopted were:</p> <ul style="list-style-type: none"> • Disciplinary Code (see minute 2492) • IT Communications Policy. <p>The documents, polices and protocols to be reviewed in due course were:</p> <ul style="list-style-type: none"> • Delegation of Powers to Officers 	

	<ul style="list-style-type: none"> • Member Code of Conduct • Member/Officer protocol • Mission Statement • Standing Orders • Substitute Members Protocol • Voting on Appointments Procedure <p>So far as the proposed IT Communications Policy was concerned, these matters were now substantially included in the Employees Handbook and no further documentation there was considered to be required.</p> <p>The Committee noted the Biodiversity Action Plan still required formal consideration and adoption. This matter had been the subject of a presentation to the Board in June 2016 (minute 2358) who had recorded that the Plan should be considered for adoption in September 2016.</p> <p>Recommended that:</p> <ul style="list-style-type: none"> • The Biodiversity Action Plan should be presented to the Board for consideration as a matter of priority. • That the Board's Standing Orders should be reviewed. 	<p><u>Action 4</u></p> <p>Review Standing Orders</p>
2495.	<p>Register of Interest – Publication</p> <p>Arising from a request from a Board member, the Committee were asked to consider the publication of member interests. To date member interests were kept in a register held by the Board and available for inspection upon request. The Committee were informed that for principal local authorities, website publication of Members Interests was now obligatory and that in order to create maximum transparency it was considered that the Board too should follow this example.</p> <p>Recommended that:</p> <ul style="list-style-type: none"> • The Register of Members Interest entries should be published on the website in order to provide the maximum convenience and transparency to the public, subject only to the member's signature itself being redacted. • In addition to the above, the Board should publish annually details of member's attendance at Board and Committee meetings, specific declarations of interest made at meetings during the period and also details of any rechargeable works undertaken for members. 	<p>Note</p> <p>Modern.gov</p> <p>Software for uploading minutes etc. suggested by Cllr Burford.</p>
2496.	<p>Date of Next Meeting</p> <p>The Committee confirmed that the next meeting of the Governance & Probity Committee would be held 18th October 2017.</p>	
2497.	<p>The meeting closed at 12.00 pm.</p>	

LOWER SEVERN (2005) INTERNAL DRAINAGE BOARD

GIFTS AND HOSPITALITY POLICY

Policy Application

The guidance set out in this document applies both to Members of the Board and to its employees. It is also intended to apply to those who carry out works on behalf of or at the request of the Board.

So far as Board Members are concerned, this policy guidance supplements the requirements of the Member Code of Conduct and should be read in conjunction with that Code.

Policy Objective

The purpose of this policy document is to provide guidance to Members and staff on the action that can, or should, be taken in the event that they are offered gifts/hospitality. Although there are limited exceptions for small value gifts/hospitality, the general rule is that anything at or over an estimated value of £ 25.00 should be registered to protect both the individual and the Board. It is most important that this requirement is observed so as not to bring the Board into disrepute. In any case of uncertainty, the Principal Officer should be consulted.

Detailed Guidance

1. Members and employees should treat with extreme caution any offer of a gift or favour or hospitality that is made to them personally. The person or organisation making the offer may be doing or seeking to do business with the Board or may be applying to the Board for some decision to be taken in his favour or someone with whom he is connected.
2. There are no hard and fast rules about the acceptance or refusal of hospitality or tokens of goodwill. For example, working lunches may be an appropriate way of doing business provided that they are approved by the Principal Officer and provided that no extravagance is involved. In the same way, it may be reasonable for staff to represent the Board at a social function or sporting event organised by outside persons or organisations. If the value of the hospitality is estimated to exceed £25.00 however, it should be recorded in the register.
3. Each Member or employee is personally responsible for all decisions connected with the acceptance or offer of gifts or hospitality and for to avoid risk of damage to public confidence. The receipt and details of gifts and hospitality should always be reported to the Principal Officer. When hospitality has been declined, those making the offer should be courteously but firmly informed of the procedures and standards operated by the Board and told why hospitality cannot be accepted.
4. Members and employees should not accept significant personal gifts from contractors and outside suppliers, although the Board will allow Members and employees to keep insignificant items of token value such as pens, calendars and diaries. Such insignificant items do not require recording in the Gifts and Hospitality register provided that their estimated value does not exceed £25.00.
5. Acceptance by Members and employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear that the hospitality is corporate rather than personal and where the Member or employee is satisfied that any purchasing decision will not be compromised. However, if the value of such hospitality is estimated to exceed £25.00 per person, then as a precaution the item should be disclosed in the register.

LOWER SEVERN (2005) INTERNAL DRAINAGE BOARD

PROPOSED MEDIA PROTOCOL

1. Any request from the media about a matter concerning the Board's POLICY should be initially referred to the Board Chairman for a response. Prior to a response being given, the Chairman will consult the Principal Officer and any other parties whom he considers appropriate in the circumstances. If the enquiry is made to any officer other than the Principal Officer, the Principal Officer should be informed immediately.
2. In normal circumstances, in the case of a written response by the Chairman on a matter of POLICY, such response will be issued by the Principal Officer.
3. Any comments to the media in response to an enquiry about a purely OPERATIONAL matter will be dealt with by the Principal Officer (or his nominee) after consultation with the Chairman/appropriate Committee Chairman and any appropriate officer.
4. In cases where the Board will to make a statement to the media on a pro-active basis, such matter will initially be discussed between the Chairman and Principal Officer who may seek assistance from any other appropriate Member or officer.

Actions Update

Actions from Governance & Probity Committee Meeting held 10th May 2017

Action No	Officer	Action	Update
1	POD	Include 'Extended Absence Guidance' with documents sent to new members.	Completed
2	POD	Arrange a joint meeting of S&P and G&P	Meeting not required. Report on Disciplinary Procedure provided for both committees.
3	POD	Review Standing Orders	For report to G&P meeting 4 April 2018
		Note Modern.gov Software for uploading minutes etc. suggested by Cllr Burford.	

ELECTION 2018		
	01 April 2018	Prepare Electoral Register
Tuesday	3 - 18 April 2018	Register available for public inspection
Wednesday	27 June 2018	Members to approve the proposed Electoral Register
Thursday	28 June 2018	Advertise the approval of the Electoral Register
Tuesday	11 September 2018	Notice of Election to be published. Nomination papers to be made available.
Thursday	27 September 2018	12 noon. Last day for receipt of nomination papers before Last day for written 'Notification of Deputy Entitlement to Vote'
Friday	28 September 2018	Notice to candidates of invalid nominations
Wednesday	03 October 2018	Notification to candidates of valid nomination paper
Monday	08 October 2018	At 17.00 hrs time expires for withdrawal by candidate of nomination. Publish date of Poll, or if No Poll publish result and inform candidates
Tuesday	16 October 2018	If Poll, voting papers to be posted on or before this date to eligible voters.
Thursday	25 October 2018	Date of Poll close 12.00 noon Publish election result Notify elected candidates

REVIEW OF CHAIRMAN’S HONORARIUM

Introduction

At the Board meeting held on 8 November 2017, Members asked the G & P Committee to consider increasing the Chairman’s honorarium by annual increments [Minute 2574 refers].

Background

Payments made since 2009/10 have been in the following amounts:

Year	£	Note
2009/10	5,280	exceptional hours
2010/11	3,500	
2011/12	3,500	
2012/13	3,500	
2013/14	3,500	
2014/15	3,500	
2015/16	3,500	
2016/17	4,750	One off payment of £1,000
2017/18	3,750	

Proposal

It would be logical to link any increase in the honorarium – which reflects the greater responsibility of the role when compared with other Board Members – to the annual increase in the Drainage Rate (if any). Using this method, the Chairman’s level and range of responsibilities in a given year are clearly aligned with the Board’s levels of income, expenditure and activity.

Recommendation

That the Chairman’s honorarium be increased in line with the annual increase in the Drainage Rate.

Kieran Warren
Principal Officer

REVIEW OF STANDING ORDERS

Introduction

It is good practice periodically to review Standing Orders. Staffing changes and decisions made at the last Annual meeting in respect of meetings mean that a small number of amendments are necessary to reflect the Board's current working procedures.

Principles

The minor revisions highlighted in the Standing Orders appended to this report

- Update the notice requirements for the issue of agenda papers, as agreed by the Board on 8 November 2017 [Minute 2580 refers];
- Propose a means of calculating the quorum for Committees, Sub-Committees and Working Groups;
- Substitute "Principal Officer" for "Clerk" where appropriate; and
- Depart as little as possible from the model DEFRA Standing Orders introduced in 2013.

Recommendation

That the amendments be approved and the revised Standing Orders be recommended to the Board for adoption.

Kieran Warren

Principal Officer

LOWER SEVERN (2005)
INTERNAL DRAINAGE BOARD
STANDING ORDERS
(Version 1.1 approved
27 June 2018)

Lower Severn (2005) Internal Drainage Board
Waterside Buildings, Oldbury Naite, Thornbury, Bristol BS35 1RF

**LOWER SEVERN INTERNAL DRAINAGE BOARD
STANDING ORDERS**

The Secretary of State for Environment, Food and Rural Affairs, by virtue of the power contained in paragraph 3 of Schedule 2 to the Land Drainage Act 1991, HEREBY APPROVES these standing orders.



C A Tidmarsh
for and on behalf of the
Secretary of State
Date: 20 June 2013

Rules made by the Lower Severn (2005) Internal Drainage Board with the approval of the Secretary of State under paragraph 3(1) of the Second Schedule to the Land Drainage Act, 1991. The relevant statutory provisions governing the proceedings of an Internal Drainage Board are set out in the Annex to these Rules for reference purposes

Regulations as to Proceedings

1. Meetings of the Board, for which 5 [formerly 7] clear working days notice will be given, will be open to the public and press who will on the invitation of the Chairman be able to speak at the meeting. The Board can pass a resolution to exclude the public and/or press from a meeting or part thereof where it is considered that the nature of the business to be transacted so requires. In that event the reasons for such exclusion shall be clearly recorded in the
 - a) The Board will hold an Annual General Meeting in November each year together with such other meetings as it may determine.
 - b) At one such meeting the Board will determine the drainage rate and special levies to be set to enable the latter to be served on the special levy councils by no later than the 15 February in respect to the following financial year.
 - c) In addition either the Chairman and/or 10 or more members may call a Special Meeting to consider any urgent matter.
2. For each meeting, members will receive an Agenda and any accompanying papers by post or other means despatched at least five [formerly seven] clear working days before the meeting.
3. No business shall be transacted by the Board, other than that which appears on the Agenda, unless 75% of the members present agree to any such additional issue being discussed as a matter of urgency. The reasons for such urgent consideration shall be recorded in the minutes of the meeting.
4.
 - a) A formal meeting of the Board cannot be conducted unless at least 8 members are present at the start of and during the meeting. If departures reduce the number below the quorum of 8 then the Chairman will terminate the meeting at that point.
 - b) All resolutions and proposals will be decided by a majority of votes of the members present. Except as provided elsewhere in these rules, voting shall be by show of hands.
 - c) In the case of an equality of votes at any meeting, the Chairman for the time being of such meeting shall have a second or casting vote.

5. The Board shall meet at a venue to be determined from time to time with such venue being specified in the agenda.
6. The Board shall, by secret ballot, at the Annual General Meeting appoint a Chairman and Vice-Chairman whose terms of office shall continue until the following Annual General Meeting. Wherever practicable, one of these positions shall be held by an elected member and the other by an appointed member.
7. If any vacancy occurs in the office of Chairman or Vice-Chairman, the Board shall as soon as they conveniently can after the occurrence of such vacancy, choose some one of their number to fill such vacancy.
8.
 - a) At any meeting of the Board the Chairman, if present, shall preside.
 - b) If the Chairman is absent from a meeting of the Board, the Vice-Chairman, if present, shall preside.
 - c) If at any meeting of the Board both the Chairman and Vice-Chairman are not present at the time the members present shall choose some one of their number to be Chairman of such meeting.
9. The Board shall cause Minutes to be made of all meetings and recorded in an appropriate form:-
 - a) of all appointments of Officers made by the Board
 - b) of the names of the members present at each meeting of the Board and Committees or Sub-Committees of the Board
 - c) of all orders made by the Board and Committees or Sub-Committees of the Board, and
 - d) of all resolutions and proceedings of meetings of the Board and of Committees or Sub-Committees of the Board.

The Board will approve, with or without amendment, the minutes of the preceding meeting and these will be duly signed by the Chairman together with any financial statements presented at that meeting.

10. All proceedings, resolutions and reports of every Committee, Sub-Committee or Working Group intended to be laid before the Board shall be circulated among the members of the Board at least **five [formerly seven]** clear working days before the meeting of the Board at which the same are to be submitted.

Committees, Sub-Committees or Working Groups

11. The Board may appoint such Committees, Sub-Committees or Working Groups as they think fit **and the quorum for these meetings shall be in the same proportion as the quorum required for Board meetings.** The acts of any Committee, Sub-Committee or Working Group shall be subject to the approval of the Board unless the Board has delegated its powers to that

Committee, Sub-Committee or Working Group.

12. A Committee, Sub-Committee or Working Group may elect a Chairman of their meetings. If no such Chairman is elected, or if he/she is not present, the members present shall choose some one of their number to be Chairman of such meeting.
13. A Committee, Sub-Committee or Working Group may meet and adjourn as they think proper. Proposals at any meeting shall be determined by a majority of votes of the members present, and shall be decided by a show of hands. In case of any equal division of votes the Chairman shall have a second or casting vote.
14. Regulations 9 and 10 shall apply to minutes of Committees, Sub-Committees and Working Groups.

Notices of Motion

15. Notice of every motion shall be in writing, signed by the member or members of the board giving the notice, and delivered at least ten clear working days before the next meeting of the board, at the offices of Clerk by whom it shall be dated, numbered in the order in which it is received, and entered in a book which shall be open to the inspection of every member of the Board.
16. The Clerk shall set out in the report for every meeting of the board all motions of which notice has been duly given in the order in which they have been received, unless the member giving such notice intimated in writing, when giving it, that he/she proposed to move it at some later meeting, or has since withdrawn it in writing.
17. If a motion thus set out in the report be not moved either by a member who gave notice thereof or by some other member on his/her behalf it shall, unless postponed by consent of the board, be treated as withdrawn and shall not be moved without fresh notice.

Standing Orders Order of Debate

18. Every proposal or amendment, other than a proposal for the approval of a Committee, Sub-Committee or Working Group, shall be proposed and seconded and shall, if required, be written out and handed to the Chairman who shall read it out before it is further discussed or put to the meeting.
19. The Chairman will invite members to speak on the subject under discussion.
20. Members must declare where they have an interest in a matter to be discussed, the Chairman then deciding what if any part the member can take in any ensuing discussion and whether the member can vote.

21. A proposal or amendment once made shall not be withdrawn without the consent of the Board.
22. Every amendment shall be relevant to the proposal to which it is applied and its effect must not be to negate the wording of the motion.
23. Whenever an amendment upon an original resolution has been proposed and seconded, no second or subsequent amendment shall be moved until the first amendment shall have been dealt with, but notice of any number of amendments may be given.
24. If an amendment is rejected then other amendments may be proposed on the original resolution or proposal.
25. If an amendment is carried the proposal as amended shall take the place of the original proposal and shall become the question upon which any further amendment may be moved.
26. The mover of a motion has a right of reply at the end of the debate immediately before the motion is put to the vote.
27. If an amendment is moved, the mover of the original motion has a right of reply at the end of the debate upon the amendment but may not otherwise speak on the amendment.
28. The mover of an amendment has no right of reply to the debate on the amendment.
29. No proposal to rescind any resolution which has been passed within the preceding six months, nor any proposal to the same effect as any proposal which has been negated within the preceding six months shall be in order.

Common Seal

30. The Common Seal of the Board shall be kept in some safe place. All deeds and other documents to which the Common Seal of the Board shall require to be affixed shall be sealed in pursuance of the Board, and in the presence of both the Chairman and the **Principal Officer [formerly Clerk]** of the Board.
31. Copies of all sealed documents must be retained.

Suspension of Standing Orders

32. Any one or more of the standing orders, in any case of urgency or upon resolution or proposal made on a notice duly given, may be suspended at any meeting, so far as regards any business at such meeting, provided that 75% of the members of the Board present and voting are in agreement.

STATUTORY PROVISIONS REGARDING THE PROCEEDINGS OF AN INTERNAL DRAINAGE BOARD SET OUT IN PARAGRAPH 3 OF SCHEDULE 2 TO THE LAND DRAINAGE ACT, 1991.

Proceedings of internal drainage board

3. (1) An internal drainage board may, with the approval of the relevant Minister, make rules—

- a) for regulating the proceedings of the board, including quorum, place of meetings and notices to be given of meetings;
- b) with respect to the appointment of a chairman and a vice-chairman;
- c) for enabling the board to constitute committees; and
- d) for authorising the delegation to committees of any of the powers of the board and for regulating the proceedings of committees, including quorum, place of meetings and notices to be given of meetings.

(2) The first meeting of an internal drainage board shall be held on such day and at such time and place as may be fixed by the relevant Minister; and the relevant Minister shall cause notice of the meeting to be sent by post to each member of the board not less than fourteen days before the appointed day.

(3) Any member of an internal drainage board who is interested in any company with which the board has, or proposes to make, any contract shall—

- a) disclose to the board the fact and nature of his interest; and
- b) take no part in any deliberation or decision of the board relating to such contract;

and such disclosure shall be forthwith recorded in the minutes of the board.

(4) A minute of the proceedings of a meeting of an internal drainage board, or of a committee of such a board, purporting to be signed at that or the next ensuing meeting by a person describing himself as, or appearing to be, the chairman of the meeting to the proceedings of which the minute relates—

- a) shall be evidence of the proceedings; and
- b) shall be received in evidence without further proof.

(5) Until the contrary is proved—

- a) every meeting in respect of the proceedings of which a minute has been so signed shall be deemed to have been duly convened and held;

- b) all the proceedings had at any such meeting shall be deemed to have been duly had; and
 - c) where the proceedings at any such meeting are the proceedings of a committee, the committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute.
- (6) The proceedings of an internal drainage board shall not be invalidated by vacancy in the membership of the board or by any defect in the appointment or qualification of any member of the board.

REVIEW OF DISCIPLINARY PROCEDURE

Introduction

At the Committee meeting held on 10 May 2017, Members noted that the Board's disciplinary procedure was next in line for review [Minute 2494 refers]. The existing procedures are contained in the Employee Handbook prepared in partnership with Citation Ltd, the Board's HR advisors; the handbook is issued to all new employees when they commence employment with the Board. Importantly, these procedures form part of all staff contracts of employment. A copy of section 7 of the Handbook (Disciplinary procedure) is attached at Appendix A.

Implications

The information set out in the Handbook represents best HR practice in the light of current employment legislation. Any proposed changes to the advice the Board presently provides should be considered with caution. Such changes would also require formal consultation with staff prior to their introduction.

Citation Ltd periodically update the Handbook, for instance when new employment legislation is enacted and when new caselaw further clarifies the duties and roles of employers and employees. Such revisions do not require staff consultation; employees are of course advised of such changes via the issue of a new version of the Handbook.

Members should recognise that the aim of a robust disciplinary procedure is not to punish an individual for wrong-doing but to encourage an employee to meet and maintain the Board's standards of conduct, attendance and performance. The Board has a duty to demonstrate that it has taken all reasonable steps to achieve this goal before taking the ultimate decision to dismiss an employee. The Board's actions are open to challenge via the grievance procedure, arbitration and employment tribunal hearings and therefore it is important to show that its procedure has been followed faithfully.

Recommendations

THAT

- (1) the Disciplinary Procedure as contained in the Board's Employee Handbook be re-affirmed and
- (2) the Staff and Pensions Committee be advised of this action at its next meeting (9 May 2018) prior to its referral to the Board meeting scheduled for 27 June 2018.

Kieran Warren

Principal Officer

7

Procedures

Disciplinary procedure

Purpose

The Board firmly believes that the fairest way to resolve any problems relating to conduct or performance is to have a well-structured disciplinary procedure. The procedure is designed to help and encourage all employees to achieve and maintain the Board's standards of conduct, attendance and performance and should be looked upon as a corrective process.

Please read the following principles and procedures carefully as they form an important part of your terms and conditions of employment:

Principles

Apart from an informal verbal warning, you have the following rights in relation to disciplinary action:

- to be informed of the allegations of misconduct or poor performance to be addressed at any disciplinary hearing
- to be accompanied by a work colleague or by an accredited trade union official
- to appeal against any disciplinary action.

The procedure

Formal verbal warning

In the case of conduct, attendance or performance not reaching the required standard, the problem will be discussed with you at a disciplinary hearing where you will be given the opportunity to offer a satisfactory explanation. If the explanation is unsatisfactory, you will be issued with a formal verbal warning. The topics discussed at the meeting will be confirmed in writing to you and the verbal warning will remain on your file for six months.

Written warning

A written warning will be issued following a disciplinary hearing where there is a current formal verbal warning on your file and sufficient improvement has not been made or where the misconduct or poor performance is serious enough to warrant the Board bypassing the formal verbal warning stage. A written warning will remain on file for 12 months.

Final written warning

If there is still insufficient improvement in your conduct, or if your performance is still unsatisfactory, you will be asked to attend a further disciplinary hearing. If no satisfactory explanation is offered for the lack of improvement, you will be issued with a final written warning that will remain on file for 12 months.

If the misconduct is sufficiently serious to warrant only one warning but is not sufficiently serious to justify dismissal, a final written warning will be issued. You will be informed in your final written warning that any further misconduct or failure to meet the required standard will result in your dismissal.

Dismissal

Dismissal will normally result if you still fail to achieve the standard of conduct or performance required by the Board. You will be given every opportunity to offer an explanation for your failure to meet the required standards at a final disciplinary hearing. As with all previous stages of the disciplinary procedure you will be offered the right to be accompanied and the right to appeal against the decision.

If you are dismissed, you will be provided, as soon as is reasonably practicable, with the reasons for dismissal, the date on which your employment will terminate and details of how you may appeal.

In exceptional circumstances, the Board reserves the right, as an alternative to dismissal, to impose a penalty of suspension without pay for up to a maximum of five working days, together with a final written warning that will remain on file for 12 months.

General

You will always be given as much information as possible regarding the allegations of misconduct, or any documentation detailing the shortfall in performance or capability that will form the basis of the disciplinary hearing. You will also be given fair and reasonable notice of the date and time of the hearing and whenever possible the disciplinary hearing will be held during your normal working hours.

Any disciplinary action will only be taken after a full investigation of the facts, and if it is necessary to suspend you for this period of time, you will receive your normal rate of pay.

The Board reserves the right to vary the disciplinary procedure dependent on either the seriousness of the allegations of misconduct or capability to be addressed, or if you only have a short amount of service.

If you are a short service employee or are still within the probationary period, you may not be issued with any warnings before dismissal.

NB The Board reserves the right to deduct from pay the cost of any damage or loss to property or goods, which after a disciplinary hearing was found to have been caused by your wilful negligence or vandalism.

Conduct covered

Conduct at work

The Board expects all employees to behave in a normal and reasonable manner. The following list provides examples of the type of conduct that the Board would expect:

- To be punctual for the start of work and to keep within the break times.
- To give regular attendance at work and to minimise all absenteeism.
- To be courteous, helpful and polite to all those with whom you have contact.
- To devote all your time and attention, whilst at work, to the Board and ensure that all its property including confidential information, records, equipment, information technology, etc., is kept safe and used correctly.
- To comply with all the Board's rules and regulations and to observe and perform all the terms of your employment as set out or referred to in your Contract of Employment.
- You are expected to devote all your loyalty to this Board.

Conduct outside working hours

Normally the Board has no jurisdiction over employee activity outside working hours. Behaviour outside working hours will only become an issue if the activities adversely affect the Board.

Adverse publicity, bringing the Board name into disrepute, or actions that result in loss of faith in the Board, resulting in loss of business, or loss of faith in the integrity of the individual, will result in the disciplinary procedure being instigated.

The detriment suffered by the Board will determine the level of misconduct and it will also determine which disciplinary stage is most appropriate to suit the circumstances.

If the actions cause extreme embarrassment or serious damage to the Board's reputation or image, a decision may be taken to terminate the employment.

The Board's procedures covering disciplinary hearings and appeals still apply.

Gross misconduct

Gross misconduct will result in summary dismissal, which means you lose your right to notice or pay in lieu of notice.

Here is a list of offences that are normally regarded as "gross misconduct". It is not exhaustive, but it describes the kind of offence that can result in summary dismissal.

- Theft, fraud or deliberate falsification of records.
- Physical violence or serious threats of physical violence.
- Threatening, abusive, grossly indecent or offensive behaviour.

- Serious bullying, harassment or discriminatory behaviour.
- Deliberate damage to property.
- Bringing the employer into disrepute.
- Being unfit to work through drink or drugs.
- Serious infringement of health and safety regulations.

Disciplinary appeal procedure

At each stage of the disciplinary procedure, you will be given the right of appeal. If you wish to exercise your right of appeal, you should put your reasons in writing to the Clerk within seven days of receiving written confirmation of the disciplinary decision taken against you. You will need to explain why you feel the decision is unfair, or inappropriate in relation to the matters addressed at the disciplinary hearing.

If you have any new information or evidence to support your appeal, please give details in full and include the names of any witnesses you may wish to call to support you in your appeal. This is in order that there will be sufficient time to investigate any additional information before the appeal hearing. You are entitled to be accompanied at the appeal hearing by a work colleague or by an accredited trade union official.

Although the purpose of the appeal is to review any disciplinary penalty imposed, it cannot increase the disciplinary penalty.

The decision of the person dealing with your appeal is final.

FUTURE REVIEW PROGRAMME

Introduction

At the last Committee meeting, Members noted the following areas of activity for review:

- Delegation of powers to Officers
- Member Code of Conduct
- Member/Officer protocol
- Mission Statement
- Substitute Member protocol
- Voting on Appointments procedure

[Minute 2494 refers].

The above list disregards issues dealt with elsewhere on this agenda and the Biodiversity Action Plan, which was approved and adopted by the Board on 28 June 2017 [see Minute 2523].

Proposed additions to the Programme

Whilst the Terms of Reference for both the Finance & General Purposes Committee and the Engineering Committee were reviewed in June 2016, it is some time since the Terms of Reference for this Committee and for the Staff & Pensions Committee were last scrutinised – November 2014 and February 2013 respectively. It seems to me timely to add these items to the above list.

Recommendation

That the above list, together with the Terms of Reference for the G & P and S & P Committees be approved as the next areas for review.

Kieran Warren

Principal Officer