



CSAC Appeal 014/2019 – Record of Decision

Appeal 014/2019 was received on 20 November 2018 from an Appellant alleging that the Respondent acted unfairly and/or acted in a manner inconsistent with the requirements of Part VII of the PSML in his failure to render a decision following a hearing before him against the decision of the Appellant's Appointing Officer to dismiss the Appellant on the grounds of gross misconduct.

Following receipt of submissions from the Respondent and further supporting documents from the Appellant, an Appeal Hearing was held on 21 November 2019. It is noted that Chairman Huw Moses along with members Shomari Scott, Jennifer Skinner and Kimbert Solomon participated in the Appeal Hearing.

The Commission subsequently considered the submissions, witness testimony and relevant legislation. The Commission cautioned parties, during the hearing, that it was not its task to consider whether the decision of the Appointing Officer (i.e. the decision to dismiss the Appellant) was fair or reasonable in its own opinion (as the Commission cannot substitute its own opinion for that of the Appointing Officer). The Commission instead explained that it was its remit to decide whether the review undertaken by the Respondent of the Appointing Officer's decision was fair, without bias, and in compliance with Part VII of the PSML.

The Commission found that there was a breach of:

1. s.53 of the PSML in the Respondent's failure to render his decision within 30 days of the appeal hearing (a delay which the Commission found was inexcusable); and
2. s.19(2) of the Constitution in that the Respondent unfairly failed to provide adequate reasons for his decision (the CSAC considers that there is a clear duty on the Chief Officer to give reasons for decisions made, those reasons must be adequate in compliance with s.19 of the Constitution, those reasons must address the specific grounds of appeal (so that in the event of an appeal the Commission can determine whether the Respondent has acted fairly, without bias, and in accordance with the PSML; and rationally and proportionately in accordance with the Constitution)).

Based on its findings the Commission made the following orders:

- the appeal is allowed;
- the Appellant is not reinstated as the decision of the Appointing Officer should not be set aside; and

- a sum is to be paid to the Appellant by the Respondent in respect of the legal costs incurred by the Appellant in bringing this appeal, such sum to be determined by CSAC on receipt of a breakdown of the costs incurred since the Order was made by the Grand Court.

The Commission's decision was duly issued on 2 December 2019 to the legal representatives of both the Appellant and Respondent.



Huw St. J. Moses OBE
CHAIRMAN
CIVIL SERVICE APPEALS COMMISSION