

# Appeals Procedure

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## Document information

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| Document title | Appeals Procedure                                               |                 |                  |
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| Purpose        | To give guidance on how to lodge an appeal under HR procedures. |                 |                  |

## Document accessibility

If you would like this information in another language or format please speak to your Headteacher/Principal

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## 1. Introduction

- 1.1 It is an employee's right to appeal either against a sanction taken against them (including the decision to dismiss them) or the outcome of a formal grievance. This procedure should be read and used in conjunction with the appropriate HR procedure. These are:
- Attendance
  - Disciplinary
  - Ending Fixed Term/Temporary Contracts
  - Grievance
  - Probation
  - Performance
  - Redundancy

## 2. Principles

- 2.1 All employees must be notified in writing of their right to appeal following the outcome of one of the procedures listed in 1.1.
- 2.2 An appeal is not a rehearing of the original case. There should not be any 'new' evidence submitted at the appeal stage unless it is relevant material not available at the original meeting/hearing. If new evidence is submitted that does not satisfy this requirement then it may be disregarded.
- 2.3 All appeal hearings will have an exchange of relevant paperwork that will include the complainant's grounds for the appeal and a statement of case from both parties. This will be accompanied by supporting paperwork and details of any representative or witnesses to be called.
- 2.4 The composition of the appeals committee will comply with the appropriate regulations in relation to school governance.
- 2.5 The manager presenting the case to the appeal panel will be the manager who made the decision at the original hearing unless exceptional circumstances arise that prevent him/her from doing so, and will be supported by the original HR advisor. This will be for consistency purposes and for appropriate support to the manager.
- 2.6 Where appropriate to the case, and in order to ensure proportionality the school/academy will ensure that the panel includes members of different genders and ethnicity where possible.

### **3. Representation**

- 3.1 Throughout this procedure, an employee has the right to be represented by an accredited Trade Union representative or work colleague not involved in the substance of the case.
- 3.2 The union representative may put forward the employee's case, sum up the employee's case and respond on the employee's behalf to any view expressed at the hearing. The employee must respond personally to direct questions during the hearing process in order to be able to clarify the facts of the matter where required. A work colleague is not permitted to respond on the employees behalf.
- 3.3 If the employee or their representative cannot attend on a proposed date, the employee/representative must suggest an alternative time and date within a reasonable amount of time and in any case no more than five working days after the original appeal hearing date.
- 3.4 If the employee/representative fails to attend any rearranged appeal hearing, the panel will have the discretion to hear the case in the employee/representative's absence.
- 3.5 In all cases, the appeals panel will provide guidance about the process where appropriate, to enable any unrepresented appellant the opportunity to ask any questions and fully present their case.

### **4. Terms of Reference**

- 4.1 Those hearing an appeal are entrusted with ensuring the fair implementation by management of the respective HR procedure.
- 4.2 Those hearing an appeal will need to satisfy themselves that:
  - (i) the issue(s) was/were properly investigated and substantiated based on a reasonable belief;
  - (ii) the relevant procedure(s) was/were correctly and properly followed;
  - (iii) any mitigating circumstances have been given consideration;

### **5. Procedure for Appeals**

#### **5.1 Appeals against Dismissal**

For appeals against dismissals the process set out below should be followed:

- Employees should submit the grounds of their appeal on the Appeals Form which will have been issued by the Hearing Officer with their outcome letter.
- The Appeals Form should be submitted to the school/academy, addressed to the Chair of the Appeals committee within 10 working days of the date of the hearing outcome letter. The Chair of the Appeals committee will acknowledge the appeal and arrange HR support.

- The Appeals Form should detail whether:
  - The employee believes that the correct procedure or element of the procedure has not been adhered to; AND/OR they believe that the penalty is unduly severe or unfair
  - The Appeals Form must not contain any new information and/or evidence. It must also not simply reflect a repetition of the original case presented at hearing stage. If the basis of the appeal is unclear, additional clarity will be requested before an appeal can take place.

## 5.2 Appeals against any other decision (not including dismissals)

- Employees have the right of appeal against sanctions imposed (in line with the procedures outlined in 1.1), or against the outcome of a formal grievance. Employees must clearly state their grounds of appeal in writing to the Chair of the Appeals Committee. The appeal should be made using the Appeals Form and should be within 5 working days of the date of the hearing outcome letter.
- The Appeals Form must not be a repetition of the original case, if the basis of the appeal is unclear, additional information will be requested before an appeal can take place.

## 6. Witnesses

- 6.1 Parties are entitled to call relevant witnesses to support their case. They will only be called to clarify elements of their statement and will not usually be permitted to provide new evidence, unless this is deemed relevant by the Appeals Panel and was not available at the original meeting/hearing.
- 6.2 The responsibility for coordinating the attendance of employee witnesses will be the responsibility of the employee/representative. Employees called as witnesses will be allowed paid time off to attend the appeal hearing or will be allowed 'time owing' if not a working day. Where agency staff are requested to attend the appeal hearing as witnesses, they will be paid at plain time for the hours they are in attendance.

## 7. The Appeal Process

- 7.1 The employee's appeal form will be acknowledged upon receipt by the Chair of the Appeals Committee who will be responsible for arranging the appeal hearing.
- 7.2 The appeal hearing should take place as soon as practicable following receipt of the Appeals Form.
- 7.3 The employee must be informed in writing of the date, time and location of the appeal hearing. The employee must also be informed of the date for the exchange of relevant paperwork no later than 3 working days before the hearing, and any witnesses to be called as outlined in the procedure.

## **8. Outcome of the Hearing**

- 8.1 The Chair of the Appeals Committee has the responsibility to deliver the decision of the appeal. This should be done as soon as is reasonably practicable. Depending upon the circumstances such as time constraints it may not be at the end of the hearing and in person. The decision may be given in writing only in exceptional circumstances, the panel may need to reconvene to make their decision.
- 8.2 This appeal is the final level of appeal within the school/academy process. There is no further right of appeal against this decision.

**Appendix 2 – Procedure for Appeal Hearing**

1. The employee and his/her representative and the Headteacher/Principal or other person presenting the management case shall attend the hearing simultaneously to present their respective cases.
2. The chairperson of the appeal committee will perform the necessary introductions.
3. The employee and/or the employee's representative will present the employee's appeal and may call witnesses.
4. The Headteacher/Principal or other person presenting the management case may question the employee and/or the employee's representative and any witnesses.
5. The members of the appeal committee may question the employee and/or the employee's representative and any witnesses.
6. The Headteacher/Principal or other person responding to the employee's appeal will present that case and may call witnesses.
7. The employee and/or the employee's representative may question the Headteacher/Principal or other person presenting the management case and any witnesses.
8. The members of the appeal committee may question the Headteacher/Principal or other person responding to the appeal and any witnesses.
9. The Headteacher/Principal or other person responding to the appeal will sum up the case presented and should ensure that any advice he or she wishes to give to the committee (and which a Headteacher/Principal is entitled to give to a governing body or any of its committees) is given at this stage.
10. The employee and/or the employee's representative will sum up the employee's case.
11. The Headteacher/Principal or other person responding to the appeal and the employee and the employee's representative will withdraw from the hearing.
12. The appeal committee will consider the evidence presented and make a decision.
13. The committee may recall the Headteacher/Principal or other person responding to the appeal and the employee with the employee's representative to clear points of uncertainty on the evidence given, provided that both parties are recalled even if the point of uncertainty concerns the evidence of one party only.