

APPEALS PANEL – ORDER OF PROCEDURE

1. An employee has the right of appeal against any formal action under the Council's Disciplinary Procedure, Capability Procedure or the Attendance Management Policy. Appeals can also be made against a formal decision under the Council's Grievance Procedure. The Appeals Panel decision will be final.
2. The Head of Law and Governance shall be appointed Secretary to the Appeals Panel. The relevant Officer shall formally present the Authority's case.
3. The Appellant (or his/her representative) will submit a statement to the relevant Chief Officer within 15 working days of receipt of the decision letter. The Authority's Officer/Head of Human Resources and Organisational Development will submit all documents to be used at the hearing in order to compile the relevant documentation for the hearing no less than 8 working days prior to publication of the agenda by Governance Services. No additional documentation may be submitted.
4. The Appellant shall be informed that he/she may be represented by his/her trade union or an appropriate work colleague and shall be given a reasonable opportunity to call witnesses relevant to his/her defence at the hearing. The Appellant shall be given notice in writing of the time and place of the hearing and an agenda for the Appeals Panel will be published in accordance with statutory timescales (at least five working days in advance of the meeting). All correspondence to be marked 'confidential' and placed in a sealed envelope marked 'private and confidential.'
5. Members of the Appeals Panel shall be advised that, if they are absent for any part of the hearing, they shall not participate in the decision.
6. If a Member of the Appeals Panel is related to, or acquainted outside normal working relationships with, an appellant, it shall be a matter for the Member to inform the Panel accordingly and leave the meeting.
7. A. The under mentioned procedure shall be followed by the Appeals Panel at hearings of appeals against dismissal or demotion:-
 - (i) Both parties to enter the meeting;
 - (ii) The Authority's representative(s) to present case (and call any witnesses);
 - (iii) The Appellant or representative(s) to present case (and call any witnesses);

- (iv) There shall be an opportunity to ask questions;
 - (v) All witnesses shall withdraw immediately after giving evidence and answering the questions put to them;
 - (vi) The Authority's representative(s) and then the Appellant (or his/her representative) shall have the opportunity to sum up their case;
 - (vii) The Authority's representative(s), the Appellant, his/her representative shall withdraw;
 - (viii) The Panel, with the officer appointed as Secretary to the Panel, shall deliberate in private only recalling both parties to clear points of uncertainty on evidence already given. The Panel may seek advice from the Head of Human Resources and Organisational Development/Head of Law and Governance where appropriate. If recall is necessary, both parties shall return notwithstanding only one is concerned with the point giving rise to doubt;
- B. The under mentioned procedure shall be followed by the Appeals Panel at hearings of Grievances:-
- (i) Both parties to enter the meeting.
 - (ii) The appellant or representative to present case;
 - (iii) The Authority's representative to present case;
 - (iv) The Members of the Appeals Panel shall have the opportunity to ask questions;
 - (v) The appellant or representative shall have the opportunity to sum up the case;
 - (vi) Both parties to then withdraw from the meeting;
 - (vii) The Appeals Panel make the decision;
 - (viii) The matter will end at this level, except where it is agreed between the parties that an important issue of principle arises that could be considered through the appropriate conciliation machinery.
- C. The decision made by the Appeals shall be confirmed in writing to the Appellant within five working days of the meeting. The decision of the Appeals Panel is final.

NOTE

A Panel will comprise 3 Members; 2 Majority and 1 Minority to be drawn from the Appeals Committee.

JULY 2017

APPEALS PANEL – TERMS OF REFERENCE

The Appeals Panel has full delegated powers to deal with the hearing of appeals against DISMISSAL, DEMOTION or GRIEVANCES and its decision is regarded as the final decision of the Authority on such matters.

In considering appeals, Members have the following options/powers available to them:-

A. APPEALS AGAINST DISMISSAL

1. To dismiss the appeal and uphold the original decision of the relevant Executive Director to dismiss the employee concerned.
2.
 - (a) to uphold the appeal and reinstate the employee to his or her previous job;
 - (b) to uphold the appeal and attach certain conditions to the employee's reinstatement, e.g.:-
 - (i) reinstate the employee in his/her previous job and also issue him/her with a written or final written warning. In the case of a final written warning this would include a statement to the effect that any further misconduct will lead to dismissal; or
 - (ii) reinstate the employee and request the relevant Executive Director to transfer him/her to an equivalent post in a different section/establishment; or
 - (iii) reinstate the employee and request the relevant Executive Director to demote him/her to a lower graded post or to a post with lower earnings potential (e.g. to one which did not attract overtime/enhancement).

NOTE

Options b(ii) and (iii) are subject to the Executive Director of the Directorate concerned being able to accommodate the proposed transfer or demotion within his/her establishment.

Options b(ii) and (iii) can also be coupled with the issue of a written or final written warning.

B. APPEALS AGAINST DEMOTION

1. To dismiss the appeal and uphold the original decision of the relevant Executive Director to demote the employee concerned;
2. To uphold the appeal and reinstate the employee in his or her previous job and grade.

NOTE:

Option 2 can also be coupled with the issue of a written or final written warning, although it should be noted that in some cases the employee concerned will already have been issued with a warning by his/her Executive Director.

C. GRIEVANCES

To dismiss or uphold the appeal.

D. GENERAL

In considering appeals the Appeals Panel cannot substitute a penalty which is more severe than that already imposed by the Executive Director.