



APPEALS PROCEDURE

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1. Scope and status

- 1.1. Employees may appeal against any dismissal or sanction arising from the application of the formal elements of the following City of London policies:
- Capability;
 - Attendance (Sickness Absence) Management;
 - Disciplinary (Conduct);
 - Complaints;
 - Probation; and
 - Retirement.
- 1.2. Employees may also appeal against dismissal for some other reason including redundancy from a permanent appointment or the termination of employment at the expiry of a fixed term contract.
- 1.3. Appeals against dismissals for Ill Health Retirement do not impact on the individuals rights to explore the appeals procedure under the Local Government Pension Scheme (LGPS) regulations. The LGPS regulations operate separate appeal processes which are outlined to the individual via the Pensions department.

2. Lodging an appeal

- 2.1. To lodge their appeal, employees must write to their Chief Officer, detailing the grounds for appeal or for appeals against dismissal to the Director of HR **within 10 working days** of receipt of the letter advising of the original decision (refer to [Appendix B](#)).
- 2.2. In compiling their written appeal employees should carefully consider the points they wish to appeal on (see paragraph [4.1](#)). A clear and complete submission will assist the employee in the appeal hearing and it will also assist the understanding of the person/s considering the appeal.

3. Terms of reference and composition of appeal hearing panels

3.1. Dismissal appeal hearings

- 3.1.1. Appeals will be dealt with impartially and wherever possible by a manager who has not been previously involved in the substantive issues.
- 3.1.2. Dismissals under the City of London's Probation Policy or for some other reason falling outside the policies listed in [section 1](#) or on the grounds of redundancy

(including the expiry of a fixed term appointment) will be heard by a Chief Officer.

- 3.1.3. All other appeals against dismissal will be heard by the Staff Appeals Committee. A written notice of the appeal meeting will be given, unless it is not practicable. This Committee will comprise of one Member, one Chief Officer and one manager of Grade I or above.

3.2. Other sanction hearings

- 3.2.1. Appeals against sanctions short of dismissal e.g. first or final written warnings (or their equivalents) will be heard by the employee's Chief Officer or a nominated alternative Officer at Grade I or above.

4. The appeal process

4.1. Grounds for appeal

- 4.1.1. Grounds for appeal may include, but are not limited to, matters of application of the policy, the interpretation of evidence, the imposition of a formal sanction and/or mitigation. Exceptionally, grounds for appeal may include new information, which could not reasonably have come to light at the initial decision making hearing, including witness statements. Where new information is included, an explanation must be provided as to why the information was not provided at the time the original decision was made and how the evidence is material. The Chief Officer or nominated senior manager who made the original decision may also exceptionally take the opportunity of an appeal to present new information on the same basis. Reasonable opportunity will be given to consider the information which should be submitted in advance or exceptionally at the meeting.
- 4.1.2. The Chief Officer / the Chairman of the Staff Appeals Committee hearing the appeal has the authority to accept or reject new information from either side. In such cases, they may request advice from their professional advisers (HR/Legal). Where new information is rejected an explanation will be given.

4.2. Witnesses

- 4.2.1. Either party may call witnesses to attend the appeal hearing. These will normally be witnesses who attended the original hearing/meeting, but exceptionally, they may be new witnesses. Employees must provide details of the identity of any witnesses at least **5 working days** in advance of the hearing to the person hearing the appeal, or to the Committee Clerk in the case of matters being heard by the Staff Appeals Committee.

- 4.2.2. The Chief Officer / the Chairman of the Staff Appeals Committee hearing the appeal will approve the attendance of any witnesses (who will normally be current employees of the City of London). In such cases, they may request advice from their professional advisers. Where the attendance of a witness is rejected, an explanation will be given.
- 4.2.3. The party calling the approved witness/es must arrange for their attendance at the appeal hearing. If an approved witness who is a City of London employee can not get release, the employee must notify the Chief Officer/Committee Clerk if they cannot get release for that witness to attend (at least 48 hours) before the appeal and assistance will be given if necessary.

4.3. Appeal papers

- 4.3.1. In accordance with the principles of natural justice, all parties must have the opportunity to review any documents which will be presented at the appeal hearing and this must include all information considered at the initial decision making stage.
- 4.3.2. Employees and Management must submit documents at least **10 working days** in advance of the hearing to enable them to be combined into a bundle and circulated to all of the parties (excluding witnesses) attending the hearing to be received not less than **5 working days** in advance of the appeal hearing. Both parties must ensure that they submit any papers, which they wish to refer to at this point.
- 4.3.3. The senior manager / Chief Officer who made the original decision will be responsible for compiling the bundle of management documents. This should be done in consultation with your local HR representative and be quality assured by Corporate HR before it is issued in all dismissal cases. The bundle will normally include:
- A summary sheet and numbered index;
 - A chronology of the case;
 - The original management case updated to include the date and outcome of the original hearing and minutes of the original hearing;
 - All relevant supporting documents;
 - An Executive Summary setting out management's response to the grounds for appeal.

4.4. Employee Bundle

- 4.4.1. The employee will need to submit their detailed grounds of appeal and any supporting documents, letters, witness statements etc.



- 4.4.2. Administrative support is provided to the Staff Appeals Committee by the Committee Section of the Town Clerk's Department. The Committee Section will be responsible for distributing all relevant documentation and minuting the appeal. Administrative support to Chief Officer Appeals will normally be provided by the HR Business Unit. This includes making arrangements for the minuting of the appeal, writing to the employee to confirm the appeal hearing arrangements and ensuring all parties have a copy of the papers.
- 4.4.3. The covering letter to the papers will confirm the appeal arrangements (i.e. date, time, venue, party/ies hearing the appeal, details of the Chief Officer / Senior Manager responding to grounds, any employee or manager witnesses anticipated to be attending, any other parties attending and any procedural points to note. A copy of this procedural note should be sent to all parties (excluding witnesses) attending the appeal hearing.

4.5. Attendance and right to be accompanied

- 4.5.1. Employees must appear in person at appeal hearings. In the event that the employee is unable to attend for a valid reason, due consideration will be given to deferring the appeal. In the case of this being due to ill health, it may be necessary to seek advice from Occupational Health. Additionally, satisfactory medical evidence of reason for ill-health must also be presented. Normally only one deferral will be provided to ensure the case can be reasonably resolved. It is important that cases are heard at an appeal meeting however, alternatives may be considered in exceptional cases where medical evidence clearly supports the need for this.
- 4.5.2. Employees may choose to be accompanied at the appeal hearing by a Trade Union representative or a work colleague. Employees must provide details of the identity of anyone attending on this basis in advance of the hearing to the Chief Officer hearing the appeal or to the Committee Clerk in the case of matters being heard by the Staff Appeals Committee. It is the employee's responsibility to arrange for his/her representative to attend. The representative may assist in the presentation of the response to the grounds for appeal and also ask questions of the Chief Officer/Senior Manager who made the original decision and/or their representative and seek or provide clarification, however the individual must respond personally to questions directed to them.
- 4.5.3. In exceptional circumstances, the City of London may be prepared to consider an external companion. A legal representative may only provide representation in circumstances, where the employee belongs to a regulated profession (e.g. Surveyors, Solicitors, Social Worker, Teacher etc) and where in effect a criminal charge and/or loss of career may result (subject to changes in case law). Such requests must be submitted in advance to the Director of HR giving full reasons



why the exception should be approved. The decision of the Director of HR will be final.

- 4.5.4. Employees who have a disability and/or who may experience problems in presenting their case (e.g. due to communication difficulties) must notify the Chief Officer hearing the appeal or to the Committee Clerk or in the case of matters being heard by the Staff Appeals Committee in advance so that the necessary steps can be taken to ensure reasonable adjustments can be made including providing any necessary external support.
- 4.5.5. The Chief Officer / Senior Manager/Investigator who made the original decision may be supported at the appeal hearing by an HR Advisor. This will normally be the advisor who supported/advised them at the original hearing. They may assist in the presentation of the response to the grounds for appeal and also ask questions of the employee and/or their representative and seek or provide clarification.
- 4.5.6. Depending on the grounds of the appeal, an appeal meeting may be a review of the original decision and any aspect of concern leading to it or a complete re-hearing of the matter. There would also be scope to remedy any shortcomings in the original process to include any concerns about the conduct of the decision maker/process followed. For this reason separate complaints will not be heard on such matters.

4.6. Professional advisers

- 4.6.1. Professional staff from the Comptrollers and City Solicitor Department and/or Corporate HR may attend the appeal hearing to advise the Chief Officer or Staff Appeals Committee hearing the appeal. Senior Officers from the City of London Police may attend the appeal hearing to advise the Committee where clarification is required on Police issues, ensuring Independent Police Complaints Commission (IPCC) expectations around consistency are met. These staff will not normally have been directly involved in the previous hearing and will provide balanced advice and direction on the application of the City of London's HR policies and procedures and statutory considerations. These advisers will play no part in the decision making process of the Committee, but may exceptionally ask questions by agreement with the Chairperson / Chief Officer in order to clarify or establish relevant facts for the benefit of the panel.

4.7. Presentation of the appeal

- 4.7.1. Appeal hearings will be heard on the basis of the detailed grounds for appeal submitted to the Chief Officer/Director of HR. The employee or their representative will present their detailed grounds for appeal first. Management will follow by responding to the specific grounds for appeal raised. This may

include presentation of a synopsis of elements of the management case presented at the original hearing.

4.7.2. For a summary of how the appeal hearing will be conducted please refer to [Appendix A](#).

4.8. Outcome of appeals

- 4.8.1. The Staff Appeals Committee / Chief Officer hearing the appeal may dismiss the appeal, in which case the original decision will stand; or uphold the appeal either in full or part and substitute some other decision (e.g. finding no case to answer or imposing a lesser sanction). They cannot impose a greater sanction than originally given.
- 4.8.2. If the Staff Appeals Committee / Chief Officer is able to reach a conclusion at the end of the appeal hearing, after due consideration of the evidence, this will be communicated to the employee on the day using a prepared brief statement. In these circumstances, the decision will be confirmed to the employee in writing normally within 5 working days of the appeal hearing.
- 4.8.3. Where it is envisaged that it will not be feasible to comply with this timescale, the reasons for this should be communicated to the employee on the day of the appeal hearing and the decision then communicated within the 5 working days. Exceptionally if this timescale cannot be achieved, the employee will be updated and an indication of the timescale within which a decision may be reached will be given.
- 4.8.4. In the event that the appeal is dismissed, the decision will continue to be effective from the date of the original decision.
- 4.8.5. In the event that a dismissal decision is upheld, the dismissal continues to be effective from the date of the original decision. If the decision to dismiss is overturned, the employee will normally be treated as having been suspended pending the outcome of the appeal, and the decision to dismiss will be revoked with no loss of continuity of pay/service.

5. Audio recording of hearings

- 5.1. Exceptionally Staff Appeal Committee Hearings are audio recorded for the purposes of the panel. In such instances the consent of the employee should be obtained before recording commences as the resulting record will constitute personal information for the purposes of the Data Protection Act 1998.



5.2. No party must record any appeal proceedings covertly and if they wish to record the proceedings, must seek the consent of the other party, outlining the reasons, before the hearing takes place. It will not be admissible evidence without prior consent.

6. Withdrawal of an appeal

6.1. An appeal may be withdrawn by the employee before the hearing. This must be confirmed in writing to the Chief Officer/Director of HR and be at least **2 working days** in advance of the appeal hearing date, if this has been confirmed. A very late withdrawal of an appeal may be regarded as vexatious and grounds for further formal action if appropriate.



Appendix A

APPEALS COMMITTEE / CHIEF OFFICER APPEAL HEARING

PROCEDURE NOTE

1. The Committee Clerk of the Appeals Committee must seek the employee's consent before recording commences. Appeals to the Chief Officer are not normally recorded.
2. The Chief Officer / Chairman of the Appeals Committee introduces all parties and outlines their roles, the purpose of the hearing and confirms that all parties have received the papers.
3. The Chief Officer / Chairman of the Appeals Committee explains how the appeal hearing will be conducted (as summarised below).
4. The employee and or his/her representative present their grounds for appeal detailed in their submission. This may include calling any previously approved witnesses (witnesses attend only for the time they give evidence and will withdraw when they have finished giving evidence/being questioned).
5. Management ask questions of each witness as they appear and at the end of the appellant's submission.
6. The Chief Officer / Staff Appeals Committee ask questions of each witness as they appear and at the end of the appellant's submission.
7. Management respond to the grounds for appeal. This may include presentation of a synopsis / relevant elements of the management case presented at the original hearing and calling any previously approved witnesses (witnesses attend only for the time they give evidence and will withdraw when they have finished giving evidence/being questioned).
8. The employee and his/her representative ask questions of the manager and any witnesses. (witnesses attend only for the time they give evidence and will withdraw when they have finished giving evidence/being questioned).
9. The Chief Officer/ Staff Appeals Committee ask questions of the manager and any witnesses. (witnesses attend only for the time they give evidence and will withdraw when they have finished giving evidence/being questioned).
10. The Chief Officer / Staff Appeals Committee ask any final questions of the parties.
11. The employee and his/her representative sums up their case (if they so wish).
12. Management sum up their response to the grounds for appeal (if they so wish).



13. Management, their HR Advisor and the employee and his/her representative withdraw from the meeting.
14. The Chief Officer / Committee will deliberate in private and may recall management side or the employee and his/her representative to clarify any critical points. If a recall is necessary both parties return.
15. If the Chief Officer / Staff Appeals Committee is of the view that it is likely to reach a decision following a due adjournment, it may ask the parties to wait, communicate the decision orally using a prepared statement and follow this up in writing. Otherwise an indication of when the decision is anticipated should be given to the parties. Decisions should normally be confirmed in writing within 5 working days of the appeal hearing.



Appendix B

Notification of Intention to Appeal

Appeals against Dismissals

Appeals against Dismissals include dismissals under the following procedures:-

- Capability
- Attendance Management
- Disciplinary
- Retirement including Ill Health Retirement

Appeals against dismissal should be sent to: The Director of HR
3rd Floor, West Wing
Guildhall
London EC2P 2EJ

Appeals against dismissal will be heard by the Staff Appeals Committee as outlined in the procedure.

Other Sanction Hearings

Other Sanction Hearings include warnings issued as a result of the following procedures, with the exception of dismissals which are dealt with by the Staff Appeals Committee:-

- Capability
- Attendance Management
- Disciplinary
- Complaints
- Probation (Including dismissal)
- Retirement (Including dismissal)
- Some Other Reason e.g. Expiry of Fixed Term Contract, Redundancy (Including dismissal)

Appeals against other sanctions should be sent to the Chief Officer for your department.