



## **EMPLOYMENT APPEAL PROCEDURE**

### **1 Terms of Reference**

- 1.1 The Panel considers and determines all appeals against dismissal by Council employees, except those on JNC terms and conditions, for whom separate arrangements exist. Staff appointed by the Governing Bodies of schools, are also exempt and procedures adopted by the Governing Body will apply.
- 1.2 The Panel has the authority to determine the appeal and to decide on, or recommend, any action to be taken by the employing department as a result of the outcome of the appeal.

### **2 Grounds of Appeal**

- 2.1 Appeals must be made to the Assistant Director Transformation & HR, in writing, within 5 clear working days of receipt of the notice of dismissal. The appeal must state specific grounds, either contesting the facts and/or conclusions of the Chief Officer's decision to dismiss, or putting forward reasons why this was not appropriate. Any facts or arguments relied upon should be clearly stated.
- 2.2 Should the Assistant Director Transformation & HR determine that this requirement has not been satisfied, then a further period of 5 clear working days will be given to the appellant to clarify the grounds of appeal.
- 2.3 Failure by the Appellant to comply with these timescales may result in the appeal being deemed out of time.

### **3 Composition**

- 3.1 The Panel will comprise three Elected Members. The selection of the Member shall be made as appropriate under delegated powers. The Lead Member(s) responsible for the appellant's area of service will not comprise the Panel.
- 3.2 The Panel must be present throughout the hearing. In the event that a member of the Panel is unable to be present at the start of the hearing of an appeal hearing, he/she must arrange for a deputy to be appointed in consultation with the Assistant Director Corporate Governance. Should for any reason a member be unable to remain for the whole of the proceedings because of some emergency or sickness, then the hearing shall be suspended.

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- 3.3 Arrangements will be made by the Assistant Director Corporate Governance for an officer to act as a Secretary to the Panel.

## **4 Convening the Panel**

- 4.1 The Panel shall meet within 4 weeks of the receipt of the appeal, and if this cannot be achieved for practical reasons, then as soon as possible.
- 4.2 At least 8 clear working days before the date of the hearing, the Appellant shall be given:
- Notice in writing of the date of the hearing
  - A copy of the employing department's written submission to the Panel
  - A copy of this procedure
- 4.3 Notice of any other relevant matters to be raised by the Appellant at the hearing, must be provided at least 5 clear working days before the date of the hearing. The Appellant may submit a written submission relating to their grounds of appeal, which should identify any parts of the evidence from the dismissal process, which s/he disputes or wishes to question.
- 4.4 Details of any witnesses to be called by the Appellant and the employing department must be provided at least 5 clear working days before the hearing. Where these are Council employees, their release from duty will be arranged unless the impact on the service is unreasonable. In the latter case, arrangements may be made to hold the hearing at a more convenient time, or to adjourn it so that all relevant witnesses can be heard.
- 4.5 The Appellant shall also give details of any representative on which they will rely.
- 4.6 The Assistant Director Corporate Governance shall, not less than 4 clear working days in advance of the hearing, send to the Panel, the Appellant and his/her trade union representative, the head of the employing department, a copy of the documentation for the hearing which shall comprise:
- Agenda page
  - Copy of the procedure for the hearing (and any other relevant procedures, such as the Management of Absence policy)
  - Copies of the written statements of the Appellant and the employing department
- 4.7 Every effort should be made to avoid the submission of late documents which will only be accepted at the Panel's discretion. Sufficient copies

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(at least five) of any late documents should be made available to the Committee Administrator to be circulated or tabled.

## **5 Attendance**

- 5.1 Attendance at the hearing is restricted to the following persons:
- a) Panel members
  - b) Appellant and his/her trade union representative or colleague
  - c) The Senior HR Adviser to the Panel
  - d) Manager presenting the management case
  - e) Secretary to the Panel.
- 5.2 The appropriate Trade Union may, if agreed by the Appellant, send a representative from that union as an observer, for training purposes. The observer shall not take part in any discussions and shall be provided with copies of the documents on request to be returned to the Secretary at the end of the hearing. Representatives attending in this observer role may only attend one such hearing.

## **6 Procedure**

- 6.1 The Panel, the HR Adviser and the Secretary, shall convene. The Panel shall elect a Chair for the hearing. The Chair shall not be from the relevant service committee.
- 6.2 The hearing may proceed in the absence of the Appellant and/or his/her representative.
- 6.3 Evidence from the witnesses, may be accepted in the form of a written statement which shall, at the discretion of the Panel be read by the parties or read aloud by the witness. Sufficient copies shall be made available for members of the Panel and for the parties and their representatives (it should be noted that where a statement is presented in the absence of a witness, the Panel may give less weight to such evidence which is not capable of challenge by questioning of that witness).
- 6.4 The procedure for the conduct of the Appeal shall be as follows, but the Panel may vary the procedure where it is of the view that to do so would aid the fair and efficient conduct of the Appeal:

### Evidence of the Appellant

- a. Opening statement and setting out the grounds of the appeal by the Appellant or Trade Union representative.
- b. Initial questions to the Appellant by the Manager, and Panel.

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- c. Calling of the Appellant's witnesses (if any), each witness being subsequently questioned by the Manager, and Panel.
- d. The Appellant may then ask additional questions of their witness for the purpose only of clarifying any points which have arisen from questioning by the Manager or Panel. The witness will leave the hearing on completion of this further questioning.
- e. Final questions to the Appellant by Manager and Panel.

#### Evidence of the Department

- f. Opening statement by the Manager
- g. Initial questions to the Manager by the Appellant (and/or representative) and Panel
- h. Calling Management's witnesses (if any), each witness being questioned or asked to give evidence by the manager and being subsequently questioned by the Appellant (and/or representative) or Panel.
- i. The Manager may then ask additional questions of their witness for the purpose of clarifying any points which have arisen from questioning by the Appellant (and/or representative) or Panel. The witness will leave the hearing on completion of this further questioning.
- j. Final questions to the Manager by the Appellant and/or representative and Panel.

#### Summing up

- k. The Manager may make a closing address for the purpose of summing up his/her case. No new evidence may be introduced at this stage.
  - l. The Appellant (and/or representative) may make a closing address for the purpose of summing up his/her case. No new evidence may be introduced at this stage.
- 6.5 At any stage in the proceedings Panel members, may put questions and offer advice, if they consider that further information is required on a particular point.
- 6.6 The Panel may at any time adjourn the hearing.

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## **7 Decision**

- 7.1 After the closing statements, everyone but the members of the Panel, the HR Adviser and the Secretary shall leave the meeting, and the Panel shall determine the appeal. If the Panel consider that certain factors or grounds of the appeal require further investigation, they can adjourn the hearing to a later date and recall all parties to notify them of the adjournment to deal with any further points or new information.
- 7.2 In all other cases, the Panel shall seek to come to a decision on the appeal immediately following the hearing. The decision shall be communicated in writing to the Appellant and the head of the employing department within 5 clear working days of the hearing. The decision shall set out the grounds of the Panel's reasons.
- 7.3 The Panel's decision shall be final.

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