

Sickness Absence Management Policy and Procedure

Conducting an Appeal Hearing (excluding appeals against dismissal)

1. The Appeal will be heard by a manager of the same level or more senior level than the original Hearing Officer, and this may be a manager from another service unit.
2. The Appeal Hearing Officer, will:
 - ❑ direct and control the conduct of the hearing with fairness and impartiality;
 - ❑ consider all the information and evidence provided by the employee and manager;
 - ❑ determine whether the original outcome was reasonable in the circumstances.
3. A member of the HR Team will attend the Hearing to provide support and guidance to the Appeal Hearing Officer.

The employee has a statutory right to be accompanied at the Hearing by either a Trade Union representative or a work colleague.

The presenting manager may be accompanied by a member of the HR Team or another manager.

4. The Appeal Hearing Officer will ask the employee to confirm;
 - ❑ their grounds for appeal;
 - ❑ that they are aware of the right to be accompanied at the Hearing.
5. The Appeal Hearing Officer will explain the format of the Appeal Hearing, which will normally be as follows:
 - ❑ the Appeal Hearing Officer and accompanying HR adviser may ask questions of either side throughout the Hearing;
 - ❑ the management case will be presented first;
 - ❑ following presentation of the management case the employee (and representative) may question the management side;
 - ❑ the employee (and representative) will present their case;
 - ❑ following presentation of the employee case the management side may question the employee;
 - ❑ both sides will be asked to summarise the main points of their case; management side first and the employee (and representative) second;
 - ❑ the Appeal Hearing will be adjourned and the Appeal Hearing Officer will make their decision.

6. The management side will present their case, detailing the steps that were followed in reaching the original decision. The management side will also outline the matters that were considered in reaching a decision on the level of Attendance Improvement Target and review period.
7. The employee and representative will present their case, outlining why they consider the Attendance Improvement Target and/ or review period were inappropriate in the circumstances and/or why they consider the decision was unfair. This will include an explanation of their reasons for absence and any mitigating factors that they wish the Appeal Hearing Officer to consider.
8. Once the Appeal Hearing Officer and HR adviser have completed their questions the Appeal Hearing Officer will ask both sides to summarise their cases in the following order:
 - management side;
 - employee side.
9. The Appeal Hearing Officer will adjourn the Appeal Hearing and will ask both parties to withdraw. If possible, additional rooms should be made available for the separate parties to withdraw to whilst the Appeal Hearing Officer is considering their decision.
10. The Appeal Hearing Officer may, if they wish, request that the Appeal Hearing is temporarily reconvened to ask further questions, before adjourning again.
11. The Appeal Hearing Officer will consider all the facts of the case and have due regard to whether the actions of the original Hearing Officer were appropriate in the circumstances and whether the Sickness Absence Management Policy and Procedure was followed by the manager.
12. If the Appeals Hearing Officer decides to uphold the original decision they must be satisfied that:
 - the manager has followed the steps outlined in the Sickness Absence Management Policy and Procedure, and
 - the level of Attendance Improvement Target and/ or the length of the review period were in line with the Policy and Procedure and were appropriate in the circumstances.
13. If the Appeals Hearing Officer decides to overturn the original decision they must be satisfied that the manager has either:
 - set an Attendance Improvement Target and/or length of review period that were not in line with the Policy and Procedure and were not appropriate in the circumstances, and/or;
 - has failed to follow the steps outlined in the Sickness Absence Management Policy and Procedure.
14. Once the Appeals Hearing Officer has had opportunity to consider the case the Appeal Hearing will be reconvened. Both the management side and the employee's side will return to the Appeal Hearing to hear the outcome.
15. If the Appeal Hearing Officer is not able to make a decision on the day of the Appeal Hearing, they must inform both sides that they will be advised of the decision in writing within 5 working days.

16. If the Appeal Hearing Officer makes their decision, on the day of the hearing, they will verbally advise all parties of the decision. The Appeal Hearing Officer will confirm that the decision will be provided in writing within 5 working days.
17. If the Appeals Hearing Officer decides to uphold the original decision the employee will be advised of this and the Attendance Improvement Target and review period will remain in place as previously advised.
18. If a decision is taken to overturn all or part of the original decision, the Appeals Hearing Officer will advise the original Hearing Officer to re-examine the Attendance Improvement Target and/or review period, with a recommendation. In the event that the Appeals Hearing Officer considers that the Sickness Absence Management Policy and Procedure was not duly followed, they will require the Hearing Officer to revisit the original process and remedy any errors and omissions.
19. The Appeal Hearing Officer will write to the employee within 5 working days of the decision outlining their decision. Their letter will include:
 - ❑ the date and time of the Hearing;
 - ❑ confirmation of those present;
 - ❑ the decision and any actions arising from that decision;
 - ❑ that there is no further right of appeal against the Appeal Hearing Officers decision.