

## **Sickness Absence Management Policy and Procedure**

### **Conducting the Appeal Hearing against dismissal**

1. Personnel Committee, sitting as the Appeals Panel, will hear the appeal against dismissal.
2. The Appeal Hearing will not be a full rehearing of the case, but will consider whether the decision to dismiss was reasonable.
3. The Appeals Panel will be advised by the HR Manager or other nominated officer.

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

The Service Head, who dismissed the appellant, will present the management case and may be accompanied by a member of the HR Team or another manager.

4. The Chairperson of the Appeals Panel will:
  - direct and control the conduct of the hearing with fairness and impartiality;
  - ask the appellant to confirm that they understand the nature of and reason for the Hearing;
  - ask the appellant to confirm their grounds for appeal;
  - ask the appellant to confirm that they are aware of the right to be accompanied at the Hearing;
  - ask both sides to confirm if they will be calling witnesses.
5. The Chairperson will explain the format of the hearing, which will normally be as follows:
  - the Chairperson, other members of the Appeal Panel and accompanying HR adviser may ask questions of either side throughout the Appeal Hearing;
  - the management case will be presented first;
  - the management side may call witnesses;
  - after each witness has given their evidence they may be questioned by the appellant (and representative), after which the management side may re-examine the witness;
  - following presentation of the management case the appellant (and representative) may question the management side;
  - the appellant (and representative) will present their case;
  - the appellant (and representative) may call witnesses;
  - after each witness has given their evidence they may be questioned by the management side, after which the appellant (and representative) may re-examine the witness;

- following presentation of the appellant's case the management side may question the appellant.
  - 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 Appeals Panel will make their decision.
6. The management side will present their case, detailing the evidence that was taken into account and the matters that were considered when reaching the decision to dismiss of the appellant.
  7. The appellant (and representative) will present their case, explaining in detail the specific grounds for their appeal.
  8. Following the presentation of both cases, and the completion of questioning by the Appeals Panel, the Chairperson will ask both sides to summarise their cases in the following order:
    - management side
    - employee side
  9. The Chairperson will adjourn the 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 Appeals Panel considers their decision.
  10. The Appeals Panel may ask the Hearing to be temporarily reconvened to ask further questions, before adjourning again.
  11. The Appeals Panel may decide that further evidence is required before a decision can be reached. If this is the case, the Appeals Panel will temporarily reconvene the Hearing to advise both sides that further evidence is required and that the Hearing will be reconvened at a date in the future, when the evidence is available. Any new evidence will be presented in line with the format of the hearing as at section 5.
  12. The Appeals Panel will consider the case and will decide whether to:
    - overturn the dismissal and reinstate the appellant in their post,
    - or
    - uphold the Service Head's decision to dismiss.

If the Appeals Panel concludes that reinstatement is appropriate, they must advise what further arrangements should be put in place to monitor the appellant's absences and improve their attendance.
  13. If the Appeals Panel is able to reach a decision on the day of the Hearing, both sides will be asked to return to the Hearing and the Chairperson will verbally advise both sides of the decision. The Chairperson will confirm that the decision will be provided in writing within 5 working days.
  14. If the Appeals Panel is not able to make a decision on the day of the Hearing, the Chairperson must inform both sides that they will be advised of the decision in writing within 5 working days.
  15. If the decision is taken to uphold the original decision to terminate employment, the written confirmation from the Appeal Panel must include the following:

- ❑ the date and time of the Hearing;
  - ❑ confirmation of those present;
  - ❑ the decision to uphold the original decision to terminate the employment;
  - ❑ confirmation of the notice period to be served and the last day of service;
  - ❑ details of why the Appeal Panel reached the decision;
  - ❑ confirmation that the decision is final and binding and there is no further right of appeal to the Council.
16. If a decision is taken to reinstate the appellant, the written confirmation from the Appeal Panel must include:
- ❑ the date and time of the Hearing;
  - ❑ confirmation of those present;
  - ❑ the decision to uphold the appeal and therefore reinstate the appellant;
  - ❑ details of the future review period(s);
  - ❑ any expectations placed on the appellant, e.g., the achievement of a specific absence target, the date by which the employee is expected to have returned to work and so on;
  - ❑ the implications of the appellant failing to meet those expectations;
  - ❑ any expectations placed upon the manager, e.g., details of further review meetings, the provision of additional support, and so on.