



# Hinckley

## ACADEMY

# Appeals Policy

<b>Date of last review:</b>	<b>June 2021</b>
<b>Reviewed by:</b>	<b>Mrs Dawn Guzzetta, Vice Principal</b>
<b>Policy approved by Governors</b>	<b>October 2021</b>
<b>Frequency of review:</b>	<b>Bi-Annually</b>
<b>Date of next review:</b>	<b>July 2023</b>

This policy applies to all teaching and Support Staff based in Schools, Colleges and Academies. The procedure applies to all HR policies and procedures except where they specifically provide for an alternative appeals process (e.g. final warnings issued under the Capability and Attendance Management policies will not be considered using this policy).

## Appeal Process

### Registering an Appeal

All appeals must be registered with the Head of School within 5 working days of the employee receiving their outcome letter, unless the relevant policy states otherwise. Once an appeal has been registered, the employee is to complete Appeal Registration Form (if not already completed on initially registering). Only once the registration has been received will arrangements be made for an appeal hearing.

### Grounds for Appeal

When completing the Appeal Registration Form the employee should specify the grounds for their appeal (e.g. procedural flaw, unreasonable sanction, new evidence) and whether they are appealing against the decision to impose a sanction or the level of sanction applied as applicable.

### New Evidence

Any new evidence submitted as part of an appeal should explain how it would have influenced the original decision and why it was not available at the original hearing / meeting. The panel may decide, during the course of the hearing, that further investigation of the new evidence is required before it can be properly considered. In such circumstances, the appeal hearing should be adjourned whilst this is undertaken. The investigation should be completed as quickly as possible and the appeal hearing reconvened at the earliest opportunity.

### Convening an Appeal Hearing

The appeal hearing should be convened as soon as possible by the Head of School. If possible, it should be scheduled to take place during the employee's normal working hours. Consideration must be given as to whether the employee requires any adjustments (e.g. hearing loop, disabled access).

The Head of School will write to the employee to notify them of the details of the hearing giving them a minimum of 10 working days' notice. The letter is to include the employee's right to be represented by a work colleague or Trade Union representative and confirm the potential outcomes of the hearing.

The employee is also to receive copies of any relevant supporting documentation such as:

- Appeal Registration Form (or letter of appeal);
- Any new evidence or supporting documents submitted by the employee or management representative as part of the appeal;
- Statement from management in response to the points raised in the appeal;
- All documents used at the original hearing / meeting;
- Notes from the original hearing / meeting;
- The letter confirming the outcome of the original hearing / meeting;
- The names of any witnesses that management intend to call.



A copy of the documentation should also be provided to each panel member in advance of the hearing. The names of any witnesses that the employee wishes to call should be submitted no later than 5 working days prior to the appeal hearing. A note-taker should also be arranged.

### **Composition of an Appeal Panel**

Appeals will be heard by a panel of three Governors who were not involved in the original decision making process. If, due to a shortage of Governors or the nature of the case, it is not possible to identify three previously uninvolved Governors, the Chair of the Appeal Panel should consult with all parties with a view to reaching agreement. Advice can be sought from HR Services and / or Governor Services as necessary. Wherever possible, panels should be representative; for example, a mix of ethnicities, gender and age.

### **Witnesses**

It is the responsibility of the Head of School to ensure that they invite any witnesses (if required) to attend the hearing. Likewise, it is the employee's responsibility to ensure that they invite any witnesses (if required) to support their case at the hearing. Please note that the employee's Trade Union Representative / work colleague can act on behalf of the employee to arrange their attendance at the hearing if permission from the employee has been granted. Witnesses should only be present at the hearing whilst questions are being asked of them by the employee, their representative, manager and panel members.

### **Failure to Attend**

If an employee fails to attend the appeal hearing without giving an acceptable reason, the hearing will proceed in their absence. Where an employee or their representative is unable to attend due to an unforeseen event a new hearing date should be arranged within 5 working days of the original hearing date, subject to panel availability. If the employee fails to attend the rearranged hearing without there being exceptional circumstances, the meeting will go ahead in their absence.

### **Conducting an Appeal Hearing**

The appeal hearing should follow the format below:

1. The Chair of the panel will introduce those present and outline the procedure to be followed. An employee who is not accompanied will be reminded of their right to representation.
2. The employee and / or their representative will present the reason for their appeal, including any new evidence.
3. The employee and / or their representative may call witnesses to support their case.
4. The management representative (i.e. the person who made the original decision) may question the witnesses.

5. The panel may question the witnesses. (*Steps 3-5 will continue until all of the employee's witnesses have been heard and questioned*).
6. The management representative may question the employee and their representative on their case presentation.
7. The panel may question the employee and their representative on their case presentation.
8. The management representative will present their response to the appeal, including any new evidence.
9. The management representative may call witnesses to support their case.
10. The employee and / or their representative may question the witnesses.
11. The panel may question the witnesses. (*Steps 10-12 will continue until all of the management representative's witnesses have been heard and questioned*).
12. The employee and / or their representative may question the management representative on their case presentation.
13. The panel may question the management representative on their case presentation.
14. The employee and / or their representative will have the opportunity to sum up their case.
15. The management representative will have the opportunity to sum up their case.
16. The management representative, the employee and their representative will adjourn so that the panel can deliberate. Having deliberated on the matters placed before them, the panel will set out their decision and then recall and advise those attending the hearing of the outcome.

### **Possible Outcomes**

The possible outcomes of an appeal hearing are:

- Uphold the original decision and, if applicable, maintain any sanction;
- Overturn the original decision and implement a new decision along with any reduced sanction and/or other action.

The panel may also wish to make additional recommendations, e.g. training, guidance, etc.

### **Notification of Outcome**

The employee is to be advised, in writing, within 3 working days of the outcome of the appeal hearing. A copy of the notes from the hearing should also be provided. The employee will have no further right of appeal against the decision.

## Appeal Registration Form

**To be completed and returned to the Head of School within 5 working days of receiving written notification of the outcome of the hearing/meeting. Please include any relevant supporting documentation that you wish to be considered at the appeal hearing.**

### Employee Details

**Name:** \_\_\_\_\_

**Home Address:** \_\_\_\_\_

**Job Title:** \_\_\_\_\_

### Outcome of the Hearing/Meeting

**Policy Hearing/Meeting/Decision was Held Under:**

- |   |                          |
|---|--------------------------|
| Attendance Management (dismissals only) | <input type="checkbox"/> |
| Capability (dismissals only)            | <input type="checkbox"/> |
| Dignity at Work                         | <input type="checkbox"/> |
| Disciplinary                            | <input type="checkbox"/> |
| Grievance                               | <input type="checkbox"/> |
| Pay Policy                              | <input type="checkbox"/> |
| Probation                               | <input type="checkbox"/> |
| Restructuring and Redundancy            | <input type="checkbox"/> |
| Right to Request Flexible Working       | <input type="checkbox"/> |

**Other:** \_\_\_\_\_

**Date of Hearing/Meeting:** \_\_\_\_\_

**Panel:** \_\_\_\_\_

**Outcome of Hearing/Meeting/Decision:**

*Where the appeal is against pay policy / decision*

- |                          |                          |
|--------------------------|--------------------------|
| First Written Warning    | <input type="checkbox"/> |
| Final Written Warning    | <input type="checkbox"/> |
| Dismissal with Notice    | <input type="checkbox"/> |
| Dismissal without Notice | <input type="checkbox"/> |
| Not Upheld               | <input type="checkbox"/> |

- |   |                          |
|---|--------------------------|
| Incorrectly applied policy                        | <input type="checkbox"/> |
| Failed to apply statutory guidance                | <input type="checkbox"/> |
| Failed to take account of evidence                | <input type="checkbox"/> |
| Took account of irrelevant or inaccurate evidence | <input type="checkbox"/> |
| Was biased  | <input type="checkbox"/> |
| Unlawfully discriminated                          | <input type="checkbox"/> |

**Other:** \_\_\_\_\_



**Grounds of Appeal**

**Details of your Appeal:**

(Please continue on a separate sheet of paper if necessary)

**Name and Contact of Representative:** \_\_\_\_\_

\_\_\_\_\_

**Names of any Witnesses to be called (if known):** \_\_\_\_\_

\_\_\_\_\_

**Dates Unavailable:** \_\_\_\_\_

\_\_\_\_\_

**Name:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Signature:** \_\_\_\_\_