

## Appeals policy and procedure for academic support staff

### 1. Policy

- a) Employees are entitled to appeal using this procedure, against any decisions made in accordance with the disciplinary, dismissals, capability - performance, capacity - health, redundancy, grievance or anti-harassment procedures.
- b) An appeal hearing is the means by which the School, acting as a reasonable employer, provides those employees who wish to do so, with a consistent forum in which to present a case arguing that the action taken against them has been unfair.
- c) If the employee is able to demonstrate that the action taken against him or her was unfair, the appeal is the means by which decisions made are formally withdrawn or amended. If they are unable to do so, the fairness of the action will be confirmed and upheld.
- d) The function of an appeal is not to conduct a full rehearing of the facts of the case, though it is inevitable that reference will have to be made to the earlier hearing. Usual grounds for an appeal will therefore be the coming to light of new information, procedural irregularities or alleged unreasonableness of the decision.

### 2. Scope of the procedure

- a) This procedure applies to all Academic Support Staff.
- b) For the purposes of this procedure the term "employee" will also include former employees who were dismissed in accordance with any of the following School's policies:
  - Disciplinary and Dismissals Policy and Procedure for Academic Support Staff,
  - Dismissals Procedure for Academic Support Staff
  - Capability – Performance Policy and Procedure for Academic Support Staff,
  - Capacity – Health Policy and Procedure for Academic Support Staff,
  - Redundancy Procedure for Academic Support Staff
  - Grievance Procedure for Academic Support Staff
  - Anti-Harassment Procedure for Academic Support Staff.
- c) Where a grievance is raised in connection with one of the procedures listed above it will be considered under this Appeals procedure.

### 3. Exclusions

- a) This procedure does not apply to decisions made using the modified grievance procedure.

### 4. Roles and responsibilities

- a) Employees have a responsibility to:
  - submit an appeal in accordance with the procedure
  - clearly state the basis of his/her appeal and provide all the relevant details;
  - attend meetings held under the appeals procedure and provide the relevant details in relation to the appeal.

c) Managers who have made a decision have a responsibility to:

- be able to clearly explain the reasons behind a decision in respect of an appeal and provide any necessary details if a hearing is held.

d) To ensure consistency of the application of this procedure, managers must seek the advice of their HR Partner before making any decisions.

e) Should an employee need assistance in understanding either the policy or procedure or any documentation in connection with this, he/she should seek advice from their HR Partner or a trade union representative. Should an employee need assistance in setting out an appeal, he/she can seek advice from a work colleague or a trade union representative. HR does not provide employees with specific advice relating to individual circumstances.

## **5. Appeals procedure**

a) An employee wishing to appeal against a decision made in accordance with the policies and procedures covered by this procedure, as detailed in paragraph 1(a), should inform the Human Resources Director (or the Deputy Director in the event of a decision made by the Human Resources Director in the case of the harassment procedure) in writing setting out in full the reasons for the appeal, and attaching any supporting documentation. This should be done within five working days of receipt of written confirmation of the decision.

b) A copy of the appeal will be passed to the manager or, if applicable, the Human Resources Director who made the decision for him/her to prepare a written response, which s/he will present at the appeal hearing.

c) A copy of this statement will be sent to the employee with the required notification of the hearing, normally within ten days of receiving the employee's notification of appeal.

d) As far as possible, hearings are held within fifteen working days of receiving the notification of appeal.

## **6. Notification procedures and right of accompaniment**

a) The manager convening the hearing shall write to the employee giving five working days' notice of the time, date and location of the appeal hearing, together with the statement from the manager who made the decision.

b) The employee shall be advised of his/her entitlement to be accompanied at the hearing by a work colleague or trade union representative. Appeal hearings are internal procedures. Therefore, attendance as a companion is restricted to other employees of the School or local officials of recognised trade unions where appropriate. Solicitors, family members and all other non-employees will be excluded from appeal hearings.

c) Should the employee wish to be accompanied or call witnesses, it will be his/her responsibility to provide all the appropriate details, including the date, time and location of the hearing, as well as the details and documentation relating to his/her appeal.

d) The employee shall provide the HR Partner with the names of his/her companion and or witnesses at least twenty four hours before the hearing, if appropriate.

e) The companion will be able to confer with the employee during the hearing and will be allowed to address the hearing in order to put forward and sum up the employee's case, respond to any view expressed at the hearing and ask questions of clarification of any witnesses. The companion will not be able to answer questions on the employee's behalf.

f) Employees shall take all reasonable steps to attend the hearing and may be accompanied by a work colleague or trade union representative. Should the chosen companion be unavailable on the given date, the employee shall immediately request a postponement by proposing an alternative date and time, which should be within five working days of the given date. Where this is not possible, the employee shall choose an alternative person to accompany him/her to the hearing.

g) Delays caused by the unavailability of the employee, their chosen companion, or witnesses, to attend on given dates without good reason, provided the specified notice has been given, will not be an acceptable ground for postponing the hearing. It may not be possible to postpone the appeal hearing more than once.

## **7. In attendance**

a) Appeals will normally be heard by the line manager of the person who made the decision.

b) In certain cases, such as where a manager is directly involved in the substance of an allegation it may be appropriate for a manager other than the immediate line manager to Chair the appeal hearing. In such cases, the manager chairing the hearing will be of the same or higher grade, from the same department or service if possible. In such circumstance, the employee will be advised, in writing, of the reasons why this is the case.

c) If the appeal is against a decision made by the Human Resources Director the appeal will be heard by a Deputy Director.

d) The manager chairing the hearing will be accompanied by a member of HR acting as advisor and a second member of Human Resources, who will take a written record of the meeting.

## **8. The procedure at appeal hearings**

a) The Chair will explain the purpose of the hearing, introduce the parties and outline the procedure.

b) The employee or companion will be invited to state his or her case.\*

c) The employee may be questioned, for the purposes of clarification through the Chair, by the Chair, the HR representative and the manager who made the decision. It should be noted that employees not companions, will be required to answer questions put to them during the hearing.

d) The manager who made the decision will be invited to explain the reasons for their decision.

e) He or she may be questioned, for the purposes of clarification, through the Chair, by the Chair, the HR representative and the employee or companion.\*

\* Employees and the manager who made the decision can call witnesses to support their case, either during their statement or after questioning has taken place. If witnesses are called, they may only remain at the hearing for the period of their evidence and questioning. They will be questioned first by the person who called them, then in turn by the other side, the Chair, and the HR representative, if necessary. The Chair of the appeal hearing reserves the right to call further witnesses or evidence at any stage of the hearing, if he/she feels that it would be helpful to do so.

f) The employee, or his/her companion, followed by the manager who made the decision, will be given the opportunity to sum up.

g) The hearing will then be adjourned while the facts of the case are considered, and a decision made by the Chair. The hearing shall normally be reconvened on the same day for the decision to be given orally to the employee; however, if the Chair requires additional time in making the decision, the hearing may be reconvened, which will normally be the following day.

h) The employee will normally receive written notification of the outcome of the appeal within five working days of the hearing. S/he will also be advised that the outcome of the appeal marks the end of internal consideration of the case.

## **9. Possible outcomes of appeal hearings**

### **If the appeal is upheld**

a) Decide a new course of action - in the case of disciplinary action this could include expunging the disciplinary action from the employee's record, or reducing the action to a lower stage in the procedure; where harassment applies, the decision to uphold or not the allegation may be revoked.

**Or**

b) In the case of dismissal reinstate the employee.

### **If the appeal is not upheld**

c) the decision or dismissal will stand.

d) If a nominee of the Director hears an appeal against dismissal, the findings will take the form of a recommendation to the Director, which will be confined to the observations on the substantive issues of the case.