

## APPEAL HEARING STRUCTURE

1. **Introduction of parties and explanation of structure.**
  - In attendance:
  - Members hearing the Appeal
  - Human Resources Adviser
  - Legal adviser to the Panel
  - Committee Clerk or other note taker
  - Manager presenting case.
  - Appellant
  - Appellant's Representative (only one representative will be allowed to attend the hearing and this may be a Trade Union Representative or a work colleague.
2. **APPELLANT'S CASE** will be put first using supportive evidence, documentation and witnesses.
3. **MEMBERS HEARING THE APPEAL** will ask any points regarding the Appellant's case, including questions to witnesses.
4. **THE MANAGER PRESENTING THE CASE may ask** points of clarification only of Appellant or witnesses. If either side does not wish to check any points with the witnesses, they may leave the hearing at this stage.
5. **THE MANAGER** will then present his / her case, explaining why the original decision was considered appropriate.
6. **MEMBERS HEARING THE APPEAL MAY ASK** questions of the Manager and his / her witnesses.
7. **THE APPELLANT** (or his / her representative) **may ask** points of clarification only from the Manager or his / her witnesses.
8. **APPELLANT'S CONCLUDING REMARKS** (if any)
9. **MANAGER'S CONCLUDING REMARKS** (if any)
10. **AFTER AN ADJOURNMENT** if the Members are able to come to a decision within a reasonable timescale the Chair of the Sub Committee hearing the Appeal will give the decision. If the decision is likely to take some time the parties will be offered the option of being notified of the decision the following working day by the Human Resources Adviser. The decision will be confirmed in writing to the Appellant.

## APPEALS UNDER THE DISCIPLINARY PROCEDURE

1. The function of the Appeal is to consider the evidence in the light of the submissions made by the Appellant, together with the Council's response and to decide upon the fairness and reasonableness of the decision. It is not a rehearing. It is a review process.
2. In reaching a decision, the Panel of Members should consider the following: -
  - (i) Has any new evidence been presented which was not heard by the Chair of the original Panel? New evidence will only be considered if it was not available to the deciding officer and is relevant to the matter.
  - (ii) Was the decision procedurally correct.
3. If the Appeal grounds are on procedural irregularities, the Panel must decide whether there were any such irregularities and, if so, whether these prejudiced the disciplinary decision to such an extent that a fair hearing was not possible.
4. Appeals against disciplinary action will only be considered on one or more of the following reasons:
  1. The PROCEDURE, - the grounds of appeal should detail how procedural irregularities prejudiced the disciplinary decision.
  2. The FACTS, - Failure to take account of material evidence.
  3. The DECISION, The decision did not justify the level of disciplinary sanction imposed. The Panel will decide if the decision was a decision a reasonable employer could reasonable make.

## **APPEALS UNDER THE SICKNESS PROCEDURE**

**APPEALS AGAINST DISMISSAL UNDER THE SICKNESS PROCEDURE:**

**THE STRUCTURE OF THE HEARING FOLLOWS THE DISCIPLINARY CODE.**

**THE GROUNDS FOR APPEAL ARE: -**

1. That the medical opinion was wrong
2. That redeployment was a viable option
3. That having regard to operational requirements, financial constraints and personal circumstances, it would have been reasonable to allow a longer period to recover before a final decision was made.
4. That there were procedural irregularities by the Council in the operation of the scheme, and these irregularities prejudiced the case to such an extent that a fair hearing was not possible.