


<p>Non-Executive Report of the:</p> <p>General Purposes Committee</p> <p>5 October 2021</p>	 <p>TOWER HAMLETS</p>
<p>Report of: Amanda Harcus, Divisional Director HR & OD</p>	<p>Classification: Internal</p>
<p>Title: Dismissal Appeals Panel – Process and Guidance</p>	

Originating Officer(s)	Pat Chen, Head of HR
Wards affected	

1. EXECUTIVE SUMMARY

- 1.1 GPC previously considered a report on alternative models for an Employee Appeals Sub-Committee on 24 June 2021.
- 1.2 Approval was given to discontinue the Employee Appeals Sub-Committee and to replace it with a Dismissal Appeals Panel that will be chaired by a Corporate Director.
- 1.3 This update report sets out the composition, process and guidance for the operation of the Dismissal Appeals Panel.

2. RECOMMENDATIONS

The General Purposes Committee is recommended to:

- 2.1 Agree to the revisions to the constitution to reflect the revised arrangements for appeals against dismissal, as set out in the report to GPC on 24 June 2021.
- 2.2 Agree that amendments be made to the relevant policies and procedures to reflect the changes to the appeals process for dismissals.
- 2.3 Agree that the new arrangements will be implemented with effect from 1 November 2021.

3. REASONS FOR THE DECISIONS

- 3.1 In order to make the necessary changes to the Constitution, policies and procedures and to implement the revised arrangements for appeals against dismissal.

4. ALTERNATIVE OPTIONS

4.1 N/A

5. DETAILS OF THE REPORT

5.1 The revised Dismissal Appeals process and guidance is attached at Appendix 1.

6. EQUALITIES IMPLICATIONS

6.1 There are no equalities implications arising from this proposal. An equality analysis of any revisions to relevant policy and procedures will be carried out separately.

7. OTHER STATUTORY IMPLICATIONS

7.1 NONE

8. COMMENTS OF THE CHIEF FINANCE OFFICER

8.1 There are no direct financial implications arising from this report.

9. COMMENTS OF LEGAL SERVICES

9.1 There is no legal requirement for appeals to be heard by members, good practice requires that appeal hearings should be chaired by an officer of greater or equivalent seniority to the chair of the original panel who made the decision to dismiss to limit the risk of a challenge for procedural unfairness in any potential legal claims which might be brought by the employee.

Linked Reports, Appendices and Background Documents

Linked Report

* NONE

Appendices

* **Appendix 1 – Dismissal Appeals Process and Guidance**

Appendix 1

Human Resources and Organisational Development

Dismissal Appeals Process and Guidance

Implemented: 1 November 2021



Dismissal Appeals – Process and Guidance

1. Introduction and Principles

- 1.1 The Council's Disciplinary Policy, Attendance Management, Standards for Managing Employee Performance, Redeployment and Redundancy procedures provide an appeal in cases of dismissal.
- 1.2 An appeal hearing is to review the decision to dismiss; rather than hold a re-hearing of the case.
- 1.3 Appeals will be heard by a Dismissal Appeal Panel. The Panel will consider the grounds of appeal and decide if the decision to dismiss was fair and reasonable.
- 1.4 The composition of the Panel and the procedural arrangements are set out below.
- 1.5 Appeals against dismissal will normally be heard within 20 working days of the appeal being received.
- 1.6 The circulation of appeal documents and notice of the date of the appeal will be at least five working days' before the appeal hearing.

2. The Appeal Panel

- 2.1 The panel will consist of **2 Senior Managers** (1 Corporate Director and 1 Director or Head of Service) and **1 Elected Member**. The Member will be selected from any Member or Substitute of the General Purposes Committee.
- 2.2 An HR adviser and a legal adviser will also be in attendance.
- 2.3 Panel members and advisers will have had no previous involvement in the case.
- 2.4 A Corporate Director will Chair the appeal panel and is the final decision maker, after considering the views of other members of the panel. There should be majority agreement, i.e., at least one other panel member agrees with the decision of the Chair.
- 2.5 All panel members will receive training on the appeals process and relevant policies and procedures before taking part in any panel.

- 2.6 In the case of a dismissal appeal which gives rise to any issues relating to safeguarding of adults or children, panel members will receive specific training in safeguarding matters before taking part in any panel.

3. Grounds of Appeal

- 3.1 The specific grounds on which the decision to dismiss can be appealed are set out in each policy.
- 3.2 The Appeal Panel will consider the following:

THE PROCEDURE: Was the procedure followed correctly, or are there any procedural irregularities that may have prejudiced the decision.

THE FACTS: Was all the evidence considered when the decision was made, or is there new evidence that the panel should consider.

THE DECISION: Was the sanction appropriate and proportionate.

4. Procedure

4.1 People in attendance at the meeting

Panel members
HR Adviser
Legal Adviser
Clerk/Note taker
Appellant
Appellant's representative/companion
Manager who made the decision to dismiss
HR Adviser to the dismissing manager

4.2 Right to be accompanied

Appellants have the right to be accompanied at the meeting by either a trade union representative or work place colleague.

4.3 Witnesses and new evidence

- 4.3.1 It is not usual for witnesses to appear in person at an appeal hearing, unless they have new, relevant information about the procedure or the facts, or unless new evidence is being presented. Often a written statement from a witness will be sufficient.
- 4.3.2 The Appeal Panel will consider the reasonableness of the decision to dismiss; it is not a rerun of the original hearing. It is not necessary to call witnesses from the original hearing as their evidence is included in the documents considered by the Appeal Panel.
- 4.3.3 Either side may present witness statements or call witnesses to the hearing where appropriate.

4.3.4 Additional evidence will only be considered where, had it been available or known to the disciplinary panel that made the decision to dismiss, it may have influenced or changed that decision. The Appeal Panel will consider the new evidence when deciding if the dismissal was fair and reasonable.

4.4 **Structure of the meeting**

The meeting will be conducted as follows:

1. **INTRODUCTION OF PARTIES AND PURPOSE OF THE MEETING**
2. **APPELLANT'S CASE** will be put first using supportive evidence, documentation and witnesses.
3. **PANEL MEMBERS HEARING THE APPEAL** will ask questions and clarify any points of the Appellant's case, including questions to witnesses.
4. **THE MANAGER PRESENTING THE CASE** may ask points of clarification of Appellant or witnesses.
5. **APPELLANT WITNESSES LEAVE THE MEETING**
6. **THE MANAGER** presents their case, explaining the reasons for the original decision and why this was considered appropriate.
7. **PANEL MEMBERS HEARING THE APPEAL** may ask questions of the manager and clarify any points raised.
8. **THE APPELLANT** (or representative) may ask points of clarification from the manager.
9. **APPELLANT'S CONCLUDING REMARKS** (if any).
10. **MANAGER'S CONCLUDING REMARKS** (if any).
11. **ADJOURNMENT:** The Panel will adjourn to consider presentations and documents and reach a decision. Given the complexity or nature of the case, the Panel may require further time before being able to reach a decision.
12. **OUTCOME:** If the Panel can reach a decision within a reasonable timescale, they will verbally issue the decision. The decision will be confirmed in writing within 10 working days. If the decision needs further consideration, the appellant will be informed that a decision will be provided in writing within 10 working days. If the matter will take longer to reach a decision the parties will be notified in writing. The Chair is responsible for agreeing the content and signing the outcome letter.

4.5 **Possible Outcomes:**

The Chair of the Appeal Panel will decide:

- To uphold the decision to dismiss
- To reinstate the staff member and substitute the sanction for an alternative that is short of dismissal (formal or final written warning)

This decision is the final stage of the Council's procedure and there is no further right of appeal.

4.6 **Reinstatement**

If a staff member is reinstated on appeal their continuous service is not broken and normal pay will be reinstated from the date of the dismissal.