



## **SUAT Appeals Procedure**

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## **Purpose**

This procedure sets out the process if you wish to appeal in relation to a formal action taken under any of the following policies: Disciplinary, Resolving Grievances, Capability and Anti-Harassment and Bullying. Its aim is to deal with appeals in fair and consistent manner.

## **Scope of Procedure**

This procedure applies to all employees, regardless of length of service but does not form part of your contract of employment or any other contract to provide services and can be amended from time to time and in consultation with the recognised trade unions.

This procedure does not apply to agency workers, consultants, self-employed contractors, volunteers, or interns except where the appeal is being made following the outcome of a complaint under the Anti-Harassment and Bullying policy where it applies to all staff.

This procedure has been implemented following consultation with our recognised Trade Unions. Decisions will be made in line with the school's local scheme of delegation or equivalent mechanism for making decisions at the appropriate level.

## **When can you raise an appeal?**

In line with ACAS guidance (Advisory, Conciliation and Arbitration Service) you can raise an appeal if you feel:

- the outcome of a formal process is too severe
- the outcome of a formal process is wrong based on the information considered
- the relevant procedure or policy was not appropriately followed
- any part of the procedure followed was wrong or unfair
- you have new evidence that has not previously been raised during an ongoing process

## **How can you raise an appeal?**

You will need to raise your appeal in writing to your manager or the Deciding Manager identified following a formal hearing or outcome meeting, within 5 working days of receiving the outcome in writing. You should outline clearly on what grounds you are making the appeal, based on the criteria detailed above (an optional Appeal Form is available). This will then be assessed by the Appeal Manager to determine if it satisfies the grounds for appeal. If it does, you will receive a formal invite to an appeal hearing normally within 5 working days of the Appeal Manager receiving your appeal. You will be given a minimum of 10 calendar days' notice of the appeal meeting taking place unless you request to meet sooner.

If it does not satisfy the grounds for appeal, you will be informed why and what you need to do to enable an appeal to proceed or whether there is another process more suited to deal with the concerns, you have raised. If you have any new evidence to be considered, you should provide this to the Appeal Manager at least 3 working days before the appeal meeting.

You should note that if you are appealing against your dismissal, you will remain dismissed pending outcome of your appeal. However, if your appeal against dismissal is upheld, you will be reinstated with no loss of service or continuity of pay.

If you have difficulty at any stage of this procedure either

- because of a disability or
- because English is not your first language

You should discuss the situation with your manager as soon as possible, so that suitable support can be explored.

### **Who will consider your appeal?**

Your appeal will be heard by a manager, who has not been previously involved in your case and wherever possible, who is more senior than anyone who carried out any part of your case previously. In a school it may be considered by an Appeal Panel, formed from the Governing Body. Appeal meetings will be attended by the school's HR provider wherever possible, particularly where the appeal is against your dismissal.

The Appeal Manager, or Panel, will have the authority to overturn the decision and apply a lower-level warning/sanction, or none at all, if they feel the decision needs to be changed.

### **Who can accompany you to an appeal meeting and what can they do?**

In accordance with ACAS Code of Practice, you have the right to be accompanied by either:

- a work colleague
- a trade union representative or
- an official employed by a trade union

You should confirm to the Appeal Manager or Panel who will accompany you in advance of any appeal meeting.

Having someone to accompany you can often be helpful as it means you have support within the meeting. They can help you put across your appeal if you wish them to do so.

At the meeting, your companion may make representations to us and ask questions but should not answer questions on your behalf. You may talk privately with them at any time during the meeting. They can sum up your case and help you with any questions or clarification on points that might not be clear.

Acting as a companion is voluntary and your colleagues are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion.

We may, at our discretion, allow you to bring a companion who is not a colleague or union representative (for example, a member of your family) if this will help overcome a disability, or if you have difficulty understanding English.

### **What happens at the appeal meeting?**

The appeal meeting provides you with opportunity to say why you are appealing and ask an Appeal Manager or Panel to consider a different outcome.

Where it is not possible to hold a face-to-face meeting under this procedure, we may conduct the process remotely, for example using Microsoft Teams. We will ensure that you and your representative have access to the necessary technology for participating. Your rights will not be affected, and we will ensure that the procedure remains fair and reasonable.

A record of the meeting will be made, either by the person conducting the meeting, a note taker, or by electronic recording (where the meeting is held remotely). Where electronic recordings are made, for the purposes of transcription, this will be with prior consent by all attendees and data protection obligations being met. A written record, or transcription, of the meeting will be shared with you.

You are expected to attend meetings which form a key part of processes in relation to your employment. Meetings will be rearranged where possible however not usually more than once.

If you are unable to, or fail to, attend a rearranged meeting, without good reason, the meeting may be held in your absence. Where you have indicated, in advance, that you are unable to attend you may be invited to submit written representation (to arrive at least 24 hours before the meeting).

Where a decision is made in your absence it will be based upon the information available at the time, including any written representations you have made.

In your appeal meeting, the Appeal Manager or Panel will:

- Introduce everyone and explain why you are all in attendance.
- Explain the purpose of the meeting, how it will be conducted and that as Appeal Manager/Panel they have the ability to change the decision made at the previous hearing.
- Ask you specifically why you are appealing. It could be helpful for you to explain why you think the outcome or procedure is wrong or unfair, ask questions about the parts of the procedure you feel are unfair and present new evidence if you have it.
- Consider if they need to approach the original Deciding Manager with questions about their decision-making process and outcome (this may be during or after your meeting).
- Look at any new evidence if you have any. The Appeal Manager/ Panel may ask you why you have not presented this before reaching appeal stage.
- Discuss all points and then summarise at the end of the appeal meeting.

The Appeal Manager/Panel will then adjourn the meeting to consider the facts and establish if they are able to make a decision. The meeting will be reconvened after the adjournment and the Appeal Manager/ Panel will either advise you of the outcome verbally if they are able to or advise you when they feel they will be able to give you a decision.

There may be a short delay perhaps because the Appeal Manager/Panel wishes to question the original Deciding Manager or believe further exploration or investigation is required on specific points to enable them to make a final decision. They may wish to consider new evidence, check evidence based on issues you have raised or approach previously unidentified witnesses. If this is the case, they will clearly explain this to you, outline who will do this and agree anytime timescales with you.

You will be given a reasonable opportunity to consider any new information obtained before the meeting is reconvened.

Once the Appeal Manager/Panel has made a decision, the outcome will be confirmed to you at the earliest opportunity and in writing within five working days following your appeal meeting.

### **What are the potential outcomes of the appeal?**

The Appeal Manager/Panel can decide that your appeal:

- is **not upheld** because they believe the original outcome was fair and proportionate
- is **upheld** because they feel they need to change the original outcome, which could result in a lower-level sanction or no sanction at all
- is **partially upheld**. This may be where a sanction/warning or recommendations have been applied because of multiple issues, and the Appeal Manager feels that a different decision should have been made in relation to some of concerns, but which changes the overall decision made. If this is the case, they will clearly identify and explain this to you.

In appeals against a sanction, the outcome of your appeal may be to overturn or confirm the original decision or apply a different, but not more serious, sanction.

An Appeal Manager/Panel might also reconsider any recommendations that have been suggested or suggest actions that would be beneficial to you and/or the business area/school, where not previously identified. This might include learning and development, or additional support being offered to you.

Any decision made about your appeal will be final and therefore there will be no further right of appeal under any of the schools' policies or processes.

### **Data Protection and Confidentiality**

All employees must treat as confidential any information communicated to them in connection with an appeal. Breach of confidentiality may give rise to disciplinary action under our Disciplinary Policy.

If you are invited to a formal meeting, you must not make any electronic recordings (an exception to this may be where it has been agreed as a reasonable adjustment related to a disability). Any breach of this provision may lead to disciplinary action, which could include dismissal.

Information about an appeal will be placed on your personnel file along with a record of the outcome given and any notes or other documents compiled during this process. These will be processed in accordance with the school Privacy Notice and Data Protection Policy.

### **Further advice**

If you need any further information about any aspect of this policy, please initially speak to your manager or Head Teacher. Alternatively, you can contact the schools HR provider or your Trade Union representative if you are a Union member.

### **Community Impact Analysis**

We consider carefully how the decisions we make affect people who share different protected characteristics (race, disability, sex, gender re-assignment, religion, belief, sexual orientation, age, marriage and civil partnership, pregnancy and maternity).

The Community Impact Analysis, available to support this procedure, highlights the proactive and positive approach we take to supporting employees who raise an appeal, whilst taking into consideration any employee protected characteristics.

The completed community impact analysis to support this policy is available on request.