

UNIVERSITY OF ABERDEEN

POLICY AND PROCEDURE FOR HEARING AN APPEAL

1 INTRODUCTION

The aim of this Policy and Procedure is to ensure that the University deals with appeals in a fair, consistent and sympathetic manner.

2 SCOPE

The Policy and Procedure for Hearing an Appeal applies to all staff employed by the University of Aberdeen and to appeals against decisions taken under the following University Policies and Procedures:

- Grievance
- Discipline
- Redundancy
- Promotion
- Probation

3 GENERAL PRINCIPLES

- Appeal Hearings will be arranged as quickly as practicable and without unreasonable delay.
- The Appellant and Respondent have a right to be represented by an Adviser, who may be a work colleague or Trade Union Representative.
- Each Appeal Committee will be serviced by a Clerk who will normally be from Human Resources.
- Individuals are entitled to reasonable preparation time ahead of being required to attend an Appeal Hearing.
- Individuals must take all reasonable steps to attend any meetings which they are required to attend. If an individual fails to attend an Appeal Hearing, s/he will be provided with an invitation to attend a second Hearing. The individual will be advised that if s/he does not attend the second meeting, consideration will be given to reaching a decision in her/his absence on the evidence available.
- Individuals must take all reasonable steps to produce documentation regarding the appeal within a reasonable timescale.
- All written records, including documentary evidence and witness statements, will be classified as confidential and retained within Human Resources in line with the University's Records Retention Schedule.

4 COMPOSITION OF APPEAL COMMITTEE

The composition of the Appeal Committee will be determined by the Procedure governing the case under consideration as follows :

4.1 Disciplinary Procedure

4.1.1 Appeals Against Penalties Short of Dismissal

Appeals against penalties short of dismissal will be heard by an individual in the next appropriate level of management structure not previously involved in the disciplinary case. Appeals against disciplinary penalties applied against Relevant Persons* will be heard by another Relevant Person at an appropriate level within the University.

* Footnote

In accordance with the Further and Higher Education (Scotland) Act 2005, the following definitions apply in relation to this Procedure:

Relevant Persons are those who are engaged in teaching and/or the provision of learning and/or research at the University of Aberdeen.

Academic freedom includes freedom (within the law) for Relevant Persons to :-

- a) Hold and express opinion;
- b) Question and test established ideas and received wisdom ; and
- c) Present controversial or unpopular points of view

4.1.2 Appeals Against Dismissal

Appeals against dismissal from members of staff who are not Relevant Persons will be heard by the individual in the next appropriate level of management structure not previously involved in the disciplinary case.

If a Relevant Person wishes to appeal against their dismissal, the appeal will be heard by a person not employed by the University and who has had no previous involvement in the case. This person will be selected by the Principal (or a member of staff nominated by the Principal) from the panel constituted by agreement with the recognised Campus Trades Union and outlined in Appendix A.

4.2 **Redundancy Procedure**

Appeals against dismissal on the grounds of redundancy from members of staff who are not Relevant Persons will be heard by a Vice Principal not previously involved in the case.

If a Relevant Person wishes to appeal against her/his dismissal, the appeal will be heard by a person not employed by the University and who has had no previous involvement in the case. This person will be selected by the Principal (or a member of staff nominated by the Principal) from the panel constituted by agreement with the recognised Campus Trades Union and outlined in Appendix A.

4.3 **Grievance Procedure**

Stage One

Appeals against the outcome of a formal grievance by individuals who are not Relevant Persons will be heard by an individual in the next appropriate level of management structure not previously involved in the grievance case.

Appeals against the outcome of a formal grievance involving a Relevant Person will be heard by the Head of School/Section and one other Relevant Person who has not been connected with the matter under investigation.

Stage 2

If the member of staff remains dissatisfied following the Appeal Hearing, s/he may invoke the final stage of the formal Grievance Procedure which involves the grievance being heard by a Grievance Committee comprising four members of the Partnership Negotiating and Consultative Committee (PNCC). Two members of the Grievance Committee will be Management members (at least one of whom will be a Relevant Person if the individual raising the grievance is a Relevant Person) and two will be Trade Union members. The Grievance Committee will be convened on all occasions by a Management member.

4.4 **Promotion**

Appeals against unsuccessful applications for promotion submitted to the annual Promotions Exercise will be heard by the Promotion Appeal Committee, which will be convened by a Vice Principal, and will comprise one senior member of Academic or Academic Related staff (as appropriate depending on the staff category of the appellant) and two trained Role Analysts.

The Convener and the Academic or Academic Related member of staff will have undertaken appropriate HERA training. None of the Appeals Committee members will have been involved in the earlier consideration(s) of the case under appeal at Promotion Sub-Committee level.

The Respondent will be a management member of the Promotion Sub-Committee who was party to the original decision.

4.5 **Probation**

Appeals against Non Confirmation of Probation

Appeals against dismissal for non-confirmation of probation from members of staff who are not Relevant Persons will be heard by the individual in the next appropriate level of management structure not previously involved in the review of the probation case.

If a Relevant Person wishes to appeal against their dismissal, the appeal will be heard by a person not employed by the University and who has had no previous involvement in the case. This person will be selected by the Principal (or a member of staff nominated by the Principal) from the panel constituted by agreement with the recognised Campus Trades Union and outlined in Appendix A.

Appeals Against Extension of Probation

Appeals against extension of probation will be heard by an individual in the next appropriate level of management structure not previously involved. Appeals against extension of probation applied against Relevant Persons will be heard by another Relevant Person at an appropriate level within the University.

5 APPEAL PROCEDURE

5.1 Documentation

The Clerk will circulate the Appellant, the Respondent and member(s) of the Appeal Committee with the following details, not less than seven days in advance of the hearing:

- (a) Information of the decision appealed against.
- (b) A written statement stating the grounds of the appeal, together with any such information as may be relevant.
- (c) A list of any witnesses to be called, the Appellant and Respondent having been timeously advised of their right to call witnesses and having provided the names of persons to be called. It is the responsibility of the person calling the witnesses to ensure that they are available to attend the hearing or can provide a written statement in advance.
- (d) The name of the person, if any, who has agreed to accompany the Appellant as Adviser at the hearing.
- (e) The name of the person, if any, who has agreed to accompany the Respondent as Adviser at the hearing.

5.2 The Hearing

The hearing shall be conducted as follows:

- (a) All statements and questions shall be directed through the Convener.
- (b) The Convener shall, at all times, have the right of control over the proceedings including the right to determine the issue of relevance.
- (c) At any stage the Convener may require a temporary suspension of proceedings to allow consultation with the Appeals Committee.
- (d) In respect of any matter in issue the Convener shall ensure that the Appellant is accorded the right of final comment.
- (e) No witnesses shall be present in the room in which the appeal is conducted until called to give evidence and witnesses shall leave the room on completion of the process of giving evidence.

The hearing shall proceed as follows:

- (f) The Convener shall commence proceedings by outlining to all persons involved, including witnesses, the form of procedure to be followed. Following this discussion, the witnesses shall be asked to leave the room until they are required to give evidence.
- (g) The Convener shall satisfy him/herself that the Appellant and the Respondent understand the procedure. At this stage the Appellant and the Respondent shall be given an opportunity to comment and/or ask a question on any issue concerning the material circulated before the hearing.
- (h) The Convener shall then invite the Appellant to present his/her case by:

- (i) Making any relevant statement in support of the appeal (such statement may be by the Appellant's Adviser or supplemented by a statement by the Adviser); the Respondent, and/or his/her Adviser, the Convener and/or any member of the Appeal Committee having the opportunity to ask any relevant question arising from any such statement. By calling any witness (see 5.1(c) above) to speak to any relevant matter. The Respondent, and/or his/her Adviser, the Convener and/or any member of the Appeal Committee will then have the opportunity to ask any relevant questions arising from anything said by a witness.

(Where witnesses are called the Appellant shall have the right to determine the order of presentation of the above two aspects of his/her case).

- (i) The Convener shall then invite the Respondent to present his/her case by:
 - (i) Making any relevant statement opposing the appeal (such statement may be by the Respondent's Adviser or supplemented by a statement by the Adviser). The Appellant, and/or his/her Adviser, the Convener and/or any member of the Appeal Committee will then have the opportunity to ask any relevant question arising from any such statement.
 - (ii) By calling any witness (see 5.1(c) above) to speak to any relevant matter. The Appellant, and/or his/her Adviser, the Convener and/or any member of the Appeal Committee will then have the opportunity to ask any relevant questions arising from anything said by a witness.

(Where witnesses are called the Respondent shall have the right to determine the order of presentation of the above two aspects of his/her case.)

- (j) On conclusion of that part of the process provided for in paragraphs (h) and (i) the Convener shall invite the Appellant (and/or his/her Adviser) to sum up the case for the Appellant.
- (k) Following the Appellant's summing-up, the Respondent (and/or his/her Adviser), shall be given an opportunity to sum up; in the event of the Respondent doing so the Appellant (and/or his/her Adviser), shall be invited to make a final response.

5.3 The Decision

The decision of the Committee, which is not subject to further appeal within the University, shall be communicated in writing to the Principal, if appropriate, and to the parties to the Appeal, also in writing, within 3 working days of the Appeal being heard.

Approved by the University Court on 27 March 2012
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APPEAL PANEL

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