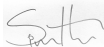




# Appeals Policy

Review Cycle	Date of Current Policy	Author(s) of Current Policy	Review Date
Annual	01/08/2023	Simon Hunt	01/08/2024

Role	Name	Signature	Date
Director	Simon Hunt		01/08/2024

# Appeals Policy

## INTRODUCTION

This procedure ensures that Discovery Education has fair and effective arrangements for dealing with appeals against formal action within the Discipline and Capability policies or any other dismissal or relegation (this policy will not apply to appeals against dismissal as a result of unsuccessful completion of a probationary period), as well as any decisions based upon competence during qualifications and performance, cheating or plagiarism during internal and external assessments.

## OBJECTIVES

The objective of this policy is to:

- ensure that Discovery Education is a fair employer, meeting all relevant legal requirements regarding any formal action, dismissal or relegation decisions it may take in relation to any employee
- ensure that lawful, non-discriminatory, and effective arrangements exist for dealing with appeal hearings
- ensure that all employees and learners are treated in a fair, consistent manner.

## RESPONSIBILITIES

**DIRECTORS** are responsible for;

- Implementing the procedure.
- Designating employees to whom formal powers to chair appeal hearings have been delegated.
- Ensuring appropriate progress is made on receipt of appeals for action short of dismissal/relegation.
- Reviewing and revising this policy
- Recording dates when key milestones in the process are achieved and the outcome of the hearing.
- Ensuring that appeals are heard without undue delay.

- Preparing for, advising on and representing management on appeals including appeals to elected members as appropriate.
- Storing the file and confidential papers securely after the appeal has been heard.

## **APPEALS PROCEDURE**

### **THE RIGHT OF APPEAL**

The employee/Learner will have the right of appeal against any formal action taken against them under the disciplinary or capability procedures or any other dismissal or relegation. (This procedure will not apply to appeals against dismissal as a result of unsuccessful completion of a probationary period). If the employee wishes to appeal they must do so in writing within 10 working days of the date on which the decision is confirmed in writing.

Where a dismissal decision has been taken at a meeting other than a hearing, the references to hearings in this document refer to the relevant meeting.

### **GROUNDINGS OF APPEAL**

The employee/learner must state the grounds upon which they seek to appeal. These may be:

- There was a defect in the procedure
- NB In circumstances of redundancy this may include a defect in the selection criteria, or application of the criteria (including a challenge to the scoring where there is evidence to substantiate this) leading to unfair selection. The appeal itself will not be a re-hearing of the selection interview and any challenge to the scoring must be based on reasonable grounds
- Not all evidence was considered.
- The sanction/decision was too severe.
- New evidence has come to light since the last hearing.
- They feel a decision based on performance resulting in a failing/not yet competent decision by attending staff or tutors to be deemed unfair or incorrect

## LODGING AN APPEAL

**An employee who wishes to appeal against a dismissal / relegation / Competency decision should do so in writing to the HR Adviser.** The arrangements for the hearing will be made by the Discovery Education Directors. Appeals should be heard without undue delay and at least 10 days notice should be given to the appellant.

**An employee who wishes to appeal against action short of dismissal/relegation should do so in writing to the company Directors.** The letter of appeal should give one of the above reasons and provide any new statements and documentation including that of any witnesses. Following this notification an Appeal Hearing will be arranged. The date of the meeting will be arranged in consultation with the employee/learner and their representative. He/she will confirm the arrangements in writing giving at least one weeks full notice.

The notice of the hearing will include:

- A clear statement of the decision which has led to the appeal.
- The date, time and location of the hearing.
- The names of the chairman and panel members.
- The name of the person who will present the management position.
- The employee's/learners right to seek representation by his/her recognised trade union representative or recognised trade union officer
- The potential outcomes.
- The fact that the hearing will go ahead in the employee's/learners absence if they fail to attend after confirming their attendance.
- A full pack of the documentation to be considered in the hearing including any new statements in response to any new evidence including that of any witnesses.

## **NEW EVIDENCE**

New evidence may be considered in the Appeal Hearing subject to the requirement that any evidence to be presented is included in the documents submitted before the hearing. Where new evidence is to be submitted the employee/learner should state clearly what the evidence is and why it is believed that it would alter the original decision.

## **REHEARING**

If the grounds of the appeal relate to a defect in the original hearing, the company directors may advise that a rehearing is held in place of the Appeal Hearing. If this is the case the meeting will follow the original hearing procedure and all parties and witnesses will be invited. The panel and possible outcomes will be consistent with the Appeal Hearing procedure.

## **ATTENDANCE AT A HEARING/REHEARING**

If the employee/learner wishes to attend the Appeal Hearing/Rehearing but is absent due to sickness or some other reason or their representative is unable to attend, the meeting may be postponed for up to 5 days, or as soon as is practicable. The employee should be notified of the date in writing and should be cautioned that if they are not able to attend on the revised date, then their case will be considered based on their written documentation. For appeals to Members a reserve date will have been arranged for such circumstances.

## **THE APPEAL HEARING PANEL (Dismissal/Relegation).**

An appeal against dismissal/relegation will be heard by a panel of three elected Members.

### **Elected Members**

Elected members who participate should have completed the member induction programme and be familiar with the impact of an employee's conduct on service delivery and service users. They should also have received sufficient theoretical and practical training to ensure that they meet the requirements of a person specification for appeals and panel members. It is a legal requirement that the members of the appeal panel should be politically proportionately representative. The panel will be advised



by the company Directors and or legal/representative, who will not participate in the decision.

## **DOCUMENTS**

All parties at the hearing will have available all the documents presented to the original hearing and the following:

- The record of the original hearing.
- The letter confirming the outcome of the original hearing.
- The letter of appeal and information submitted by the employee/learner giving at least one full week's notice. Where possible this should be given within 14 days of the notice of appeal

The notice of the hearing will include:

- A clear statement of the decision which has lead to the appeal.
- The date, time and location of the hearing.
- The names of the chairman and panel members.
- The name of the person who will present the management position.
- The employee's/learners right to seek representation by his/her recognised trade union representative or recognised trade union officer
- The potential outcomes.
- The fact that the hearing will go ahead in the employee's/learners absence if they fail to attend after confirming their attendance.
- A full pack of the documentation to be considered in the hearing including any new statements in response to any new evidence including that of any witnesses.

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## **ATTENDANCE AT A HEARING/REHEARING**

If the employee/learner wishes to attend the Appeal Hearing/ Rehearing but is absent due to sickness or some other reason or their representative is unable to attend, the meeting may be postponed for up to 5 days, or as soon as is practicable. The employee should be notified of the date in writing and should be cautioned that if they are not able to attend on the revised date, then their case will be considered based on their written documentation. For appeals to Members a reserve date will have been arranged for such circumstances.

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### **Elected Members**

Elected members who participate should have completed the member induction programme and be familiar with the impact of an employee's conduct on service delivery and service users. They should also have received sufficient theoretical and practical training to ensure that they meet the requirements of a person specification for appeals panel members. It is a legal requirement that the members of the appeal panel should be politically proportionately representative. The panel will be advised by the company Directors and/or legal representative, who will not participate in the decision.

## **DOCUMENTS**

All parties at the hearing will have available all the documents presented to the original hearing and the following:

- The record of the original hearing.

- The letter confirming the outcome of the original hearing.
- The letter of appeal and information submitted by the employee/learner
- A statement from the original presenting manager in response to the grounds of appeal
- The appeal panel will reach findings based on documentation and the submissions from the parties

## **POSSIBLE OUTCOMES**

The outcome will be either:

- The case against the employee/learner is upheld (in whole or part); the sanction will then be the same or a lesser penalty.
- The case against the employee/learner is not upheld, the case is dismissed.

## **Hearings:**

### **INTRODUCTION**

The company Directors arrange for the parties to enter and to take designated seats.

A Director will conduct introductions, explain the protocol for the hearing and respond to any initial procedural questions.

N.B: If the employee/learner is unaccompanied, the Director checks that he/she is happy to proceed without representation, and makes a note to that effect.

When directed by the Director:

- employee/learner representative presents the employees/learners case based on the grounds specified when submitting the appeal
- management representative puts questions to the employee/learner representative
- panel members put questions to the employee/learner representative if they wish
- employee/learner representative calls in and questions any witnesses whose personal appearance has been requested by the employee/learner representative
- management representative questions the employee/learners witnesses



- panel members question the employee/learners witnesses if they wish
- each employee/learner witness withdraws after his/her questioning has been completed
- management representative presents the management position in response to the employees/learners grounds of appeal
- employee/learner representative puts questions to the management representative
- panel members put questions to the management representative if they wish
- management representative calls in and questions any witnesses whose personal appearance has been requested by management
- employee/learner representative questions the management witnesses panel members question the management witnesses if they wish each management witness withdraws after his/her questioning has been completed
- employee/learner representative summarises the employees/learners position
- management representative summarises the management position
- all parties withdraw

## **THE DECISION**

All three panel members discuss the employees/learners case, all related evidence and any relevant Discovery Education policies, procedures and practices. The appeal panel make the final decision on resolution of the appeal and develop appropriate performance improvement plans wherever practicable.

N.B: If the panel wishes to put further questions to either party, both parties will be recalled even if the question is to be directed at one party only. At no time should the panel be alone with either the employee/learner representative, or with the management representative.

Chairman makes a written summary of the decision and related action plans using the Appeal Hearing Decision Record in Appendix 2.

All parties are recalled

Chairman reads out the panel's decision and any related performance improvement plans and/or action plans.

This is confirmed in writing to the employee/learner.

Chairman brings the hearing to a prompt close, without further discussion or debate.

### **SUCCESSFUL APPEAL AGAINST DISMISSAL OR RELEGATION**

An employee whose appeal against dismissal is successful may be reinstated in his/her previous position where this still exists.

In certain circumstances, for example if the previous working relationship appears to have broken down, it may be more appropriate for the employee to be reinstated in a different position of comparable status and pay. This will take place only after full discussion and agreement with the employee and/or his/her representative.

In redundancy circumstances, if the employee's previous position no longer exists Discovery Education will actively consider whether suitable alternative employment exists.

In all cases there will be no loss of continuity of service or associated rights. If the dismissed employee's notice has already expired, and he/she has left the authority's employment, he/she will receive the appropriate amount of back pay for the period between the effective date of termination of employment and the day of reinstatement to his/her previous position or a suitable alternative position.

An employee whose appeal against relegation is successful will be similarly reinstated. If his/her pay has been reduced as a part of the relegation decision, the difference will be made up so that he/she experiences no financial loss.

There is no further right of appeal within Discovery Education. An employee who has been dismissed may have the right of application to an employment tribunal.