

# Corporate Policy and Strategy Committee

10.00am, Tuesday 4 August 2015

## Personnel Appeals Committee Procedures

**Item number** 7.2  
**Report number**  
**Executive/routine**  
**Wards**

### Executive summary

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The Council's Discipline and Grievances procedures include an internal appeal stage which is heard by elected members on the Personnel Appeals Committee. There are separate procedures which set out how the appeals process is managed jointly by Committee Services, HR/OD and the Personnel Appeals Committee and approved by committee. The Council's discipline and grievance procedures have been amended and include changes to the appeals stage. The Personnel Appeals Committee appeals procedures have therefore been reviewed to reflect these agreed changes and to make sure they continue to be fit for purpose.

The review has been undertaken in full consultation with the trades unions, members of the Personnel Appeals Committee and Committee Services officers. All parties are in agreement with the proposed changes.

### Links

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<b>Coalition pledges</b>	<a href="#">P27</a>
<b>Council outcomes</b>	<a href="#">CO27</a>
<b>Single Outcome Agreement</b>	SO1

## Personnel Appeals Committee Procedures

### Recommendations

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- 1.1 The Corporate Policy and Strategy Committee is asked to approve the revised Personnel Appeals Committee Procedures.

### Background

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- 2.1 The Council's Discipline and Grievance Procedures were reviewed in 2014. Amendments included a requirement that staff who wish to appeal against decisions at stage 2 of the grievance procedure can demonstrate sufficient grounds for their appeal. Staff now need to demonstrate one or more of the following grounds:
  - the grievance procedure followed was not a fair process/was procedurally flawed;
  - additional evidence was not considered;
  - evidence was considered but misinterpreted; and
  - the conclusion reached was incorrect /unreasonable given the evidence presented.
- 2.2 In addition, there is a need to assess whether the Personnel Appeals Committee has the authority to agree to the resolution requested in any grievance or disciplinary appeal.
- 2.3 A new stage in the Personnel Appeals Committee Procedures was therefore required to assess whether appeals meet the specified criteria. As the Personnel Appeals Committee Procedures for both grievance and disciplinary appeals were introduced in 1996 the opportunity was also taken to review and update these.

### Main report

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- 3.1 The final internal stage in the Council's Grievance and Disciplinary procedures is an appeal to the Personnel Appeals Committee. Changes are required to the current appeals procedures to incorporate changes in the Grievance and Disciplinary Procedures which were agreed by Corporate Policy and Strategy Committee in 2014.
- 3.2 The main changes to the Personnel Appeals Committee Procedures for hearing appeals are:
  - 3.2.1 A new assessment stage is required:

- for grievance appeals to check that an appeal meets the criteria i.e. is appeal competent?
  - for both discipline and grievance appeals to assess whether the Personnel Appeals Committee has the authority to agree to the resolution requested.
- 3.2.2 The assessment will be carried out by HR Policy team on behalf of the Head of HR & OD:
- as they are custodians of the policies;
  - to ensure principles are consistently applied; and
  - because they are advisers to the Personnel Appeals Committee.
- 3.2.3 The appeal form and associated papers will now go to Committee Services and the Head of HR/OD at same time so that the assessment can be carried out. An appeal will not be listed for a hearing until the assessment has been completed and it has been deemed competent.
- 3.2.4. Currently the Service Manger does not see the appeal until all the papers are circulated 2 weeks before hearing. Committee Services will now send all appeal documents to the Service Manager at the outset who will then send a relevant and focussed response to the relevant points of appeal. This will ensure a quicker process for all parties and for elected members.
- 3.2.5. The order of the appeal has changed so that the appellant presents their case first as it is their appeal.
- 3.2.6. The outcome of the appeal is given in writing within a set timescale not announced on the day.
- 3.3 Tight timescales have been agreed for the assessment stage to make sure that the appeals stage is not unnecessarily delayed.

### **Measures of success**

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- 4.1 Earlier resolution of appeals because of the streamlined process and timescales;
- 4.2 Focussed appeals as a result of the introduction of an assessment stage; and
- 4.3 Personnel Appeals Committee dealing with appeals where they can make a decision or recommendation.

### **Financial impact**

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- 5.1 Early resolution and more focussed appeals reduces the time and costs associated with Stage 3 of the formal grievance and disciplinary processes.

### **Risk, policy, compliance and governance impact**

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- 6.1 The changes do not pose any risk with regards to compliance and legislative requirements.

## Equalities impact

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- 7.1 There are no adverse equality issues arising from this report which will impact on employee groups with protected characteristics as defined by the Equality Act 2010. The equality relevance assessment score is 0.

## Sustainability impact

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- 8.1 None

## Consultation and engagement

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- 9.1 The Trades Unions have agreed these changes.
- 9.2 Members of the Personnel Appeals Committee and Committee Services officers have been involved in identifying and proposing the changes and all parties are in agreement with the new procedures.

## Background reading / external references

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### Alastair Maclean

Chief Operating Officer

Deputy Chief Executive

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## Links

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<b>Coalition pledges</b>	P27 - Seek to work in full partnership with Council staff and their representatives
<b>Council outcomes</b>	CO27 - The Council supports, invests in and develops our people
<b>Single Outcome Agreement</b>	SO1 – Edinburgh’s economy delivers increased investment, jobs and opportunities for all
<b>Appendices</b>	Appendix 1: Procedure for Hearing Grievance Appeals Appendix 2: Procedure for Hearing Disciplinary Appeals

## PERSONNEL APPEALS COMMITTEE

### PROCEDURE FOR HEARING GRIEVANCE APPEALS

#### CONTENTS

Section		Page
1	<a href="#"><u>TERMS OF REFERENCE</u></a>	2
2	<a href="#"><u>MEMBERSHIP OF THE PERSONNEL APPEALS COMMITTEE</u></a>	2
3	<a href="#"><u>LODGING AN APPEAL</u></a>	2
4	<a href="#"><u>PROCEDURE BEFORE APPEAL HEARING</u></a>	3
5	<a href="#"><u>REPRESENTATION AND ATTENDANCE AT APPEAL</u></a>	4
6	<a href="#"><u>PROCEDURE AT APPEAL HEARING</u></a>	5
7	<a href="#"><u>POSSIBLE OUTCOMES IN GRIEVANCE APPEALS</u></a>	6
8	<a href="#"><u>RISK ASSESSMENT</u></a>	6
Appendix 1	Notification of Appeal Form	7
Appendix 2	Appeal Response Form	11

## 1. TERMS OF REFERENCE

1.1 The Council's Grievance Procedure is designed to deal with employment related concerns, such as:

- your work or working arrangements;
- your office and its equipment (including health and safety concerns);
- your employment contract; or
- equal opportunities issues.

1.2 The Personnel Appeals Committee will hear a final appeal against a decision taken at Stage 2 of the council's Grievance Procedure, subject to paragraph 3.2 below.

1.3 The Personnel Appeals Committee will have delegated power from the City of Edinburgh Council to decide grievances and will be the Council's final arbiter on such matters.

## 2. MEMBERSHIP OF THE PERSONNEL APPEALS COMMITTEE

2.1 The Personnel Appeals Committee will comprise nine members the City of Edinburgh Council who have been trained in the relevant procedures. In relation to the hearing of any appeal the following provisions will apply:-

- (a) Where the Convener or Vice-Convener of any Standing Committee or Sub-Committee which has a service responsibility for the decision which is the subject of appeal, is also a member of the Personnel Appeals Committee, he/she will be excluded from hearing that appeal;
- (b) Where a vacancy exists at any meeting of the Personnel Appeal Committee, that vacancy may be filled for that meeting by another member of the Council from within the same political group;
- (c) Where a meeting of the Personnel Appeals Committee is adjourned for any reason only those members in attendance at the original hearing will be eligible to attend the re-convened hearing;
- (d) Three members will form a quorum at meetings of the Personnel Appeals Committee.

## 3. LODGING AN APPEAL

3.1 Notice of an appeal must be submitted **within 10 working days** of the appellant receiving the Stage 2 outcome letter.

3.2 In accordance with the Council's Grievance Procedure an appeal can only be submitted and heard by the Personnel Appeals Committee if it is based on the following grounds:

- the grievance procedure followed was not a fair process and/or was not followed correctly;

- additional evidence was not considered;
- evidence was considered but misinterpreted; and
- the conclusion reached was incorrect given the evidence presented.

3.3 The appeal must be must be submitted on the **Stage 3 Appeals Form**, and may be lodged by the appellant or his/her representative as set out in paragraph 5.1 of the Grievance Procedure. The appellant must include details of;

- why they are seeking an appeal;
- why they disagree with the Stage 2 outcome;
- the outcome they are seeking;
- any other relevant information; and
- any witness they wish to attend the hearing.

3.4 No new issues or concerns can be added at this stage. The issues must be the same as those originally raised at Stage 2.

3.5 The appellant should also provide the name of any witness they wish to attend the hearing. Only witnesses who were present at the previous grievance hearing will be allowed to attend the appeal.

3.6 The Appeal Form must be sent to the Head of Legal, Risk and Compliance and copied to the Head People and Organisation.

#### 4. **PROCEDURE BEFORE APPEAL HEARING**

4.1 Following notification of an appeal, the Head of Legal, Risk and Compliance will acknowledge receipt of the appeal. The Head of People and Organisation will assess whether the appeal meets the requirements for appeal, in accordance with the Council's Grievance Procedure.

4.2 The appeal form and any additional documentation submitted will be assessed to ensure that it meets the criteria set out at section 8.2 of the Grievance Procedure. If it is not clear whether or not the appeal meets the criteria, the member of P&O staff nominated by the Head of P&O to assess the case will contact the member of staff, and their representative where appropriate, to request further information or clarification so that an assessment can be made.

4.3 Within 5 working days of receiving the Appeal Pro Forma the assessment will be completed and the Head of People and Organisation will advise the the Head of Legal, Risk and Compliance of the outcome. The Head of People and Organisation can seek further information from the appellant.

4.4 Within 2 working days of receiving the assessment outcome from the Head of People and Organisation, the Head of Legal, Risk and Compliance will:

- a) advise the appellant and their representative if they meet the requirements for appeal; and

b) notify the relevant service manager of the appeal and send them the appellant's appeal papers.

4.5 The service manager's written response to the appeal must be sent to the the Head of Legal, Risk and Compliance **within 10 working days** of receiving the appellant's case for appeal using the Appeal Response Pro Forma (Appendix 2).

4.6 Any documents relevant to the appeal response should be sent with the Appeal Response Pro Forma. The service manager should also provide the name of any witness they wish to attend the hearing. Only witnesses who were present at the previous grievance hearing will be allowed to attend the appeal.

4.7 Head of Legal, Risk and Compliance will make arrangements for an appeal to be heard **within 28 working days** of receiving notification of the assessment outcome, or as soon as possible if that timescale cannot be met. Committee Services will issue the agenda and papers for the meeting of the Personnel Appeals Committee a maximum of 10 and not less than 3 working days in advance of the appeal hearing..

4.8 The timescales in this procedure may be varied by mutual agreement.

## 5. REPRESENTATION AND ATTENDANCE AT APPEAL

5.1 The appellant will have the right to be represented at the appeal hearing by:

- an accredited workplace trade union representative;
- a Council employee; or
- a full time official employed by a trade union.

5.2 The service manager or other appropriate senior officer will act as the Council's representative at the appeal hearing and may be accompanied by an adviser from People and Organisation.

5.3 The Head of Legal, Risk and Compliance or their representative will act as Clerk to the Personnel Appeals Committee.

5.4 The Council's Head of People and Organisation or representative will act as Adviser to the Personnel Appeals Committee.

5.5 Witnesses will be excluded until called unless it is agreed that they should be present from the start of the hearing.

5.6 If an appeal hearing is adjourned, all parties involved will ensure that, other than in exceptional circumstances, the original representatives attend the re-convened hearing for continuity purposes.

## 6. PROCEDURE AT APPEAL HEARING

### Presentation of Appeal

- 6.1 The appellant or his/her representative will put the case in the presence of the Council's representative and may call witnesses (see 3.5 above).
- 6.2 The Council's representative will have the opportunity to ask questions of the appellant, his/her representative and witnesses.
- 6.3 The members of the Personnel Appeals Committee will have the opportunity to ask questions of the appellant, his/her representative and witnesses.
- 6.4 The appellant or his/her representative will have the opportunity to re-examine witnesses on any matters referred to in their questioning by the members of the Personnel Appeals Committee or the Council's representative.

### **Presentation of Response**

- 6.5 The Council's representative will put the case, in the presence of the appellant and his/her representative, and may call witnesses (4.6 above).
- 6.6 The appellant or his/her representative will have the opportunity to ask questions of the Council's representative and witnesses.
- 6.7 The members of the Personnel Appeals Committee will have the opportunity to ask questions of the Council's representative(s) and witnesses.
- 6.8 The Council's representative(s) will have the opportunity to re-examine witnesses on any matter referred to in their questioning by members of the Personnel Appeals Committee and the appellant or his/her representative(s).

### **Summing Up**

- 6.9 Firstly, the appellant or his/her representative and then the Council's representative will have the opportunity to sum up their cases if they so wish. The summing up will not introduce any new matter.

### **Decision**

- 6.10 If at any stage new facts are alleged or new evidence produced, the Personnel Appeals Committee, either at the request of one or both parties or of its own volition, may adjourn the hearing for such period as it may deem reasonable.
- 6.11 At the conclusion of the evidence the Committee Services representative will advise the appellant and his/her representative that the decision of the Committee will be provided in writing within ten working days. The Council's representative, their Adviser, the appellant and his/her representative and any witnesses will then leave the meeting.
- 6.12 The Personnel Appeals Committee, together with their Adviser(s), will deliberate in private.

6.13 Committee Services in conjunction with the HR Adviser to the Committee will write to both parties to advise them of the Personnel Appeals Committee decision, and the reason(s) for their decision, **within 10 working days** of the date of the hearing.

6.14 There is no further internal right of appeal.

## **7. POSSIBLE OUTCOMES IN GRIEVANCE APPEALS**

7.1 The decision of the Personnel Appeals Committee will normally be one of the following, as appropriate:-

- that the decision at Stage 2 of the Council's Grievance Procedure was reasonable and the appeal is not upheld; or
- that the decision at Stage 2 of of the Council's Grievance Procedure was not reasonable and the appeal is upheld; or
- that the decision at Stage 2 of the Council's Grievance Procedure is partially upheld.

7.2 Where the Personnel Appeals Committee decide that an appeal is successful they will consider the resolution requested by the appellant and make appropriate recommendation(s) to the service area.

7.3 The Committee can also ask the Service Director to:

- arrange to hear your grievance again; or
- to make further investigations into your issues or concerns.

If further investigation is required, the Committee will provide reasons for this in writing. If the Personnel Appeals Committee decides that either of these is required you will have an additional right of appeal at Stage 3.

## **8. RISK ASSESSMENT**

8.1 A risk assessment will be carried out by Committee Services, based on advice from HR and OD, to assess any safety risks that might arise in regard to the parties involved in the hearing. Where required, arrangements for the hearing will be amended to mitigate any risks. This may include arranging separate rooms for the parties to wait in prior to or during the hearing, the seating arrangement in the room the appeal is heard in, alerting security colleagues of a potential concern or any other action required to mitigate any risks that were identified in the assessment.

**NOTIFICATION OF APPEAL FORM****GRIEVANCE PROCEDURE  
Formal Stage 3 Appeal**

You should only complete this form if the Stage 2 Formal Grievance meeting has not resolved your grievance and you feel you have grounds for an appeal – see below. **If completing by hand please do so clearly and in black ink. If you require assistance in completing this form, please contact the HR and Payroll Service Centre.**

If you remain dissatisfied because actions agreed at Stage 2 have not been progressed, you should contact the Nominated Officer for an update before completing this Appeal Form. There may be extenuating circumstances that have resulted in the delay.

**At a Stage 3 Appeal, no new issues can be added. If you have new grievance issues a new grievance (Stage 1) should be started.**

<b>Your name:</b>	
<b>Your job title:</b>	
<b>Your service area:</b>	
<b>Name of your Line Manager:</b>	
<b>Date of Stage 2 Meeting:</b>	
<b>Name of Manager who conducted the Stage 2 meeting:</b>	
<b>Date you were notified of the outcome of Stage 2:</b>	
<b>Does your grievance relate to your line manager?</b>	Yes/No
<b>Trade Union Details</b>	
<b>Name of trade union or other workplace representative</b>	
<b>Contact number for trade union or other workplace representative</b>	
<b>Will representative represent you at appeal?</b>	

**Grounds For Appeal – please tick to indicate which of the criteria below applies to your appeal.**

**(You must attach evidence to support each criteria you refer to).**

- 1 Procedure followed was not a fair process
- 2 Procedure was not followed correctly
- 3 Additional evidence was not considered
- 4 Evidence was considered but misinterpreted
- 5 Conclusion reached was incorrect given the evidence presented

**If you can demonstrate any of these, please tick the relevant box(es) and include this below as part of the grounds of your appeal.**

**Grounds of Appeal**

Please set out the reason(s) for your appeal - provide as much detail as you can to support each criteria you have ticked above. You may attach additional sheets if required.

**Actions taken so far to resolve your complaint**

Please outline action(s) taken so far (if any) to resolve your complaint. This may include details of management intervention/facilitation/mediation and/or other support provided.

**Outcome requested from the appeal:**

Please set out what outcome you would like to see from your appeal, and why and how you believe that this will resolve the issue.

**Witnesses involved in the Appeal: please describe how the witness was involved at earlier stage of grievance process**

Please provide the names and contact details of any witnesses you wish to call during the appeal.

**Declaration:**

I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that making any vexatious or malicious allegations may result in disciplinary action being taken against me by the Council. (In the most serious cases, making false, vexatious or malicious allegations can be treated as gross misconduct.)

**Signature:**

**Date:**

<p>You must submit this form <b>within 10 working days of being notified of the outcome of the Stage 2 hearing</b> to: Head of Legal, Risk and Compliance</p>	<p>Please send it to: Head of Legal, Risk and Compliance Business Centre 2.1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG <a href="mailto:Personnel.Appeals@edinburgh.gov.uk">Personnel.Appeals@edinburgh.gov.uk</a> <b>and</b> send a copy to: your Service Area Director and the  Head of People and Organisation Business Centre 2.3, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, or email to <a href="mailto:OrganisationalDevelopment@edinburgh.gov.uk">OrganisationalDevelopment@edinburgh.gov.uk</a></p>
<p><b>For completion by the Council:</b></p>	
<p>Date form received by Council:</p>	
<p>Name of recipient and job role:</p>	
<p>Signature:</p>	

**APPEAL RESPONSE FORM**

**GRIEVANCE PROCEDURE**

**PLEASE COMPLETE AND SEND TO HEAD OF LEGAL, RISK AND COMPLIANCE WITHIN 10 WORKING DAYS OF RECEIPT**

**MANAGER DETAILS**

Name:	Post Title:
Service Area:	Workplace:
Telephone No:	Email Address:

**APPELLANT DETAILS**

Name:	Post Title:
Service Area:	Workplace:

**RESPONSE TO GROUNDS OF APPEAL**

**Use an additional sheet if necessary**

**Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

WITNESSES	
<b>Please list below any witnesses you wish to call to the appeal hearing:</b>	
<b>NAME OF WITNESS:</b>	
<b>CONTACT DETAILS:</b>	
<b>PLEASE DESCRIBE HOW WITNESS WAS INVOLVED AT EARLIER STAGE OF GRIEVANCE PROCESS:</b>	
<b>NAME OF WITNESS:</b>	
<b>CONTACT DETAILS:</b>	
<b>PLEASE DESCRIBE HOW WITNESS WAS INVOLVED AT EARLIER STAGE OF GRIEVANCE PROCESS:</b>	

**Please send completed form to:**

<p>You must submit this form <b>within 10 working days of being notified of the outcome of the Stage 2 hearing</b> to:            Head of Legal, Risk and Compliance</p> <p>Copy to: Head of People and Organisation</p>	<p>Please send it to:            Head of Legal, Risk and Compliance            Business Centre 2.1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG,</p> <p>and send to</p> <p>Head of People and Organisation,            Business Centre 2.3,            Waverley Court, 4 East Market Street            Edinburgh, EH8 8BG</p> <p>or email to</p> <p><u><a href="mailto:OrganisationalDevelopment@edinburgh.gov.uk">OrganisationalDevelopment@edinburgh.gov.uk</a></u></p>

**PERSONNEL APPEALS COMMITTEE**  
**PROCEDURE FOR HEARING DISCIPLINARY APPEALS**

**CONTENTS**

Section		Page
1	<a href="#"><u>TERMS OF REFERENCE</u></a>	2
2	<a href="#"><u>MEMBERSHIP OF THE PERSONNEL APPEALS COMMITTEE</u></a>	2
3	<a href="#"><u>LODGING AN APPEAL</u></a>	2
4	<a href="#"><u>PROCEDURE BEFORE APPEAL HEARING</u></a>	3
5	<a href="#"><u>REPRESENTATION AND ATTENDANCE AT APPEAL</u></a>	3
6	<a href="#"><u>PROCEDURE AT APPEAL HEARING</u></a>	4
7	<a href="#"><u>POSSIBLE OUTCOMES IN DISCIPLINARY APPEALS</u></a>	5
8	<a href="#"><u>RISK ASSESSMENT</u></a>	
Appendix 1	Notification of Appeal Form	7
Appendix 2	Appeal Response Form	12

## 1. TERMS OF REFERENCE

- 1.1 The Personnel Appeals Committee will hear an appeal against a decision to dismiss or take other forms of punitive disciplinary action as defined in the Council's disciplinary procedure.
- 1.2 The Personnel Appeals Committee will have delegated power from the City of Edinburgh Council to decide disciplinary appeals and will be the Council's final arbiter on such matters.

## 2. MEMBERSHIP OF THE PERSONNEL APPEALS COMMITTEE

- 2.1 The Personnel Appeals Committee will comprise nine members the City of Edinburgh Council who have been trained in the relevant procedures. In relation to the hearing of any appeal the following provisions will apply:-
  - (a) Where the Convener or Vice-Convener of any Standing Committee or Sub-Committee which has a service responsibility for the decision which is the subject of appeal, is also a member of the Personnel Appeals Committee, he/she will be excluded from hearing that appeal;
  - (b) Where a vacancy exists at any meeting of the Personnel Appeals Committee, that vacancy may be filled for that meeting by another member of the Council from within the same political group;
  - (c) Where a meeting of the Personnel Appeals Committee is adjourned for any reason only those members in attendance at the original hearing will be eligible to attend the re-convened hearing;
  - (d) Three members will form a quorum at meetings of the Personnel Appeals Committee.

## 3. LODGING AN APPEAL

- 3.1 Notice of an appeal against disciplinary action must be submitted **within 10 working days** of the appellant receiving written confirmation of the decision arising out of the disciplinary hearing.
- 3.2 The notice of appeal must be submitted on the **Notification of Appeal Form** and may be lodged by the appellant or his/her representative as set out in paragraph 5.1 of the Disciplinary Procedure. Any additional documents relevant to the appeal should be sent with the Notification of Appeal Form.
- 3.3 The Notification of Appeal Form, and any associated papers, must be sent to the Head of Legal, Risk and Compliance and copied to the Head of People and Organisation.

3.4 The appellant should also provide the name of any witness they wish to attend the hearing. Only witnesses who were present at the previous disciplinary hearing will be allowed to attend the appeal.

#### 4. PROCEDURE BEFORE APPEAL HEARING

4.1 Following notification of an appeal, the Head of Legal, Risk and Compliance will acknowledge receipt of the appeal. The Head of People and Organisation will assess whether the appeal meets the requirements for appeal, in accordance with the Council's Disciplinary Procedure.

4.2 The Head of People and Organisation will complete the assessment and advise the Head of Legal, Risk and Compliance of the outcome within 5 working days of receiving the Appeal Pro Forma. The Head of People and Organisation can seek further information from the appellant.

4.3 Within 2 working days of receiving the assessment outcome from the Head of People and Organisation, the Head of Legal, Risk and Compliance will:

- a) advise the appellant and their representative if they meet the requirements for appeal; and
- b) notify the relevant service manager of the appeal and send them the appellant's appeal papers.

4.4 The service manager's written response to the appeal must be sent to the Head of Legal, Risk and Compliance **within 10 working days** of receiving the appellant's case for appeal using the Appeal Response Form (Appendix 2).

4.5 Any documents relevant to the appeal response should be sent with the Appeal Response Form. The service manager should also provide the name of any witness they wish to attend the hearing. Only witnesses who were present at the previous disciplinary hearing will be allowed to attend the appeal.

4.6 Head of Legal, Risk and Compliance will make arrangements for an appeal to be heard **within 28 working days** of receiving notification of the appeal, or as soon as possible if that timescale cannot be met. Committee Services will issue the agenda and papers for the meeting of the Personnel Appeals Committee a maximum of 10 and not less than 3 working days in advance of the appeal hearing.

4.7 The timescales in this procedure may be varied by mutual agreement.

#### 5. REPRESENTATION AND ATTENDANCE AT APPEAL

5.1 The appellant will have the right to be represented at the appeal hearing by:

- an accredited workplace trade union representative;
- another Council employee; or

- an official employed by a trade union.
- 5.2 The service manager or other appropriate senior officer will act as the Council's representative at the appeal hearing and may be accompanied by an adviser from People and Organisation.
- 5.3 The Head of Legal, Risk and Compliance or their representative will act as Clerk to the Personnel Appeals Committee.
- 5.4 The Council's Head of People and Organisation or their representative(s) will act as Adviser to the Personnel Appeals Committee.
- 5.5 Witnesses will be excluded until called unless it is agreed that they should be present from the start of the hearing.
- 5.6 If an appeal hearing is adjourned, all parties involved will ensure that, other than in exceptional circumstances, the original representatives attend the re-convened hearing for continuity purposes.

## **6. PROCEDURE AT APPEAL HEARING**

### **Presentation of Appeal**

- 6.1 The appellant or his/her representative will put the case in the presence of the Council's representative and may call witnesses (see 3.4 above).
- 6.2 The Council's representative will have the opportunity to ask questions of the appellant, his/her representative and their witnesses.
- 6.3 The members of the Personnel Appeals Committee will have the opportunity to ask questions of the appellant, his/her representative and their witnesses.
- 6.4 The appellant or his/her representative will have the opportunity to re-examine their witnesses on any matters referred to in their questioning by the members of the Personnel Appeals Committee, or the Council's representative.

### **Presentation of Response**

- 6.5 The Council's representative will put the case, in the presence of the appellant and his/her representative, and may call witnesses (see 4.5 above).
- 6.6 The appellant or his/her representative will have the opportunity to ask questions of the Council's representative and their witnesses.
- 6.7 The members of the Personnel Appeals Committee will have the opportunity to ask questions of the Council's representative and their witnesses.

6.8 The Council's representative will have the opportunity to re-examine their witnesses on any matter referred to in their questioning by members of the Personnel Appeals Committee, the appellant or his/her representative.

### **Summing Up**

6.9 Firstly, the appellant or his/her representative and then the Council's representative will have the opportunity to sum up their cases if they so wish. The summing up will not introduce any new matter.

### **Decision**

6.10 If at any stage new facts are alleged or new evidence produced, the Personnel Appeals Committee, either at the request of one or both parties or of its own volition, may adjourn the hearing for such period as it may deem reasonable.

6.11 At the conclusion of the evidence the Committee Services representative will advise the appellant and his/her representative that the decision of the Committee will be provided in writing **within 10 working days**. The Council's representative, their Adviser, the appellant and his/her representative and any witnesses will then withdraw.

6.12 The Personnel Appeals Committee, together with their Adviser(s), will deliberate in private.

6.13 Committee Services will write to both parties to advise them of the Personnel Appeals Committee decision, and the reason(s) for their decision, **within 10 working days** of the date of the hearing.

6.14 There is no further internal right of appeal.

## **7. POSSIBLE OUTCOMES IN DISCIPLINARY APPEALS**

7.1 The decision of the Personnel Appeals Committee will be one of the following, as appropriate:-

- that the disciplinary decision was fair and the appeal is not upheld; or
- that the disciplinary decision was unfair and the appeal is upheld; or
- the case will be sent back to the previous stage to be reheard.

### **Disciplinary Decision was Fair**

7.2 If the disciplinary decision was fair the appeal is not upheld and the disciplinary action will remain in place.

## **Disciplinary Decision was Unfair**

7.3 If the disciplinary decision was unfair and the appeal is upheld the Personnel Appeals Committee can decide to withdraw the disciplinary action completely or to replace it with a lesser sanction as follows:

- (a) appeal against dismissal -
- reinstatement to former post, or
  - reinstatement to another similar post on terms and conditions no less favourable than those applying to the post formerly held by the appellant, or
  - a lesser penalty may also be given in accordance with the Council's disciplinary procedure e.g. a final written warning.

Any salary/wages due to the appellant will be repaid in full;

- (b) appeal against action short of dismissal -
- replace with lesser penalty in accordance with the Council's disciplinary procedure e.g. a final written warning.

## **8. RISK ASSESSMENT**

8.1 A risk assessment will be carried out by Committee Services, based on advice from HR and OD, to assess any safety risks that might arise in regard to the parties involved in the hearing. Where required, arrangements for the hearing will be amended to mitigate any risks. This may include arranging separate rooms for the parties to wait in prior to or during the hearing, the seating arrangement in the room the appeal is heard in, alerting security colleagues of a potential concern or any other action required to mitigate any risks that were identified in the assessment.

## NOTIFICATION OF APPEAL FORM

## DISCIPLINARY PROCEDURE

**N.B if completing by hand please do so clearly and in black ink.  
If you require any assistance in completing this form, please contact the Human Resources & Payroll Service Centre.**

## PERSONAL DETAILS

<b>Name:</b>	<b>Post Title:</b>
<b>Service Area:</b>	<b>Workplace:</b>
<b>Home Address:</b>	
<b>Contact Telephone No</b>	

## TRADE UNION DETAILS

Name of Trade Union		Name of Trade Union or other workplace representative	
Contact Number for Trade Union or other workplace representative		Will representative represent you at appeal?	YES / NO
Who should be contacted to organise availability?			

**Name of Manager Who Issued the Disciplinary Action:**

## Disciplinary Action You are Appealing Against (Tick Appropriate Box)

Dismissal <input type="checkbox"/>	Other Sanction Short of Dismissal <input type="checkbox"/>
Final Written Warning <input type="checkbox"/>	Written Warning <input type="checkbox"/>
Please state the outcome you are seeking from this appeal:	

### Grounds of Appeal (Optional Guide)

You can only make a disciplinary appeal, if you have gone through the informal and formal stages of the disciplinary procedure.

You may state your grounds of appeal, in your own words, on this form (see below).

Alternatively if you wish, you can use the following list of questions as a guide and make the appropriate responses.

1. Do you admit or deny the misconduct for which disciplinary action was taken against you, as was explained at the disciplinary hearing?

2. If you admit the misconduct, but wish to submit an explanation of your conduct, or provide a statement below.

3. If you dispute Management's reasons for disciplinary action please state what in your opinion was the reason for the action taken against you.

4. If you consider the form of disciplinary action against you excessive, please give reasons.

5. What resolution are you looking for as the outcome to your appeal?



**WITNESSES**

**Please list below any witnesses you wish to call to the appeal hearing:**

NAME OF WITNESS

CONTACT DETAILS

PLEASE DESCRIBE HOW WITNESS WAS INVOLVED AT EARLIER STAGE OF DISCIPLINARY PROCESS

NAME OF WITNESS

CONTACT DETAILS

PLEASE DESCRIBE HOW WITNESS WAS INVOLVED AT EARLIER STAGE OF DISCIPLINARY PROCESS

**Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

**Please send completed form WITHIN 10 WORKING DAYS OF RECEIPT OF DISCIPLINARY WARNING LETTER to:**

<b>Appeal Against:-</b>	
<p><u>Written Warning / Final Written Warning</u></p> <p>Service Director (as detailed in your disciplinary outcome letter)</p>	<p><u>Dismissal</u></p> <p><u>Sanctions Short of Dismissal</u></p> <p>Head of Legal, Risk and Compliance Business Centre 2.1 Waverley Court, 8 Market Street Edinburgh EH8 8BG <a href="mailto:Personnel.Appeals@edinburgh.gov.uk">Personnel.Appeals@edinburgh.gov.uk</a> <b>and</b> send a copy to:-</p> <p>your Service Area Director and the</p> <p>Head of People and Organisation Business Centre 2.3, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, or email to <a href="mailto:OrganisationalDevelopment@edinburgh.gov.uk">OrganisationalDevelopment@edinburgh.gov.uk</a></p>
<b>For completion by the Council</b>	
Date form received by the Council	
Name of recipient and job role	
Signature	

**APPEAL RESPONSE FORM**

**DISCIPLINARY PROCEDURE**

**MANAGER DETAILS**

Name:	Post Title:
Service Area:	Workplace:
Telephone No:	Email Address:

**APPELLANT DETAILS**

Name:	Post Title:
Service Area:	Workplace:

**RESPONSE TO APPEAL**

*Use an additional sheet if necessary*

Signature \_\_\_\_\_ Date \_\_\_\_\_

**WITNESSES**

**Please list below any witnesses you wish to call to the appeal hearing:**

**NAME OF WITNESS**

**CONTACT DETAILS**

**PLEASE DESCRIBE HOW WITNESS WAS INVOLVED AT EARLIER STAGE OF DISCIPLINARY PROCESS**

**NAME OF WITNESS**

**CONTACT DETAILS**

**PLEASE DESCRIBE HOW WITNESS WAS INVOLVED AT EARLIER STAGE OF DISCIPLINARY PROCESS**

**Please send completed form to:**

You must submit this form **within 10 working days of receipt** to:  
Head of Legal, Risk and Compliance

Copy to: Head of People and Organisation

Please send it to:

Head of Legal, Risk and Compliance  
Business Centre 2.1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG

and send to

Head of People and Organisation Business Centre 2.3, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, or email to [OrganisationalDevelopment@edinburgh.gov.uk](mailto:OrganisationalDevelopment@edinburgh.gov.uk)