# Appeal Policy

<table>
<thead>
<tr>
<th>Document Title: Appeal Policy</th>
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<tr>
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**Approval Process:**

- **HR:** 2 February 2017
- Trade union agreement: 2 February 2017
- Equality Impact Assessed: 18 October 2016
- JCC: 20 March 2017
- Implementation date: 1 October 2017
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1.0 POLICY STATEMENT

1.1 The purpose of this document is to outline procedures to be followed when an appeal has been raised against decisions made in accordance with the University’s disciplinary, grievance, capability and redundancy procedures. This policy will also apply to the University probation procedures which link to the capability procedure.

1.2 An appeal hearing provides the employee with a forum in which to present a case to appeal a decision that they believe was wrong or unjust, and in the case of grievance not satisfactorily resolved.

1.3 If the employee is able to demonstrate that the action taken against him or her was unfair, the appeal hearing is the means by which decisions made are formally withdrawn or amended. If they are unable to do so, the fairness of the action will be confirmed and upheld.

1.4 The function of an appeal is not to conduct a full rehearing of the facts of the case, though it is inevitable that reference will have to be made to the earlier hearing. However in some cases the chair will need to decide if an adjournment is required to obtain further information for example new evidence may need to be further investigated or other people may need to be spoken to or interviewed. This does not preclude the panel determining a rehearing on the grounds of appeal i.e. procedural flaws in the first hearing.

1.5 This procedure reflects current employment law, the ACAS code of conduct and guide to disciplinary and grievances at work, and good practice.

1.6 Equality and diversity information in relation to appeals will be collated and subject to analysis to examine whether certain groups may be disadvantaged by any aspects of this procedure.

2.0 SCOPE

2.1 This procedure applies to all employees of Lancaster University.

2.2 For the purposes of this procedure the term "employee" will also include former employees who were dismissed in accordance with the University’s disciplinary and capability procedures.

3.0 DEFINITIONS

3.1 Any reference to “Faculty Dean”, Divisional Director”, “Director of Human Resources and Organisational Development”, “Pro-Vice Chancellor” or “Chief Administrative Officer” also includes anyone deputed by them at an appropriate level.

3.2 For the purposes of this procedure a working day is defined as a week day (Monday to Friday) but excludes public holidays or any additional days such as closure days.

4.0 ROLES AND RESPONSIBILITIES

4.1 To ensure appropriate application of this policy, the following responsibilities have been identified:
4.1.1 **Original Chair/Manager**

- Those who took the original decision have a responsibility to clearly explain the reasons behind a decision and details at an appeal hearing

4.1.2 **Human Resources**

- Provide advice on employment legislation and good practice in relation to the appeal process
- Support managers acting as Chairs/panel members in executing their duties and responsibilities in accordance with this policy
- Ensure that all documentation relating to the appeal process is prepared and distributed in line with the procedure
- Monitor and review the procedure and identify any learning points to ensure that it remains fit for purpose

4.1.3 **Trade unions**

- Advise, guide and support members throughout the appeals process
- Provide appropriate, clear and relevant feedback to the University in a timely manner

4.1.4 **Chair/Panel**

- Managers hearing an appeal, in the capacity of Chair or Panel members have a responsibility to ensure that employee is given a full opportunity to put their case forward
- The Chair/Panel must ensure that their decision is given in writing within 10 working days of the hearing, where possible or within a reasonable time frame thereafter
- Ensure consistency of the application of this procedure by seeking advice of HR before making any decisions
- Consider and respond to any feedback, queries or concerns raised by affected employees or their representatives
- Seek advice and support on process from HR as required

4.1.5 **Employees**

- Comply with any relevant terms of this policy, in the course of the implementation of any appeal process
- Submit an appeal in accordance with this procedure
- Clearly state the basis of his/her appeal and provide all the relevant details
• Attend meetings held under the appeals procedure and provide the relevant details in relation to the appeal

4.2 Should an employee need assistance in understanding either the policy or procedure or any documentation in connection with this, he/she should seek advice from HR or a trade union representative. Should an employee need assistance in submitting an appeal, he/she can seek advice from a work colleague or a trade union representative. HR does not provide employees with specific advice relating to individual circumstances, however a member of HR not involved in supporting the Chair and/or Panel will on request, explain the procedure to the employee who has submitted an appeal

5.0 APPEALS PROCEDURE

5.1 An employee wishing to appeal against a decision made in accordance with the policies and procedures covered by this policy, as detailed in paragraph 1.1, should submit their appeal in writing, to the appropriate Dean or Divisional Director, clearly stating which procedure; disciplinary, grievance, capability and redundancy they are appealing under. If the appeal is in regard to dismissal then this would be to the Director of Human Resources and Organisational Development.

5.2 The timescale for submitting an appeal, within receipt of written confirmation of outcome, is as follows:

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Timeframe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Warning or grievance</td>
<td>5 working days</td>
</tr>
<tr>
<td>Dismissal</td>
<td>10 working days</td>
</tr>
</tbody>
</table>

5.3 Employees should set out the grounds of their appeal which may include one or more of the reasons below, with details of why they believe the decision was wrong and/or unjust:

• The policy was unfair, and/or the correct policy was not followed
• The decision was unfair or perverse because the evidence did not support the outcome
• There is new information that was not previously available to support the employee’s case

This list is not exhaustive.

5.4 Employees will receive an acknowledgement that their appeal has been received.

5.5 The Faculty Dean, Divisional Director, Pro-Vice Chancellor or Chief Administrative Officer will determine and approve the composition of the appeal panel in accordance with appendix 1, Appeal Panel Composition and Approval

5.6 Appeals should be heard without unreasonable delay and be dealt with impartially.
6.0 NOTIFICATION PROCEDURE & RIGHT OF ACCOMPANIMENT

6.1 The Chair will notify the employee of the arrangements for the appeal hearing in writing, giving 5 working days’ notice. The letter will state the time, date and venue of the hearing and confirm the employee’s right to be accompanied.

6.2 Employees have the right to be accompanied by either a work colleague or a trade union representative.

6.3 The employee must inform the HR representative supporting the appeal hearing process, of the name of the person accompanying them to the appeal hearing, a minimum of 24 hours in advance of the hearing. The details of the HR representative to inform will be included in the letter notifying the employee of the hearing.

6.4 Employees and the person they have chosen to accompany them should make every effort to attend the hearing. If the employee or their chosen companion is unable to attend the hearing they may request a postponement, proposing a date/time within 5 working days’ of the original hearing date.

6.5 Where an employee fails to attend an agreed rearranged appeal hearing then the appeal hearing will be conducted in their absence.

6.6 If the appeal hearing is in relation to a dismissal as a result of a disciplinary hearing or a capability meeting, then the right to be accompanied extends to include a legal representative, which would be at the employee’s expense. If an employee exercises this right then the University reserves the right to also have a legal representative.

7.0 IN ATTENDANCE AT AN APPEAL HEARING

7.1 Attending the appeal hearing, as a minimum, will be the employee, the original decision maker and the Chair/Panel. The Chair/Panel members will not have been previously involved with the case, nor have a conflict of interest.

7.2 The Chair/Panel will be provided with a copy of all documentation presented at the original hearing.

7.3 Where appropriate, appeals should be heard by those with appropriate expertise and experience with the relevant technical or professional background.

7.4 The Chair and/or Panel may call witnesses and the employee will be advised of the names of these witnesses within 2 working days of the hearing.

7.5 The employee may also request to call witnesses however they will be required to provide Human Resources with the names of those members of staff they wish to call to enable the Chair to consider and take a decision on the relevance of the witness(es). If agreed, it will be the responsibility of the employee to make contact with any individuals to obtain their agreement. If it is not practical for witnesses to attend the appeal hearing, their witness statement should be submitted to the Chair of the appeal panel.
7.6 The Chair/Panel have the discretion to allow written submission of witness statements.

7.7 Witness statements should be provided to the Chair and/or the Panel in advance of the appeal hearing.

8.0 THE PROCEDURE AT APPEAL HEARINGS

8.1 The Chair will explain the purpose of the hearing, introduce the parties and outline how the hearing will be conducted. The employee will be asked why they are appealing and given the opportunity to present his or her case. If the employee wishes, the person they are accompanied by can present their case on his or her behalf.

8.2 The employee may be questioned for the purposes of clarification through the Chair and by the Chair/Panel. It should be noted that employees not the person accompanying them will be required to answer questions put to them during the hearing.

8.3 The original Chair/manager who made the original decision will be invited to explain the reasons for their decision. The Chair/panel will have the opportunity to ask questions at the end of their submission. The employee and/or their representative will also have the opportunity to ask the original chair/manager questions.

8.4 If witnesses are called, they may only remain at the hearing for the period of their evidence and questioning. They will be questioned through the Chair and by the Chair/Panel. The Chair of the appeal hearing reserves the right to call further witnesses or request evidence at any stage of the hearing, if he/she feels that it would be helpful to do so. The employee will be given reasonable opportunity to ask questions and raise points about any information provided by witnesses. The chair will decide if it is reasonable for the employee to question witnesses directly or through the chair.

8.5 The Chair or manager who made the original decision will then be given opportunity to sum up the key points of their case. The employee, or the person accompanying them, will be given the opportunity to sum up the key points of their case. 8.6 The hearing will then be concluded. The facts of the case will be considered, and a decision made by the Chair/Panel. The Chair will communicate the outcome of the appeal to the employee in writing, within 10 days of hearing the appeal where possible, or within a reasonable time frame thereafter.

8.7 The outcome of an appeal is final and there is no further right of appeal.

8.8 The HR division will advise and provide guidance to managers to enable a consistent and fair application of this procedure.

8.9 A member of the HR division, normally a HR Partner, will provide procedural and interpret legal advice to the Chair and/or Panel of an appeal. Whilst the member of the HR division will not be involved in making a decision on the outcome of an appeal, the HR division recognises that it is good practice that the member of HR supporting the Chair and/or Panel has not been previously involved with the case.

8.10 Notes will be taken during the appeal hearing to provide a record of the meeting. A copy of the notes will be provided to the employee.
8.11 It is not the University’s policy to allow audio or visual recording of hearings or meetings.

9.0 AUTHORITY OF AN APPEAL CHAIR/PANEL

9.1 The appeal Chair/Panel has the authority to:

9.1.1 confirm the outcome and decision of the original hearing.

9.1.2 uphold the appeal of the employee if there is evidence to prove the original decision was not well founded, or if the conduct of the procedure has been unfair. If the appeal is upheld due to the former, the appeal chair/panel should be prepared to change the original decision if it is apparent that the basis for it is wrong/or unjust. If the appeal is due to the latter then it may be appropriate to recommend a rehearing in these circumstances.

9.1.3 partially uphold the original decision but withdraw in whole or part actions relating to the original decision, it should not result in any increase in sanction.

10.0 REVIEW

10.1 This policy and procedure will be kept under regular review and may be amended or withdrawn following appropriate negotiations with campus trade unions to reflect changes in legislation or changing University requirements.

11.0 SUPPORTING DOCUMENTATION

- Disciplinary procedure
- Grievance procedure
- Capability procedure
- Redundancy policy
# APPENDIX 1 APPEAL PANEL COMPOSITION AND APPROVAL

The composition and approval of appeal panels for each policy/procedure is shown below.

<table>
<thead>
<tr>
<th>Policy/Procedure</th>
<th>Appeal against</th>
<th>Appeal to be heard by</th>
<th>Approval Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capability Procedure</td>
<td>Formal Warning</td>
<td>Normally a more senior manager who has not previously been involved with the case and will normally be from a different department.*</td>
<td>Faculty Dean or Divisional Director</td>
</tr>
<tr>
<td>Dismissal</td>
<td></td>
<td>A panel of 3 managers, with appropriate expertise and experience.</td>
<td>Pro-Vice Chancellor or Chief Administrative Officer with advice from the Director of Human Resources.</td>
</tr>
<tr>
<td>Disciplinary</td>
<td>Formal Warning</td>
<td>Normally a more senior manager who has not been involved with the case and will normally be from a different department than the disciplining manager.</td>
<td>Faculty Dean or Divisional Director</td>
</tr>
<tr>
<td>Dismissal</td>
<td></td>
<td>A panel of 3 managers, with appropriate expertise and experience.</td>
<td>Pro-Vice Chancellor or Chief Administrative Officer with advice from the Director of Human Resources.</td>
</tr>
<tr>
<td>Grievance</td>
<td>Outcome of stage 1 meeting</td>
<td>A panel of 3 managers, with appropriate expertise and experience.</td>
<td>Pro-Vice Chancellor or Chief Administrative Officer with advice from the Director of Human Resources.</td>
</tr>
<tr>
<td>Redundancy</td>
<td>Dismissal</td>
<td>A panel of 3 senior managers.</td>
<td>Pro-Vice Chancellor or Chief Administrative Officer with advice from the Director of Human Resources.</td>
</tr>
</tbody>
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* Where this is not possible a manager of an equivalent level from elsewhere in the University may be requested to conduct the appeal hearing.