



Church Of Scotland
Ministries Council – Ministries Development Staff

Appeals Procedure – None Dismissal
(Disciplinary, Capability and Sickness Absence Management)

APPEALS PROCEDURE – None Dismissal (Disciplinary, Capability and Sickness Absence Management)

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1. Purpose and Scope

This procedure is designed to provide employees of the Ministries Council (MC) with a right of appeal against a first or final written warning in terms of the Disciplinary Procedure and Sickness Absence Management Policy or a decision taken at Stages One or Two of the Capability Procedure with which the employee remains dissatisfied.

2. General Principles

- 2.1 The decision taken under this Appeals Procedure shall be final and binding.
- 2.2 There shall be no further right of appeal against any decision falling within Paragraph 1 above.

3. Submitting an Appeal

- 3.1 Employees wishing to appeal against a decision falling within Paragraph 1 above must submit their appeal, in writing, to the Head of HR or Human Resources (HR) Manager, within ten working days of the employee receiving a relevant written decision under the Disciplinary Procedure, Sickness Absence Management Policy or Capability Procedure.

4. Grounds of Appeal

- 4.1 An employee is entitled to appeal if they consider that the decision was unfair or unjust. The appeal must clearly and succinctly set out the grounds of appeal and provide new evidence, where appropriate.
- 4.2 Potential grounds of appeal against formal action should come under the headings set out below:-

New evidence not previously considered

This is where the employee can demonstrate that relevant evidence was not included in the original investigation, or it was not available at the point when the decision which is being appealed was taken.

Decision influenced by some incorrect material fact

This is where the employee alleges that the decision was based on one or more facts which are inaccurate.

Process or procedural aspects

This is where the employee alleges that there was an irregularity in or breach of the relevant procedure or a breach of the principles of natural justice which materially influenced the relevant decision.

Final decision not appropriate

This is where the employee considers that the decision cannot be sustained, or is unreasonable on the basis of the findings of the investigation, and/or that the formal action taken is too severe for the seriousness of the case taking into account any mitigating factors.

- 4.3 If an appeal is received which does not specify clearly the grounds on which the appeal is to be based, the Head of HR or HR Manager will contact the employee and ask them to clarify



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their grounds of appeal, with reference to the requirement to do so in terms of this Paragraph. These must be submitted in writing within five working days of the request. The appeal will not be heard if no relevant grounds are provided.

5. Appeal Panel Membership

- 5.1 The Appeal will be heard by the Head of Faith Action Programme. An HR representative will also be present in an advisory and note taking capacity. Care will be taken to ensure that there is no conflict of interest and neither party have had any previous involvement in the case.
- 5.2 If the decision being appealed was by the Head of Faith Action Programme the appeal will be heard by the Convener or a Vice Convener of Faith Action Programme Leadership Team.
- 5.3 The employee will be informed of the names of the members of the Appeal Panel five working days in advance of the hearing.

6. Right to be Accompanied

- 6.1 All employees are entitled to be accompanied at an appeal hearing. The companion may be either a work colleague or a trade union official chosen by the employee.
- 6.2 The request to be accompanied should be a reasonable one e.g. choosing a colleague who would prejudice the hearing or who might have a conflict of interest would not be appropriate.
- 6.3 Companions are permitted to address the hearing. They can also ask questions but have no right to answer questions on the employee's behalf.
- 6.4 If the date or time of the hearing is unsuitable for the permitted companion, the employee may suggest another date and time within five working days of the original postponed hearing date.
- 6.5 The Human Resources Department representative must be advised in writing of the identity of any chosen companion five working days in advance of the hearing.

7. Hearing the Appeal

- 7.1 The Appeal will be heard as soon as practicable possible and normally not later than twenty working days after a written appeal being received by the Head of HR or HR Manager. If necessary, this time limit may be extended through mutual agreement, or where there are issues with availability.
- 7.2 A copy of the written appeal will be submitted to the manager who took the disciplinary decision and they will be asked to prepare a written response to the grounds of appeal. This should be received in good time, at least five working days in advance of the appeal hearing. A copy of the response will be supplied to the employee five working days in advance of the hearing.



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- 7.3 The employee will have the opportunity to make their case to the Appeal Panel following which the manager responsible for taking the disciplinary action will be invited to respond setting out the reasons for their decision. The Appeal panel will have the opportunity to ask questions of both parties prior to a final opportunity for both parties to summarise their position.
- 7.4 A member of the HR team may also be present to assist the manager in the presentation of their case.
- 7.5 Both parties will have the opportunity to call witnesses if this is deemed by the Appeal Panel to be appropriate, acting reasonably.
- 7.6 The function of an appeal is not to conduct a full rehearing of the facts of the case, although it is inevitable that reference will have to be made to the previous investigation or hearing. The appeal hearing will take the form of a review of the fairness of the original decision in the light of the grounds of appeal. However, where the circumstances of the case require this to ensure fairness and a just outcome at the discretion of the Appeal Panel, acting reasonably, the appeal may take the form of a complete re-hearing of the matter.
- 7.7 The appeal hearing may be adjourned if the Appeal Panel determines that it is necessary to carry out any further investigations in the light of any new points raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 7.8 Following the appeal hearing, the Appeal Panel may:
- Confirm the original decision, in whole or in part; or
 - Revoke the original decision, in whole or in part; and/or
 - Substitute a different penalty
- 7.9 The Appeal Panel shall inform the appellant of its decision(s) in writing, normally within ten working days after its final meeting to hear the appeal.
- 8. Review**
- This policy will be reviewed on a regular basis by HR, The Hub and Faith Nurture senior managers to ensure adherence to best practice, and any related legislation. If necessary, the policy will be taken to Faith Nurture Forum (Ministries Council is the employing body of the Faith Nurture forum) as part of a consultation process.