



Church Of Scotland
Ministries Council – Ministries Development Staff

Appeals Procedure – Grievance and Dismissal

APPEALS PROCEDURE – GRIEVANCE AND DISMISSAL

CONTENTS

- 1 PURPOSE AND SCOPE
- 2 GENERAL PRINCIPLES
- 3 SUBMITTING AN APPEAL
- 4 GROUNDS OF APPEAL
- 5 APPEAL PANEL MEMBERSHIP
- 6 RIGHT TO BE ACCOMPANIED
- 7 HEARING THE APPEAL
- 8 REVIEW

Version	Date	Author	Details/ Changes
1	July 2019	Karen Smith, HR Manager	Updated Policy
2	June 2021	Karen Smith, HR Manager	Section 8 – update due to change in national office terminology
3	June 2023	Karen Smith, HR Manager	Section 8 – update due to change in national office terminology



1. Purpose and Scope

This procedure is designed to provide employees of the Ministries Council (MC) with a final right of appeal to the General Assembly Personnel Appeal Group (“the Group”) against any decision taken, with which the employee remains dissatisfied, in relation to: (a) dismissal in terms of (i) the Disciplinary Procedure; (ii) the Redundancy Policy or (iii) Stage Three of the Capability Procedure; or (b) the Grievance Procedure.

The Solicitor of the Church will act as Secretary to the Group.

2. General Principles

2.1 The Group’s decision shall be final and binding.

2.2 There shall be no further right of appeal within the Church of Scotland.

2.3 If the appeal is against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal, but if the appeal is successful the employee will be reinstated with no loss of continuity of service, or pay.

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 Solicitor of the Church as Secretary to the Group, within ten working days of the employee receiving a relevant written decision under the Disciplinary, Redundancy, Capability or Grievance Procedures.

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 materially 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 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 Solicitor of the Church will contact the employee and ask them to clarify 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 of appeal are provided timeously.

5. Appeal Group Membership

- 5.1 Arrangements will be made by the Solicitor of the Church to select a Group comprising three persons from a panel previously appointed by the General Assembly.
- 5.2 The employee will be informed of the names of the members of the Group no later than five working days prior to the date 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 Solicitor of the Church 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 and normally not later than twenty working days after a written appeal is received by the Solicitor of the Church. If necessary, this time limit may be extended through mutual agreement or by the Secretary where there are issues with availability.

A copy of the written appeal will be sent by the Solicitor of the Church to the manager who took the dismissal or grievance decision and to the Head of Human Resources. Both will be asked to prepare a written response (which may be a joint response) to the grounds of appeal. This should be received no later than five working days prior to the appeal hearing. A copy of the response(s) will be supplied to the employee promptly following receipt.



- 7.2 The employee will have the opportunity to put their case to the Group, following which the manager responsible for taking the action will be invited to respond setting out the reasons for their decision. The Group will have the opportunity to ask questions of both parties prior to a final opportunity for both parties to summarise their position.
- 7.3 A member of the HR team may also be present to assist the manager in the presentation of their case.
- 7.4 Both parties will have the opportunity to call witnesses if this is deemed by the Group to be appropriate, acting reasonably.
- 7.5 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 Group the appeal may take the form of a complete re-hearing of the matter.
- 7.6 The appeal hearing may be adjourned if the Group 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.
- 7.7 Following the appeal hearing, the Group 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 or a different method of resolving the grievance.
- 7.9 The Solicitor of the Church shall inform the appellant of the Group's decision 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 Action senior managers to ensure adherence to best practice, and any related legislation. If necessary, the policy will be taken to the Faith Action Programme Leadership Team (Ministries Council is the employing body of FAPLT) as part of a consultation process.