



TRUST IN LEARNING (ACADEMIES) APPEALS POLICY AND PROCEDURE



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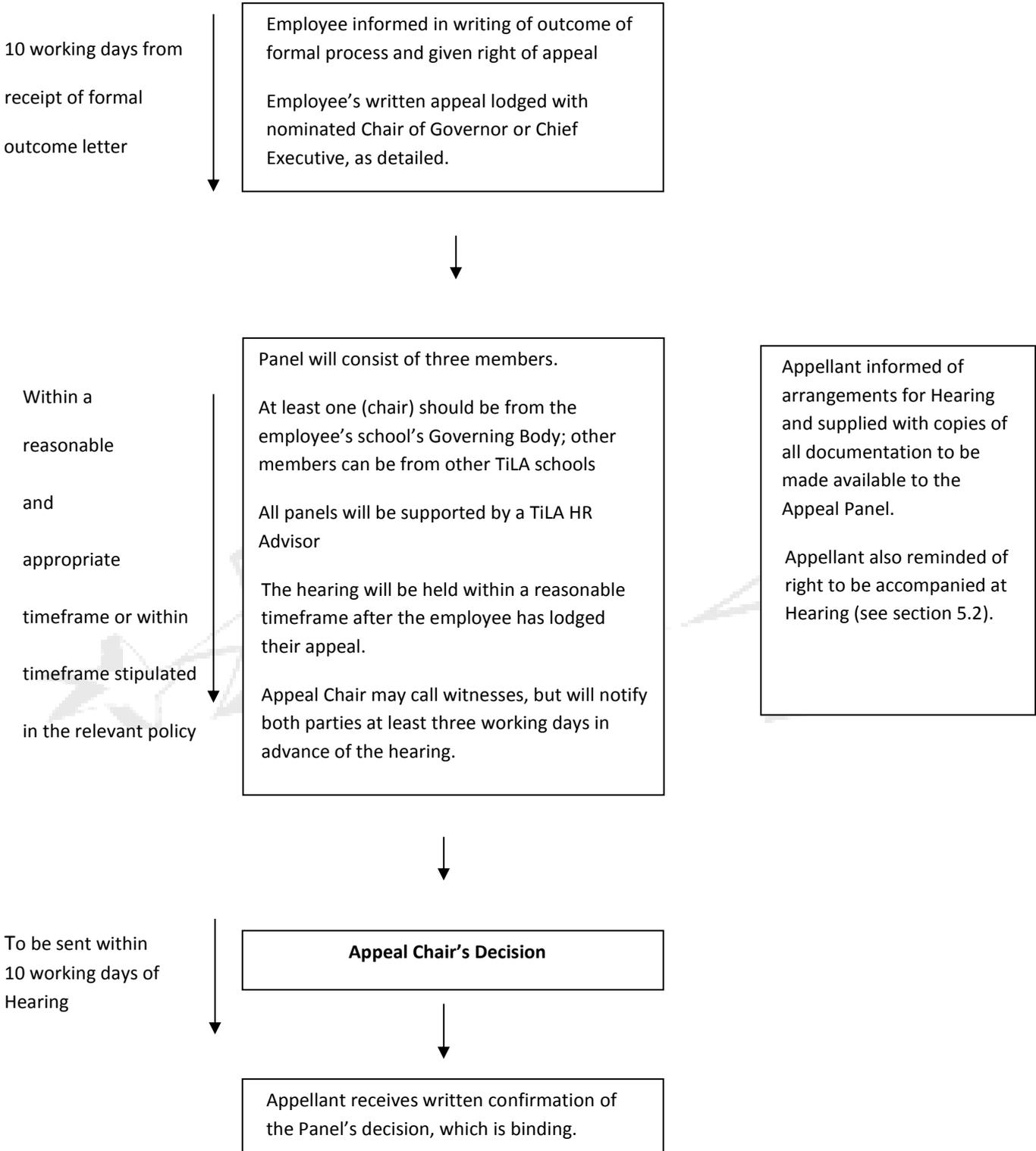
Date	Page	Change	Purpose of Change
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CONTENTS

1.INTRODUCTION.....	3
2.PURPOSE.....	4
3.SCOPE.....	4
4.DEFINITIONS.....	5
5.DUTIES AND RESPONSIBILITIES.....	5
6.PROCESS.....	5
7.TRAINING REQUIREMENTS.....	8
8.REFERENCES AND ASSOCIATED DOCUMENTATION.....	8
9.EQUALITY IMPACT STATEMENT.....	9

PROCESS PATHWAY

The appeals procedure is summarised in the Process Pathway below:



1. INTRODUCTION

1.1 In accordance with current legislation, there may be a requirement to convene an Appeal Hearing following decisions made at a formal meeting or hearing.

2. PURPOSE

2.1 The purpose of this document is to provide a framework for holding Appeal Hearings within Trust in Learning (Academies) (“the Trust”), to ensure consistency of approach.

2.2 The predominant purpose of the appeal is to ensure that a fair hearing was given to the employee during the original case and a fair and reasonable decision reached by the Hearing Panel.

3. SCOPE

3.1 This document applies to all employees of the Trust.

3.2 The appeals procedure provides a mechanism for employees who believe that the outcome of a Trust Hearing or other management decision (in the case of Flexible Working or Pay outcomes) is wrong or unjust and for them to have an opportunity for the case to be reviewed. The Appeal Panel will need to establish whether the Trust’s procedures have been adhered to and that, in arriving at his or her decision, the Hearing Panel or manager acted fairly and reasonably.

3.3 The following criteria should form all or part of the employee’s appeal and is the basis on which an appeal must be heard:

- whether a fair and thorough investigation of the issue(s) has taken place;
- whether there was sufficient evidence arising from the investigation or assessment on which to base the decision;
- whether, in the circumstances, the decision was fair and reasonable, and commensurate with the evidence heard;
- whether the original decision was consistent with similar decisions imposed on other employees, in comparable circumstances;
- whether all factors surrounding the employee were taken into account e.g. previous disciplinary record;
- if compliance with Trust Policy occurred;
- if new evidence submitted by the employee might have significantly altered the decision made at the original hearing;
- whether the original witnesses or new witnesses from either side need to be questioned again .

- 3.4 The appeal, however, will not be a re-hearing of the entire case (unless directed by the Appeal Chair – see section 6.2.2).

4. DEFINITIONS

- 4.1 An appeal is defined as being a formal request to a higher authority requesting a change in or reversal of a decision.
- 4.2 “Working days” referred to in this policy means Monday to Friday, excluding Bank and public holidays. It does not recognise School Holidays as working days for the purposes of this policy

5. DUTIES AND RESPONSIBILITIES

Employees/appellants

- 5.1 Should they wish to appeal against a management decision, employees/appellants are responsible for ensuring they comply with the requirements of this procedure at all times and behave in a professional and appropriate manner during all meetings or hearings to discuss their appeal.
- 5.2 Should an employee/appellant wish to be accompanied or represented at an appeal hearing, they will be responsible for arranging this for themselves.
- 5.3 In their letter/statement of appeal the employee should clearly state their grounds of appeal based on section 3.3 of this policy. If this does not occur their appeal may be delayed or rejected.

Managers

- 5.4 Managers involved in appeals are responsible for ensuring they comply with the requirements of this procedure at all times, including providing their written management case and any relevant statements to the appeal panel in a timely manner.
- 5.5 Managers may also advise employees to submit clear grounds of appeal.

The Appeal Chair

- 5.6 The Appeal Chair is responsible for ensuring the Appeal Hearing is held in accordance with this procedure, including adherence to timescales. They are also responsible for agreeing amendments to the timescales where required.
- 5.7 The Appeal Chair is also responsible for ensuring the Appeal Hearing process and any decision made is fair and reasonable.

Human Resource

- 5.8 The Trust’s HR Department will, through the HR team, be responsible for advising all parties on the implementation of this policy and for providing specific management and staff guidance.
- 5.9 Ensure that employees are aware of the necessity to submit clear grounds of appeal.

6. PROCESS

The Appeal Panel

- 6.1 The appeal panel will consist of at least three members, none of whom will have had any previous direct involvement in the matters that are the subject of the appeal. For example, they must not have acted as a member of the previous panel. Membership will be as follows:
- A member of the Employee's School Governing Body designated as Chair;
 - Two other members of TiLA schools either from the originating school or others
 - A Human Resources Representative; (HR Advisor to the Chair)

The panel may call on others to provide specialist advice, where considered appropriate.

- 6.2 All panel members should be suitably experienced or trained to be able to participate in an Appeal Hearing.
- 6.3 It is in the interests of all concerned that appeals are heard in a timely manner and as soon as possible after the original hearing. Wherever practicable, the following timetable will apply:
- Appeal letter/statement from employee submitted in writing to the appropriate clerk of Governors within **ten working days** of the date of receipt of written confirmation of the original decision;
 - Appeal Hearing to take place within a reasonable and appropriate time frame from date of receipt of appeal letter;
 - Any evidence submitted after the stated deadline (usually three working days before the appeal hearing) may not be considered at the Appeal.
 - Decision in writing provided to the employee (appellant) within a reasonable time frame (usually ten working days from the conclusion of the Appeal hearing);

Powers of the Appeal Chair

- 6.4 The appeal Chair has the right to call witnesses where considered relevant and appropriate; however both the appellant and the management side must be notified at least three working days in advance of the hearing and be provided with a written statement from any such witnesses at the same time. Exceptionally, where during the course of the hearing the appeal Chair determines that they need to hear the evidence of a witness not called by either party, they will have the power to adjourn the hearing to allow for a written statement to be obtained from the witness and made available to both parties prior to the resumption of the hearing.
- 6.5 If, during the course of the hearing the appeal Chair determines that new evidence needs to be presented, they will consider whether an adjournment is appropriate: much will depend on the weight of the new evidence and its relevance. The appeal Chair has the power to determine whether to consider the new evidence as relevant to the appeal, or whether the case should be reheard on the basis of the new evidence by an independent panel in accordance with the relevant policy.

Conduct of the Appeal Hearing

- 6.6 Both parties should exchange all relevant documents, associated with the appeal prior to the commencement of the hearing. These should be provided to the other party and the Appeal panel members no later than 3 working days prior to the date of the hearing.
- 6.7 The appellant will be informed of their right to be accompanied at the hearing by a companion. In addition to statutory rights under the [Employment Relations Act 1999](#) (see S.10), the companion may be another employee of the Trust; a Staff Representative or a representative of an Accredited Trade Union. Such a representative may be legally qualified but they will not, however, be representing the appellant formally in a legal capacity. The representative will be entitled to present a case on behalf of the appellant, address the Panel, question the management case and any witness. Any questions directed to the appellant must be answered by the appellant.
- 6.8 Both parties will present their cases to the panel, the appellant presenting their case first, and will be subject to questioning by either party, as well as the panel. When all the evidence has been presented, both parties will have the opportunity to provide a brief summary, which may not include any new information, but the appellant (or their companion) may make a statement in mitigation and/or conclusion.
- 6.9 Following the statements and summaries from both parties, the hearing will adjourn to allow the Panel to consider all the evidence and make their decision. During the adjournment or associated discussion, only panel members should be present. If any clarification is sought, all parties should be present.

The Decision

- 6.10 The Appeal Chair has the authority to confirm or vary the original decision, or order that the case is reheard. Where it becomes clear during the course of the appeal hearing that the appropriate procedure has not been followed and the appeal panel determines that the case requires a full rehearing, the Chair of the Panel will have the authority to instruct a new hearing in accordance with the relevant policy. A new and independent panel will be convened for this purpose.
- 6.11 Where the appeal is against dismissal, the dismissed employee will not be paid during the period of the appeal from the date of termination of employment. Should the appeal be upheld, the dismissed employee will normally be reinstated and will receive pay backdated to the date of the termination of their employment. Where the decision is to rehear the case, the dismissed employee will also normally be reinstated, subject to any conditions or restrictions in place at the time of the original hearing, and will receive pay backdated to the date of the termination of their employment.
- 6.12 The decision of the appeal panel should be communicated verbally prior to the end of the hearing wherever possible, and will then be confirmed in writing to the appellant and copied to the management side, within a reasonable time frame (usually within ten working days of the conclusion of the hearing). The decision of the appeal Chair is final and binding and there will be no further right of appeal. In exceptional circumstances the decision may be postponed for further consideration, although the reason for this will be communicated to the appellant at the hearing.

Action Following the Hearing

6.13 Records from the Hearing, including staff side and management side cases, the action taken and the reasons for the action, will be kept of all appeal hearings. These records will remain confidential and will be retained in accordance with the [Data Protection Act 1998](#). Such records will be made available to those with a legitimate call upon them, such as the appellant, appropriate regulatory bodies, or in response to a Direction from an Employment Tribunal.

7. TRAINING REQUIREMENTS

- 7.1 Appropriate training will be provided to managers in the application of this policy and particularly the principles to be adopted.
- 7.2 It is important that where a failure in standards of conduct or performance occurs because of a weakness in the Trust's systems or processes, learning takes place across the Trust. This will take place at a number of different levels: individual, departmental, School level and Trust-wide.
- 7.3 Guidelines for managers and staff will therefore be continually improved in the light of operational practice and experience.
- 7.4 Managers will ensure that the systems and processes that employees use or operate are designed to support good conduct. They will review these when concerns arise.

8. REFERENCES AND ASSOCIATED DOCUMENTATION

ACAS Code of Practice 1 – Disciplinary and Grievance Procedures ACAS, March 2015.

<http://www.acas.org.uk/index.aspx?articleid=2174>

[Employment Act 2008](#)

[Employment Rights Act 1996](#)

[Data Protection Act 1998](#)

Trust Policy Documents:

Disciplinary policy and procedures

Capability Policy

Management of Attendance Policy

Email Usage Policy

Internet Usage Policy

Whistle blowing Policy

Pay Policy

ICT Security Policy

Dignity at Work

Equality Policy for Staff

Managing Change Procedure

9. EQUALITY IMPACT STATEMENT

Trust is Learning (Academies) is committed to ensuring that, as far as is reasonably practicable, the way we provide services to the public and the way we treat our staff reflects their individual needs and does not discriminate against individuals or groups on any grounds.

This policy has been assessed accordingly

This policy should be read and implemented with the Trust values in mind at all times.

