



Cowbit St Mary's (Endowed) Church of England School

SCHOOLS - APPEALS POLICY

This document applies to Community and Voluntary Controlled Schools, and is advisory for Foundation and Voluntary Aided Schools.

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Policy approved by FGB at Microsoft Teams Meeting

26.01.21

Policy to be reviewed annually

Our Vision

We are a small, inclusive Church of England Primary School that welcomes everyone and encourages all voices to be heard. Through challenge and support, we strive towards each person becoming the best person God intended them to be, happily flourishing as human beings. We empower our whole school community to be hopeful about the future and to be drivers of positive change.

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Appeals Policy

Purpose

Headteachers and Governing Bodies are committed to dealing with appeals in a fair, consistent and transparent manner and in line with good practice guidance provided by ACAS. This includes a commitment to identify and address issues and concerns early, and take preventive action at the earliest opportunity, identifying sources of internal and external support for employees. However, if an employee is dissatisfied with the outcome of formal action taken under the relevant schools policies, they have the opportunity to make a formal appeal.

Principles

- This policy will apply for appeals against any formal warnings or actions short of dismissal taken under the Disciplinary Policy and Procedure.
- This policy will apply for appeals against dismissal under any policy including but not limited to disciplinary, capability, sickness absence, end of fixed term contract, some other substantial reason; with the exception of dismissal as a result of unsuccessful completion of a probationary period for which separate procedures, within the Probation Policy, exist.
- This policy also does not apply for appeals, for example, concerning pay, flexible working, grievances, and others, where separate appeal provisions are detailed in those specific policies. The specific policies can be found here: Schools Employment Manual
- An employee who registers an appeal will not suffer any detriment or victimisation. Should this occur, those responsible may be subject to disciplinary action.

Appeals Procedure

If an employee is dissatisfied with the outcome of a relevant decision taken under the above mentioned policies, an appeal may be lodged in writing within 10 working days from the receipt of written confirmation of the decision. Receipt of a letter will be deemed to have taken place two days after posting if sent by first class post, or immediately if sent via email. An appeal against dismissal is to be raised with the Chair of the Governing Body; for appeals against warnings under the Disciplinary Policy and Procedures or any other actions short of dismissal, the appeal is to be raised with the Headteacher.

Headteachers wishing to raise an appeal should do so to the Chair of Governors.

An appeal hearing will be arranged with at least 10 working days' notice being provided to the employee. An appeal panel of at least 3 Governors will be convened – panel members must not include Staff Governors. One of the 3 Governors will be nominated as the Chair of the Panel. A HR representative will also be in attendance, and a note-taker.

In making an appeal, the employee will be required to outline one or more of the following grounds for appeal, and provide the rationale/evidence in respect of this:

- there was a defect in the procedure applied; NB: In circumstances of redundancy this may include a defect in the selection criteria, or application of the criteria (including a challenge to the scoring where there is evidence to substantiate this) leading to unfair selection. The appeal itself will not be a re-meeting of any selection interview, and any challenge to the scoring must be based on reasonable grounds.
- the decision was taken without all relevant evidence being considered;
- the sanction/decision was too severe;
- new evidence has come to light since the last sanction/decision was determined.

Re-Hearing

Appeal hearings are not re-hearings of the original case and therefore, appeals generally will not involve calling witnesses that may have been involved earlier. The purpose of the appeal is to determine whether or not the original decision was a reasonable outcome based on the facts and evidence presented, and conclude whether or not it was a fair and sound decision. Witnesses will generally only be recalled by exception if, for example, a point of fact needs clarifying or explaining; and any proposal to recall a witness will be discussed with the HR Representative.

If the grounds of an appeal relate to a defect in the original hearing process or procedure, the Chair of Governors may advise that a rehearing is held in place of the appeal hearing. If this is the case, the hearing will follow the original meeting procedure and all parties and witnesses will be invited. The panel and possible outcomes will be consistent with the appeal hearing procedure.

New Evidence

New evidence may be considered in the appeal hearing subject to the requirement that any evidence is included in the documents submitted no later than 5 working days prior to the hearing. Any late new evidence will only be admitted with the agreement of the panel chair. If new evidence is not submitted within good time but is accepted by the panel chair, it may result in any appeal hearing being adjourned to allow time for the evidence to be fully considered.

Where new evidence is to be submitted the employee should state clearly what the evidence is and why it is considered that it could alter the original decision; and why it was not included at the previous meeting.

Appeal Hearings

- The panel will hear the appeal. A HR representative and a note taker will also be present. The panel will review the evidence presented at the original meeting and any further evidence that may be relevant. Copies of the notes from the previous meeting will form part of the evidence to be considered, and will be made available to all parties.

- The management position will normally be presented by Headteacher who will have held the previous formal meetings. A manager/leader involved in previous steps of a procedure, may be called as a witness.
- The employee may bring a companion who is a trade union representative, a work colleague, or an official employed by a trade union. No other companions will be permitted to attend the meeting. Where there are grounds for a reasonable adjustment for an employee with a disability to be made, to permit an alternative companion, the employee should discuss this with the panel chair. In all cases, the employee must tell the panel chair who their chosen companion is, at least 24 hours before the meeting.
- If the trade union official is not known to the school or LCC, they will be required to provide documentation from the trade union in question, stating that the companion is a union representative and is authorised by that union to represent employees.
- The companion will be allowed to address the hearing to present and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the hearing. The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.
- If the employee and/or their companion are unable to attend, the hearing will be re-scheduled to take place as speedily as possible within the following 5 working days. The employee will be notified of the re-scheduled date in writing and informed that if they are not able to attend on the revised date without just cause and advance notification, the appeal will be dismissed and no further right to appeal will be given.
- At the hearing, the employee or companion will outline the grounds of their appeal, presenting evidence, calling witnesses and referring to documentation. The Headteacher /Chair of panel who made the decision will present the management case, presenting evidence, calling witnesses and referring to documentation.

Appeal Outcomes

The appeal outcomes that may be reached are:

- uphold the case against the employee and confirm the original sanction/dismissal;
- uphold the case against the employee however, if deemed appropriate, impose a reduced sanction / reinstatement;
- uphold the appeal, and thereby not uphold the case against the employee, and withdraw the sanction imposed / reinstate the employee (if original decision was dismissal)

The decision of the panel can be made at the appeal hearing, following an adjournment, and later confirmed in writing within 5 working days. Or, if further time is required to consider the decision, the panel may take further time to consider the case and confirm their decision in writing to the employee.

The decision made by the panel is final and there is no further internal right of appeal.

Successful Appeal against Dismissal

An employee whose appeal against dismissal is successful may be reinstated in their previous position where this still exists.

In some circumstances, for example redundancy, if the employee's previous position no longer exists, the Chair of the Governing Body, with the Headteacher, will actively consider whether suitable alternative employment exists.

In all cases of successful appeal against dismissal, there will be no loss of continuity of service or associated rights. If the dismissed employee's notice has already expired, and they have left the school or LCC's employment, the employee will receive the appropriate amount of back pay for the period between the effective date of termination of employment and the day of reinstatement.