

APPOINTMENTS BOARD

2 FEBRUARY 2012

APPEALS PROCEDURE

1. Summary of Report

The Council has decided to review most of its employee relations procedures. The proposed appeal procedure will provide a fair process to deal with all appeals, and it is envisaged that managers, employees and Trades Unions will find the procedure easier to navigate and apply if necessary. In addition in line with this review, Constitutional Services have revised and updated their procedure guidelines specifically on appeals for dismissals for employees.

Recommendation

1. The Appointments Board is requested to approve the new Appeals procedure as set out in Appendix 1.
2. The Appointments Board is requested to approve the Constitutional Services revised guidelines on dismissal appeals to Members set out in Appendix 2.

2. Background

2.1 Human Resources are undertaking a wholesale review of its' employee relations procedures and a review matrix with timescales has been produced for various officers to lead on. The reviews follow an agreed format, including consultation with Trades Unions, focus groups with managers, an Equality Impact assessment, and consultation with colleagues in Legal Services. During discussions of some of the early procedure reviews, it was decided that any appeals against warnings and dismissals for any procedures should be in one document. It was clear from customer feedback that this would work better for those who needed to understand, read, and apply procedures.

2.2 The guidelines for employees to appeal to members against dismissal, also includes a revision on appeals related to regrading. These appeals will not need to be heard by members as the Pay and Grading appeals process now supercedes this. This is the only fundamental change.

3. Equality Implications.

The procedure has been introduced to ensure that all employees understand how they can appeal under various employee relations procedures. The procedure has been introduced so that all details for appeals can be found in one document. The principles of systems thinking have been applied.

4. Financial Implications

There are no direct financial implications arising from this report.

5. Legal Implications

The council needs to provide its employees with the right of appeal through its employee relations procedures. All the procedures follow ACAS practice and guidelines and are in line with current employment legislation.

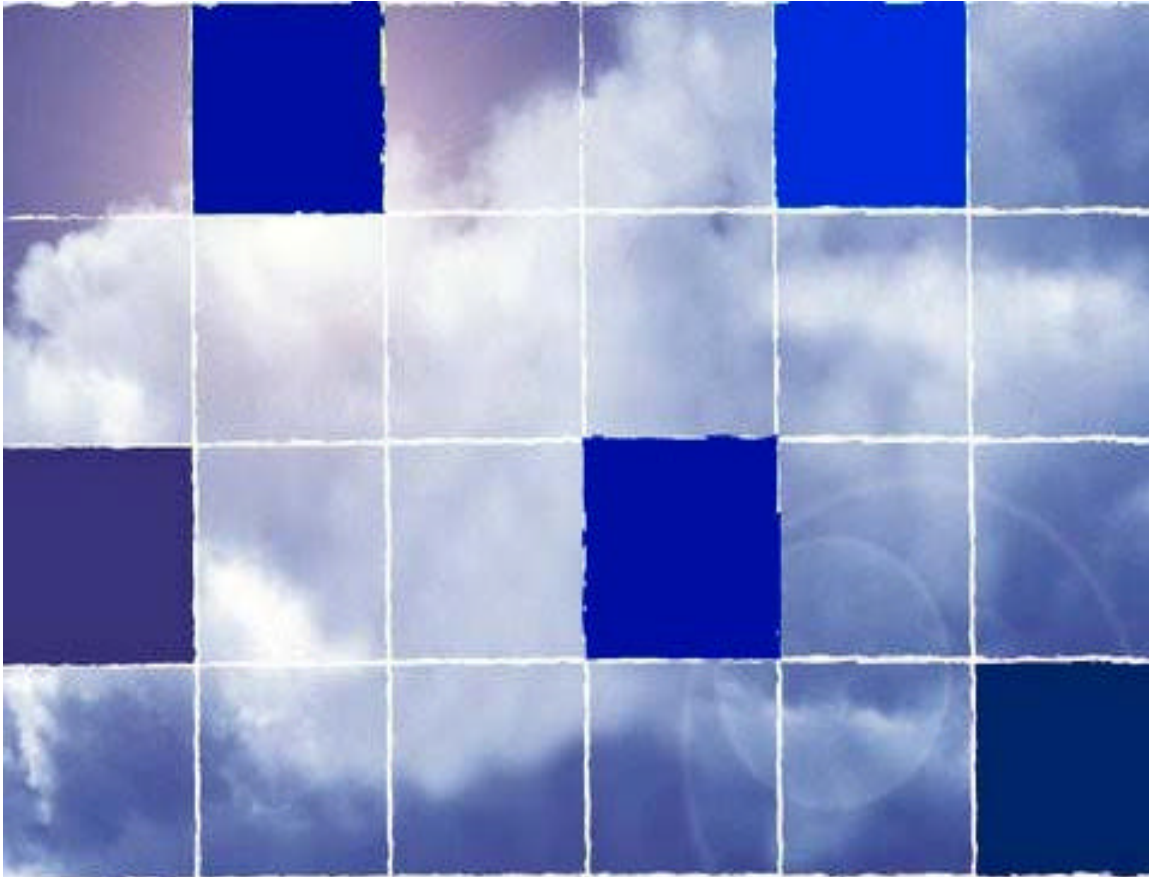
Signed:

Bethany Evans

Head of Human Resources

Date: 24 January, 2012

Appendix 1



Appeals Procedure

 Walsall Council	HUMAN RESOURCES Vision statement "To be an excellent employer we will create an environment which enables managers to develop, manage and lead people to achieve the council's vision" HR BUSINESS & EMPLOYEE RELATIONS
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1 Introduction

1.1 It is an employee's right to appeal either against a sanction taken against them (including the decision to dismiss them) or the outcome of a formal grievance. This procedure should be read and used in conjunction with the appropriate HR Procedure. These are:

- Attendance Procedure
- Disciplinary Procedure
- Grievance Procedure
- Probation Procedure
- Performance Procedure
- Managing Restructures, Organisational Change and Redundancy Procedure

2 Principles

- 2.1 All employees must be notified in writing of their right to appeal following the outcome of one of the procedures listed in 1.1 above that includes a grievance decision (formal sanction or the dismissal of the employee);
- 2.2 An appeal is not a rehearing of the original case. Any attempt to introduce 'new' evidence at the appeal stage will result in the case being referred back to the original hearing panel for review.
- 2.3 All appeal hearings will have an exchange of relevant paperwork that will include the complainant's grounds for the appeal and a statements of case from both parties. This will be accompanied by supporting paperwork and details of any representative or witnesses to be called;
- 2.4 Appeals will be heard by appropriately trained senior managers/members who have had no prior involvement in the case;
- 2.5 The manager presenting the case to the appeal panel or hearing officer will be the manager who made the decision at the original hearing unless exceptional circumstances arise that prevent him/her from doing so, and will be supported by the original HR/Legal technical adviser. This will be for consistency purposes and for appropriate support to the manager;
- 2.6 Except in the case of dismissal an Executive Director (or his or her nominated representative) who has had no previous involvement in the case will hear the appeal and will be supported by a HR technical adviser to advise on procedural issues;
- 2.7 In the case of appeals against dismissal, the appeal will be heard by the Employment Appeals Committee (made up of trained Members). These panels will be supported by a Constitutional Officer and a HR technical/legal advisor who will advise on procedural issues;

- 2.8 Where appropriate to the case, to ensure proportionality the Council will ensure that the panel includes members of different genders and ethnicity where possible;

3 Representation

- 3.1 Throughout this procedure, an employee has the right to be represented by an accredited Trade Union representative or Work Colleague (“the representative”);
- 3.2 The representative may put forward the employee’s case, sum up the employee’s case and respond on the employee’s behalf to any view expressed at the hearing. The employee must respond personally to direct questions during the hearing process in order to be able to clarify the facts of the matter where required;
- 3.3 If the employee or their representative cannot attend on a proposed date, the employee/representative must suggest an alternative time and date within a reasonable amount of time and in any case no more than five working days after the original appeal hearing date;
- 3.4 If the employee/representative fails to attend any rearranged appeal hearing, the panel will have the discretion to hear the case in the employee/representative’s absence;
- 3.5 Employees are encouraged to be a member of a recognised Trade Union or Professional Body. Where individuals do not have, they will be offered the opportunity to attend a briefing meeting. This will be with a representative from the HR Department who will explain the procedure for the appeal process and format for the appeal hearing;
- 3.6 In all cases, the appeals panel will provide guidance about the process where appropriate, to enable any unrepresented appellant the opportunity to ask any questions and fully present their case;

4 Terms of Reference

- 4.1 Those hearing an appeal are entrusted with ensuring the fair implementation by management of the respective HR procedure.
- 4.2 Those hearing an appeal will need to satisfy themselves that:
- (i) The issue(s) was/were properly investigated and substantiated based on a reasonable belief;
 - (ii) The relevant procedure(s) was/were correctly and properly followed ;
 - (iii) Any mitigating circumstances have been given consideration;

5. Procedure for Appeals

5.1 Appeals against Dismissal

For appeals against dismissals the process set out below should be followed.

- Employees should submit the grounds of their appeal on the Appeals Form which will have been issued by the Hearing Officer within their outcome letter. (A copy of the Appeals Form can also be found at **Appendix 1**)
- The Appeals Form should be submitted to the Head of Human Resources within 10 working days of the date of the hearing outcome letter. The Head of Human Resources will acknowledge the appeal and pass this to Constitutional Services;
- The Appeals Form should detail whether:
 - (1) The correct procedure or element of the procedure has not been adhered to;
 - AND/OR
 - (2) The penalty is unduly severe or unfair
- The Appeals Form must not contain any new information and/or evidence. It must also not simply reflect a repetition of the original case presented at hearing stage. If the basis of the appeal is unclear, additional clarity will be requested before an appeal can take place. Constitutional Services will then offer a choice of **three** dates on which the appeal will be heard;

5.2 Appeals against any other decision (not including dismissals)

- Employees have the right of appeal against sanctions imposed (in line with the procedures outlined in 1.1), or against the outcome of a formal grievance. Employees must clearly state their grounds of appeal to the Head of Human Resources. The appeal should be made using the Appeals Form and should be made within 10 working days of the date of the hearing outcome letter.
- The Appeals Form must not be a repetition of the original case
 - If the basis of the appeal is unclear, additional information will be requested before an appeal can take place.
- The Head of Human Resources or designated nominee will be responsible for coordinating the arrangements of the appeal hearing.

6 Witnesses

Parties are entitled to call relevant witnesses to support their case. They will only be called to clarify elements of their statement and will not be permitted to provide new evidence not previously provided as part of the investigation or subsequent hearing.

The responsibility for coordinating the attendance of employee witnesses will be the responsibility of the employee/representative. Employees called as witnesses will be allowed paid time off to attend the appeal hearing or will be allowed 'time owing' if not a working day. Where agency staff are requested to attend the appeal hearing as witnesses, they will be paid at plain time for the hours they are in attendance. Due consideration will be given to staff working shift patterns.

In line with Data Protection issues, all correspondence will be forwarded by the Human Resources Department and will not include the home address of any individual.

8 The Appeal Process

- 8.1 The employee's appeal form will be acknowledged upon receipt by the Head of Human Resource who will be responsible for arranging the appeal hearing.
- 8.2 The appeal hearing should take place as soon as practicable following receipt of the Appeals Form and, in the case of an appeal against dismissal, this will be coordinated by Constitutional Services.
- 8.3 The employee must be informed in writing of the date, time and location of the appeal hearing. The employee must also be informed of the date for the exchange of relevant paperwork which would normally be 7 working days, and any witnesses to be called as outlined in the procedure.

9 The Appeal Panel

- 9.1 In instances of appeals against sanctions other than dismissal, the appeal hearing officer will be heard by an Executive Director (or his/her nominated representative) who has had no previous involvement in the case. They will be supported by a HR technical adviser to give guidance on procedural issues;
- 9.2 In the case of appeals against dismissal only, the appeal will be heard by the Employment Appeals Committee (made up of trained Members). These panels will be supported by a Constitutional Officer and a HR technical/legal advisor who will advise on procedural issues;

10 Outcome of the Hearing

The panel/appeal hearing officer has the responsibility to deliver the decision of the appeal. This should be done as soon as is reasonably practical. Depending

upon the circumstances such as time constraints it may not be at the end of the hearing and in person. The decision may be given in writing only in exceptional circumstances, the panel may need to reconvene to make their decision.

This appeal is the final level of appeal within the Council. There is no further right of appeal against this decision.

Appeal Hearing Format

Order of Proceedings

Introductions

Explanation of the procedure and any introductory points

1 **The individual or their representative to present their case.**

Witnesses may be called to support the case. Witnesses should withdraw from the appeal on completion of questioning.

- **The management representative** shall have the opportunity to ask questions directly of the individual, their representative and witnesses.
- **The members of the appeal panel** shall have the opportunity to ask questions directly of the individual, their representative and witnesses.

The individual or representative shall have the opportunity to re-examine witnesses on any matter referred to in the examination by management's representative or members of the appeal panel.

2 **The management representative will state the management's case.**

Witnesses may be called to support the case. Witnesses should withdraw from the appeal on completion of questioning.

- **The individual or representative** shall have the opportunity to ask questions directly of the management's representative and witnesses.
- **The members of the appeal panel** shall have the opportunity to ask questions directly of the management's representative and witnesses.

The management representative shall have the opportunity to re-examine witnesses on any matter referred to in the examination by the individual or their representative or members of the appeal panel.

3 **Management's representative will sum up.**

4 **The individual or representative will sum up.**

5 Both parties will withdraw whilst the panel consider the evidence.

6 If possible the panel/appeal hearing officer will recall both parties and outline the decision giving appropriate reasons.

7. A letter confirming the decision will be sent to the appellant.

8. End of procedure.

First warning letter and appeal form

Private and confidential

Dear

First Warning

I refer to the disciplinary hearing held on [insert date] at [insert time] in [insert venue] and am writing to confirm the outcome which was that you receive a first warning, in accordance with the council's disciplinary procedure.

[insert details of warning]

Having considered all the evidence presented, [insert details of your conclusion. Use the checklist to inform this]

I consider therefore that your conduct was unacceptable and any repetition of this or other acts of misconduct may result in further disciplinary action being taken against you, up to and including the termination of your employment.

This letter constitutes a first warning and I would be grateful if you would confirm receipt by signing and dating the copy of this letter which is enclosed and return it to me in the envelope provided. An additional copy of this letter is enclosed for you to forward to your representative.

A copy of this warning will be placed on your file and subject to satisfactory conduct will be disregarded for disciplinary purposes after (Insert timescale) months.

Under the terms of the council's disciplinary procedures, you may, within ten working days of receipt of this letter, appeal in writing to [insert name of appropriate manager] who will arrange for a designated officer to hear the appeal. Your letter should clearly state the grounds for your appeal, and I have enclosed an appeal form to assist you.

I trust your future performance will reflect the standard expected and that I can be confident in your ability to be an employee worthy of continued employment with the council.

Yours sincerely

Name and Title
Hearing officer

Copy to: employee services
technical adviser

Employee's name and address

Enclosures: letter, envelope, appeal form

I acknowledge receipt of a first warning issued on

I do not intend to appeal

I intend to appeal and enclose a completed appeal form

Name: _____
(print)

Signed: _____ Date: _____



Walsall Council

Disciplinary Procedure – Appeal Form Against First Warning

You should complete this form if you wish to appeal against the sanction issued to you under the council's disciplinary procedure. If you do not wish to appeal, you do not need to fill in this form.

NAME AND ADDRESS OF APPELLANT:	
DATE OF DISCIPLINARY HEARING:	
NAME OF HEARING OFFICER	
SANCTION APPLIED	

I appeal against the sanction issued to me following the above disciplinary hearing. The grounds of my appeal are given below (please state the full grounds for appeal):

You may continue on a separate sheet(s) if necessary.

Name:	Section/Area:
Signature:	Date:

You will be advised in due course of the date, time and venue of the appeal hearing

Final warning letter and appeal form

Private and confidential

Dear

Final Written Warning

I refer to the disciplinary hearing held on [insert date] at [insert time] in [insert venue] and am writing to confirm the outcome which was that you receive a final written warning, in accordance with the council's disciplinary procedure.

[insert details of warning]

Having considered all the evidence presented, [insert details of your conclusion. Use the checklist to inform this]

I consider therefore that your conduct was unacceptable and any repetition of this or other acts of misconduct may result in further disciplinary action being taken against you, up to and including the termination of your employment.

This letter constitutes a final written warning and I would be grateful if you would confirm receipt by signing and dating the copy of this letter which is enclosed and return it to me in the envelope provided. An additional copy of this letter is enclosed for you to forward to your representative.

A copy of this warning will be placed on your file and subject to satisfactory conduct will be disregarded for disciplinary purposes after 12 months.

Under the terms of the council's disciplinary procedures, you may, within ten working days of the date of this letter, appeal in writing to [insert name of appropriate manager] who will arrange for a designated officer to hear the appeal. Your letter should clearly state the grounds for your appeal, and I have enclosed an appeal form to assist you.

I trust your future performance will reflect the standard expected and that I can be confident in your ability to be an employee worthy of continued employment with the council.

Yours sincerely

Name and Title
Hearing officer

Copy to: employee services
technical adviser

Employee's name and address

Enclosures: letter, envelope, appeal form

I acknowledge receipt of a final written warning issued on

I do not intend to appeal

I intend to appeal and enclose a completed appeal form

Name: _____
(print)

Signed: _____ Date: _____



Walsall Council

Disciplinary Procedure – Appeal Form (Final written warning)

You should complete this form if you wish to appeal against the sanction issued to you under the council's disciplinary procedure. If you do not wish to appeal, you do not need to fill in this form.

NAME AND ADDRESS OF APPELLANT:	
DATE OF DISCIPLINARY HEARING:	
NAME OF HEARING OFFICER	
SANCTION APPLIED	

I appeal against the sanction issued to me following the above disciplinary hearing. The grounds of my appeal are given below (please state the full grounds for appeal):

You may continue on a separate sheet(s) if necessary.

Name:	Section/Area:
Signature:	Date:

You will be advised in due course of the date, time and venue of the appeal hearing



Walsall Council

Our Ref:
Date:
Please ask for:
Direct Line:

**Private and confidential
Addressee Only**

Dear

Re: Hearing Outcome – Summary Dismissal, Termination of employment

I write to confirm the outcome of the disciplinary hearing held on [insert date] at [insert time] in [insert venue] to consider allegations of gross misconduct under the Council's Disciplinary Procedure. You were represented by [insert name]. I was advised by [insert name]. At the meeting I considered the management statement of case and your response to the allegations were:

[insert allegations here]

Following careful consideration of the management statement of case and your response and evidence presented, I found the allegations of gross misconduct were substantiated and I have made the decision that you be summarily dismissed without notice or payment in lieu of notice, in accordance with the Council's Disciplinary Procedure.

Your termination documents will be included with any payments due to you and will be forwarded to you in due course. You are advised to contact the pensions team to discuss matters relating to your pension rights if applicable.

You are required to return any Council property in your possession to [insert name and telephone number] as soon as possible and in any event no later than [insert date]. This includes any Council ID, e.g. mobile phone, keys, laptop, protective clothing etc. You will need to contact the above named officer to arrange collection of any personal belongings.

Please sign and return the acknowledgement slip enclosed with this letter using the envelope provided.

Under the terms of the Council's Disciplinary Procedure, you may, within 10 working days from the date of this letter, appeal in writing to the Head of Human Resources who will arrange for the employment appeals panel to hear your appeal. The appeal form (enclosed) should clearly state the grounds for appeal. If your appeal is received outside of the 10 working days period, your appeal will not be considered.

Yours sincerely,

Name
Hearing officer

cc: Transactional HR
Technical adviser

Enc, Appeal Form
Pre-addressed envelope
Appeals Procedure

Employee's full name

Employee address

I acknowledge receipt of a letter of dismissal issued on

_____ Enclosed with the dismissal letter were:

- Pre-addressed envelope
- Appeal Form
- Appeals Procedure

- I do not intend to appeal
- I intend to appeal and enclose a completed appeal form

Name: _____
(print)

Signed: _____ Date: _____



Walsall Council

Your Ref:
Our Ref:
Date:
Direct Line:

PRIVATE & CONFIDENTIAL

Dear,

Termination of Employment – Probationary Hearing

I refer to the rescheduled probationary hearing which you did not attend, held on (DATE and TIME) The purpose of this hearing was to consider your performance in relation to your probationary period and its subsequent extension. I was the hearing officer and I was assisted by (NAME and JOB TITLE) as technical advisor.

Having considered the information presented to me and the options available, I decided to terminate your employment as you have not satisfactorily completed the probationary period. My reasons for this decision are detailed below:

My key findings are that:

A written statement was received by '.....' however this was not received by HR until '.....', by which time your hearing had already taken place. I have however considered your submission and its comments though my decision made at the hearing remains the same. A copy of the minutes of the hearing is enclosed for your reference.

You are entitled to four weeks notice with effect from '.....', in addition to this you will be paid for your outstanding annual leave, Flexi and Time Off in Lieu (TOIL) balance to this date. Your termination documents will be included with any payments due to you and will be forwarded to you in due course. You should contact the pensions section to discuss matters relating to your pension rights if appropriate. Should you have any query you can contact [Insert Name], Team Manager to make arrangements for the return of any council property. This includes any council ID you hold, mobile phone, keys, laptop, etc.

Under the terms of the council's probationary procedures, you may, within ten working days of (DATE) of this letter, appeal in writing to..... who will arrange for the employment appeals panel to hear your appeal. Your letter should clearly state the grounds for appeal, and I have enclosed an appeal form to assist you.

Yours sincerely,

Copy to:



Walsall Council

Probation Procedure – Appeal Form

You should complete this form if you wish to appeal against the sanction issued to you under the Council's probation procedure. If you do not wish to appeal, you do not need to fill in this form.

NAME AND ADDRESS OF APPELLANT:	
DATE OF PROBATION HEARING:	
NAME OF HEARING OFFICER	
SANCTION APPLIED	

I appeal against the sanction issued to me following the above hearing. The grounds of my appeal are given below (please state the full grounds for appeal):

You may continue on a separate sheet(s) if necessary.

Name:	Section/Area:
Signature:	Date:

You will be advised in due course of the date, time and venue of the appeal hearing



Walsall Council

Disciplinary procedure – appeal against dismissal

This form should be completed if you wish to appeal against the decision to dismiss you under the Council's Disciplinary Procedure. Please refer to the Council's Appeals Procedure for further guidance

NAME AND ADDRESS OF APPELLANT:

DATE OF DISCIPLINARY HEARING:

NAME OF HEARING OFFICER

(Name of person sending the letter)

I appeal against the decision to dismiss me following the above disciplinary hearing. The grounds of my appeal are given below (please state the full grounds for appeal in line with the Council's Appeals Procedure):

You may continue on a separate sheet(s) if necessary.

☐ Please tick if you have attached any additional paperwork and indicate the number of pages on the line below.

Name:	Section/Area:
Signature:	Date:

NAME AND ADDRESS OF TRADE UNION REP:

--



Walsall Council

Probation Procedure – Appeal Form

You should complete this form if you wish to appeal against the sanction issued to you under the council's probation procedure. If you do not wish to appeal, you do not need to fill in this form.

NAME AND ADDRESS OF APPELLANT:	
DATE OF PROBATION HEARING:	
NAME OF HEARING OFFICER	
SANCTION APPLIED	

I appeal against the sanction issued to me following the above disciplinary hearing. The grounds of my appeal are given below (please state the full grounds for appeal):

You may continue on a separate sheet(s) if necessary.

Name:	Section/Area:
Signature:	Date:

You will be advised in due course of the date, time and venue of the appeal hearing



Walsall Council

Private & Confidential/Addressee Only

Our Ref:
Date:
Please ask for:
Direct Line:

Dear

Re: Hearing Outcome – Dismissal, Termination of Employment

I write to confirm the outcome of the sickness absence hearing held on [insert date] at which you were represented by [insert name], I was advised by [insert name]. At the meeting I considered the management statement of case and your response. In making my decision, I considered the following to be particularly important:

[summarise the rationale for your decision] - sample statements you could use and expand on:

- your attendance at work is unsatisfactory
- you have failed to improve your attendance despite management support/reasonable adjustments being made
- your pattern of attendance is unacceptable

Following careful consideration of the management statement of case and your response and under the Council's Attendance Procedure, I have made the decision that you should be dismissed from your post with effect from (date of hearing). You are entitled to [insert] weeks pay in lieu of notice. Your termination documents will be included with any payments due to you and will be forwarded to you in due course. You are advised to contact the pensions team to discuss matters relating to your pension rights.

You are required to return any Council property e.g. any Council ID, mobile phone, keys, laptop, protective clothing, equipment, identity card, etc) to [insert name]. You will need to contact the above named officer to arrange.

Please sign and return the acknowledgement slip enclosed with this letter using the envelope provided.

In line with the Council's Attendance Procedure, you may, within 10 working days from the date of this letter, appeal in writing to the Head of Human Resources who will arrange for the employment appeals panel to hear your appeal. The appeal form (enclosed) should clearly state the grounds for

appeal. If your appeal is received outside of the 10 working days period, your appeal will not be considered.

Yours sincerely

Name
Hearing Officer

cc: Transactional HR
Technical adviser

Enc, Appeal form
 Pre-addressed envelope
 Appeals procedure

Employee name

Employee address

I acknowledge receipt of a letter of dismissal issued on

_____ Enclosed with the dismissal letter were:

- Pre-addressed envelope
- Appeal Form
- Appeals Procedure
- I do not intend to appeal

- I intend to appeal and enclose a completed appeal form

Name: _____
(print)

Signed: _____ Date: _____



Walsall Council

Attendance Procedure – appeal against dismissal

This form should be completed if you wish to appeal against the decision to dismiss you under the Council's Attendance Procedure. Please refer to the Council's Appeals Procedure for further guidance.

NAME AND ADDRESS OF APPELLANT:

DATE OF ATTENDANCE HEARING:

NAME OF HEARING OFFICER

(Name of person sending the letter)

I appeal against the decision to dismiss me following the above attendance hearing. The grounds of my appeal are given below (please state the full grounds for appeal in line with the Council's Appeals Procedure):

You may continue on a separate sheet(s) if necessary.

☐ Please tick if you have attached any additional paperwork and indicate the number of pages on the line below.

Name:	Section/Area:
Signature:	Date:

NAME AND ADDRESS OF TRADE UNION REP:



Walsall Council

Our Ref:
Date:
Please ask for:
Direct Line:

Private & Confidential
Addressee Only

Dear

Re: Hearing Outcome – Redundancy Dismissal, Termination of Employment

I write to confirm the outcome of the Redundancy Hearing held on (INSERT DATE) at which you were represented by (INSERT NAME), I was advised by (INSERT NAME).

Following careful consideration of all the relevant paperwork and your failure to secure alternative employment I have made the decision that your employment will be terminated by reason of redundancy.

You are entitled to a period of notice of INSERT WEEKS, which will commence no earlier than the date of this letter, therefore, your employment will terminate on DATE. *(NEED TO AMEND THIS PARAGRAPH IF PILON PAID)

Any redundancy payment due will be in accordance with the Redundancy Payments Act; I understand that an estimate of these benefits *has been/will be sent to you shortly.

All monies due for salary payment will be made on DATE, *(including your pay-in-lieu of notice and any untaken annual leave). The Pensions Team will contact you separately regarding the payment of your redundancy pay *(and pension if applicable).

It is with regret that this redundancy is to be enforced, every effort will continue to be made to secure employment for you until your notice period expires. In addition, we will continue to hold regular meetings with you and your trade union representative during your notice period to discuss ways of mitigating the redundancy. *(AMEND IF PILON PAID)

In line with the Council's Redundancy Procedure, you may, within 10 working days from the date of this letter, appeal in writing to –the Head of Human Resources who will arrange for the employment appeals panel to hear your appeal. The appeal form (enclosed) should clearly state the grounds for appeal. If your appeal is received outside of the 10 working days period, your appeal will not be considered.

I would like to take this opportunity of thanking you for your valuable contribution to the work of Council.

Yours sincerely,

Name
Hearing Officer

* amend as appropriate to individual circumstances

cc: Transactional HR
Technical adviser

enc, – Appeal Form
Pre-addressed envelope
Appeals Procedure

Employee name

Employee address

I acknowledge receipt of a letter of dismissal issued on

_____ Enclosed with the dismissal letter were:

- Pre-addressed envelope
- Appeal Form
- Appeals Procedure
- I do not intend to appeal
- I intend to appeal and enclose a completed appeal form

Name: _____
(print)

Signed: _____ Date: _____



Redundancy Procedure – appeal against dismissal

This form should be completed if you wish to appeal against the decision to dismiss you under the Council's Redundancy Procedure. Please refer to the Council's Appeals Procedure for further guidance.

NAME AND ADDRESS OF APPELLANT:
DATE OF REDUNDANCY HEARING:
NAME OF HEARING OFFICER (Name of person sending the letter)

I appeal against the decision to dismiss me following the above dismissal hearing. The grounds of my appeal are given below (please state the full grounds for appeal in line with the Council's Appeals Procedure):

You may continue on a separate sheet(s) if necessary.

☐ Please tick if you have attached any additional paperwork and indicate the number of pages on the line below.

Name:	Section/Area:
Signature:	Date:

NAME AND ADDRESS OF TRADE UNION REP:



Our Ref:
Date:
Please ask for:
Direct Line:

**Private & Confidential
Addressee Only**

Dear

Termination of Employment - Redundancy

Further to the meeting on **DATE** and your confirmation that you do not wish a Consideration of Dismissal meeting to be convened. I am now able to confirm that your employment with the Council will be terminated by reason of redundancy with effect from **DATE**. You are entitled to **INSERT** weeks pay (inclusive of bonus and allowances in lieu of notice).

Your final salary payment from the Council, including pay in lieu of notice and any other payments due will be paid on **DATE** through the normal BACS system. The Payroll & Pensions Control Team will contact you shortly with regard to the payment of your redundancy payment which is estimated at **INSERT**, a breakdown of this calculation is attached.

Please sign and return the acknowledgement slip enclosed with this letter using the envelope provided.

You are required to return any Council property e.g. any Council ID , mobile phone, keys. laptop, protective clothing, equipment, identity card, etc) to [insert name].

In line with the Council's Attendance Procedure, you may, within 10 working days from the date of this letter, appeal in writing to –the Head of Human Resources who will arrange for the employment appeals panel to hear your appeal. The appeal form (enclosed) should clearly state the grounds for appeal. If your appeal is received outside of the 10 working days period, your appeal will not be considered I would like to take this opportunity of thanking you for your valuable contribution to the work of the Council.

Yours sincerely,

Name
Hearing Officer

Enc, – Appeal Form
Pre-addressed envelope
Appeals Procedure

Employee name

Employee address

I acknowledge receipt of a letter of dismissal issued on

_____ Enclosed with the dismissal letter were:

- Pre-addressed envelope
- Appeal Form
- Appeals Procedure
- I do not intend to appeal

- I intend to appeal and enclose a completed appeal form

Name: _____
(print)

Signed: _____ Date: _____



Redundancy Procedure – appeal against dismissal (no dismissal meeting held)

This form should be completed if you wish to appeal against the decision to dismiss you under the Council's Redundancy Procedure. Please refer to the Council's Appeals Procedure for further guidance.

NAME AND ADDRESS OF APPELLANT:

DATE OF REDUNDANCY HEARING:

NAME OF HEARING OFFICER

(Name of person sending the letter)

I appeal against the decision to dismiss me following the above dismissal hearing. The grounds of my appeal are given below (please state the full grounds for appeal in line with the Council's Appeals Procedure):

You may continue on a separate sheet(s) if necessary.

☐ Please tick if you have attached any additional paperwork and indicate the number of pages on the line below.

Name:	Section/Area:
Signature:	Date:

NAME AND ADDRESS OF TRADE UNION REP:

--



Walsall Council

Grievance Procedure – Appeal

You should complete this form if you wish to appeal against an outcome of grievance under the council's grievance procedure. If you do not wish to appeal, you do not need to fill in this form.

NAME AND ADDRESS OF APPELLANT:	
DATE OF GRIEVANCE MEETING:	
NAME OF HEARING OFFICER	
OUTCOME;	

I appeal against the outcome issued to me following the above grievance meeting. The grounds of my appeal are given below (please state the full grounds for appeal):

You may continue on a separate sheet(s) if necessary.

Name:	Section/Area:
Signature:	Date:

You will be advised in due course of the date, time and venue of the appeal hearing

Model Procedure to be adopted for Internal Employment Appeals [Dismissal (Including Redundancy) REVISED

1. Introduction

- 1.1 This Model Procedure sets out an Order of Proceedings for Employment Appeal Hearings. It may not be varied without good reason, except with the agreement of all parties to the proceedings, the justification of which will be reflected in the Minutes.
- 1.2 The principles of this Model Procedure are generally applicable across all employee groups within the Council but specific provisions, particularly Section 2 'Composition of Appeals Committees' **do not apply** to employees within Schools whose Right of Appeal lies with the Governing Body, or to employees on Chief Officer or Chief Executive conditions of service for whom different contractual arrangements apply.

2. Composition of the Appeals Committee

- 2.1 Appeals shall be heard by one of the Employment Appeals Committees which have been established by the Council with the Delegated Powers to determine Dismissal (including Redundancy) cases in accordance with its Remit. Any Members involved in Appeal Hearings should not have had any previous involvement or personal interest in the subject matter or outcome of the Appeal. If it is identified that a particular Member has had prior involvement in or is biased in relation to any case, they will not be allowed to sit and hear the case.
- 2.2 The Appeals Committee is a Committee of the Council for the purposes of the Local Government (Access to Information) Act, 1985. However, the public will be excluded from its meetings because the Committee's business relates entirely to 'exempt information' under that Act.
- 2.3 The Appeals Committee is entitled to receive impartial advice from the Head of Human Resources, or their representative, on any matters relating to Employment and / or relevant Policies or Procedures in the capacity of a Technical Advisor to the Committee. The Appeals Committee is also entitled to receive Legal advice from the Head of Legal and Democratic Services, or their representative, where the circumstances of the particular case warrant it.
- 2.4 Every Elected Member or Officer of the Authority, who is involved with the Appeals Committee, shall first have received satisfactory training on their role, Remit and relevant Policies and Procedures applicable in the context of Employment Appeals.

3. Arrangements Prior to the Appeal Hearing

- 3.1 An employee who wishes to lodge an Employment Appeal must inform the Head of Human Resources in writing within 10 working days of the date set

out on the letter advising them of the outcome of the decision they wish to Appeal against. If the Appellant Appeals outside this timescale, the Appeal will be deemed invalid and cannot be considered by the Committee. The written notice of Appeal must include a **clear statement of their Grounds of Appeal with sufficient detail for the Committee to consider.** These Grounds of Appeal will subsequently become the subject of the Appeal Hearing and must relate to either of the following: -

In the case of Dismissal Appeals, the Committee can consider the following Grounds: -

- The Appellant's claims that the application of the Redundancy Procedure has been carried out improperly *;

* The above must include details to support the claim(s).

In the case of Redundancy Appeals, the Committee can consider the following Grounds: -

- The Appellant's claims that the application of the Redundancy Procedure has been carried out improperly*.

* The above must include details to support the claim(s).

Please note that the purpose of an Appeal Hearing is to examine the decision making process in the context of the application of the relevant Procedure and the Grounds of Appeal. It is not to conduct a re-run of the original Hearing or to re-examine the decision of the Hearing Officer. Should any Ground of Appeal fall outside the Committee's Remit, it will not be taken into account when the Committee makes its decision. Should it be determined by the Head of Human Resources, in consultation with the Head of Legal and Democratic Services, that the Grounds of Appeal are not relevant, in the context of the Committee's Remit, then the Appeal will not be considered by the Committee.

3.2 Upon receipt of the written notice of Appeal, the Head of Human Resources will acknowledge the Employee's Appeal and forward the Grounds of Appeal to Democratic Services who will arrange a meeting of the Appeals Committee within the timescales prescribed below.

3.3 Following consultation with the relevant Officer who made the decision that the Appellant wishes to Appeal against, Democratic Services will offer the Appellant 3 dates on which their Appeal could be considered and seek confirmation of their preferred date within 7 working days of the date of the letter. (It is the Appellant's responsibility to liaise with any representative(s) they may have [i.e. Trade Union representative / supporting friend / witness] to ensure that their representative(s) can attend on their preferred dates).

3.4 Once a response is received, a date shall be fixed and all parties informed accordingly. Both parties will be requested to supply a Statement of Case / supporting papers / list of witnesses within 10 working days of the date of the

letter. If no response is received within 10 working days, the appellant's right of appeal will be withdrawn.

- 3.5 At the Appeal Hearing the Appellant may be represented by a Solicitor, Trade Union representative, work colleague or friend. The Management Side will normally be represented by the Manager who took the original decision the Appellant wishes to Appeal against. They may be assisted by a Senior HR Adviser or one other colleague. Certain cases may be presented by another Management Representative, for example, a legal representative who may be assisted by the Dismissing Officer. In addition, there may be occasions where a different Officer presents the case, for e.g. where the Dismissing Officer leaves the Council's employment before an Appeal is heard.

The Chair will have the final say as to what constitutes 'reasonable' representation at the hearing having due regard to 'reasonable' numbers of people at a hearing. It should also be noted that 'witnesses' can only be called in relation to either supporting or dismissing what an appellant has stated in their Grounds of Appeal and not to provide a witness account (either for or against) for an incident or allegation made against an Appellant. The reason for this is that, the Committee's Remit is clear that it can only consider the procedural correctness aspects of the case and cannot review the Hearing Officer's decision, which would constitute a re-hearing. The above applies to both the Management representative and the Appellant equally.

- 3.6 It is the responsibility of both parties to inform their own witnesses and representatives of the date and time of the Appeals Committee Hearing.

- 3.7 All parties, Members of the Appeals Committee, and the Head of Human Resources shall be provided, at least 10 working days before the date of the Hearing, with the following documents (**if available / where submitted**):-

- (a) A statement of the date, time and location of the Hearing;
- (b) A copy of the Committee's Remit;
- (c) A copy of the Relevant Procedure in question [
- (d) A copy of this Model Procedure;
- (e) A copy of the letter of Appeal, including the Grounds of Appeal;
- (f) A copy of the letter to the Appellant setting out the decision against which the Appellant wishes to Appeal;
- (g) Such other supporting documentation as has been supplied by the Management and / or Appellant (see 4 below).

- 3.8 The following facilities shall, **wherever practicable / available**, be made available on the day of the Hearing:-

- (a) An appropriate room where the Appeals Committee may hear and deliberate upon the case in private and undisturbed;

- (b) A separate room to which the Appellant and their representative(s) and / or witnesses may withdraw during adjournments or while waiting to be called before the Appeals Committee **[wherever practicable / available dependant upon circumstances]**;
- (c) An additional separate room to which the Management representative(s) and / or witnesses may withdraw during adjournments or while waiting to be called before the Appeals Committee **[wherever practicable / available dependant upon circumstances]**.

4. Submission of Documents by Management and/or Appellant's Representatives

- 4.1 All information pertaining to the case shall, wherever possible, be included in the Statement of Case as referred to in Paragraph 3.4 of this procedure.
- 4.2 Documentation submitted after the date under 3.4 above by either side may only be accepted with the consent of the Committee via the Chairman's agreement. **Hearings may be adjourned or deferred when papers are tabled on the day causing inconvenience for all parties concerned.**
- 4.3 Where witnesses deliver their evidence by reading from a previously prepared statement, a copy of that statement should be included within the Statement of Case as referred to above.

5. Summary of the Requirements expected of the Appellant

- 5.1 The Appellant is required to submit to the Head of Human Resources a clear statement of the Grounds of Appeal (included in their Statement of Case) along with supporting documents within the prescribed timescales. Failure to do so may mean that the Appellant is not allowed to refer those documents to the Committee.

To avoid this situation from occurring, the Appellant is required to:-

- 5.1.1. Submit a letter to the **Head of Human Resources** setting out their Grounds of Appeal within 10 working days of being notified of the decision they wish to Appeal against;
- 5.1.2 Provide within 10 working days of being requested by Democratic Services:-
 - (a) Their Statement of Case and any supporting documents;
 - (b) The name and address of the person that is to be their representative (where applicable);
- 5.1.3 **Failure to provide either a Statement of Case or supporting documents or details of a representative may result in the Appeal**

being heard in the absence of those documents or representative(s) unless there are exceptional mitigating circumstances supported by documentary evidence. The Committee will make the ultimate decision on whether or not these documents or representative(s) will be allowed at the Hearing.

6. Order of Proceedings – Summary

- 6.1 Both parties and their representatives should remain outside the Meeting Room in the rooms assigned for their separate use (where available) until they are called to the Hearing.

At the Hearing, the Chairperson, with the help of the Democratic Services Officer and the Technical Advisor, shall ensure that the following Order of Proceedings is applied fairly and consistency. The Chair will also adjudge that all questions asked at the Hearing are relevant, pertain to the application of the relevant Procedure in question [i.e. Dismissal Procedure, Redundancy Procedure or Re-grading Procedure] rather than the details of the case and that they fall within the Committee's Remit for consideration. The Chair will also ensure that the focus of the Appeal is in relation to the Application of relevant Procedure at the previous stage and not on the details of the case or Hearing Officer's decision. Should the Appeal become disjointed at any point during the proceedings, the Chair can adjourn the meeting for a short period or until a future date, dependant upon the individual circumstances of the case and the justification for doing so. **The Chair's judgement on any of these issues is final.**

Order of Proceedings

Key: –

A = Appellant (or their Representative);

M = Management Representative;

TA = Technical Advisor to the Committee.

The Chair Shall: -

6.1.1 Ensure that all persons present introduce themselves;

6.1.2 Check that both the **M** and the **A** have received all the relevant paperwork which has been distributed prior to the meeting;

6.1.3 Invite the **A** to put their case. The **M** can then ask questions of the **A**. The **A** may then call any witnesses that they have, if any, as they wish. (Remember; the Appeal is not a re-run of the previous stage) (Note: Witnesses should wait outside the Meeting Room until they are summoned to give evidence. The Chair will ensure that only questions are asked and will not allow statements to be made instead).

6.1.4 After each of the **A's** witness(es), if any, has given evidence:-

- The **M** may ask questions of the witness(es).
- The Committee may ask questions of the witness(es).
- The **A** may re-examine the witness(es).
- The **TA** may ask Questions of the witness(es).

(The Chair will ensure that only questions are asked and will not allow statements to be made instead).

6.1.5 After the **A** has finished presenting their case:-

- The **M** may put any further questions to the **A**.
- Members of the Committee may ask further questions of the **A**.
- The **TA** may ask further Questions of the **A**.

(The Chair will ensure that only questions are asked and will not allow statements to be made instead).

6.1.6 Invite **M** to put the management case. The **A** can then cross examine the **M**. The **M** may then call any witnesses that they have, if any, as they wish. (Remember; the Appeal is not a re-run of the previous stage) (Note: Witnesses should wait outside the Meeting Room until they are summoned to give evidence. The Chair will ensure that only questions are asked and will not allow statements to be made instead).

6.1.7 After each of the **M's** witness(es), if any, has given evidence:-

- The **A** may ask questions of the witness(es).
- The Members of the Committee may ask questions of the witness(es).
- The **M** may re-examine the witness(es).
- The **TA** may ask Questions of the witness(es).

(The Chair will ensure that only questions are asked and will not allow statements to be made instead).

6.1.8 After the **M** has finished presenting their case:-

- The **A** may put any further questions to the **M**.
- Members of the Committee may ask further questions of the **M**.
- The **TA** may ask further Questions of the **M**.

(The Chair will ensure that only questions are asked and will not allow statements to be made instead).

6.1.9 Invite the **M** to sum up their case (**no new evidence can be introduced at this stage because it cannot be considered by the Committee and will result in the Appeal being referred back to Officers**).

6.1.10 Invite the **A** to sum up their case (**no new evidence can be introduced at this stage because it cannot be considered by the Committee and will result in the Appeal being referred back to Officers**).

6.1.11 Ask both parties if they are satisfied that they have been given sufficient opportunity to present their cases in full.

6.1.12 Instruct both parties to withdraw, (except the Advisers to the Committee – the Democratic Services Officer and the Technical Advisor). In some cases, this may also extend to a Legal Officer (where applicable) or a Legal Officer may be called during the adjournment for advice if the Committee feels it necessary.

6.2 After both parties have withdrawn, the Committee shall deliberate upon the case. The Committee may recall both parties to clarify any points of uncertainty on the evidence given. If recall is necessary, both parties are to return, irrespective of the fact that the point needing clarification may only relate to one of the parties (**In the interest of Natural Justice**). *This may also include witness(es), so please ensure that they are available to return to the Appeal Hearing at any point up until a decision has been reached.*

6.3 After a decision has been reached, both parties shall be called back into the meeting room and the Chairman shall announce either:-

- The Committee's decision; **OR**
- That the decision will be communicated to the parties as soon as possible, together with an indication of the anticipated timescale.

AND, in either case, that the decision will be confirmed in writing by the Clerk **within 10 working days**.

6.4 The Committee's decision will also be recorded by the Clerk in the official Minutes of the Committee. The Minutes are the formal and **sole** record of the Committee's decision, but will not be overly-detailed or verbatim, due to their confidentiality, and shall be anonymised accordingly. For this reason, any request to record the proceedings of the meeting by any other means will explicitly be **denied** by the Committee.

6.5 The decision of an Appeals Committee shall be final.

6.6 Both parties will leave the room at the same time once the decision has been announced and shall not return to the Meeting Room or enter into any conversation with the Committee or individual Members thereafter.

7. Options available to the Appeals Committee

7.1 An Appeals Committee may **Uphold, Dismiss or Amend** the Original Decision.

8. Implications of Appeal Decisions

8.1 If the Appeal is **Dismissed** (i.e. the Original Decision is re-confirmed) then the Original Decision remains in effect from the date specified when it had been made.

8.2 If the Original Decision is **Amended**, then the decision of the Appeals Committee is put into effect, as far as is practicable, as if the original decision had been made in the amended terms, with effect from the date specified when the Original Decision had been made.

8.3 If the Appeal is **Upheld** (i.e. the Original Decision is rejected) then the Appellant must be either: -

- In the case of Dismissal / Redundancy Appeals, be re-instated, with no loss of continuity of service, and compensated for any loss of pay and allowances which they may have suffered as a consequence of the Original Decision, effective from the date specified when the Original Decision had been made;

- In the case of Re-grading Appeals, the Appellant's grade must be changed, in the terms of the Committee's Decision, and the Appellant will be compensated for any loss of pay resulting from the Original Decision [i.e. pay they would have received if the Committee's Decision had been made to allow the Re-grade instead of the Original Decision not to], effective from the date specified when the Original Decision had been made.

N.B. When making a judgement on whether or not the relevant procedure had been applied properly in a particular case, the Committee does not necessarily have to uphold the Appeal in the case of minor infringement(s) where the infringement(s) is / are **not** considered to be reasonably significant as to call into question the validity and / or fairness of the process or resulting decision of the previous stage.

However, the Committee should uphold the Appeal where the infringement(s) is / are considered to be reasonably significant, to the extent where the validity and / or fairness of the whole process and resulting decision of the previous stage is felt to be 'perverse' in the legal sense and caused an injustice.

9. New / Fresh Evidence

- 9.1 Any new / fresh evidence brought to the Committee's attention, which had not been considered at the previous stage(s), will result in the Appeal being immediately referred back to a new hearing conducted by a trained Hearing Officer.

10. External Conciliation

- 10.1 In the case of Dismissal / Redundancy Appeals, there is a right to apply to the Employment Tribunal to hear your case. Further information can be found at www.employmenttribunals.gov.uk. For the purposes of the Council's procedure, there is no further right of internal Appeal.

In the case of Re-grading appeals, there is no further right of internal or external Appeal.