



OWLS Academy Trust

Appeals Policy

Date Detail June 25th, 2018

Original, based on Trust Policy 25.06.17

Reviewed annually

Approved by Jonathan Tedds, Chair of Governor

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This policy applies to all staff employed by the OWLS Academy Trust. Throughout this policy, unless indicated otherwise, all references to 'Head Teacher' include the CEO.



Scope

This policy should be followed where an employee indicates that they wish to appeal against a decision to implement a sanction, such as a final written warning or a dismissal, issued as a result of a formal HR process.

This policy does not form part of employees' terms and conditions of employment, and therefore may be subject to change at the discretion of the Trustees.

This policy does not apply for appeals that are made under the following policies, which set out their own appeals procedure:

- Pay Policy
- Right to Request Flexible Working



Appeal Process

Registering an Appeal

An employee wishing to appeal against a decision to impose a sanction must do so within 5 working days of receiving their outcome letter. Appeals submitted outside of this timeframe will only be accepted in exceptional circumstances.

In cases where a final written warning was issued (e.g. during the formal stages of the Attendance Management process), appeals should be submitted to the Head Teacher or the member of the SLT who was managing the case.

Where a panel of Governors made the decision to implement a warning to dismiss an employee at a formal hearing, appeals should be submitted to the Chair of the hearing panel.

In order to register an appeal the employee must complete the Appeal Registration Form (Appendix A). Once this has been received by the relevant person arrangements will be made for an appeal hearing.

Grounds for Appeal

When completing the Appeal Registration Form the employee should clearly specify the grounds for their appeal. For example:

- Procedural flaws (i.e. where the employee considers that the school has failed to follow policy correctly)
- New evidence (the employee must explain how the new evidence may have influenced the outcome of the original hearing and state why this evidence was not available at that point in time. In such circumstances, the Appeal Panel may decide that further investigation of the new evidence is required. Where this is the case, the hearing should be adjourned whilst further investigation takes place. This should be completed without undue delay and the appeal hearing reconvened as quickly as possible.)
- The sanction imposed was too severe or disproportionate
- There was unfairness or bias among the original decision makers

On receipt of the Appeal Registration Form, the Presenting Officer from the original hearing must compile the management response to the points of appeal submitted by the employee. Information may need to be obtained from the Chair of the original panel, in order to gather details of how and why the panel came to the decision.

A copy of management's response should be made available to the employee / panel members prior to the hearing.

The employer will determine the format of the hearing, based on the employee's appeal submission (i.e. a full / partial re-hearing).



Convening an Appeal Hearing

The Head Teacher should arrange for the appeal hearing to take place without undue delay and, where possible, it should be scheduled to take place during the employee's normal working hours.

Written notification of the date, time and location of the appeal hearing must be sent to the employee allowing a minimum of 10 working days' notice. This letter should detail the employee's right to be accompanied at the hearing by a work colleague or Trade Union representative and confirm the potential outcomes.

The employee should also receive copies of any relevant supporting documentation, such as:

- Appeal registration form (or letter of appeal);
- Any new evidence or supporting documents submitted by either party;
- Statement from management in response to the points raised in the appeal;
- All documents used at the original hearing / meeting;
- Notes from the original hearing / meeting;
- The letter confirming the outcome of the original hearing / meeting;
- The names of any witnesses that management intend to call.

A copy of the supporting documentation should also be provided to each panel member in advance of the hearing.

The names of any witnesses that the employee wishes to call should be submitted no later than 5 working days prior to the appeal hearing.

A note-taker should be arranged to take notes at the hearing.

The format for the hearing can be found at Appendix B.



Composition of an Appeal Panel

Appeals should be dealt with impartially and, where possible, should be heard by a manager / the Head Teacher / a panel of three Governors who were not involved in the original decision making process.

- Appeals against final warnings issued as part of an on-going formal process:
 - The appeal will be heard by either the Head Teacher (if they have not been previously involved with the case) or a panel of Governors.
- Appeals against final warnings and dismissals following a hearing:
 - The appeal will be heard by a panel of Governors

If, due to a shortage of governors, or the nature of the case, it is not possible to identify 3 previously uninvolved governors / trustees then:

- Up to 1 panel member may be appointed from the governing body of any other schools within the OWLS Academy Trust; or
- The Chair of the appeal panel should consult with all parties with a view to reaching agreement (advice will be sought from HR Services and/or Governor Services as necessary)



Witnesses

Both parties are responsible for ensuring that they invite their own witnesses to support their case at the hearing.

Witnesses will only be required at the hearing whilst questions are being asked of them by the employee, their representative, the manager and panel members.



Failure to Attend

If an employee fails to attend the appeal hearing without giving an acceptable reason, the hearing will proceed in their absence.

Where an employee or their representative is unable to attend with good reason or due to an unforeseen event a new hearing date should be arranged within 5 working days of the original hearing date, subject to panel availability.

If the employee fails to attend the rearranged hearing without there being exceptional circumstances, the appeal will go ahead in their absence.



Possible Outcomes

The possible outcomes of an appeal hearing are:

- The panel uphold the original decision and maintain the sanction; or
- The panel overturn the original decision and implement a new decision with an alternative sanction.

The panel may also wish to make additional recommendations (e.g. training, guidance, etc) for either the employee or the manager or both.

The Appeal panel may NOT determine that the sanction of the original panel is increased.



Notification of Outcome

The employee should be advised in writing of the outcome of the appeal hearing within 3 working days of the appeal hearing. A copy of the notes from the hearing should also be provided.

The employee will have no further right of appeal against the decision and must be informed of this.



Appendix A: Appeal Registration Form

To be completed and returned to the Head Teacher / Chair of the original panel within 5 working days of receiving written notification of the outcome of a hearing / meeting. Please include any relevant supporting documentation that you wish to be considered at the appeal hearing.

Employee Details

Name:

Home Address:

Job Title:

Outcome of the Hearing / Meeting

Policy Hearing / Meeting was Held Under:

- Attendance Management (dismissals only)
- Capability (dismissals only)
- Employee Complaints
- Disciplinary
- Grievance
- Probation
- Restructuring and Redundancy
- Other (Please specify)

Date of Hearing / Meeting:

Date Outcome Letter received:

Panel:

Outcome of Hearing / Meeting:

- First Written Warning
- Final Written Warning
- Dismissal with Notice
- Dismissal without Notice
- Not Upheld

- Incorrectly applied policy
- Failed to apply statutory guidance
- Failed to take account of evidence
- Took account of irrelevant or inaccurate evidence
- Was biased
- Unlawfully discriminated

Other:

Grounds of Appeal

Details of your Appeal (please state clearly your points for appeal):

(Please continue on a separate sheet of paper if necessary)

Name and Contact Details of Representative:

Name:

Address:

Names of any Witnesses to be called (if known):

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Dates Unavailable:

Name: **Date:**

Signature:



Appendix B: Conducting an Appeal Hearing

The appeal hearing should take the following format:

1. The Chair of the panel will introduce those present and outline the procedure to be followed. An employee who is not accompanied will be reminded of their right to representation.
2. The employee and/or their representative will present the reason for their appeal, including any new evidence.
3. The employee and/or their representative may call witnesses to support their case.
4. The management representative (i.e. the person who made the original decision) may question the witnesses.
5. The panel may question the witnesses.

Steps 3-5 will continue until all of the employee's witnesses have been heard and questioned.

6. The management representative may question the employee and their representative on their case presentation.
7. The panel may question the employee and their representative on their case presentation.
8. The management representative will present their response to the appeal, including any new evidence.
9. The management representative may call witnesses to support their case.
10. The employee and/or their representative may question the witnesses.
11. The panel may question the witnesses.

Steps 9-11 will continue until all of the management representative's witnesses have been heard and questioned.

12. The employee and/or their representative may question the management representative on their case presentation.
13. The panel may question the management representative on their case presentation.
14. The employee and/or their representative will have the opportunity to sum up their case.
15. The management representative will have the opportunity to sum up their case.
16. The management representative, employee and their representative will leave the room so that the panel can deliberate.
17. Having deliberated on the matters placed before them, the panel will set out their decision and then recall and advise those attending the hearing of the outcome.



Appendix C: Invitation to Appeal Hearing

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]

[Address]

[Date]

Dear [Name],

Following receipt of your appeal under the [Insert name of policy] against your [first/final written warning / dismissal], I am writing to invite you to attend an appeal hearing. Your appeal will be heard by [name(s)] at [time] on [date] in [venue]. [Name] will also be in attendance to take notes. On arrival you should report to [venue] and ask for [name].

You may, if you wish, be accompanied by a work colleague or Trade Union representative.

Enclosed for your attention is a copy of management's response to your appeal statement, along with supporting documents. I will be in attendance at the hearing to present the management case.

The outcome of the appeal hearing will be to either:

- Uphold the original decision taken and maintain any sanction;
- Overturn the original decision and implement a new decision along with any appropriate sanction/ action.

Please be advised that the decision of the appeal hearing will be final and there is no further right of appeal.

I would be grateful if you would please confirm if you are able to attend the hearing and whether you will be calling any witnesses to support your case or providing any additional documentation so that necessary arrangements can be made. [For your information, management will be calling [name(s)] as their witness]. If you are unable to provide names of witnesses at this point in time, these must be submitted to [name] no later than 3 days before the hearing, together with any additional documentation that you wish to submit.

Please sign and return the second copy of this letter as acknowledgement of receipt.

Yours sincerely

[Name of person who heard/chaired hearing]

[Job Title]



Appendix D: Outcome of Appeal Hearing

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]

[Address]

[Date]

Dear [Name],

I am writing to confirm the outcome of the [Insert name of policy] Appeal Hearing held on [date] which was heard by [name(s)]. Also present was [name] as your representative and [name] as note-taker.

You appealed against the decision made at the [Insert name of policy] Hearing on [date]. The reason for your appeal was [reason].

Having considered the evidence provided at the hearing, [I / the panel] have decided to [uphold the original decision to issue you with a first written warning / final written warning / terminate your employment] or [overturn the original decision to issue you with a first written warning / final written warning / terminate your employment]. Include reasons for decision and details of any additional actions/recommendations.]

The decision of the appeal hearing is final and there is no further right of appeal.

Please sign and return the second copy of this letter as acknowledgement of receipt.

Yours sincerely,

[Name of person who heard/chaired appeal hearing]

[Job Title]