

**EPPING FOREST DISTRICT COUNCIL
STAFF APPEALS PANEL HEARINGS
GUIDANCE NOTES FOR EMPLOYEES**

1. THE PURPOSE OF THE STAFF APPEALS PANEL HEARING

- 1.1 The purpose of the hearing is to enable you to appeal against a decision to dismiss you under the Disciplinary/Capability or Managing Absence Procedures to a higher and independent level of authority. The Panel will also hear a grievance at Stage 3.

2. SCOPE

- 2.1 All employees of Epping Forest District Council (EFDC) are covered by this policy with the exception of the Chief Executive (Head of Paid Services), Corporate Directors, Monitoring Officer, Deputy Monitoring Officer, Heads of Service, Chief Financial Officer (if the postholder is not a designated Chief Officer), casual staff and those employees with less than 6 months continuous local government service. For staff in these categories separate arrangements apply.
- 2.2 The provisions of this procedure shall not apply in relation to dismissals arising out of;
- the expiry of a casual, temporary or fixed term contract of employment
 - termination of employment by reason of redundancy

3. ROLE OF THE STAFF APPEALS PANEL

- 3.1 The role of the Staff Appeals Panel will be to consider whether your dismissal should be rescinded, upheld or reduced in the light of their deliberations. Also to hear Stage 3 grievances.

4. NOTIFICATION OF APPEAL

- 4.1 You must write to the Head of Human Resources (HR) informing them of your intention to appeal within 5 working days of receiving the letter of formal notification of the dismissal decision, and that you will be submitting a full written statement within 5 working days.

5. WHEN THE HEARING SHOULD BE HELD

- 5.1 The Hearing will usually be held within eight weeks from the date on which the Head of HR received formal notification of the decision. This timescale may be varied and an extension beyond this period granted with the agreement of you and/or your representative, the Head of Legal and Administration or their representative (hereinafter called the Council's representative) and your Head of Service in consultation with the Chairman of the Staff Appeals Panel.

6. PROCESS

- 6.1 Within 5 working days of notifying the Head of HR of your intention to appeal you must provide the Council's Representative with your Written Statement of Case.
- 6.2 Where your appeal is against both the finding and the penalty the proceedings will be in the form of a complete re-hearing of the evidence.

- 6.3 You and the Council's representative may exchange further evidence if necessary. Your supplementary evidence should be given to the Council's representative provided that there are at least 10 working days before the Hearing to allow research into the points and copies to be taken, thereby avoiding the need for an adjournment.
- 6.4 If the Head of Legal and Administration Services has been party to the decision against which you are appealing, a Corporate Director will be the Council's representative.

7. YOUR WRITTEN STATEMENT

- 7.1 You must prepare a comprehensive Written Statement with the assistance of your representative if necessary.
- 7.2 Your Written Statement should include:-
- the grounds on which you are appealing against the decision. The main areas of appeal are likely to be;
 - if you wish to contest the findings, in that if you believe that the original decision or hearing was flawed, and/or
 - the outcomes or penalty of the hearing
 - an introduction which gives a summary of the case listing the main points – this could form the basis of the opening statement
 - full details of the dismissal you are appealing against
 - a list of documents, which may include;-
 - a timetable or diary of events
 - any evidence such as medical reports, letter of notice/dismissal, appraisal documents
 - a list of the names of witnesses who you are calling to give evidence in support of your case
 - written statements from your witnesses
- 7.3 Your information should be presented in a logical manner, clearly identifying the issues.
- 7.4 Only those grounds and items of evidence which are referred to in your Written Statement or supplementary statements will be raised at the Hearing. Any attempts to introduce new material at the Hearing may lead to an adjournment. Material not contained in the Written Statements and therefore not circulated will only be admitted with the agreement of both parties or by order of the Chairman.

8. REVIEW OF PAPERS

- 8.1 The Chief Executive or, in their absence, one of the Corporate Directors, shall review the Written Statements to ensure that the information presented is adequate
- 8.2 The Chief Executive shall complete this review process within 5 working days on receipt of the Written Statements.

9. NOTICE OF HEARING

- 9.1 The Secretary to the Appeals Panel will give you a minimum of 10 working days notice of the Hearing (excluding the day of the Hearing).
- 9.2 You are responsible for arranging representation if required. This may be a representative of your choice.

10. ISSUE OF CASE STATEMENTS

10.1 The Secretary to the Appeals Panel will produce a Case File incorporating all the documentation and will send you a copy no later than 10 working days before the Hearing date.

11. PREPARING FOR THE HEARING

11.1 Prepare carefully and make sure you are familiar with all the facts.

11.2 Study the Case File and ensure that you are totally familiar with not only your side of the case but also the Council's case and consider how the proceedings will be conducted.

11.3 It is your responsibility to prove the Council's original decision was unreasonable or incorrect.

11.4 Depending on the circumstances of your case, you or your representative should prepare a written brief/summary of the case and may include the following;

- a chronological analysis of dates, times and facts as this may show any gaps and/or inconsistencies. You may find it useful to set out the list in three columns: date in the first column, times in the second and facts in the third. You could use this document as an aide memoir during the hearing.
- list all the issues arising from the case, ie what facts do you have to prove or disprove. Those that are amply supported by a document, mark with a tick and those where evidence is required mark with a cross.
- an opening statement. This should be a summary of your case containing the main points and stressing the strengths of your case. It may be based on the introduction of the written statement but if you or your representative is inexperienced in presenting cases it may be worth writing down exactly what you are going to say and listing all the points you wish to raise.
- your summary should clearly identify any passages of the other party's written statement that need clarification and cross examination. This may be because of the special significance of the particular document or because of inaccuracies contained in the correspondence, or because a document is likely to be helpful to the proof of your case or the refuting the opponent's case.
- it is easy to forget vital questions so write down the questions you wish to ask your witnesses also any questions you will be asking the Council's witnesses
- an outline closing/summing up statement. The closing statement may need to be modified according to the evidence produced at the hearing.

11.5 Prepare your witnesses. You are responsible for ensuring that your witnesses attend, know what is going to happen and what they are going to say. They will have provided you with a written statement and will be supporting that statement at the hearing. Try not to ask your witness a question to which you do not know the answer. Try to prepare them for cross examination. You will be responsible for calling them and arranging a waiting area for them.

12. PRESENTING YOUR CASE AT THE HEARING

12.1 The normal order of the proceedings are as follows;

12.1.1 Your opening statement

- it is not always necessary to give an opening statement however, it helps to set the scene and its purpose is to outline the case and define the issues the Hearing has to decide

12.1.2 Stating your case

- outline the facts in chronological order
- go through the written statements bringing to the Panel's attention any pieces of vital evidence to be considered
- introduce your documents and witness statements.

12.1.3 Your witnesses

- call your witnesses in the order that you have presented your case
- take your witnesses through the evidence in chronological order
- when questioning your witnesses;
 - start with a few simple uncontroversial questions to put them at ease
 - guide your witnesses through their evidence
 - ask short questions and only ask one at a time
 - if your witness appears to be moving on to a different point, politely interrupt and bring them back to the point and ask your next question.

12.1.4 Cross examination of your witnesses

- the Council's representative will be given an opportunity to cross examine your witnesses. Cross examination is used;
 - for the other side to comment on your evidence
 - to refute or cast doubt over your evidence
 - to place the witness's evidence in context or complete picture.

12.1.5 The Council's opening statement

12.1.6 The Council's case

12.1.7 Cross examination of the Council's witnesses

- If you are cross examining remember;
 - to stay calm, be firmly in control but polite
 - prepare your points or questions in advance
 - only ask necessary questions and one at a time
 - short questions are often the most effective
 - allow witnesses to answer even if it is a damaging answer
 - do not make speeches

12.2 Throughout your presentation remember to take your time to consider and collect your thoughts. Ask the Chairman to allow you a few minutes to compose your thoughts if required.

13. RE-EXAMINATION

13.1 You and the Council's representative will be given the opportunity to re-examine any evidence before proceeding to the next stage. If you wish to introduce new material at this stage you must obtain the Chairman's agreement. This will be subject to the Council's side having the right to cross examine the new evidence.

14. FINAL STATEMENT/SUMMING UP

- 14.1 You and/or your representative should make a final statement, not introducing any new evidence into your summing up.
- 14.2 Your Final Statement/Summing Up should cover;
 - the main points you wish the Panel to address
 - a review of the supporting evidence
 - the argument in favour of your case
 - arguments to dispose of the Council's case
 - decisions that the Panel could consider.

15. ADJOURNMENTS AND EVIDENCE

- 15.1 With your and the Council's representative's agreement the Chairman may amend the order in which the evidence is presented.
- 15.2 Either party may request an adjournment of the hearing at any stage and the Panel will decide whether or not to allow an adjournment.
- 15.3 The Panel may order an adjournment of the hearing if they feel that further evidence is required or further witnesses are vital to the determination of the Appeal.
- 15.4 In some instances cases will be adjourned part heard if they run over the expected time or if some unforeseen issue arises.

16. CONSIDERATION OF THE CASE

- 16.1 The Panel will deliberate in private and if the Panel requires clarification on any point both sides will be recalled.
- 16.2 You and the Council's representative will withdraw to allow the Panel to deliberate in private. The Secretary and HR Adviser shall remain to offer advice and assistance as required.

17. NOTE TAKING

- 17.1 You should make accurate notes on the evidence of any points made by the Council's representative.

18. DECISION OF THE PANEL

- 18.1 You will be recalled along with the Council's representative to receive the Panel's decision.
- 18.2 The decision of the Appeal's Panel is final.
- 18.3 The decision will normally be given orally to you at the Hearing; if this is not possible it will be confirmed in writing within 5 working days of the Hearing. If the decision is given orally it will also be confirmed in writing within 5 working days. The HR Adviser will write to you confirming the decision, sending copies to your Head of Service, the Council's representative and if appropriate your representative.

