

Worcestershire Acute Hospitals Trust

Appeals Policy

Department/Service	Human Resources
Accountable Director	Chief People Officer
Date Approved by JNCC	28th May 2026
First Revision Date	28th May 2029
Changes since previous version	
Queries about interpretation and application of policy	wah-tr.hrenquiries@nhs.net
Target Organisation	Worcestershire Acute Hospitals Trust

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1. WHAT THIS POLICY COVERS

1.1 Scope

1.1.1 This policy applies to all Trust employees, including Medical and Dental staff. This policy should be read in conjunction with the Trust's Conduct, Capability, Ill Health and Appeals Policy for Medical and Dental Staff, which provides clear guidance as to additional steps to be taken when managing an appeal from a medical and dental member of staff.

1.2 Introduction

1.2.1 The Appeals Policy provides a mechanism for employees to appeal against sanctions or outcomes determined under the formal stages of the Trust's Human Resources policies, including:

- Disciplinary Policy
- Sickness Absence, Health and Wellbeing Policy
- Grievance Policy
- Flexible Working Policy
- Performance Management Policy
- Secondment Policy
- Dignity at Work Policy
- Management of Organisational Change
- Leave and Pay Policy

1.2.2 It also provides a means of appeal for dismissals due to redundancy or expiry without renewal of a fixed term contract and a procedure for appealing management decisions such as those relating to pay progression, and flexible working and employment break requests, as afforded in the relevant policies. Colleagues exercising their right of appeal will still retain their right to raise a grievance in accordance with the Trust Grievance policy if it is independent to the current process or is in relation to some element of the appeal proceedings e.g. the impartiality of an investigator or the appeal chair. If it presents as part of their grounds for appeal/appeal case it will be dealt with via the appeals process.

1.2.3 The purpose of an appeal process will be to determine:

- whether the procedure was followed correctly;
- whether the decision reached was fair and reasonable;
- whether the decision reached was appropriate in light of the evidence presented.

Please note that the purpose of an Appeal Hearing is to determine whether the sanction or outcome determined under the formal stage of one of the above policies was fair and reasonable at the time that action was taken and is not a re-run of the meeting/hearing.

1.2.4 The policy details the procedure and timeframes to be followed during an appeal process.

1.3 Definitions

Appeal: An appeal is an opportunity to question a decision previously reached under other Trust Policies or Procedures. Appeals are heard by an independent panel who decide whether

the original decision was fair and reasonable based on the evidence that was available at that time.

Appeal Panel: The panel which will consider the appeal as follows:

Appeal hearings are divided into 2 categories based on the severity of the original decision:

Reason for Appeal	Category of Appeal
- Any dismissal, redundancy or termination of employment contract - Appeal against Stage 2 Grievance - Appeal against Stage 2 Dignity at Work - Appeal against a formal Disciplinary warning	Category A: The appeal will be heard by a panel consisting of a Director (Chair), Senior Manager (at Band 8a or above) and a HR Representative
Any formal warnings or outcomes at Stage 1 or 2 of the relevant policy detailed below: - Sickness Absence, Health and Wellbeing Policy - Flexible Working Policy - Performance Management Policy - Secondment Policy - Leave and Pay Policy (career Break)	Category B: The appeal will be heard by a manager more senior than the manager who made the original decision and a HR Representative

Appellant: The colleague who is raising an appeal.

Grounds for appeal: The reasons for the appeal. These generally relate to:

- Whether process has been followed correctly;
- Whether the decision was fair and reasonable, i.e. in the case of disciplinary action being taken against an individual;
- Whether the action taken or outcome reached was reasonable.

In exceptional cases the appeal panel will determine whether new evidence can be introduced at the appeal hearing, this would normally only be in cases where new information previously not known about at an early stage of a formal process became available.

Responding Manager: The Manager(s) responsible for making the original decision which is being appealed

Calendar day: A consecutive 24 hour period running from midnight to midnight including every day on the calendar including weekends and public holidays.

2. RESPONSIBILITIES

Chief People Officer (CPO)

The CPO is the accountable Director for this policy.

Appeal Panel

The Chair of the appeal hearing is responsible for ensuring that the colleague who is raising the appeal (appellant) has the opportunity to state their case and have their appeal heard in a fair and consistent manner in line with this policy. The Chair is also responsible for notifying all parties, in writing, of the outcome of the appeal within seven calendar days of the appeal.

The appeal panel must consider information presented by both the responding manager and the colleague raising the appeal and reach a justifiable decision.

It is the responsibility of the Appeal Panel Chair to take forward any recommendations from the outcome of the Appeal Hearing with the relevant senior management team.

HR Advisory Team

The HR Advisory team is responsible for providing colleagues and managers with timely and appropriate advice and support relating to the application of HR policies, including the Appeals Policy.

The HR Advisory team will provide advice and support to the appeal panel and advise on the appeal process.

Managers

Managers are responsible for following HR policies and procedures and ensuring employees are aware of their right to appeal in circumstances in which this is provided for.

Where an appeal is submitted it is the responsibility of the responding manager to prepare a thorough management case, to agreed timescales, for consideration by the appeal panel.

The responding manager is also responsible for informing the Chair of the appeal panel of the names of any witnesses that they wish to call at the panel and for making arrangements for their attendance.

Colleagues/Appellants

Colleagues who raise an appeal are responsible for co-operating fully and in a timely manner during the appeals process.

Colleagues who raise an appeal are responsible for arranging for a trade union representative or work colleague to support them in the preparation and presentation of their appeal and ensuring that they are available for the appeal hearing.

Colleagues who raise an appeal are also responsible for informing the Chair of the appeal panel of the names of any witnesses that they wish to call at the panel and for making arrangements for their attendance.

3. POLICY IN PRACTICE

Appeals Process

Submitting an Appeal

An individual wishing to exercise their right to appeal in accordance with this policy, must submit their grounds for appeal, in writing either by email or post, to the Assistant Director of People (ADoP), via email wah-tr.henquiries@nhs.net or address to: Assistant Director of People, HR Department, 3 Kings Court (2nd Floor), Charles Hastings Way, Worcester, WR5

1DD within 14 calendar days of being informed of the decision against which they are appealing.

The written grounds for appeal must clearly set out the basis of the appeal, in terms of:

- Whether process has been followed correctly
- Whether the decision was fair and reasonable, i.e. in the case of disciplinary action being taken against an individual
- Whether the action taken or outcome reached was reasonable

Guidance for colleagues (appellants) on how to appeal a formal warning or outcome can be found in the Appendix C. within the Supporting Documents section.

An appeal will not be heard unless the reason(s) for the appeal are clearly outlined in relation to one of these three potential grounds of appeal.

An overview of the appeals process can be found in Appendix A.

Appeal Panel

Upon receipt of an appeal the Assistant Director of People (ADoP) will acknowledge receipt and appoint an appeal panel. The appeal panel Chair will be responsible for ensuring that the appeal process is managed in accordance with this policy.

An appeal panel will comprise of at least two members, including a representative from the HR Directorate, who have not previously been involved in the case. In cases where it is deemed to be necessary, a professional advisor may also be included on the panel. See table on page 5.

The Chair of the panel will be independent and be of a more senior level than the manager whose decision is the subject of the appeal.

The appeal panel will be responsible for making themselves aware of the contents of the appeal case, and the management response before the hearing.

The Chair of the appeal panel is responsible for requesting any further information that may be required for making a decision regarding the appeal.

In exceptional circumstances, an alternative to an Appeal Hearing could be considered through mutual agreement which would comprise of a desktop review of all documentation with an independent manager supported by a HR Representative. Any outcome would be provided in writing as per the provisions outlined in this policy.

Responding to an Appeal

The responding manager (the manager who made the original decision) will be required to produce a response to the grounds of appeal.

This response should be presented in writing, with any supporting evidence, and submitted to the appeal panel at least 10 calendar days prior to the appeal hearing.

Before the Hearing

The Chair of the appeal panel will write to the colleague who has raised the appeal and the responding manager to confirm the date, time and venue for the appeal hearing and to confirm deadlines for submission of the documentation to be presented. Wherever possible the date of the appeal hearing should be set within a reasonable timescale from receipt of the appeal. The date of the appeal hearing should not be unreasonably delayed.

The colleague raising the appeal and the responding manager are responsible for confirming their attendance at the hearing and notifying the Chair of the appeal panel as to whether they will be calling any witnesses at the hearing and if so, provide the names of those witnesses.

Both the responding manager and the colleague raising the appeal will be asked to submit all relevant documentation to the appeal panel chair at least 10 calendar days prior to the hearing. The panel will ensure that information received from one party is sent to the other party at least 7 calendar days prior to the hearing.

All parties will receive all appeal hearing information at least 7 calendar days before the hearing.

At the Hearing

A flowchart to outline the process that is followed at an appeal hearing is given in Appendix B.

Representation

Throughout the appeals process, and at the appeal hearing, the colleague raising the appeal has the right to be represented by a representative from a Trade Union or professional association or accompanied by a work-based colleague, provided the companion is not acting in a legal capacity.

Exceptions - For Medical and Dental staff, this policy should be read in conjunction with the Trust's Conduct, Capability, Ill Health and Appeals Policy for Medical and Dental Staff, which provides clear guidance on representation and additional steps to be taken when managing an appeal from a medical and dental member of staff.

Witnesses

Both management side and the colleague raising the appeal will have the opportunity to call any witnesses to the appeal hearing. It is the responsibility of the management side to arrange for the attendance of any witnesses they intend to call. Similarly, the colleague raising the appeal is responsible for arranging the attendance of any witnesses they intend to call. Both parties must inform the panel prior to the hearing of these arrangements.

Outcome

The appeal panel will normally confirm the outcome of the hearing verbally at the hearing, but that panel can reserve the right not to make a decision on the day.

The outcome of the hearing will be confirmed in writing within 7 calendar days of the appeal hearing.

The outcomes that the appeal panel can decide are dependent upon which policy the appeal has been made however can include (this list is not exhaustive):

- To fully uphold the initial management decision or sanction;
- To partially uphold aspects of the management decision and overturn others;
- To change the sanction in place (this could be to 'downgrade' the sanction, fully overturn or increase a sanction up to dismissal) e.g. where a sanction was given in accordance with the Disciplinary Policy;

The decision of the appeal panel is final.

A Toolkit to support the application of this policy can be found [here](#) which includes:

- A. Appeals process overview

- B. Appeals procedure flowchart
- C. Guidance for colleagues raising an appeal (appellants) on how to appeal a Formal Warning or Outcome
- D. Template Appeal Acknowledgement letter
- E. Template Invite to Appeal Hearing letter
- F. Procedure at Appeal Hearing

4. IMPLEMENTATION PLAN

This policy will be available on the Trust Intranet.

A policy briefing will be developed for Divisional Management Boards, Directorate Meetings and Worcestershire weekly.