**CAPABILITY APPEAL HEARINGS - PROCEDURAL DETAILS**

**1.0 INTRODUCTION**

1.1 The procedural detail in this appendix provides information that will be of assistance to anyone making an appeal against action as a result of a capability hearing to understand the process. It should be noted that minor variations to the process may reasonably occur in response to the circumstances of a particular case or at a particular time, for instance timescales may be varied following discussion with the parties and variations mutually agreed. Any variations to the procedure must be reasonable in the circumstances.

**2.0 TERMINOLOGY AND PARTIES**

1. The individual who has made the appeal is called “the appellant”.
2. The person the appellant has invited to accompany him/her in accordance with paragraph 4.2 of the procedure is referred to as “the companion”.
3. The “Chair” is the person hearing the appeal, or in the case of appeals against ill health dismissal, the Chair of the panel hearing the appeal.
4. The person responding to the appeal is referred to as “the manager” and will normally be the person who chaired the disciplinary hearing and made the original disciplinary decision.
5. A working day refers to any day Monday to Friday inclusive, but excludes bank holidays or publicised University closure days.

**3.0 MAKING THE APPEAL AND EXCHANGE OF INFORMATION.**

1. An individual receiving a sanction as a result of a capability hearing will be advised of the right of appeal with the letter of notification. S/he may lodge an appeal, which must be in writing, stating the grounds for the appeal and arrive within 7 working days of receipt of the outcome letter.
2. In initiating an appeal, it is insufficient for the individual to object in general terms that action has been taken, but must specify the reasons e.g. stating why the appellant believes the process or decision is flawed or that there is new evidence or the penalty was unduly severe or inconsistent.
3. An appeal hearing will normally be convened within 15 working days of the receipt of the notice of appeal.
4. To ensure equitability in consideration of the cases, the appellant will be invited to provide a written statement supporting his/her grounds for appeal, together with any supporting documentation and names of witnesses s/he intends to call. This must be received by the designated person at least 7 working days before the date of the hearing.
5. The manager will be invited to submit a written statement together with any supporting documentation and names of witnesses, to be received at least 7 working days in advance of the hearing.
6. All documentation will be exchanged between the parties and forwarded to the Chair at least five working days in advance of the hearing.
7. After this time limit, no further documentation shall be considered and taken into account at the hearing, unless the Chair should agree such an exception.

**4.0 THE HEARING**

1. The Chair shall make introductions, outline the format for the hearing and be responsible for the orderly conduct of proceedings.
2. Present at the hearing will be; the Chair (and, for appeals against ill health dismissal, two other members of the University Board) accompanied by a member of the HR department acting in an advisory capacity, the appellant, who may choose to be accompanied, and the manager, who will be accompanied by a member of the HR department. There may be supporting personnel present (e.g. note-taker, or a person to assist an individual with a disability).
3. The appellant’s companion is allowed to address the hearing, to put and sum up the individual’s case, respond on behalf of the individual to any views expressed at the meeting and confer with the individual during the hearing. The companion does not however have the right to answer questions on the individual’s behalf, or address the hearing if the individual does not wish it, or prevent the University from explaining its case.
4. Any witness(es) shall join the hearing, in turn, to give evidence and answer questions and shall leave the room when this is concluded.
5. The Chair and other panel members and their advisor from HR may ask questions of either party and their witnesses during the proceedings.
6. Either party may request an adjournment at any stage of the proceedings.
7. The appellant will be invited to present the appeal and call witnesses (whose names have been notified in advance).
8. The manager will have opportunity to question the appellant and his/her witnesses.
9. The manager will be invited to respond to the management case and call witnesses (whose names have been notified in advance).
10. The appellant shall be given opportunity to question the manager and management witnesses.
11. When both parties have concluded their evidence and questioning has been completed, the Chair may invite the appellant and manager respectively to give a short concluding statement.
12. The Chair may, if s/he so wishes, give a summing up.
13. The Chair will call an adjournment when the hearing is concluded in order to consider decision.

**5.0 THE OUTCOME AND WRITTEN CONFIRMATION**

5.1 The appellant will be informed of the decision and the reasons for the outcome at the earliest opportunity. The Chair may reconvene the hearing on the same day to advise the individual and presenting manager of the outcome, or if it is not possible to reach a decision on the day, an indication will be given within one working day of the likely timescale for a decision to be reached.

5.2 The decision and reasons will be confirmed in writing to the individual, normally within 5 working days of the hearing and this decision shall be final.