Absence Management Guidance - Appeal Convener

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Action	Supporting Information
Familiarise yourself with the Policy	This guidance must be read in conjunction with the Absence Management Policy.
Confirm that you are **available** to be the Appeal Convener and that you have no **conflict of interest** in the case	You need to be available to chair the appeal hearing and deal with the subsequent paperwork. If you are scheduled to be away on leave or at events etc. over the next 1-6 weeks discuss with the HR Case Manager supporting the case if you can manage the appeal process or whether an alternative Appeal Convener should be appointed. Check that you do not have any conflicts of interest that would prevent you chairing the hearing and reaching a decision objectively. If you do have a conflict advise the HR Case Manager supporting the case at the earliest opportunity. Check the Conflict of Interest Policy for guidance.
Familiarise yourself with the case	Having agreed you are available and there is no conflict of interest, the HR Case Manager supporting you will send you the 'case' documentation. Familiarise yourself with the attendance/medical record which led to the sanction that is being appealed, the stage review/medical capacity review outcome letter, the letter of appeal and any new information from the employee. Make sure you go through all documents thoroughly and highlight any areas where you want to find out more or have queries. Consider what questions you have for the employee and original decision maker. Make sure you are familiar with the Absence Management Policy and procedure and potential outcomes of the appeal.
Confidentiality	You must at all times be mindful of the sensitive and personal nature of the information you will have access to in order to familiarise yourself with the case. This information is classed as a "special category" of personal information. It is legitimately justified that this is shared with you as per the University's Privacy Notice for Staff, as we are required to be able to support staff at work, manage their attendance, carry out our obligations relating to Statutory Sick Pay and in assessing employee's capacity to work. You must not disclose any of the personal information you are privy to, beyond those involved in advising on and/or supporting you in managing the case.
Panel composition and **arranging a date and venue** for the appeal hearing	One or two other managers need to be appointed to the panel, depending on the nature of the case. They may be appointed by you or you may ask the HR Case Manager supporting the case for support in identifying appropriate panel members. If the appeal is against dismissal from an Academic grade 8 or above, an external panel member (from a different College, Professional Services department or to the University) will be required to attend. Speak to the HR Case Manager supporting the case to identify an appropriate external panel member.

	You are not required to have an HR representative at the appeal hearing but if you feel you need support contact the HR Case Manager supporting the case. Note: An HR Case Manager would normally attend any appeals against dismissal. Ask your HR Case Manager to contact the HR Business Support team who will allocate a note taker to support you. Agree a date with other panel member(s), HR Case Manager (if attending) and note taker. The employee will need at least one calendar weeks' notice of the appeal hearing. Arrange a suitable venue where the discussion can't be overheard, won't be disturbed/interrupted and noise is minimal. Find somewhere where there is an adjoining room or waiting area where the employee (and their companion if they have one) can wait during the hearing adjournment. Alternatively, you may need/wish to conduct the hearing online via Microsoft Teams, for example. If so, see section below on 'Setting up and hosting meetings and hearings remotely' for more information.
Invite the employee to the appeal hearing	Write to/email the employee using the appropriate Invite template letter (which you can obtain from your HR Case Manager), giving at least one calendar weeks' notice and **include any documents with the invitation which you will refer to in the meeting.** The employee must provide you with any documents which they wish to use to support their appeal, at least three working days before the hearing. As advised in the invite letter/email, the employee should let you know if they need an adjustment for the appeal hearing e.g. if they need a hearing loop. You must organise any adjustments requested or seek advice from the HR Case Manager supporting the case.
Role of the companion	The invite template will advise the employee of their right to be accompanied at the hearing, normally by a trade union representative or workplace colleague. A companion may also be someone to support the employee if they have particular needs. For example, if the employee has a disability, we have a duty to consider reasonable adjustments, or they may need help if English is not their first language. This companion may be in addition to a TU representative or workplace colleague. Therefore, in some circumstances the employee may have more than one companion. The companion cannot be a lawyer. A family member cannot act as a companion unless this is deemed to be a reasonable adjustment e.g. a family member is experienced in managing the employee's disability. The employee must tell you in advance of the meeting if they are bringing a companion/companions, and who this is.

	A companion can set out the employee's appeal, sum up the employee's case, respond on the employee's behalf to any views expressed during the hearing, speak to the employee and take notes. **The companion should not answer questions on behalf of the employee.**
Invite the manager who issued the sanction that is being appealed to the appeal hearing	Make sure you invite the Chair of the stage/ final stage or medical capacity review meeting to the appeal hearing, giving one calendar weeks' notice. They will have comprehensive knowledge of the decision making process from which the sanction or dismissal was determined appropriate, and can provide clarity on any points leading up to this stage. During the hearing, they will be required to summarise the reasons for the original outcome and sanction and will be asked questions by you/the panel and possibly the employee.
Prepare for the Appeal Hearing	It can be helpful to meet the note taker in advance to give them any useful information which will help them when taking notes e.g. it might help them to be familiar with names, job titles, acronyms, technical terminology etc. that are likely to be discussed. Liaise with the note taker to arrange a suitable time to brief them. Alternatively provide the note taker with a written summary of the key details of the case e.g. names, job titles, terminology etc. There is guidance available for note takers, which you should direct them to. Think about what you want to find out at the appeal hearing and prepare any questions you want to ask the employee or chair of the meeting from which the outcome is being appealed. Arrange a **pre-meeting** with the other panel member(s) to agree how the hearing will proceed and who will ask what questions. This can be immediately before the hearing if an alternative time cannot be found. Ensure the note taker and all other participants understand the confidential/sensitive nature of the hearing, and their responsibility to maintain confidentiality. The appeal is **not a rehearing** of the case. The appeal panel needs to consider whether the action taken by the panel of the stage review or medical capacity review meeting was fair and reasonable. Find out from the HR Case Manager supporting the case if the employee has any live warnings as this must be taken into account if you uphold or remove a sanction.
Employee may request to **rearrange the hearing** or fail to	The employee may request to rearrange the hearing so that they or their companion can attend. The employee must make this request to you,

attend on an agreed date	including proposing an alternative date/time, normally within one week of the original date. If possible, the new date proposed by the employee should be agreed in the first instance. If the proposed date can't be accommodated, suggest another date that all parties can attend as long as it will not cause any undue delay. The employee should make themselves available wherever possible but there may be some appointments they cannot reschedule e.g. if they are timetabled to teach or have another meeting which cannot be moved If a **companion** cannot attend on a rescheduled date and no suitable alternative time can be found, you should advise the employee to find someone else to act as their companion. If the employee has not attended the hearing as expected, **find out the reason**. Liaise with the HR Case Manager supporting the case about how to proceed. It's only fair that an employee be given the chance to put forward their side of the case in order for a decision to be made on appropriate action, particularly if circumstances are complex. **You must reschedule a hearing at least once**. It may be necessary to reschedule on further occasions depending on the circumstances. If you, in conjunction with the HR Case Manager supporting the case, determine that there is no good reason for **repeated non-attendance or no realistic prospect of the employee attending,** you may proceed in the employee's absence. However, as it is helpful to have a written statement from them that can be considered if they are not there, you must make every effort to obtain this in advance of proceeding.
If the employee raises a **grievance** during the appeal process	You do not necessarily have to halt the appeal process if the employee raises a grievance but should discuss this with the HR Case Manager supporting the case and agree on how best to proceed in the circumstances.
The Appeal Hearing - Process	If the employee has a companion with them, they can take notes, set out the employee's case and speak to the employee during the meeting. The employee or companion may request an adjournment at any time during the meeting to discuss matters in private. The companion cannot answer questions on behalf of the employee. Make introductions. If the employee does not have a companion with them, reiterate that they were informed of their right to be accompanied and check they have chosen not to. This should be noted by the note taker. Ask everyone to turn off any electronic devices and remind them that the appeal hearing cannot be recorded. If the employee requests to electronically record the meeting, explain that this is not allowed but

	they will be provided with meeting notes. They may also wish to make their own notes which is acceptable. Explain what will happen during the hearing. The appeal hearing will normally follow this structure: • You will ask the Chair (of the meeting from which the outcome/sanction is being appealed) to summarise their reasons for the original outcome and sanction • The panel ask the Chair questions • The employee responds and puts forward their point of view and can ask the Chair questions • The panel asks the employee questions • Appeal Convener checks if anyone has anything to add • The hearing is adjourned (see 'Panel considerations and responsibilities' section below) The employee should be asked to wait in another area (with their companion if they have one) while the panel considers the case and reaches a conclusion • The employee is called back to the appeal hearing • The employee is advised of outcome and whether the appeal is turned down or supported. If the appeal is supported the employee is advised if the sanction has been removed or replaced with a lower one and any other measures or recommendations. If the appeal is turned down, the warning will remain on file until it's expiry at the end of the original warning period, or in the case of dismissal, the employee's dismissal will remain. The employee is advised that the outcome will be confirmed in writing • Appeal hearing closes.
The Appeal Hearing – **Panel considerations and responsibilities**	During the **adjournment,** you and the panel must consider if the action taken by the stage review or medical capacity review panel was **fair and reasonable**. The appeal letter submitted by the employee will indicate why they think the original decision is wrong and must be based on one or more of the following reasons: • The **process wasn't followed properly** • They have **new evidence** that wasn't available at the time of the absence review meeting • The sanction imposed was **too severe** The possible outcomes of the appeal hearing are: • The appeal is **turned down** and the original decision confirmed • The appeal is **supported** and a sanction is removed or replaced with a lower one e.g. a final written warning may be reduced to a warning If an **appeal against dismissal** at **final stage review** is supported you must decide whether another level of sanction is appropriate and whether you believe the employee should be **reinstated** to their role or you

	recommend that opportunities for redeployment are explored. This should be discussed in detail during the adjournment, to fully consider what is appropriate in the circumstances. For example, redeployment may not be appropriate in supporting an employee with poor attendance levels, but the dismissal may have been procedurally flawed and you therefore support the appeal. In this instance, you may decide to reinstate them to their role and reduce the dismissal to a final written warning. This would give them a further opportunity to make the required improvements. If an **appeal against dismissal** at a **medical capacity review** is supported, the employee should be **reinstated** to their role or you recommend that opportunities for redeployment are explored. You must discuss with the HR Case Manager supporting the appeal panel prior to delivering the decision to ensure all considerations have been made and any risks have been appropriately assessed. You must take due time to consider the information gathered during the appeal hearing. However, an adjournment should **not be for an extended period** and you should reach a decision as soon as practicably possible. It will be stressful for the employee waiting to know the outcome. The panel should reach a decision collectively. Once a decision has been reached, you must reconvene the meeting and deliver the outcome verbally, explaining that it will also be confirmed in writing and informing the employee that the appeal panel's decision is final – there is no further right of appeal. If you need more time because there is a lot to consider or you need clarification on any issues e.g. procedural or OHS advice, you can advise the employee that you require more time to reach a decision and they will be notified of the outcome in writing and when this will be.
Agree the notes of the appeal hearing	The note taker will send you a draft set of the notes of the appeal hearing, normally within **two calendar days** of the hearing. You may amend them if there are any details that have not been recorded accurately e.g. spelling, terminology or where key details have been missed. You cannot change the substance of what a person said during the appeal hearing, including your own comments. If possible, you should send them with the letter confirming the outcome of the appeal hearing. Alternatively agree with the HR Case Manager supporting the case if they are to be sent separately and by whom.
Write to the employee confirming the outcome of the appeal hearing	You must write to the employee within **one calendar week** of the hearing confirming the outcome. Use the appropriate template letter which you can obtain from the HR Case Manager supporting the case. Once issued to the employee, you must send a copy to the employee's manager and

	the HR Case Manager, who will upload it to the employee's digital file and update the case management tracker.
Housekeeping	All records relating to the case must be kept centrally on the employee's digital file. Subsequently, you must submit all hard copies of any notes you have made and any other documentation you have been provided with to the HR Case Manager supporting the case. Delete any electronic copies you have been given or have made yourself as soon as you have submitted everything to the HR Case Manager.
Be aware of **Data protection** and **Subject Access Request** requirements	Information relating to the management of an employee's absence from work must be held in line with the University's Retention Schedule. This includes all email correspondence as well as all formal letters and sanctions. Remember that an employee may make a subject access request (SAR) to see information about their case which will include any emails between you and HR or any other person you raise the case with. Therefore, it is vital any written notes or records made about the case are factual, considered and professional, noting only relevant information, and saved to the employee's digital file – therefore, please provide your HR Case Manager with all notes and records on conclusion of the case. SAR's may be requested by individuals for ALL information held about them, even where they are only referenced using initials or other aliases.

Letters templates (these are available from the HR Case Manager supporting the case):
Appeal Hearing – Invite Appeal Hearing – Outcome

Guidance for setting up and hosting meetings and hearings remotely

Action	Supporting information
Agree that all participants have **the equipment and access** to attend an online meeting and are **willing to participate** using this forum	It is important to check that all participants of a meeting have the appropriate equipment and access to meaningfully take part in a remote, online meeting – and to do so prior to making any of the necessary arrangements. If the employee does not have **access to a PC or MS Teams** contact your HR Case Manager to consider alternatives e.g. providing the technology required or seeking alternative means of holding the meeting. Check if the employee has a **suitable environment** where they can attend the meeting/hearing in private. Be aware that they may work in a shared space on campus or at home. If they don't have a suitable environment liaise with your HR Case Manager to see if there are any alternatives. For example, could the meeting be held face to face, or a room be found for them in a designated building on campus to attend the meeting remotely (subject to appropriate Health & Safety requirements)? Note: the employee is responsible for ensuring their companion can support them at an on-line meeting/hearing.
Prepare for the meeting/hearing	Set up the meeting via **Microsoft (MS) Teams**. Information about hosting and joining MS Teams meetings is available here. Make sure you invite all the relevant parties including a note taker. Be aware that attendees may have particular needs in order to participate in the meeting/hearing via MS Teams e.g. if they have a hearing or visual impairment, you may need to investigate whether additional technology or support is required. The employee should let you know if they require any **reasonable adjustments** to take part. Please refer to the Reasonable Adjustments Policy for more information.

Pre- meeting, where applicable	You should have a meeting with other panel members/HR Case Manager prior to your meeting/hearing with the employee. If you hold the pre-meeting directly before the meeting/hearing with the employee, it is best to set this up as a **separate MS Teams meeting.** This ensures that you cannot be interrupted or cut short if the employee or their companion 'arrive' earlier than expected. Alternatively use the **lobby room** function to allow the employee and companion to join the meeting/hearing when the panel is ready. Information about hosting MS Teams meetings, privacy guidance and lobby areas can be found here.
Establish familiarity with technology	It is possible that the employee may have limited experience of MS Teams meetings. At the start of the meeting/hearing establish how familiar they are with **technical functions**. If they are not familiar, walk them through functions such as how to mute their microphone, raise a hand, use the chat function etc. If use of the written 'chat' function is to be utilised during the meeting, make sure that all participants are mindful that anything noted in the chat section, will be captured by the note taker after the meeting as part of the record of the meeting. In the event of any Subject Access Request, the 'chat' has to be included in the information provided.
Meeting etiquette	If you are chairing the meeting/hearing establish basic rules at the start. These should include: • Everyone should be on mute unless speaking • Raise a hand if need to make a point • The note taker should be off camera after introductions • Everyone else to keep cameras on unless there are connectivity issues • The meeting cannot be recorded either through MS Teams or other devices e.g. mobile phones • Clarify what participants should do if they lose connection or are unable to hear during the meeting (e.g. post a note in the 'chat', email or call the Chair, etc.) • If an adjournment is required everyone will leave the meeting and return at an agreed time

	Note: If the meeting is such that an adjournment is necessary, a separate meeting should be arranged so that all participants may meet, outside of the main meeting. Prepare and share a proposed **running order/schedule** for the meeting/hearing so that everyone understands when it will be their turn to speak or answer questions.
Progress of meeting/hearing	You may have to **adapt** how the meeting/hearing progresses to take account of the remote circumstances. Outline to and agree with the employee at the start if you are likely to deviate from the normal procedural format. If all parties are agreeable, you can confirm that the employee will be **notified in writing** of the outcome within the timescale specified in the policy. Otherwise, reconvene the meeting by calling the employee, and companion if they have one, back at a specified time.