



MODEL APPEALS PROCEDURE FOR ACADEMY TEACHING AND SUPPORT STAFF

**This HR Policy has been adopted by the Governing Body of each of the
ATOM schools prior to conversion, and is implemented from 1 April 2015**

**Issued August 2011 (updated August 2012)
For re-adoption and implementation from September 2012**

1. Policy Statement

- 1.1** Governing bodies of Academies have a obligation to adopt formal policies and procedures for dealing with staffing matters. The purpose of this procedure is to ensure that the proceedings at appeals hearings are conducted in an orderly and impartial fashion offering both parties an opportunity to present their cases to the Appeals Panel of the Governing Body.
- 1.2** This procedure is therefore recommended by Education HR for adoption by the Governing Body and following its adoption, the procedure must be made known to all Academy staff and remain accessible to them.
- 1.3** The appeals procedure will be applied to the following Academy staffing procedures: Disciplinary Procedure; Grievance Procedure; Capability Procedure; Ill Health and Sickness Related Absence Management Policy and Procedure.
- 1.4** It is important to read this procedure in conjunction with any guidance notes.

2. Who does this policy apply to?

- 2.1** This policy, as adopted by ATOM applies to all staff at ATOM in respect of their rights of appeal under the following policies and procedures:

- Grievance
- Disciplinary
- Flexible working
- Flexible and age retirement
- Capability
- Dignity at Work
- Ill Health and Sickness Related Absence Management

- 2.2** This policy, as adopted by ATOM will be made known to all staff and remain accessible to them.

- 2.3** This policy applies to all staff employed at the Academy unless they fall into one of the categories listed in paragraph 3 below.

3. When does the policy not apply?

This policy does not apply to the following policies and procedures:

- Redundancy
- Pay progression for teachers
- Job Evaluation for support staff
- Overpayments

Academy staff wishing to appeal outcomes and/or decisions arising from the procedures above need to follow the procedure outlined in each relevant policy.

4. The Appeals Process

- 4.1** An employee may lodge an appeal in writing against any formal action taken against them under the procedures listed at 2.1 to the Clerk to the Governing Body within 5 working days of the date on which they receive the confirmation of the action.
- 4.2** The letter of appeal from the employee should state the reasons for appealing from one of the three below:
- the employee disagrees with the sanction;
 - it is alleged that the procedure leading to the sanction has been applied defectively or unfairly;
 - new evidence has come to light which was not available at the hearing and which may make a difference to the original decision;
- 4.3** The appeal will be heard by the appeals panel of the Governing Body as soon as possible after receipt of the request and will not include any member of, nor comprise of fewer members than, the Staffing Panel which made the decision which is the subject of the appeal. The Governing Body may call upon an Education HR Advisor to be in attendance in an advisory capacity only. Care should be taken to ensure that no member of the governing body should sit on an appeals panel if they have a direct interest in the matter
- 4.4** Evidence presented to the appeals committee must relate to any of the three reasons stated in paragraph 4.2 above and must enable the assessment of whether or not the allegations against the employee were accurate, justified and substantiated and whether the action was appropriate in all the circumstances. The appeal may either be a review of the sanction or a re-hearing depending on the grounds of the appeal. Parties to the hearing may prepare a written statement of their cases which will be circulated to all parties in advance of the hearing.
- 4.5** A copy of this procedure will be circulated to all the parties.

5. Notification of Appeal Hearing

- 5.1** The Clerk to the Governors is normally responsible for the arrangements for formal hearings before the appeals committee within 10 working days of the receipt of the appeal. This includes notifying employees in writing of such hearings, giving at least 5 working days' notice, and informing them in writing of their statutory right to be accompanied at the meeting by a workplace colleague or trade union representative.
- 5.2** An exchange of all documents expected to be referred to at the hearing should take place at least 48 hours before the hearing, paying particular attention to any new evidence that is going to be introduced.

- 5.3** The Academy will make provision for any reasonable adjustments to accommodate the needs of a person with disabilities at the meeting. The Academy needs to be informed of requirements at least 48 hours before the hearing.
- 5.4** If their chosen companion cannot attend, an employee may offer a reasonable alternative time within 5 days of the original date, unless mutually agreed otherwise.

6. Minutes

- 6.1** Notes of the hearing should be taken by a Clerk to the Governing Body or another suitable person as arranged by the Academy and are retained as confidential to the members of the panel. Copies of the notes on the outcome only will be circulated to all parties as soon after the meeting as practicable. The Clerk does not take any other part in the formal process.

7. The Appeal Hearing Agenda and proceedings

7.1 Introductions

- The Chair of the Panel will call in all the parties, introduce the Panel members and states the purpose of the Panel.
- The Chair will then ask who presents the case for each party and how many witnesses are to be called.
- The Chair will explain the role of the accompanying person (if present). If there is no accompanying person present the Chair must establish whether the employee understands their right to be accompanied and that they wish to proceed.
- The Chair will outline the sequence of events so all understand what to expect.
- The Chair confirms that everyone has copies of relevant documents.

7.2 Presentation of the Head teacher / Principal's case

- The Head teacher / Principal (or her/his representative) will present the case in the presence of the employee and her/his representative and may call witnesses.
- The employee (or her/his representative) will have the opportunity to ask questions of the Head teacher / Principal on the evidence given by her/him and any witnesses whom s/he may call.
- The Panel members may ask questions of the Head teacher / Principal, her/his representative and witnesses.

7.3 Presentation of the employee's case

- The employee (or her/his representative) will put the case in the presence of the Head teacher / Principal and her/his representative and call such witnesses as s/he wishes.
- The Head teacher / Principal (or her/his representative) will have the opportunity to ask questions of the employee and her/his witnesses.
- The Panel members may ask questions of the employee, her/his representative and her/his witnesses.

7.4 Final Statements

- The Chair invites the head teacher / Principal (or her/his representative) to sum up their case if they so wish.
- The Chair invites the employee (or her/his representative) to sum up their case if they so wish.

7.5 Withdrawal

- The Chair will then ask the Head teacher / Principal (and her/his representative) and the employee (and her/his representative) to withdraw. The Clerk and the Education HR Advisor remain.
- **The Panel will consider the case in private, with the Education HR Advisor, only recalling the parties to clear points of uncertainty on evidence already given. If a recall is necessary both parties are to return even if only one is concerned with the point giving rise to doubt.**

7.6 Decision

- The Chair of the panel recalls both sides
- The decision will be announced at the close of the hearing whenever possible. The Chair of the appeals panel will confirm the decision, with reasons, in writing within 24 hours of the hearing.
- The decision can be confirmation or overturning of the original decision, or the issue of a lesser penalty.
- The decision at appeal stage is final

8. Equalities Impact Assessment

This policy has had an equality impact assessment conducted by a joint equality impact assessment panel and the results of these assessments are published on the Wiltshire Council website. If on reading this procedure you feel there are any equality and diversity issues, please contact an Education HR Advisor who will, if necessary, ensure the policy/procedure is reviewed by the HR Policy Team.