

## **Appeals against Dismissal Procedure**

### **1. Application**

- 1.1 The procedure applies to any member of the University of Manchester Conferences Ltd (UMC Ltd) (“the company”) staff that wish to exercise the right to Appeal to the UMC Board of Directors against a decision to terminate her/his employment under the terms of the relevant Disciplinary and Dismissal procedure.
- 1.2 It can also be invoked by any member of staff who wishes to Appeal against a decision to terminate her/his employment under the terms of any current policy on sickness absence as well as a decision to terminate an employee’s employment as a consequence of long term sickness where an employee is not eligible, or does not wish to apply, for an ill health pension.
- 1.3 In all cases the only redress an employee can seek under the procedure is reinstatement to the employment of UMC Ltd. In the case of a dismissal under the Disciplinary and Dismissal procedure, this will normally be to their previous job.
- 1.4 The procedure also represents the only means within UMC Ltd by which an individual aggrieved about a decision to dismiss her/him can seek redress.

### **2. Making an Appeal**

- 2.1 An Appeal against a decision to dismiss an employee must be received in writing by the UMC-designated Human Resources Partner, no later than ten working days after the date of the letter confirming the decision to terminate her/his employment.
- 2.2 The letter notifying the wish to Appeal can be submitted by either the employee or the colleague or trade union representative acting on her/his behalf. It must contain the grounds on which the Appeal is based and, where relevant, notification of who will be representing her/him at the hearing. The Appeal will be referred to and considered by the UMC Ltd Board of Directors in conjunction with the University of Manchester’s Registrar and Secretary.
- 2.3 Grounds for submitting an Appeal can be based on either grounds of procedure and/or grounds of substance (i.e. that the decision to dismiss was not reasonable). In either case the letter should state clearly the grounds on which the Appeal is made and contain as much detail as possible.

2.4 Where the grounds for Appeal are not submitted by one week prior to the date of an Appeal Hearing (see 4. below) the Hearing will be cancelled and the Appeal disqualified. However, should the employee subsequently produce a justifiable and significant reason for not submitting grounds, such as illness or a sudden unforeseen domestic crisis involving the death or serious illness of their partner or a member of their family, then the ability to Appeal will be reinstated. In these circumstances the employee may be required to produce substantial evidence of the reason.

### **3 Constitution of Appeals Panel**

3.1 A Panel will be convened as soon as possible and not normally later than six weeks after the date on which an Appeal is submitted. The composition of the Panel will be agreed by the Registrar and Secretary in conjunction with a senior member of Human Resources, and will be comprised of two senior University staff, one of whom should be a member of the UMC Ltd Board of Directors, alongside an appointed member of Human Resources who, without having any previous involvement with the case, will advise the panel in matters of employment policy, procedure and law. The appellant will be given at least ten working days' notice of the date of the Appeal Hearing.

### **4 Submission of papers**

4.1 Papers associated with the case will be prepared and distributed by Human Resources not later than one week before the Panel is due to meet. Copies will be circulated to members of the Panel, the appellant and the trade union official or colleague representing the employee.

### **5 Meeting of the Panel and consideration of the case**

5.1 The Panel will invite the person who made the decision to dismiss to appear at the Hearing along with their Human Resources advisor from that hearing.

5.2 The appellant and her/his representative will also be invited to the Hearing to set out the grounds for Appeal in person at the meeting. (The representative must be a current employee or a trade union representative).

5.3 The normal format of the Hearing will involve the person who made the decision setting out the basis on which she/he reached a decision to dismiss the individual followed by the appellant and/or his representative setting out the basis for the Appeal.

5.4 Panel members will also put questions to either party and equally give them the opportunity to question each other on their submission. Both parties will also be given the opportunity to summarise their respective cases. The employee and her/his representative will be given the opportunity to summarise their case last.

- 5.5 The Panel's role is to decide whether terminating the individual's employment was within the *reasonable* range of management responses in the circumstances. It is not the Panel's role to re-hear the case. As such, none of the witnesses called at the original Hearing will be called again and no new or additional evidence will be considered by the Panel that was not available at the original Hearing except when new evidence that was unavailable at the time of the original Hearing may have had some bearing on the outcome (see (6.1) iv. below).
- 5.6 However, if an Appeal Panel subsequently judges that the grounds for an employee's witness not being available at an original Hearing were reasonable or that the grounds for a witness not being called by the company were unreasonable, then it can order a re-Hearing in accordance with 6.1 (iii.) below.

## 6. The Panel's decision

- 6.1 The Panel's decision represents the final channel of appeal for the individual within UMC Ltd. The possible range of decisions is as follows:
- i. Uphold the Appeal and reinstate the employee on the basis that the decision to dismiss was not within the range of *reasonable* management decisions. In these circumstances the Panel can decide that no form of disciplinary action was appropriate or replace the penalty of dismissal with a lesser disciplinary penalty under the relevant disciplinary procedure.
  - ii. Uphold the original decision to dismiss.
  - iii. If the Panel judges that there were breaches of procedure associated with the original disciplinary proceedings, then it can order the case to be re-heard by an appointed senior University staff member nominated by the Registrar and Secretary, who has had no previous involvement with the case. (This does not prevent the employee from submitting a further Appeal if she/he is dismissed again.) In this event the employee will be regarded as being suspended on full pay from the date of the original hearing until the date of the second hearing.
  - iv. If the Panel judges that new evidence is now available that for good reason was unavailable at the time of the original hearing and which may have had some bearing on the outcome, a re-hearing can be ordered in accordance with 6.1 (iii.) above. Equally, if relevant evidence was available at the time of the original Hearing, but was not considered, a re-hearing can also be ordered.

## **7. Failure of the Appellant/Representative to appear at the Hearing**

- 7.1 In the event that the appellant fails to appear at the Hearing without prior notification and/or without substantial reason, then the Panel will consider the case in her/his absence.
- 7.2 In the event that the appellant is unable to attend the Hearing and submits substantial reasons to the Panel (via the UMC-designated Human Resources Partner) for non-attendance in advance, then the Hearing will be rearranged.
- 7.3 If the appellant fails to appear on a second occasion without prior notification, then the Hearing will proceed in her/his absence regardless of the reason. However, should the employee subsequently produce a substantial and significant reason for non-attendance such as a sudden unforeseen domestic crisis involving the death or serious illness of their partner or a member of their family, then a re-Hearing will be arranged with a different Chair. In these circumstances the employee will be required to produce justifiable evidence of the reason. The original proceedings would be declared null and void.
- 7.4 If the applicant does provide prior notification to the Panel (via the UMC-designated Human Resources Partner) on the second occasion, the Panel will judge whether the grounds for non-attendance are reasonable before deciding whether proceed in her/his absence or to rearrange the Hearing for a final time.
- 7.5 The availability of the appellant's representative will be taken into account in arranging a date for the appeal hearing. If the representative fails to appear at the hearing or withdraws her/his availability for any other reason, then the hearing will again be rearranged taking due account of her/his availability.
- 7.6 Should she/he fail to appear or withdraw her/his availability for the second date, then the Panel will proceed in considering the case in her/his absence. In these circumstances it will be the appellant's decision whether or not he wishes to appear at the Hearing and make her/his own case in the absence of a representative.

## **8 Notification of the Panel's decision**

- 8.1 The Panel will notify its decision to the UMC-designated Human Resources Partner either on the day of the Appeal or, if that proves unfeasible, the next working day.
- 8.2 On the same day that he/she is notified, the UMC-designated Human Resources Partner will write to the appellant informing her/him of the decision. The appellant's former head of departmental unit and the trade union representative will be notified at the same time. (If an employee is represented by a trade union official, then a member of Human Resources will attempt to provide advance notification of the outcome to the official by telephone).

- 8.3 Where the decision is to uphold the Appeal and reinstate the appellant, then the individual will be notified of the date on which to return to work. Immediate action will also be taken to reinstate salary payment for the period since the date of dismissal.
- 8.4 The Appeal Panel will also prepare a short report on its deliberations and the Chair will normally submit this to the UMC-designated Human Resources Partner within two weeks of the date of the Hearing. In all cases a copy of the report will be forwarded to the appellant and her/his representative at the earliest possible date and normally within two weeks.

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