



Department  
for Education

# **Managing appeals against pay determination**

**Departmental advice for local authorities,  
maintained schools, academies and free  
schools**

**June 2014**

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# Summary

## About this departmental advice

This is departmental advice from the Department for Education. This advice is non-statutory, and has been produced to give advice to schools and local authorities to appropriately manage pay decision appeals.

## Expiry or review date

This advice will be kept under review and, if necessary, updated in the light of future School Teachers' Review Body (STRB) reports.

## Who is this advice for?

This advice is for:

- Local authorities
- School leaders, school staff and governing bodies in all maintained schools, academies and free schools.

# Managing Appeals against Pay Determination

## Background

1. Teachers have the right to raise formal appeals against pay determinations if, for example, they believe that the person or committee by whom the decision was made:
  - a) incorrectly applied the school's pay policy;
  - b) incorrectly applied any provision of the STPCD;
  - c) failed to have proper regard for statutory guidance;
  - d) failed to take proper account of relevant evidence;
  - e) took account of irrelevant or inaccurate evidence;
  - f) was biased; or
  - g) unlawfully discriminated against the teacher.

## Existing requirements

2. The School Teachers' Pay and Conditions Document (STPCD) requires schools and, in relation to unattached teachers, local authorities, to have a pay policy in place which sets out the basis on which they determine teachers' pay, and to establish procedures for determining appeals.
3. Hearings and appeals against pay decisions must meet the requirements of employment law, in accordance with Part 4 of the Trade Union and Labour Relations (Consolidation) Act 1992 (as amended). In basic terms, these provide that employers and employees should follow the ACAS Code of Practice No. 1 – "Disciplinary and Grievance Procedures"

## Support for school leaders and governors

4. It is important that school leaders and governors are well supported in managing pay and appeals processes. The Department recommends that governing bodies seek Human Resource (HR) advice to guide them in exercising their judgement; and reinforce the need for minuted, auditable decisions on pay and appeals processes. HR advice should be available if needed during any formal hearings, or as soon afterwards as is reasonably practicable and before any decision is confirmed. The HR provider should be familiar with the duties placed on schools by the Equality Act 2010, the ACAS Code of Practice and relevant case law concerning pay grievances and equal pay claims. Schools should regularly review their choice of HR provider to ensure that it is competent in these areas.

5. Schools should ensure that an appeals procedure is in place before any pay determinations are made. The adoption of an appeals procedure after a pay appeal has already been lodged could leave schools open to legal challenge. An appeals policy should have clear timescales which are reasonable in all circumstances, make allowances for school holidays, but allow appeals to be expedited in good time.

## **Example of a pay appeals procedure**

6. What follows is intended as a guide as there is no statutory process for schools to follow in terms of hearing pay appeals. A key aspect of the process is the opportunity for a teacher to discuss a pay recommendation prior to it being confirmed by the governing body. This stage in the process will help to ensure that pay decisions and pay policies are seen as transparent and fair. The opportunity to discuss a pay decision before it is made may also mitigate the need for the more formal stages two and three.

### **Stage one – informal discussion with the appraiser or headteacher prior to confirmation of pay recommendation**

i. a teacher who is dissatisfied with a pay recommendation has the opportunity to discuss the recommendation with the appraiser or headteacher before the recommendation is actioned and confirmation of the pay decision is made by the school.

### **Stage two – a formal written appeal and representation hearing with the person or governors' committee who made the determination;**

ii. If, having had an informal discussion, the member of staff believes that the wrong decision has been reached, he/she may follow a formal appeal process. To begin the process the teacher should submit a formal appeal which is sent to the person (or governors' committee) who made the determination, setting down in writing the grounds for questioning the pay decision (see paragraph 1 above);

iii. The teacher is given the opportunity to make representations at a formal meeting with the person (or governors' committee) who made the determination, at which the appeal is considered;

### **Stage three – a formal appeal hearing with an appeals panel of governors**

iv. Should an agreed outcome not be reached the teacher can have a further appeal hearing before an appeals panel of governors;

v. In the hearing before governors, both the teacher and the management representative will have the opportunity to present their evidence and call witnesses, and to question each other. The panel is permitted to ask exploratory questions – **Annex A** sets out how an appeal hearing might be run;

vi Having heard the appeal, the panel must reach a decision, which it must relay to the teacher in writing, including their rationale for reaching the decision. The appeal panel's decision is final and, as set out in Section 3, paragraph 6 of the STPCD, there is no recourse to the general staff grievance procedure.

## **Appeals hearings panels**

7. It is recommended that the panel which hears pay appeals should comprise three governors who were not involved in previous discussions regarding the teacher's pay determination. Governors on appeals panels should be familiar with the school's pay and appraisal policies. To ensure that appeals are properly considered, governing bodies should consider any training needs their members have, including in duties placed on the school by the Equality Act 2010 and the ACAS Code of Practice (Disciplinary and Grievance Procedures).

8. Teachers appealing pay decisions are legally entitled to be accompanied by a colleague or representative from a trade union.

9. Pay appeals should be formally clerked and a note of proceedings should be produced.

# Appendix A: Possible Pay Panel Hearing Procedure

A suggested procedure for the conduct of formal hearings:

## Introductions

- Chair introduces everyone, what their role is, and then outlines the order of the hearing.
- HR clerk takes notes of the hearing.

## The employee case

- Employee or their representative presents employee case providing any evidence to support their case including from witnesses (if any).
- Management representative has the opportunity to question the employee.
- Chair asks questions and subsequently opens the discussion to the panel.

## The management case

- Management representative presents management case, providing any evidence to support their case and any witnesses.
- Employee or their representative has the opportunity to question the management representative.
- Chair asks questions and subsequently opens the discussion to the panel.

## Summarising and end of hearing

- Employee or their representative sums up the employee case.
- Management representative sums up the management case.
- If appropriate, the Chair can sum up the key points on both sides.
- Chair will then end the hearing, advising the employee that they will receive the panel's decision in writing within a given timescale.

## Decision-making

- Panel meet to reach their decision.
- HR clerk notes main points of panel discussion and their decision.
- Panel obtains HR advice if required to inform their decision-making.

## Communication of decision

- Employee is notified of decision.
- Decision and reason for the decision confirmed in writing.

## Further information

### Useful resources and external organisations

- [ACAS](#)

### Other relevant departmental advice and statutory guidance

- [Interim School Teachers' Pay and Conditions Document 2014](#)
- [Reviewing and Revising School Teachers' Pay](#)





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