Job Holders’ Guide

to the

Performance and Development Review Scheme

Appeals Process
## Appeals Process

### Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Introduction</td>
<td>3</td>
</tr>
<tr>
<td>2. Right of Appeal</td>
<td>3</td>
</tr>
<tr>
<td>3. The Appeals Process</td>
<td>4</td>
</tr>
<tr>
<td>Stage 1 – Local Management</td>
<td>4</td>
</tr>
<tr>
<td>Stage 2 – Mediation</td>
<td>6</td>
</tr>
<tr>
<td>Stage 3 – Independent Review Panel</td>
<td>7</td>
</tr>
<tr>
<td>4. Administrative Support</td>
<td>10</td>
</tr>
<tr>
<td>5. Issues to consider following an appeal</td>
<td>10</td>
</tr>
<tr>
<td>6. Exception for Job Holders without a Countersigning Manager</td>
<td>10</td>
</tr>
<tr>
<td>7. Exception for Job Holders of Open Structure Grades 5 and 6</td>
<td>10</td>
</tr>
<tr>
<td>8. Annex A – Appeals Mediation Form</td>
<td>11</td>
</tr>
<tr>
<td>10. Annex C – Independent Panel Hearing Form</td>
<td>14</td>
</tr>
</tbody>
</table>
1. Introduction

This section sets out the appeals process for the Job Holder at each of the 3 stages of the process. The process is intended to be fair, consistent and transparent throughout.

2. Right of appeal

2.1 Where a Job Holder is unable to agree with their Reporting Officer, the individual rating of an, objective, competency or an overall performance assessment rating they are entitled to appeal against the Reporting Officer’s assessment using the process set out below. Please note that the rating of objectives, competencies and overall assessment are the only areas covered by the appeals process.

2.2 Any related grievances will continue to be dealt with under the existing Civil Service Grievance Procedure as set out in the Civil Service Regulations. If, at the end of the appeals process, you are unhappy with the way it has been handled, you can use the Grievance Procedure to examine this further.

2.3 There are three stages to the process: reconsideration by the Reporting Officer and Countersigning Officer; mediation by an independent third party; and a full hearing by an Independent Review Panel.

2.4 A Job Holder is entitled to be accompanied/represented at each stage of the process by a friend, colleague or staff association representative.

2.5 It may become apparent that there are aspects to the appeal that the process cannot address, for example potential employee relations issues such as working relationships between a Job Holder and Reporting Officer. The appeals process can only rectify an objective rating, competency rating or overall performance rating decision and any party should contact the Office of Human Resources for specific advice immediately if they feel there are wider aspects to be considered.
3. The Appeals Process

3.1 Stage 1 - Local Management

Where a Job Holder disagrees with their assessment they should, in the first instance, request in writing to their Reporting Officer (copied to the Countersigning Officer) to reconsider it. They must do this within 5 working days (where practicable) of being notified of the outcome of their assessment. They may request reconsideration even if they initially agreed to the assessment.

Upon receipt of the request for reconsideration, the Reporting Officer together with the Countersigning Officer should, again where practicable, arrange to meet with the Job Holder within 5 working days, with a view to trying to reach agreement.

The Reporting Officer must notify the Job Holder in writing of their decision within two working days of the meeting held to reconsider the assessment.

3.2. Process

3.2.1 Raising an appeal

As there are 3 stages to the appeals process, you will have 3 opportunities if required to support your case by providing information verbally.

For the 1st stage you request a review in writing.

You need to send the written request to your Reporting Officer and copy it to your Countersigning Officer. You can appeal against a decision even if you originally agreed to it, but try to do this where possible within 5 working days. If you feel you need support contact a staff association representative or other person as soon as possible. They can help you prepare your side of what has occurred and can assist you through all stages of the process if necessary.

In appealing against a decision, it is recommended you compile and submit the following information to the Reporting Officer and Countersigning Officer at the earliest opportunity:

- A copy of the job description
- A copy of the Performance and Development Review (PDR) form in dispute
- The grounds for your appeal
- Copies of all paperwork relating to the PDR period in dispute
- Copies of the evidence you have used to support your assessment of performance

Additionally you may wish to include a written statement of the situation, as you understand it.

3.2.2 Preparing for an Appeal

The first stage of the appeals process is relatively informal. However if you intend to appeal it may be useful to prepare your case at the outset, so it is clear throughout what you are trying to say.

Grounds for your appeal should be clearly set out. For example, if you feel that a competency achievement level has not been assessed correctly you could:

- Look at the definition of the competency rating you feel is correct, i.e. effective or highly effective; and
At each relevant behavioural indicator for the relevant competency, give an explanation with supporting evidence of how you feel you are effective or highly effective at the appropriate level of the competency.

Think of the broader issues. Was there an issue affecting you reaching the higher level, which you feel has been emphasised too much? Give an explanation of this.

You may feel that the assessment has been wrong because your Reporting Officer has had unfair expectations of the process. For example, they have asked for evidence, which is too difficult to find. Give an explanation of why you think this is the case and what you think would have been a reasonable alternative. However, interim reviews should resolve such issues if used correctly.

If you have tried to highlight problems such as gathering evidence during the PDR period, include instances of how you have tried to discuss this with your Reporting Officer for example at interim review meetings.

Please note that all of this information will be helpful at every stage of the appeals process, and will help clarify the issues throughout. It will also show that you have a structured well thought out approach to the matter in dispute.

3.2.3 The Appeal Meeting

In most cases you will provide the verbal information required, however you can ask a representative to handle your case on your behalf. In some cases you may wish other people to give evidence, although in most cases this is unlikely to be necessary.

At the first stage, and at each subsequent stage, you will be asked to give your side of the dispute and you will need to make clear:

- Why you are appealing against a decision
- What the reasons are for the appeal
- What evidence you have to support your stance

You can refer to any written/paper submissions you have made to emphasise your points, and the areas you consider to be the most important and meaningful.

3.2.4 Outcome

When Stage 1 of the appeals process is completed you will be notified of the outcome by your Reporting Officer within 2 working days of the meeting.

If you have any queries about the outcome communicated to you, you should contact your Reporting Officer at the earliest opportunity for a full explanation.

You will then have 5 working days to decide whether you want to progress to the 2nd stage of the process. You should carefully consider the decision to move to the 2nd stage, reflecting on whether there is anything you can add, make clearer or revise to support your case.
3.3 **Stage 2 - Mediation**

If agreement cannot be reached at Stage 1, the Job Holder is entitled to progress their dispute to Stage 2 of the appeals process (Mediation). To do this, they must complete the **Appeals Mediation form** – attached at Annex A and send it via their Reporting Officer to the Office of Human Resources. The form must be sent within 5 working days (where practicable) of receiving notification of their Reporting Officer’s decision following the Stage 1 hearing.

A Mediator will be drawn from the bank of Appeals Officers who are eligible to sit on the Independent Review Panel (see section 3.6 below). The Mediator selected will not be from the same Department as the parties concerned, both of whom should give their concurrence to the appointment. The meeting should take place at a neutral venue. A list of Appeals Officers is attached at Annex B.

This stage takes the form of a meeting of the parties (i.e. the Job Holder together with their representative (if any), their Reporting Officer and their Countersigning Officer) with a Mediator who would endeavour to find common ground that is agreeable to each of the parties concerned. It will be clear to all parties at the meeting whether an agreement has been reached and the Mediator will report this to the Office of Human Resources.

The Mediator at Stage 2 of the appeals process is ineligible to sit on the Independent Review Panel for Stage 3 of the same appeal.

Records will be held centrally by the Office of Human Resources regarding the effectiveness of mediation (i.e. the number of requests received, time spent, outcome etc.)

3.4 **Process**

3.4.1 **Raising Stage 2 of an Appeal**

To instigate the 2nd stage of the process you must complete part 1 of an **Appeals Mediation Form**, and submit it, via your Reporting Officer, to the Office of Human Resources. Your Reporting Officer will complete part 2 of this form and then supply you with a copy. This should be submitted, where practical, within 5 working days of a decision at Stage 1 being notified.

3.4.2 **Preparing for Stage 2**

In order to prepare for Stage 2 of the appeals process you should refer to your preparation for Stage 1, adding any additional information you may have identified to make clearer, revise or support your case.

Please refer to 3.2.2 for further details on the preparation carried out at Stage 1.

3.4.3 **The Mediation Meeting**

As in Stage 1 the Mediation meeting is relatively informal and the Mediator’s role is to find common ground and enable all parties to reach an agreement.

As in Stage 1 you will need to make clear:

- Why you are appealing against a decision
- What the reasons are for the appeal
- What evidence you have to support your stance
Remember that you can refer to any written/paper submissions you have made to emphasise your points, and the areas you consider to be the most important and meaningful.

3.4.4 The Outcome

At the end of the Mediation meeting it should be clear whether an agreement has been reached. The Mediator will then confirm the decision to you and all other parties involved in writing via the Office of Human Resources. It should state the reasons for the decision made and any additional recommendations, which have been made.

If you have any queries about the outcome communicated to you, you should contact the Mediator at the earliest opportunity for a full explanation.

If agreement has not been reached you then have a further 5 working days from receipt of the mediation outcome letter to decide whether to progress to the 3rd stage – an Independent Review Panel. Having received the outcome at each stage, you should carefully consider the decision to move to the next stage. In particular, again, is there anything you can add, make clearer or revise to support your case?

3.5 Stage 3 - Independent Review Panel

If the dispute cannot be resolved at Stage 2, the Job Holder can proceed to Stage 3 of the appeals process. To do this, the Job Holder must complete the Independent Review Panel Hearing form and send it to the Office of Human Resources within 5 working days of receipt of the mediation outcome letter.

This stage involves a more formal review hearing before a specially appointed panel. Hearings will take place at a neutral venue and all parties are entitled to be present throughout the hearing and to give both oral and documentary evidence. Parties will be sent written notice of the date, time and place of the hearing at least 5 working days beforehand by the Office of Human Resources.

3.6 Constitution of the Independent Review Panel

Each review panel will consist of 3 officers, including a Chairperson and no member of the panel will be employed in the same Department as the Job Holder, nor will have been involved in mediation at Stage 2 of the appeals process.

Panel members will be drawn from a pool of senior civil servants each of whom will be required to:

- have been trained in PDR assessments; and
- be familiar with relevant employment law (for example, human rights, equal opportunities and sex discrimination).

The pool of Appeals Officers comprises of approximately 30 civil servants.

3.7 Procedure at Independent Review Panel Hearings

3.7.1 Prior to the hearing, copies of the relevant documents will be supplied to each member of the panel and may include:

- a copy of the Job Holder’s job description
- copies of any recent PDR paperwork;
- copies of any discussion notes and exchanges of correspondence relating to the appeal
• any written submission(s) the Job Holder and/or Reporting Officer may wish to make.

(This list is not exhaustive and any other relevant information will also be forwarded to the Panel).

3.7.2 All parties are entitled to give evidence at the hearing, though the order in which it is given will be at the Chairperson's discretion and it is the role of the Chairperson to ensure the principles of “fair play” and natural justice are observed.

3.7.3 During the hearing the panel will be entitled to ask such questions of the parties as it considers necessary.

3.7.4 The panel is empowered to call upon such expertise as it may consider necessary.

3.7.5 It will be the responsibility of the Chairperson to ensure that the parties have been given sufficient opportunity to give all of their evidence before closing the hearing.

3.7.6 Either party to the appeal can ask for an adjournment, which may or may not be granted at the Chairperson's discretion. The panel may also of its own volition, decide to adjourn an appeal if relevant evidence is not available at the hearing.

3.8 Decisions of Independent Review Panels

3.8.1 A majority decision of the Panel will be valid and binding on all parties. The Independent Review Panel stage (the 3rd stage) of the appeals process is the final one and there will be no other forum to have the decision further reviewed.

3.8.2 If the panel concludes that a Reporting Officer's assessment of an objective, competency or overall rating was too low, its higher assessment will take effect from the same date as the assessment being appealed against would otherwise have taken effect.

3.8.3. If the panel concludes that a Reporting Officer's assessment of an objective, competency or overall rating is too high, the panel is empowered to remove any enhancement to the previous level.

For example, if a Job Holder was previously assessed as “working towards” a particular competency and had now been awarded an “effective” competency rating during the appeals process, but had appealed to the 3rd stage because they believed they were “highly effective” in the competency, the Independent Review Panel could over-rule the “effective” award and revert the Job Holder back to “working towards”.

However, it would not be empowered to substitute a competency level which was lower than that previously held, i.e. if a Job Holder has been originally assessed as being “effective” in a competency but had appealed through the process because they believed they were “highly effective” in the competency, the Independent Review Panel could not revert them to “working towards” a competency.

3.8.4 Decisions of the Panel will be communicated to all parties in writing as soon as practicable after the hearing. All decisions will be recorded centrally by the Office of Human Resources and made available for inspection by the monitoring team.
3.9  **Levels of Evidence**

The levels of evidence required at an appeal hearing will be the same as those required during the Performance and Development Review Scheme process. All evidence should be submitted prior to the hearing and no new evidence should be produced at the hearing except in exceptional circumstances.

3.10 **Process**

3.10.1  **Raising Stage 3 of an Appeal**

To instigate the 3rd and final stage of the process you must submit an **Independent Review Panel Hearing Form** attached at [Annex C](#) via your Reporting Officer to the Office of Human Resources. Your Reporting Officer will complete part 2 of this form and then supply you with a copy. This should be submitted, where practicable, within 5 working days of receipt of the mediation outcome letter at Stage 2.

3.10.2  **Preparing for Stage 3**

In order to prepare for Stage 3 of the appeals process you should refer to your preparation for Stages 1 and 2, adding additional information you have identified to make clearer, revise or support your case.

Please refer to 3.2.2 for further details on the preparation carried out at Stage 1, which was also used as an approach to Stage 2.

3.10.3  **The Independent Review Panel Hearing**

The 3rd stage of the appeals process is more formal and the final decision at this last stage will rest with the Independent Review Panel, based upon the information submitted and discussions held during the hearing.

As in Stages 1 and 2 you will need to make clear:

- Why you are appealing against a decision
- What the reasons are for the appeal
- What evidence you have to support your stance

Remember that you can refer to any written/paper submissions you have made to emphasise your points, and the areas you consider to be the most important and meaningful.

3.10.4  **The Outcome**

At the end of the hearing the decision of the Independent Review Panel should be clear. The panel should explain this decision to you at the end of the hearing and confirm this in writing, via the Office of Human Resources. You should be made clear about the reasons for the decision that was made and any additional recommendations, which have been made.

If you have any queries about the outcome communicated to you, you should contact the Chairperson of the Independent Review Panel at the earliest opportunity for a full explanation.

You are reminded that, having exhausted the 3 stages of the appeals process you will not be able to have the decision further reviewed in any other forum.
However, if you are unhappy with the way an appeals process has been handled, you can use the Grievance Procedure to examine this further.

4 Administrative support

The Appeals process will be administratively supported by the Office of Human Resources but arrangements in respect of hearings and/or meetings will generally be made by the Mediator or Panel Chairperson.

5 Issues to consider following an appeal

After an appeal all parties should consider the situation carefully. Questions to be asked include:

- Is there anything that needs to change as a result of this process?
- How can the Office of Human Resources assist?

Appeals can be an important chance for the whole organisation to learn lessons about the way in which the process is implemented and how our people understand the way the process works. As such we should treat the appeals process as an opportunity to address the need for improvement.

All parties should treat the appeals process as an opportunity to address the need for change.

6 Exception for Job Holders without a Countersigning Officer

Where an organisational structure dictates that a Job Holder does not have a Countersigning Officer, they should bypass Stage 1 of this process and proceed directly to the Stage 2, Mediation stage.

7 Exception for Job Holders of Open Structure Grades 5 and 6

Stages 2 and 3 of the appeals process do not apply to Job Holders of Open Structure grades 5 and 6 (or their equivalent). In such circumstances, where any dispute cannot be resolved at Stage 1 (notwithstanding section 6 noted above), the next (and final) stage would be an appeal directly to the Civil Service Commission.

Where section 6 does apply a Job Holder would appeal directly to the Civil Service Commission without first referring to Stage 1.

In either instance where an appeal is made to the Civil Service Commission, it would be for the Commission to decide how best to handle the appeal. It may, for example, decide to appoint an independent expert to report/mediate.
Annex A

Request for mediation

Part 1 - To be completed by the Job Holder

1. Full name of Job Holder

2. Job Title and Grade (copy of Job Description to be attached)

3. Department/Board /Division

4. Date you were first notified of your latest objective/competency/overall performance rating

5. Date you were notified of the outcome of your request for reconsideration

6. State why you disagree with the rating (continue on an additional sheet or sheets, if necessary)

7. Signed ___________________________ Date ________________

NOW PASS THIS FORM TO YOUR REPORTING OFFICER TO COMPLETE PART 2 OVERLEAF
Annex A

Request for mediation

Part 2 - To be completed by the Reporting Officer

1. Full name of Reporting Officer

2. Job Title and Grade

3. Department/Board /Division

4. Date you first notified the Job Holder of their latest objective/competency/overall performance assessment

5. Date you notified the Job Holder of the outcome of their request for reconsideration

6. State why you consider the rating to be correct / why you disagree with the Job Holder’s grounds (continue on an additional sheet or sheets, if necessary)

7. Signed ___________________________ Date ________________

When complete -
• give a copy of this form to the Job Holder
• keep a copy for your own records
• forward the original in a sealed envelope to the Office of Human Resources, Learning and Organisational Development Division, Goldie House, 1-4 Goldie Terrace, Douglas.
Appeals Officers for the Performance & Development Review Scheme

DSC/DoH
Julia Kaye, Human Resources
David Ireland, SEO
Yvette Mellor, Director of Finance/Corporate Services

DHA
Simon Griffin, Director of Social Policy
Clare Porter, SEO
Mark Kelly, Chief Executive Officer

DoI
Phil Litherland, SEO
Rodney Christopher, SEO
Karen Scott, SEO

DED
Colin Kniveton, Chief Executive Officer
Neil Wilson, SEO

DEFA
Ken Kinrade, Chief Executive
Kim Harding, HEO

DCCL
Lynne Cain, HEO

DEC
Heather Christian, Director of Corporate Services
Mary Slater, HEO
Kim Corlett, HEO

Treasury
Andy Corcoran, Deputy Collector

MNH
Hilary Leece, HEO

OFT
David Oldfield, HEO

Chief Secretary’s
Alice Martin, Director of Performance and Delivery
David Corlett, SEO

Water Authority
Andrea Lillywhite, HEO

General Registry
Paul Coppell, SEO
Miriam Critchlow, Public Records Officer
Andy Wade, HEO

Attorney General's
Kath Quane, HEO
Appeal to the Independent Review Panel

Part 1 - To be completed by the Job Holder

1. Full name of Job Holder

2. Job Title and Grade (copy of Job Description to be attached)

3. Department/Board /Division

4. Date the hearing with a mediator took place

5. Date you received the letter detailing the outcome of Stage 2 (after mediation)

6. State why you disagree with the rating (continue on an additional sheet or sheets, if necessary)

7. Signed ___________________________ Date _______________

NOW PASS THIS FORM TO YOUR REPORTING OFFICER TO COMPLETE PART 2 OVERLEAF
Appeal to the Independent Review Panel

Part 2 - To be completed by the Reporting Officer

1. Full name of Reporting Officer

________________________________________________________________________

2. Job Title and Grade

________________________________________________________________________

3. Department/Board /Division

________________________________________________________________________

4. Date the outcome of Stage 2 was confirmed

________________________________________________________________________

5. State why you consider the rating to be correct / why you disagree with the Job Holder’s grounds (continue on an additional sheet or sheets, if necessary)

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

6. Signed _____________________________ Date __________________________

When complete -
• give a copy of this form to the Job Holder
• keep a copy for your own records
• forward the original in a sealed envelope to the Office of Human Resources, Learning and Organisational Development Division, Goldie House, 1-4 Goldie Terrace, Douglas.