

**SUPPORTING PERFORMANCE IMPROVEMENT PROCEDURE**

*This document applies to all staff however Managers should read in conjunction with: Supporting Performance Improvement Procedure Guidelines for Managers*

**1 INTRODUCTION**

The success of the University depends on the contributions from all our staff. We recognise that the majority of our staff meet or exceed the demands of their role. We will ensure that staff are aware of what is expected of them and will support them to achieve and maintain high standards of performance.

However, performance issues can and do arise. We are committed to ensuring that our staff are treated consistently, fairly and equally in these situations. Our procedure on has been developed in accordance with the ACAS Code of Practice on Disciplinary and Grievance Procedures (2015).

Managers will, where possible, seek to resolve performance issues informally.

Matters relating to performance will be dealt with as quickly as circumstances allow. Throughout the procedure, individuals concerned will be kept up to date with any new developments.

Performance matters will be treated in confidence at every stage of the procedure in accordance with the ACAS Code of Practice and data protection legislation.

The University reserves the right to start the formal procedure at any level depending on the seriousness of the performance issue, or where an earlier pattern of unacceptable performance has been established.

Individuals have the right to be accompanied by a trade union representative or work colleague throughout all stages of the procedure.

A flowchart of the overarching supporting performance improvement procedure is available in Appendix 1.

**2 OBJECTIVES OF PROCEDURE**

The main focus of this procedure is to support an employee to attain an acceptable level of performance.

The objective of this procedure is to provide a framework that:

- encourages a working environment where performance is managed positively and appropriately;
- encourages early informal resolution of issues;
- ensures that issues are managed sensitively, fairly and consistently.

**3 PROCEDURE****3.1 Informal Resolution**

It is our firm commitment to aim to resolve minor cases of unsatisfactory performance informally, as we recognise that these situations are usually best resolved using an informal approach.

Informal resolution may include:

- Case Conference with the relevant parties (HR, Trade Union, Manager)
- An informal conversation
- Identify coaching, mentoring or training needs

As soon as an individual's performance gives cause for concern, in the first instance the Line Manager will consult with the appropriate HR Representative and then arrange an informal meeting with the individual to explain and discuss the matter in a supportive manner.

Specific actions and timescales for improvement agreed as a result of the informal meeting will be documented and the individual will receive a copy. A template is available within the Guidelines: Supporting Performance Improvement.

The Line Manager and the individual will review progress against any specific actions over the term of the informal review period.

All relevant parties will work together throughout the informal stage in an effort to avoid formal stages of the procedure being initiated.

If informal action does not result in improved performance, or poor performance is considered too serious to be resolved informally, the formal procedure will be initiated.

Prior to moving to formal action under this procedure, the Line Manager should seek advice from an appropriate HR Representative to confirm that informal resolution has been unsuccessful. If the formal procedure is to be instigated, the Line Manager will advise the individual.

### **3.2 Formal Procedure**

The HR Representative must be consulted through all the formal stages of the procedure.

The Line Manager should be able to clearly demonstrate to the individual why the matter is progressing to the formal stage of the procedure, what support has been provided and examples of continued underperformance.

The formal procedure has three stages and is aligned to the University's Disciplinary Procedure.

### **3.3 Notification of Formal Proceedings**

Where the Line Manager has established the need for formal procedures, the individual will be invited to attend a Performance Hearing.

The individual will be provided with at least 5 working days' notice of the hearing and will be notified in writing of:

- The date, time and location of the hearing, along with the allegations that will be considered during the hearing
- The Manager responsible for the hearing
- Their right to be accompanied by a trade union representative or work colleague
- Their right to suggest any witnesses

- The possible outcomes as a result of the hearing

Prior to the hearing, the individual will receive a copy of any information/evidence relevant to the allegations.

Should the individual or their representative/work colleague have any written information that they wish to be considered at the hearing, they should submit this to [human.resources@uws.ac.uk](mailto:human.resources@uws.ac.uk) at least 2 working days in advance of the hearing.

### **3.4 The Performance Improvement Hearing**

An appropriate Manager will be appointed to hear the case, in accordance with our 'Authority to Take Action' guidance in Appendix 4.

The purpose of the hearing is to discuss the concerns and to:

- Clearly define the expected level of performance and the gap between that and the individual's performance.
- Explore possible causes of the unacceptable level of performance, review the support, if any, that has already been provided and investigate what other support can be provided.
- Provide the individual with an opportunity to present any facts and evidence.
- Set and agree a Supporting Performance Improvement Plan and agree how and when it will be monitored and reviewed.

Any formal action will reflect the seriousness of the performance issue and will either be:

- Level 1 – First Written Warning
- Level 2 – Final Written Warning
- Level 3 – Dismissal or Action Short of Dismissal

The Manager will carefully consider the evidence presented and determine the appropriate outcome. The outcome of the hearing will be confirmed in writing to the individual within 7 days of the hearing.

### **3.5 Level 1 – First Written Warning**

A first written warning will set out the nature of the performance issues, the details of the expected levels of performance and any available support, and will remain on the individual's record for 6 months, subject to satisfactory performance.

The individual will be notified of their right to appeal (please see section 4: Appeal).

During the period of the warning, regular review meetings will take place.

Unsatisfactory improvement or further breaches under this procedure may lead to a final written warning or dismissal if the issue is sufficiently serious.

#### **Review Meetings**

At the agreed review date(s) an assessment of progress will be undertaken at a meeting with all relevant parties. Dependent on progress, the range of outcomes are:

- The individual's performance has improved satisfactorily and no further formal action is required.

- The individual has made substantial improvement, but not to the full level required - the line manager can elect to extend the review period for a further agreed period of time.
- The individual has made little or no improvement - the matter will progress to the next level of the formal process.
- Alternatively, depending on the circumstances of the individual, other action such as redeployment to an alternative role may be considered.

### **3.6 Level 2 – Final Written Warning**

If the individual has a current warning about performance then unsatisfactory improvement or further performance issues may warrant a final written warning. This may also be the case where 'first offence' unsatisfactory performance is sufficiently serious, but would not justify dismissal.

A final written warning will set out the nature of the performance issues, the details of the expected levels of performance and any available support, and will remain on the individual's record for 12 months, subject to satisfactory performance.

The individual will be notified of their right to appeal (please see section 4: Appeal).

During the period of the warning, regular review meetings will take place.

Unsatisfactory improvement or further breaches under this procedure may lead to dismissal or action short of dismissal.

#### **Review Meetings**

At the agreed review date(s) an assessment of progress will be undertaken at a meeting with all relevant parties. Dependent on progress, the range of outcomes are:

- The individual's performance has improved satisfactorily and no further formal action is required.
- The individual has made substantial improvement, but not to the full level required - the line manager can elect to extend the review period for a further agreed period of time.
- The individual has made little or no improvement - the matter will progress to the next level of the formal process.
- Alternatively, depending on the circumstances of the individual, other action such as redeployment to an alternative role may be considered.

### **3.7 Level 3 – Dismissal or Action Short of Dismissal**

In reaching a decision to dismiss, prior careful consideration to other options including action short of dismissal such as demotion, redeployment to another role might be appropriate. The individual will be notified in writing of the appropriate sanction and the reason(s) for it.

If, however, dismissal is to proceed, the individual will receive a letter confirming:

- The reason(s) for the dismissal
- The date on which their employment will terminate
- Their right and arrangements for appeal (please see section 4: Appeal).

The Manager must ensure that they have taken advice from an appropriate HR Representative prior to confirming dismissal or action short of dismissal. This is to ensure procedures are appropriately adhered to and to advise managers on the equitable employment practice and consistency of approach.

An individual dismissed under this practice is entitled to their contractual notice. A decision will be made as to whether the individual will work their notice or be paid in lieu of notice. This decision should be made by giving consideration to the circumstances of the case.

#### **4 APPEAL**

The appeal process provides the individual with an opportunity to put forward their case for appeal and the University to address any unfairness in the original process

The appeal hearing is not a re-hearing of the original hearing but to consider areas where the individual believes there was insufficient consideration, or to consider new evidence.

Individuals have the right to be accompanied by a trade union representative or work colleague throughout the appeal procedure.

The purpose of an appeal hearing is to:

- Provide an opportunity to address any unfairness in the original process, and/or;
- Provide individuals with the opportunity to challenge the original decision by focusing on specific factors which they believe have received insufficient consideration, or for consideration of new evidence that has subsequently become available.

An individual's written outcome letter will include the right to appeal. Should an individual wish to appeal the decision that has been made, they should follow the process outlined below, and as detailed in the Appeal process flowchart (Appendix 3).

##### **4.1 Submission of an Appeal**

The individual must submit their appeal to [human.resources@uws.ac.uk](mailto:human.resources@uws.ac.uk) in writing, using the notification of appeal form – SPA1 form (Appendix 2) within 10 days of receiving their outcome letter.

Ideally, the individual should include any evidence/information that they wish to be considered at the appeal hearing at the time of submission, but must submit it at least 2 working days in advance of the hearing to [human.resources@uws.ac.uk](mailto:human.resources@uws.ac.uk).

##### **4.2 Notification of Appeal Hearing**

The individual will be provided with at least 5 working days' notice of the appeal hearing and will notified in writing of:

- the date, time and location of the appeal hearing along
- the impartial manager chairing the appeal hearing
- A copy of all available evidence that will be considered during the appeal hearing
- their right to be accompanied by a trade union representative or work colleague
- their right to call any witnesses
- the possible outcomes; appeal upheld, appeal partially upheld or appeal not upheld

### 4.3 The Appeal Hearing

The individual should note that an appeal hearing is not intended to repeat the full detailed investigation of the original hearing, but to focus on specific factors which they believe have received insufficient consideration, or for consideration of new evidence that has subsequently become available.

All appeals will be chaired by a manager who is impartial, has not been involved in the case at any stage and, where possible, will be more senior than the manager who made the original decision.

An appropriate HR Representative from the Department of People and OD will be present at the appeal hearing to ensure procedures are adhered to, and advise managers on equitable employment practice and consistency of approach.

The individual will be given full opportunity to state the grounds of their appeal, which may include calling witnesses. The manager will have the opportunity to respond to each of the points raised and to make representation to the appeal panel.

When all the evidence has been heard, the appeal hearing will be adjourned to allow the manager / appeal panel to consider the decision. Potential outcome of the appeal hearing will be:

- Appeal Upheld
- Appeal Partially Upheld
- Appeal Not Upheld

The outcome of the appeal will be issued to the individual, in writing, normally within 10 working days of the decision being made.

The appeal decision is final and there is no further opportunity for appeal - the internal process has been exhausted. If the appeal is against dismissal and is upheld, the individual will be re-instated and all back pay, to the date of dismissal, reimbursed and contractual rights reinstated.

Once the internal procedure has been exhausted, and an employee wishes to make a claim to an employment tribunal, they must first notify ACAS and complete an Early Conciliation Notification Form. ACAS offers conciliation to both parties with the aim of settling the matter without the need for a legal claim to be lodged. [Further information is available from the ACAS website.](#)

## 5 OTHER PROVISIONS

No formal action should be taken against accredited trade union representatives until there has been a discussion with the appropriate official employed by the trade union. This is to ensure compliance with the provisions of employment legislation.

Individuals are expected to make every effort to attend the hearing and will normally be given the opportunity to attend 2 arranged hearings. If they have failed to attend the second hearing without good cause, a decision on all of the evidence available will be taken in their absence. This decision will then be communicated in writing to the individual. Advice should always be sought from the appropriate HR Representative.

Reasonable adjustments will be made in the operation of this procedure for staff or companions who have a disability as defined by the Equality Act 2010.

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## **Official Use**

**Procedure Author** – Employee Relations & Performance Adviser

**Procedure Owner** – Director of People and Organisational Development

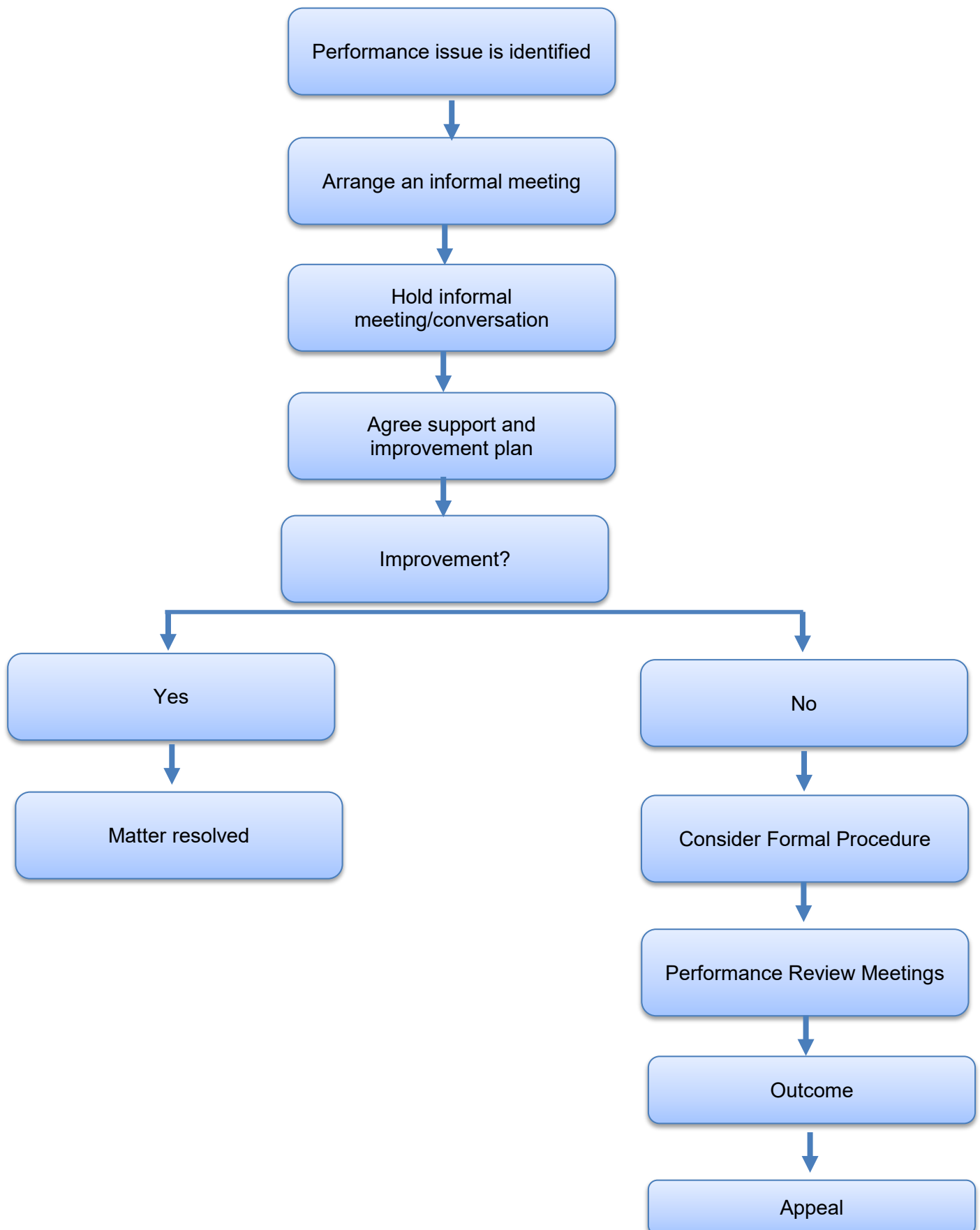
**Parent Policy Statement** – People and Organisational Development

**Public Access or Staff Only Access** – Public

**Version** – Version 4 Approved June 2021

**Changes and Reason for Changes** – Annual People & OD Procedure Update

Appendix 1: Overarching Procedure





**Appendix 2: Supporting Performance Improvement Appeal Form (SPA1)**

**Supporting Performance Improvement Appeal Form (SPA1)**

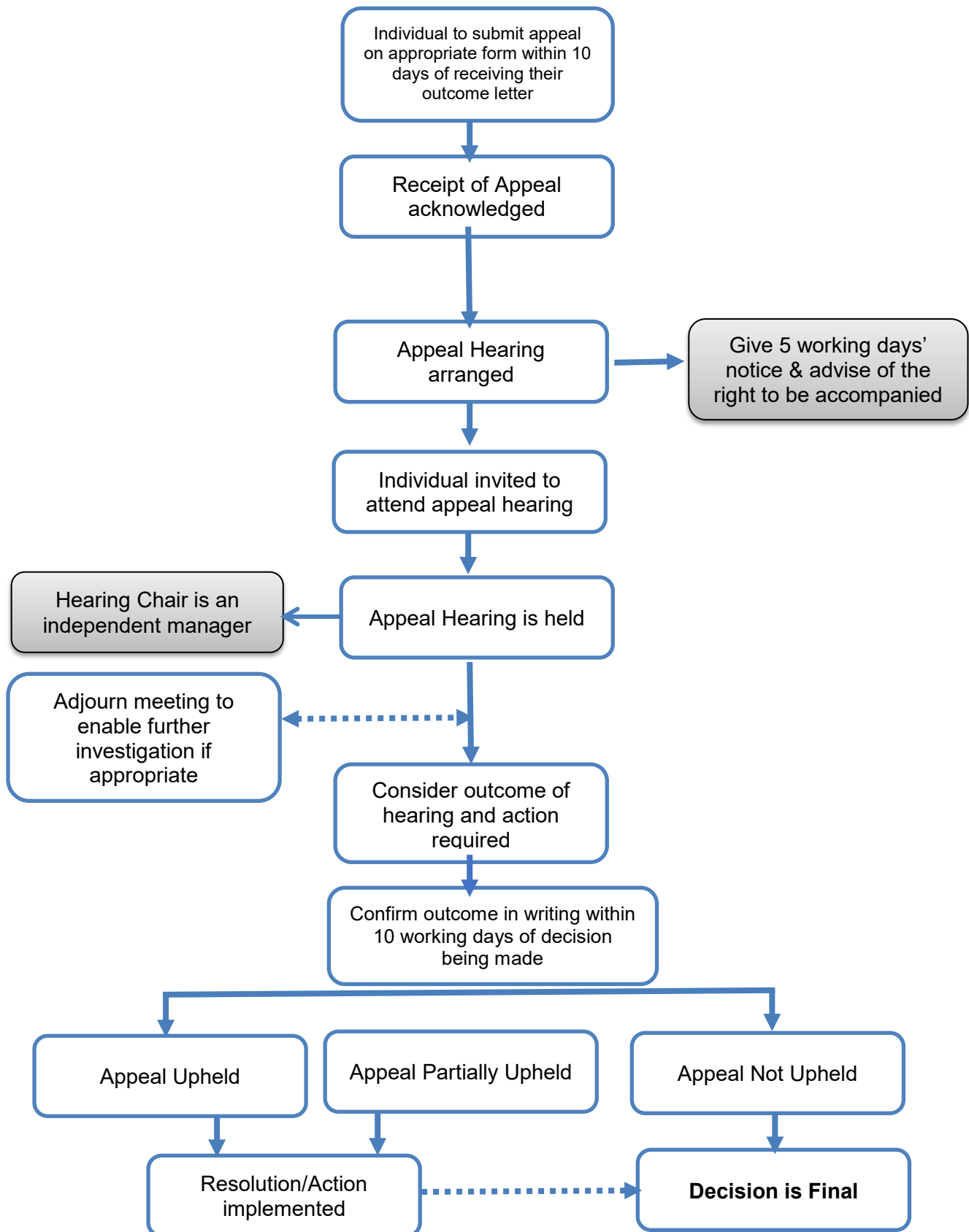
This form is to be used when an employee is submitting an appeal against a decision taken against them under the Supporting Performance Improvement Procedure. The Form should be submitted to [human.resources@uws.ac.uk](mailto:human.resources@uws.ac.uk).

| <b>Notification of Appeal Against Supporting Performance Improvement Action</b>   |  |
|---|--|
| Name:   |  |
| Job Title   |  |
| Department/School   |  |
| Date you received the outcome:  |  |
| <b>Grounds of Appeal</b>  |  |
| <p>Please set out the grounds of your appeal. Employees should note that an appeal hearing is not intended to repeat the full detailed investigation of the performance and capability hearing, but to focus on specific factors which you feel have received insufficient consideration, or for consideration of new evidence has subsequently become available.</p> |  |
| Signature:  |  |
| Date:   |  |

**For Office Use only:**

|                |  |
|----------------|--|
| Date Received: |  |
| Name:          |  |

**Appendix 3: Appeals Process**



**Appendix 4: Authority to Take Action**

| Sanction                    |         | Professional Support Services Staff           |  | Academic Staff                                      |  | University Senior Management |   | Executive Group     |                    | Principal           |                    |
|-----------------------------|---------|---|--|---|--|------------------------------|---|---------------------|--------------------|---------------------|--------------------|
|                             |         | Performance Hearing                           | Appeal   | Performance Hearing                                 | Appeal   | Performance Hearing          | Appeal  | Performance Hearing | Appeal             | Performance Hearing | Appeal             |
| First Warning               | Written | Appropriate Line Manager                      | 1 Manager senior to line manager or suitable depute                  | Appropriate Line Manager                            | 1 Manager senior to line manager or suitable depute                  | Line Manager                 | Manager senior to line manager or suitable depute | Principal           | Court Appeal Panel | Chair of Court      | Court Appeal Panel |
| Final Warning               | Written | Appropriate Line Manager                      | 1 Manager senior to line manager or suitable depute                  | Appropriate Line Manager                            | 1 Manager senior to line manager or suitable depute                  | Line Manager                 | Manager senior to line manager or suitable depute | Principal           | Court Appeal Panel | Chair of Court      | Court Appeal Panel |
| Alternative Sanction        |         | Director, Senior Manager or designated depute | Appeal Panel consisting of 3 members of University Senior Management | Dean of School, Senior Manager or designated depute | Appeal Panel consisting of 3 members of University Senior Management | Line Manager                 | Appeal Panel (University Senior Management)       | Principal           | Court Appeal Panel | Chair of Court      | Court Appeal Panel |
| Dismissal/Summary Dismissal |         | Director, Senior Manager or designated depute | Appeal Panel consisting of 3 members of University Senior Management | Dean of School, Senior Manager or designated depute | Appeal Panel consisting of 3 members of University Senior Management | Line Manager                 | Appeal Panel (University Senior Management)       | Principal           | Court Appeal Panel | Chair of Court      | Court Appeal Panel |

**Notes:**

- Appeal Panels for University Senior Management will consist of 1 member of the Vice Chancellor’s Executive Group and 2 members of Court.
- Court Appeal Panels will consist of either 3 lay members of Court or the Chair of Court plus 2 lay members (where the Chair has not had previous involvement).
- An appropriate member of People & OD will be in attendance at Appeal Panels and Court Appeal Panels.