

# EQUITY

## **APPEALS COMMITTEE PROCEDURE**

*Approved by the Council: 14 March 2023*

\* References to Rules in these Standing Orders refer to the Rules in the Union's Rulebook

### **Introduction**

1. This procedure sets out the process that the Union's Appeals Committee will follow when determining disciplinary appeals referred to it under Rule S12.
2. The procedure will be made available to any member found guilty of a disciplinary offence (referred to as the Respondent below).
3. A member may appeal against the decision of the Disciplinary Committee to uphold a charge against them and/or impose a penalty on them by submitting a written notice of appeal to the General Secretary in accordance with Rule S12. The notice must state the grounds of appeal.
4. The appeal shall be by way of a review and will not be a re-hearing of the evidence before the Disciplinary Committee. If the Chair of the Appeals Committee considers that new evidence (evidence that was not before the Disciplinary Committee) is necessary to fairly determine the appeal, the Appeals Committee will consider that new evidence as part of its review.
5. Recordings of appeal hearings are not to take place unless expressly agreed to by all the parties present.
6. The Secretary to the Appeals Committee will take notes of the appeal hearing for use by the panel. The Respondent (or their companion) is free to take notes for their own use and is encouraged to do so.
7. The member may bring another Equity member to an appeal hearing to act as their companion. The companion may address the hearing and confer with the Respondent but may not answer questions on behalf of the Respondent.
8. Throughout the process every effort will be made to ensure that the appeal is progressed without unreasonable delay.

## **The Appeals Committee**

9. The work of the Appeals Committee is supported by a member of Equity's staff referred to in this procedure as the Secretary.
10. When an appeal has been referred to the Appeals Committee in accordance with Rule S12, the Secretary will liaise with the Appeals Committee to form a panel of not less than three of its members to hear the appeal. The panel will nominate one of its members to act as its Chair.

## **Notification**

11. The Secretary will write to the Respondent to confirm their grounds of appeal and to invite them to attend an appeal hearing. At the appeal hearing the Respondent will have the opportunity to present their grounds of appeal. Notice of the appeal hearing will be at least 20 working days.
12. The Respondent may submit written submissions in support of their appeal if they wish. Submissions must be sent to the Secretary not less than 10 working days before the appeal hearing.

## **Postponement**

13. If the Respondent or their chosen companion is not available to attend the appeal hearing, it will be postponed to a further date.
14. If the Respondent continues to be unavailable to attend the appeal hearing, the panel will decide the appeal in their absence, taking account of the written grounds of appeal set out in the appeal notice and any written submissions in support.

## The Hearing

15. At the start of the appeal hearing, the Chair will confirm the grounds of appeal.
16. The Respondent will then have the opportunity to address their grounds of appeal and answer any questions from the panel.
17. The Respondent may submit written submissions in support of their appeal if they wish. Submissions must be sent to the Secretary not less than 10 working days before the appeal hearing.
18. The panel and the Respondent may not call any witness at the appeal hearing unless:
  - (a) the witness's evidence is new evidence within the meaning of paragraph 4. above; and
  - (b) the Chair of the panel has determined that the witness's attendance is necessary to fairly determine the appeal.
19. A request by the Respondent to submit new evidence and/or have a named witness/es attend the appeal hearing must be submitted to the Secretary not less than 15 working days before the appeal hearing. The request should include the new evidence.
20. The Respondent will be told at least 10 working days before the appeal hearing if their request has been granted by the Chair.

## **Documents & Statements**

21. The Secretary will prepare an appeal bundle and provide copies to the panel and the Respondent at least five working days before the appeal hearing. The appeal bundle will contain a copy of:
- (a) the Secretary's note of the disciplinary hearing;
  - (b) the documents including any written statements that were before the Disciplinary Committee panel at the disciplinary hearing;
  - (c) the written decision of the Disciplinary Committee panel sent to the Respondent;
  - (d) the grounds of appeal;
  - (e) any new evidence and/or any witness statement dealing with new evidence if admitted by the Chair; and
  - (f) any written submissions by the Respondent in support of the appeal.

## **Appeal Decision**

22. The Appeals panel may confirm or dismiss the Disciplinary Committee's decision to uphold the charge. If confirmed, the Appeals panel may confirm or vary the penalty decision to a lesser penalty or no penalty. The Appeals panel cannot increase the penalty.
23. The Secretary will aim to write to the Respondent with the appeal decision within 10 working days of the appeal hearing.
24. The decision of the panel is final and binding on the Union and the Respondent.
25. The Chair will report the appeal decision to the Council.