

APPEALS POLICY

1.0 Introduction

This Procedure should be read in conjunction with the [Appeal Procedure <insert link>](#).

2.0 Purpose

The purpose of this policy is to enable employees an opportunity of appealing against a decision made under the following policies/procedures:

- Grievance
- Disciplinary
- Capability
- Flexible Working
- Retirement
- Redundancy

This Policy does not apply to employees who are subject to a probationary period ([refer to the Probation Policy <insert link>](#)).

This policy does not form part of any employee's contract of employment. It may be amended from time to time.

3.0 Key Principles

- The Council recognises that the opportunity to appeal against a decision is essential to natural justice and is committed to ensuring that all appeals are dealt with promptly and sensitively.
- Where possible the appeal hearing will be conducted impartially by a more senior employee who was not involved in making the original decision.
- The potential outcomes of an appeal are as follows:
 - original decision upheld in its entirety;
 - original decision upheld but with a different sanction imposed;
 - original decision overturned.
- The outcome of an appeal will never exceed the original sanction imposed.
- The decision of the Appeal Hearing Manager is final.

Appeals Procedure

These guidelines are to provide helpful information to assist the management of appeals and are not intended to amount to legal advice.

1.0 Introduction

This Procedure should be read in conjunction with the [Appeals Policy <insert link>](#).

In this procedure references to:

- employees will be taken to include references to current and/or former employees;
- In this procedure references to employee within the context of a Disciplinary Meeting or Appeal Meeting will be taken to also include references to their companion.
- the Appeal Manager outside the context of the Appeal Meeting itself will be taken to include references to their duly nominated representative(s); and
- the Appeal Manager in the context of the Appeal Meeting will be taken to include references to the Chairman of the Employee Appeals Sub-Committee or in all other cases the senior manager hearing the appeal.

In any circumstance where an appeal is raised in accordance with the Appeals Policy, this Procedure should be instigated

2.0 Employee Submits Appeal

The employee must put their appeal in writing (“the Appeal”) to the person stated in the letter confirming the disputed decision. This person will be responsible for arranging and hearing the appeal (“the Appeal Manager”).

Appeals should be submitted within 2 weeks of the decision having been made.

The letter of appeal should include details of the following:

- the date of the decision being appealed;
- the procedure under which the decision was made; and
- the reasons for appealing.

The decision as to whether or not there are reasonable and sufficient grounds to accept an Appeal is entirely at the discretion of the Appeal Manager. The Appeal Manager shall be entitled to request additional information from the employee for this purpose.

Where the appeal is against a decision made at a prior collective grievance meeting employees will not ordinarily be able to raise individual appeals. The decision in this respect will be entirely at the discretion of the Appeal Manager who should seek advice from the relevant HR Business Partner.

Appeals against disciplinary dismissals and any Grievance or Disciplinary appeal raised by a Director or Head of Service (Tier 1 and 2) will be heard by the Employee Appeals Sub-Committee (In this procedure references to Appeal Manager will be taken to include references to Employee Appeals Sub Committee). In all other circumstances appeals will be heard by a senior manager not involved in making the original decision.

3.0 Gather Information

Fact Finding

It is the responsibility of the Appeal Manager to collate all the information from the previous decision maker and to consider whether any further investigation is required prior to the Appeal Meeting.

Further Investigation

The Appeal Manager will determine whether or not a further investigation of some or all of the issues raised in the appeal is required. This decision will ordinarily be taken either prior to or during the Appeal Meeting.

The Appeal Manager will determine the most appropriate means of investigation to include conducting their own investigation or appointing an internal or external investigator. In all cases guidance should be sought from the relevant HR Business Partner before making this decision.

The amount of any investigation required will depend on the nature of the appeal and will vary from case to case. It may involve collecting documentation from and/or interviewing and taking statements from the employee and any other relevant witnesses.

Employees must co-operate fully and promptly in any investigation. This may include providing the names of any witnesses, disclosing relevant documents and attending interviews.

4.0 Right to be Accompanied

Employees have the same right to be accompanied as were available to them during the original decision making process.

5.0 Arrange Appeal Meeting

The Appeal Meeting will be held as soon as possible and where achievable within 2 weeks of receiving the Appeal.

The Appeal Meeting will normally take the form of a review of the original decision however in exceptional circumstances it will be by way of re-hearing. The decision as to the form the Appeal Meeting should take is entirely at the discretion of the Appeal Manager who should in all circumstances seek advice from the relevant HR Business Partner.

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A review would not normally re-examine/question findings of fact but would instead look at such things as whether there were reasonable grounds for the decision, whether the procedure was followed correctly and whether the penalty was too high.

It is not anticipated that the original decision maker or employee will need to call evidence from witnesses at a review however this will be at the Appeal Manager's discretion depending on the circumstances of the case.

At least 1 week prior to the Appeal Meeting the employee should be sent a letter dealing with the following matters:

- Confirming the date, time and venue;
- Confirming whether the Appeal Meeting will be by way of review or re-hearing;
- Asking for confirmation of any witness whose attendance they may wish to request as well as confirmation of the timescale within which this information must be provided;
- Asking for confirmation of any companion they intend to bring with them and the timescale within which this information must be provided;
- Where appropriate, informing them of any other persons who will be attending to give/present evidence e.g. the investigating officer and/or witnesses supporting the original decision maker's case; and
- Enclosing copies of all relevant information and documents to be relied on.

Where issues are serious and/or complicated, the Appeal Manager may ask the employee to provide written information before the meeting in order that they can consider any written information and prepare fully.

If the employee or their companion is unable to attend the Appeal Meeting they must notify the person specified in the letter as soon as possible. They should be asked to suggest an alternative date so long as it is reasonable and unless exceptional circumstances exist not more than 1 week after the original date proposed.

The employee and/or their companion (if any) should make every effort to attend the Appeal Meeting.

If an employee continues to be unable to attend scheduled Appeal Meetings, a meeting may take place in their absence and a decision will be made on the evidence available. Where an Appeal Manager intends to hold the meeting in the employee's absence, this will be notified to the employee in writing beforehand.

An HR Business Partner will be present at all Appeal Meetings.

6.0 Appeal Meeting

The purpose of the Appeal Meeting is to address the concerns set out in the letter of appeal and to consider whether an alternative outcome is appropriate.

If at any stage it becomes apparent to the Appeal Manager that further investigation is required, the Appeal Meeting should be adjourned to enable this.

Meeting format

- The meeting should be confined to matters directly relevant to the issues raised in the letter of appeal.
- The original decision maker should present their case.
- The employee and Appeal Manager should be given an opportunity to ask questions at the end of each presentation.
- The employee should then present their case;
- The original decision-maker and Appeal Manager should be given an opportunity to ask questions at the end of each presentation.
- Once the evidence has been explored the Appeal Meeting should be adjourned for the Appeal Manager to reach a decision.
- The Appeal Meeting should be reconvened on the same day, unless there are matters arising which require further investigation which will take longer than the remainder of the day to complete.

In any circumstance where the Appeal Manager has required/permitted the attendance of witnesses and/or the Investigating/Presenting Officer, the employee and Appeal Manager will be given the opportunity to question them at the end of each presentation.

7.0 Reaching a Decision

Following the Appeal Meeting, the Appeal Manager may:

- Uphold the original decision in its entirety;
- Uphold the original decision but impose a different sanction;
- Overturn the original decision.

The outcome of an appeal will never exceed the original sanction imposed, however in exceptional circumstances, if new information comes to light during an Appeal Meeting, the Appeal Manager will pass this information to the appropriate person to consider whether further disciplinary action is necessary.

8.0 Communicating the decision

Confirming the Outcome

The Appeal Manager should reconvene the Appeal Meeting whether on the same or a different day to explain the decision, the reasons for it and any further action proposed to rectify the issues raised.

In appropriate circumstances and with the agreement of the employee it may be possible to agree for the decision to be communicated in writing only but in any event all decisions should be confirmed to the employee in writing within 1 week of the Appeal Meeting.

The decision letter should contain the following information:

- The decision made and the reasons for reaching it; and
- That the outcome is final and the appeals process has been concluded.

If an employee is being reinstated the Appeal Manager will notify the appropriate line manager so that payroll can be notified.

9.0 Document Retention

The Appeal Manager or should forward copies of all paperwork relating to the appeal and Appeal Meeting to HR Support, Manor Drive. Any such correspondence should be labelled for the attention of the relevant HR Business Partner for the service area and marked as 'Strictly Private and Confidential'

Any paperwork provided will be stored and/or destroyed in accordance with the Council's records retention and management policies.

10.0 Further Information

For further advice and/or template letters please discuss with the HR Business Partner for your service area.