

# People Framework

## Appeals Procedure



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## Tracking

<b>Policy Title</b>	Appeals Procedure		
<b>LT sign off</b>	15 November 2019		
<b>Committee</b>	HR Panel  Strategy & Resources	<b>Date approved</b>	17 December 2019 (TBC) 30 January 2020 (TBC)
<b>Review due date</b>	15 November 2021	<b>Review completed</b>	
<b>Service</b>			

## Revision History

Revision Date	Revisor	Previous Version	Description of Revision

## Document Approvals

Each revision requires the following approvals:

Sponsor Approval		Name	Date

## **1. The Right of Appeal**

Any employee who is subject to a formal sanction in line with the Council's Absence Management, Capability, Disciplinary, Grievance and Management of Workforce Change Procedures (up to and including dismissal) has the right of appeal.

All appeals will be heard without undue delay.

This procedure does not apply to appeals against dismissal as a result of unsuccessful completion of a Settling In period, for which the Settling In Procedure applies.

This procedure does not apply to appeals against job evaluation outcomes for which the Job Evaluation Procedure applies.

Details of the appeals process will be provided to the employee in the written notification of the outcome of the formal Hearing.

If the employee wishes to appeal they must do so in writing (including by email) within 7 calendar days of receiving written confirmation of the Hearing outcome.

## **2. Right to be accompanied**

Employees have a statutory right to be accompanied by a member of the Staff Consultative Group, trade union representative or work colleague at a formal Appeal Hearing.

The representative does not have the right to answer questions on the employee's behalf, address the Hearing if the employee does not wish it or prevent the employer from explaining their case.

## **3. Grounds of Appeal**

The reasons for appeal may be:

- Procedure – there was a failure to follow procedure and this had a material effect on the decision
- Not all evidence was considered.
- The level of sanction/decision was too severe.
- New evidence is available that could not have reasonably been raised during the investigation and the absence of which had a material effect on the decision.

The employee must outline one or more of the following reasons upon which they seek to appeal and provide the rationale/evidence in respect of this. The appeal submission must also set out clearly:

- The detailed basis, as far as possible, for each ground of appeal to be relied on
- Details of any new evidence and any supporting documentation to be relied on

#### **4. Appeal**

Where an appeal is received, arrangements for the appeal Hearing will be made as soon as reasonably practicable.

The Chair of the Hearing will be a manager with no prior involvement in the case and normally from the service area concerned, who will consider the appeal and decide the outcome.

Where the appeal is against dismissal, the Hearing will be chaired by a Senior Officer with delegated authority to dismiss.

Where possible, an HR Advisor, also with no prior involvement in the case will also attend the appeal Hearing in an advisory capacity to support the Chair.

Also in attendance will be the employee, their representative and, where applicable, the Chair of the original Hearing. Both management and the employee may submit documentation and call and question witnesses.

The HR Advisor will confirm the arrangements to all parties giving at least 7 calendar days' notice. Template Letter 6 Appeal Notification.

Any documentation that either management or the employee wishes to be considered at the appeal Hearing, must be made available to the HR Advisor no later than 3 working days prior to the hearing to enable (where practicable) distribution of full documentation packs to the relevant parties prior to the hearing.

In certain circumstances (for example to protect a witness), some information may be withheld or anonymised.

In order to ensure an accurate record of the formal process, the Council will record the Appeal Hearing using an electronic voice recorder. A copy of the recording will be made available to the employee on request.

#### **5. New Evidence**

New evidence may be considered in the Appeal Hearing where this is included in the documents submitted before the Hearing. If there is a late submission of new evidence it will be for the Chair to decide whether or not this will be accepted.

Where new evidence is submitted, the employee must state clearly what the evidence is, why it was not included at the previous hearing and why it is believed that it would alter the original decision.

#### **6. Attendance at an Appeal Hearing**

The employee will be notified of the date of the Appeal Hearing in writing. Where an employee or their representative is unable to attend the Hearing, they should inform the Chair in advance, giving a valid reason. The Chair will arrange an alternative Hearing date, which will be no later than 7 calendar days from the original Hearing date.

Where an employee fails to attend the Appeal Hearing due to unforeseen circumstances on the date proposed, the Chair will consider whether to proceed with the Hearing in the absence of the employee or to arrange an alternative date, which will be no later than 7 calendar days from the original Hearing date.

Where appropriate, the 7 calendar day limit may be extended by mutual consent.

Where the employee is not able to attend an Appeal Hearing on the revised date, their case will be considered based on the documentation from the Hearing and/or any representations by their representative.

## **7. Witnesses at Appeals**

If the employee wishes to invite any witnesses to the Appeal Hearing they must inform the Chair beforehand.

The employee is responsible for inviting any witnesses they wish to attend.

A Council employee is not obliged to attend a Hearing as a witness. Where an employee wishes to call other Council employees as witnesses, the individuals concerned may decide whether or not they wish to attend the Hearing in this capacity.

## **8. Possible Outcomes**

The outcome of the Appeal Hearing will be either:

- The case against the employee is upheld (in whole or part); the sanction will then be the same or, if the Chair considers on the basis of the appeal, that the penalty imposed was unduly harsh can impose a lesser penalty.
- The case against the employee is not upheld and the case is dismissed.
- The sanction remains the same
- A lesser sanction is imposed
- A greater sanction is imposed
- The panel may decide that no sanction is warranted

## **9. Successful Appeal against Dismissal**

An employee whose appeal against dismissal is successful may be reinstated in their previous position where this still exists.

In certain circumstances, for example if the previous working relationship has broken down, it may be more appropriate for the employee to be reinstated in a different position of comparable status and pay. This will take place only after full discussion with the employee and/or his/her representative.

In a redundancy situation where the employee's previous position no longer exists the Council will consider the availability of suitable alternative employment in line with the Management of Workforce Change Procedure.

Where an appeal against dismissal is not upheld and the employee is reinstated, there will be no loss of continuity of service or associated rights. Where the

employee's notice period has already expired and they have left the Council's employment, they will receive the appropriate amount of back pay for the period between the date of termination of employment and the date of reinstatement.

There is no further right of appeal within the Council.