



APPEALS POLICY

Version 3: July 2020

ABSTRACT

This policy outlines the procedure for the employee, where dissatisfied, to appeal against disciplinary action, a grievance decision or a dismissal

Janet Hugill
Corporate Services Manager

Please think before printing this document.

Where printing is necessary, please ensure that it is printed double sided and in greyscale.

Contents

1	Introduction	1
1.1	What is the policy about?.....	1
1.2	Who does the policy apply to?	1
2	Arranging the appeal hearing.....	1/2
3	The appeal hearing	Error! Bookmark not defined.
3.1	The Appeal Hearing Process.....	2
4	Documentation and evidence	4
4.1	Statement of case	4
4.2	Witnesses.....	5
4.3	Timescales (are you happy with these timescales?)	5
5	Outcomes	5/6
6	Flowchart	7
7	Supporting documents.....	8
8	Further information	8
8.1	Confidentiality.....	8
8.2	Dealing with abuses of the policy	8
8.3	Equality and diversity	8
8.4	Contact details	9

1 Introduction

1.1 What is the policy about?

The opportunity for appeal is essential to natural justice and this policy outlines the procedure for the employee, where dissatisfied, to appeal against disciplinary action, a grievance decision or a dismissal.

An appeal may be raised by employees on the following grounds:

- the sanction was not proportionate to the action;
- the procedure was not followed properly; and
- the facts relied upon when making the decision are disputed

The purpose of an appeal is to enable an independent review to be carried out as to the 'reasonableness' of the Lead Officer's decision.

1.2 Who does the policy apply to?

This policy covers all employees of Peterlee Town Council.

2 Arranging the Appeal Hearing

Appeals are heard by the Council's Appeals Sub-Committee and the process is described below:

- The employee must notify the Town Clerk in writing within 10 working days of receiving their outcome letter that they wish to exercise their right to appeal;
- The employee will then be issued with an Appeal Submission Form (see Appendix A) and this must be returned to the Corporate Services Manager within 5 working days of issue;
- A copy of this form will be shared with the Council's Human Resources support providers (at the date of writing this report, this being Durham County Council's Human Resources team), the Appeal Committee will be notified of a forthcoming appeal, and an appeal hearing date will be set. This date will usually be within 28 calendar days of the date the Appeal Hearing Submission Form was received. The employee will also be asked to provide their detailed statement of case and any supporting documentation 8 weeks prior to the appeal hearing date, (See section 4.3).
- The Presenting Officer (usually the Town Clerk) will be asked to prepare and submit a statement of case and any supporting documentation to the designated Appeal Officer;

- The Designated Appeals Officer will collate the information submitted by the employee and the Presenting Officer and will circulate a paginated bundle to all parties 5 working days before the date of the hearing;
- Documents submitted by either management or the employee after this time will not be accepted except with the consent of the Appeals Sub Committee.

3. The Appeal Hearing

The appeal will be heard by the Appeals Committee which is comprised of five elected members. The Designated Appeals Officer or other nominated officer will take notes at the Appeal. A representative from the HR Advice and Support Team at Durham County Council will attend to support the panel in reaching their decision.

The employee has the right to be accompanied by a trade union representative or work colleague. The individual accompanying the employee must not be someone whose presence would prejudice the meeting or who has a conflict of interest. The employee should advise the Appeals Committee (through the Corporate Services Manager) who will be accompanying them before the date of the Appeal Hearing.

The Presenting Officer will be the manager who made the decision being appealed. This will usually be the Town Clerk. Where the manager who made the decision differs from the Investigating Officer, it is essential that the Investigating Officer also attends the Appeal to provide support and answer questions about the original investigation.

The process to be followed at the Appeal hearing is as follows:

3.1 Appeal hearing process

The information below details the process to be followed at the Appeal Hearing.

Introduction

- The **Chair of the Appeals Panel** will invite all parties to introduce themselves and their role at the hearing.
- A representative from **Human Resources** will be in attendance to provide advice to the **Appeals Panel**.
- The purpose of the hearing, how it will be conducted and the powers of the **Appeals Panel** should be explained by the **Chair of the Appeals Panel**.

Statement of case by the Employee

Please note: It is only possible to call a witness or witnesses at a disciplinary appeal (no witnesses are permitted at grievance or other dismissal appeals not related to a disciplinary).

- The **Employee** (or their representative) will put the case in the presence of the **Presenting Officer** and will call witnesses if appropriate.
- The **Presenting Officer** will have the opportunity to ask questions of the **Employee** and their witnesses.
- The members of the **Appeals Panel** and the representative of from **Human Resources** will have the opportunity to ask questions of the **Employee** and their witnesses.

Statement of case by the Employer

Please note: It is only possible to call a witness or witnesses at a disciplinary appeal (no witnesses are permitted at grievance or other dismissal appeals not related to a disciplinary).

- The **Presenting Officer** will put the case in the presence of the **Employee** and will call witnesses if appropriate.
- The **Employee** (or their representative) will have the opportunity to ask questions of the **Presenting Officer** and their witnesses.
- The members of the **Appeals Panel** and the representative from **Human Resources** will have the opportunity to ask questions of the **Presenting Officer** and their witnesses.

Summing up

- The **Presenting Officer** will have the opportunity to sum up their case if they so wish.
- The **Employee** (or their representative) will have the opportunity to sum up their case if they so wish.
- The summing up must not introduce any new matter.

Parties to withdraw

- The **Presenting Officer** and the **Employee** (and their representative) withdraw from the meeting.

Consideration by the Appeals Panel

- The members of the **Appeals Panel** and the representatives from **Human Resources** will deliberate in private, only recalling the **Presenting Officer** and the **Employee** (and their representative) to clear points of uncertainty on evidence already given.
- If recall is necessary, both parties are to return notwithstanding only one is concerned with the point giving rise to doubt. Both parties will withdraw again from the meeting after this process.

Decision

- When the **Appeals Panel** has reached a decision, the **Employee** (and their representative) and the **Presenting Officer** will be given oral notification of the result of the Appeal Hearing by the Committee Chair.
- The decision will be confirmed by letter as soon as possible, delivered by post, email or by hand.
- If, after taking advice from HR representatives, the **Appeals Panel** feels that the previous decision was not sound, they may decide to change the decision. Where any decision has been overturned the **Appeals Panel** may give consideration to any other implications or recommendations.
- The decision made at this stage is final and there is no further right of appeal.

4. Documentation and evidence

The documentation associated with the original decision and the outcome letter will be included in the paginated bundle issued by the Designated Appeal Officer to all parties for use at the Appeal Hearing.

4.1 Statement of case

Both the employee and the Presenting Officer will be required to submit a statement of case prior to the appeal. The statement of case will form the basis of the presentation to be made to the appeal panel.

The employee's statement of case should set out the basis of their appeal against the original decision, including any documentary evidence they wish to rely upon. It is possible for the employee to introduce new information for consideration by the Appeals Committee, however, all information

to be relied upon by the employee at the Appeal must be provided to the with the statement of case - no new information can be tabled at the hearing.

The Presenting Officer will have received a copy of the employee's Appeal Hearing Submission Form, summarising the basis of the appeal. They will then also be asked to provide a statement of case, including relevant documentary evidence and the reasons why the original decision was made.

4.2 Witnesses

It is only possible for either party to call a witness or witnesses at a disciplinary appeal (no witnesses are permitted at grievance or other dismissal appeals not related to a disciplinary).

The employee and the Presenting Officer can ask witnesses to attend a disciplinary appeal hearing to provide evidence relevant to the issue being decided. Where witnesses are to be called, their identity and a summary of the evidence that they will provide (preferably in the form of a witness statement) must be included in the statement of case to enable both sides to prepare for the hearing. The Appeals Committee may refuse to hear from any witness whose evidence has not previously been disclosed.

If an employee wishes to call any witnesses to support their case, it is their responsibility to ensure that they are available on the date of the Appeal.

4.3 Timescales

All documentation must be provided to the Appeals Committee at least 8 working days before the date of the Appeal Hearing. Any information submitted after each party has provided their statement of case will only be considered by the Appeals Committee in exceptional circumstances, with the consent of the Chair of the Appeals Committee.

If additional information is permitted to be relied upon, both sides will be allowed appropriate time to consider the information. In some cases, the hearing may be postponed, depending on the information submitted.

5 Outcomes

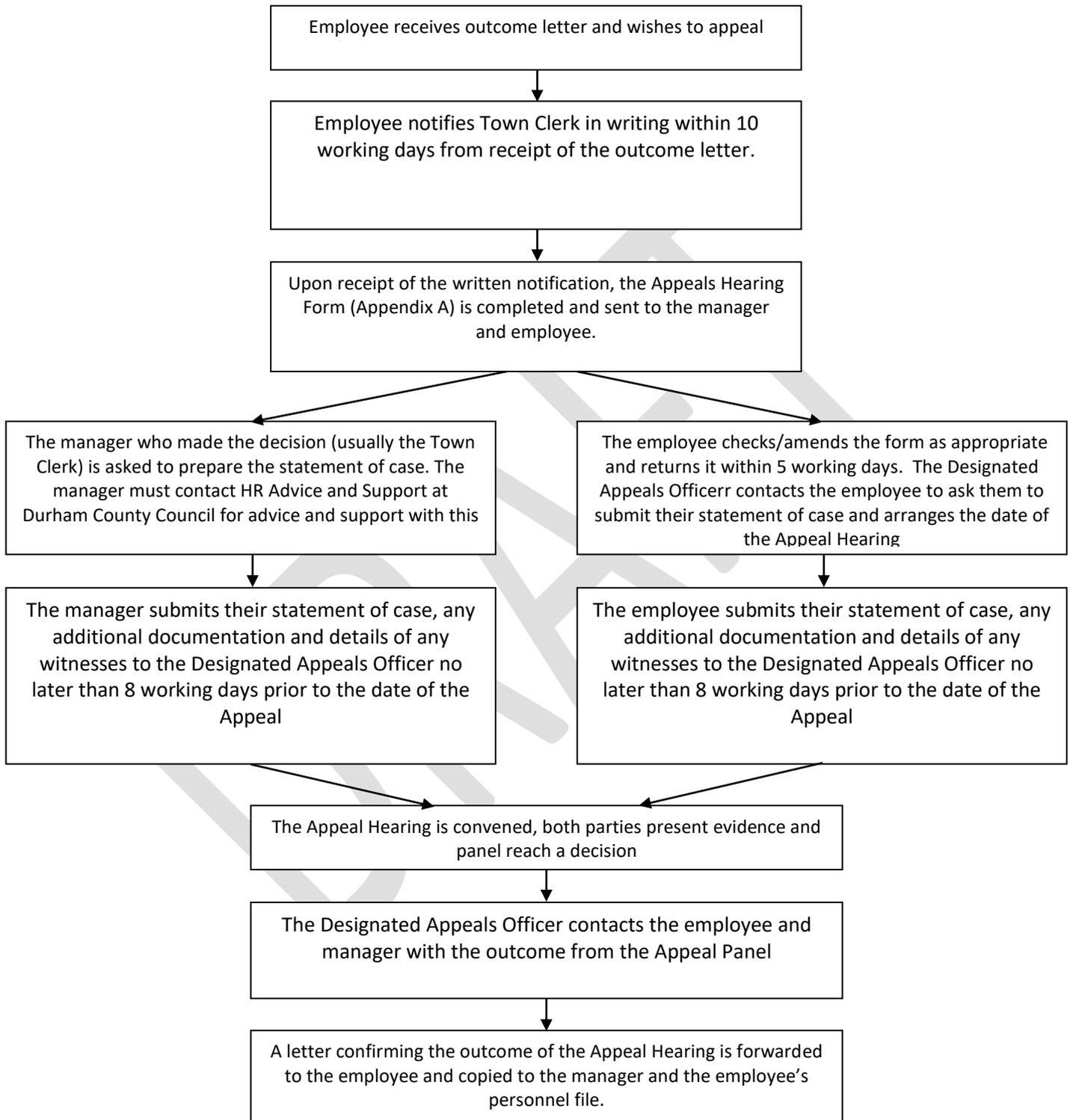
The panel must be satisfied that a thorough investigation has taken place and that all reasonable efforts have been made to gather relevant evidence. As a result of the hearing, the Appeal Panel can reach a number of different decisions, as detailed below:

- Not to uphold the appeal;
- To uphold the appeal either in full or in part;
- Adjourn for further information or refer the matter for further investigation, particularly if new evidence is introduced; and
- In Disciplinary and Dismissal Appeals, Appeals Committee will be able to substitute their decision for that of the Presenting Officer, provided that they do not exceed the authority of the Presenting Officer.

When the Appeals Panel has reached a decision, the employee (and their representative) and the Presenting Officer will be given oral notification of the decision of the Appeals. The decision will be confirmed in writing by the Designated Appeals Officer or other nominated officer as soon as possible, sent recorded delivery or by hand.

The decision made at this stage is final and there is no further right of appeal.

6 Flowchart



7 Supporting documents

The following supporting documents can be obtained from your Manager/Team Sites/Public Folder/Policies/General Policies/Appeals Policy.

A	Appeal Hearing Submission Form
B	Appeal Hearing Process

The following documents associated with this policy and procedure can be obtained from your Manager/Team Sites/Public Folder/Policies/General Policies/Appeals Policy.

Appeals Hearing – Guidance for Managers

8 Further Information

8.1 Confidentiality

All information will be handled sensitively and used only for its proper purpose.

Under the Data Protection Act 2018 individuals have the right to see their own personal data held subject to the rights of confidentiality of any third parties involved in that information.

8.2 Dealing with abuses of the Policy

Employees who attempt to abuse this policy may face disciplinary action. The Council takes false or misleading accusations very seriously which may result in further action taken through the disciplinary procedure. This will not include ill-founded allegations that were made in good faith.

8.3 Equality and Diversity

Peterlee Town Council is committed to promoting equality of opportunity, valuing diversity and ensuring discrimination, harassment or victimisation is not tolerated.

Our policy is to treat people fairly, with respect and dignity. We also comply with legal requirements in relation to age, disability, gender, pregnancy and maternity, marriage and civil partnership, gender reassignment, race, religion or belief and sexual orientation, which are all protected under the Equality Act 2010.

8.4 Contact details

If you would like any further advice or would like the document in an alternative format, please contact the Town Clerk (or Corporate Services Manager) using the contact details below:

Email: ian.morris@peterlee.gov.uk Janet.hugill@peterlee.gov.uk

Tel: 0191 586 2491

Author of Policy;	Corporate Services Manager
Date effective from;	June 2020
Policy review;	June 2023
Version Control;	V3