

**North Ayrshire Council
Appeals Committee
Appeals Procedure
(Dismissals/Grievance/Recruitment & Selection)**

Our Staff Values

Focus. Passion. Inspiration.



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Contents	
Section 1	Introduction
Section 2	Composition of The Appeals Committee
Section 3	Structure of the Appeal Hearing
Section 4	Representation by Management
Section 5	Representation by Appellant/Representative
Section 6	Legal/HR Clarification
Section 7	Summing Up
Section 8	Conclusion/Deliberation
Section 9	Decision
Section 10	Remote Hearings

Version Number	Effective Date	Details of Last Revision
	August 2020	August 2020

Equality Impact Assessment	A fair appeals process supports the Council's employment and equalities duties in relation to persons with protected characteristics.
-----------------------------------	---

1. Introduction

- 1.1 The Council operate an Appeals Committee in accordance with the Council's Human Resources Policies and Procedures. The Committee will determine appeals by employees against:-
- Disciplinary dismissals,
 - Grievances following exhaustion of the grievance stages (Stage 3) up to and including Executive Director, Head of Service and the Chief Executive;
 - Appeals against dismissal on the grounds of incapability; and
 - Recruitment and selection at the final stage for internal candidates.

2. Composition and Training of The Appeals Committee

- 2.1 The Appeals Committee will consist of:-
- A pool of 10 Members of the Council, including all four standing Members of the Staffing and Recruitment Committee, or if unavailable their named substitutes from that Committee. Out of this pool, three Members, one of whom shall be a Member (or their substitute) from the Staffing and Recruitment Committee, will determine each individual appeal. Committee Services will select the three Members on an equitable basis, having regard to availability.
 - The Chair of the Committee will be the Member of the Staffing and Recruitment Committee (or their substitute) serving on the Committee.
 - It should be noted that the quorum for the Committee will be 3 Elected Members
 - All members of the Appeals Committee shall require to attend training in the law and procedures relating to appeals and employment prior to serving on the Committee. In addition, Members will require to attend refresher training as appropriate.
- 2.2 The Senior Manager responsible for HR (or nominated Human Resource Adviser) and the Senior Manager Legal Services (or nominated Solicitor) will act as advisers to the Committee and will coordinate together with Committee Services the appeal hearing and offer professional advice to the Committee.
- 2.3 The appellant may be accompanied by a representative, who must be a full time or lay trade union officer or a fellow employee.
- 2.4 The Senior Management Officer from the Service, who is presenting the case, may be accompanied, if required, by an adviser who must be an employee of that Service or from Human Resources.

- 2.5 Witnesses will only be called to the appeal if notified in advance of the meeting for either management or the appellant.

3. Structure of the Appeal Hearing

- 3.1 An appeal hearing will normally be heard within 8 weeks of an appeal being lodged by the appellant, however this may be varied by mutual agreement
- 3.2 The appeal hearing is a formal committee meeting of the Council, whose procedures are determined by Standing Orders. It is however recognised that appeals can be stressful for participants. The Committee will, subject to compliance with the overriding requirement to conduct a fair hearing, use its best endeavours to conduct proceedings in a manner least stressful to parties.
- 3.3 The role of the Appeals Committee is to review the fairness of decisions of Officers of the Council. It will not re-hear the submissions with a view to making a fresh decision. The Appeals Committee will only decide whether the Officer's decision was reasonable in the circumstances and if not, what decision the panel now wish to make (see Section 8 below).
- 3.4 Points for consideration by the Appeals Committee can include the following:-
- Appropriateness of the penalty in the circumstances, including due regard to the Council's policies and procedures,
 - Extenuating circumstances,
 - Procedural matters,
 - Any new evidence which may have a bearing on the original decision that has come to light since the final management hearing
 - The precedent that an individual decision might make for other cases
 - Compliance with legislative requirements including Best Value
- 3.5 A formal minute of the Appeals Committee decision only will be taken.

4. Representation by Management

- 4.1 The Service's representative will put forward its case in the presence of the appellant and his/her representative.
- 4.2 The appellant's representative or the appellant will have the opportunity to ask questions of the Service's representative.
- 4.3 The members of the Appeals Committee will then have the opportunity to ask questions of the Service and the applicant/representative.

5. Representation by Appellant/Representative

- 5.1 The appellant, or his/her representative, will put his/her case forward in the presence of the Service's representative.
- 5.2 The Service's representative will have the opportunity to ask questions of the appellant or the representative.
- 5.3 The members of the Appeals Committee will then have the opportunity to ask questions of the appellant's representative or the appellant.

6. Legal/HR Clarification

- 6.1 The Human Resource and Legal Advisers to the Committee may in their role as advisers put points of clarity to the Service representative, or the appellant and their representative, and highlight relevant points of procedure or provide guidance throughout the appeal hearing as necessary.

7. Summing Up

- 7.1 The Service's representative will have the opportunity, if they wish, to sum up key points. No new material can be introduced in summing up.
- 7.2 The appellant or his/her representative will have the opportunity, if they wish, to sum up key points. No new material can be introduced in summing up.
- 7.3 The Service's representative and the appellant and his/her representative, will then leave the appeal hearing.

8. Conclusion/Deliberation

- 8.1 The Appeals Committee with the support of the advisers to the Committee will then deliberate in private, only recalling if necessary, the Service's representative and his/her adviser, the appellant and his/her representative, to clarify points of uncertainty on information already provided.
- 8.2 If recall is necessary, both parties are to return notwithstanding only one is concerned with the point giving rise to doubt.
- 8.3 The Appeals Committee is authorised to revoke, confirm or vary, the previous employment decisions made, in compliance with all statutory obligations, including Best Value.

9. Decision

- 9.1 The decision of the Appeals Committee of North Ayrshire Council will be conveyed in writing by Human Resources to the appellant, the appellant's representative (if appropriate) and the Service's representative within 5 working days.
- 9.2 It should be noted that the appellant and the Service representative must be advised of the outcome of the Committee prior to any publication of the minute of the meeting on the Council's website.

10. Remote Hearings

- 10.1 On occasion hearings may need to take place remotely, either partly or in full. Where this is required several additional actions require to be undertaken to ensure the fairness of proceeding is not compromised.
- 10.2 Subject to the procedures set out in Section 10, the procedure to be followed at any appeal hearing convened remotely will, insofar as is possible, mirror the procedure for hearings as outlined previously in this Appeals Procedure.
- 10.3 While all reasonable endeavours will be made to ensure compliance with these procedural notes throughout remote hearings, the Committee and/or parties by agreement may agree to vary these arrangements, providing the requirement of a fair hearing is not compromised.

Prior to the Hearing

- 10.4 All parties should be advised of the arrangements and the reason(s) why a remote hearing is required.
- 10.5 A guide detailing how to join the hearing and how to use the microphone and camera tools will also be provided.
- 10.6 An invite will be sent to all parties to give them the opportunity to take part in a test meeting. The aim of this is solely to ensure that there are no technical issues which will affect their ability to take part in the hearing and to help build familiarity with the system. There will be no discussion of the merits of the case.

During the Hearing

- 10.7 The attendance of all parties will be confirmed at the start of the hearing and monitored throughout.
- 10.8 Should any participant leave the hearing for any reason the Chair will be notified and will call for a short adjournment until all parties are present again.

Deliberation/Decision

- 10.9 Prior to deliberation by the Committee Members, the appellant, the appellant's representation and service representative will be asked to leave the hearing.
- 10.10 The decision of the Committee will be communicated in writing as set out at Section 9.

Witnesses

- 10.11 Any witnesses called by the appellant will be advised not to join the hearing at the start, ensuring that they are not privy to any confidential discussions taking place in the hearing. They will instead be contacted by telephone when it is time for them to join.
- 10.12 It is the responsibility of any witnesses called to ensure they are available to join the meeting when called upon. Reasonable effort will be made to contact witnesses, however, should contact fail to be established the decision on how to proceed will lie with the Chair.