

Appeal Policy

1. Who does this policy apply to?

- 1.1 All employees of Lancaster City Council. Different arrangements apply for Chief Officers and the Chief Executive.

2. What is the purpose of this policy?

- 2.1 To provide guidance on 1) an employee's right of appeal and 2) the procedure to be followed when an employee wants to appeal against a formal decision.

3. What roles do the employee, the Appeal Hearing Officer, the Council and HR play in this policy?

3.1 Appeal Hearing Officer Responsibilities

- To evaluate whether it is necessary for the previous decision maker to be present in an appeal hearing to answer any questions and/or clarify any facts, or if a decision can be made on the evidence bundle and the employee's appeal alone.
- To conduct a fair hearing in line with this policy and associated guidance for managers.
- To stay in contact with the employee should there be any delays in providing an outcome.

3.2 Employee Responsibilities

- Employees must ensure they read this policy in advance of appealing a formal decision so that an appeal is submitted in the correct way.
- To provide thorough rationale and evidence in respect of the ground(s) of appeal identified.
- To inform the Appeal Hearing Officer or HR as soon as possible if they require any reasonable adjustments ahead of or during the hearing.

3.3 Council Responsibilities

- To ensure that all appeals are considered fairly and consistently.
- To ensure that the appeal process is in line with guidance provided by ACAS (Advisory, Conciliation and Arbitration Service).

3.4 HR responsibilities

- To appoint a suitable Chief Officer to hear appeals relating to dismissal decisions and to work in conjunction with Chief Officers who wish to delegate their authority to another suitable manager to hear appeals relating to sanctions short of dismissal.
- To support Appeal Hearing Officers by providing advice and guidance on policy.

4. What is an appeal?

- 4.1 The purpose of an appeal is to determine whether the original decision was a reasonable outcome.
- 4.2 For the appeal to be valid, the employee will need to set out one, or more, of the following grounds for appeal:
- There was a defect in the procedure followed
 - Not all evidence has been considered
 - New evidence has come to light since the sanction or decision which may have materially changed the outcome
 - The sanction or decision is too severe
 - In circumstances of redundancy, this may include a flaw in the selection criteria or its application or a challenge to scoring (on reasonable grounds)

5. What decisions can be appealed using this policy?

- 5.1 Employees have the right to appeal the following:
- Formal disciplinary sanctions short of dismissal
 - Dismissal under *any* policy (i.e., where employment has been brought to an end for any reason)
 - Formal grievance outcome
 - Rejection of a flexible working request

6. Appeal Process

- 6.1 An appeal must be made in writing within 10 working days from the receipt of written confirmation of the decision.
- 6.2 The appeal should be addressed and sent to the Chief Officer People & Policy.
- 6.3 A Chief Officer will have the authority to hear an appeal, and to delegate that authority where they feel that is suitable and appropriate (this is only likely to be in relation to formal sanctions short of dismissal).
- 6.4 The appeal hearing will be arranged with at least 5 working days' notice. Copies of the notes from the previous hearing will form part of the evidence and will be made available to all parties as soon as possible (if not with the invitation letter). Any new evidence an employee would like to introduce needs to be submitted as soon as possible and no later than 2 working days ahead of the appeal hearing. An Appeal Hearing Officer will have the discretion to accept evidence submitted after this, but an adjournment may be necessary to properly consider the evidence.
- 6.5 Employees may bring a companion to the hearing. They must notify the Appeal Hearing Officer or HR who the companion is at least 24 hours before the hearing. The companion can be a trade union representative, an official employed by a trade union, or a work colleague only.
- 6.6 The companion will be allowed to address the hearing to present and sum up the case. They can make representations and put forward the employee's case on the employee's behalf and confer with them during the hearing, but they cannot answer questions on the employee's behalf.
- 6.7 A note-taker will also be present in the hearing and HR may be present to advise the Appeal Hearing Officer.
- 6.8 If the employee, or their companion, are unable to attend the appeal hearing, it will be rescheduled to take place within the following 5 working days or as soon as is reasonably practicable. Notice will be given in

writing of the rescheduled appeal hearing. If the employee, or their representative are unable to attend on the revised date, the appeal may be heard on the evidence available.

- 6.9 The Appeal Hearing Officer will review the decision and the evidence from the original hearing and review any further evidence that may be relevant. If the Appeal Hearing Officer considers that there are any material deficiencies with the earlier process followed, they can elect to re-hear the prior stage. If this is the case, the hearing will follow the original hearing procedure. All parties and witnesses can be invited to attend. The possible outcomes will be consistent with the *appeal* hearing procedure.
- 6.10 The decision of the Appeal Hearing Officer can either be given during the hearing, or in writing if the Appeal Hearing Officer considers they need additional time to consider the case. An outcome letter will be issued within 10 working days of the appeal hearing in either case.
- 6.11 The decision made by the appeal manager is final. There is no further right of appeal.

7. What are the possible outcomes of an appeal?

- 7.1 The appeal outcome will be relevant to the procedure followed. This list is not exhaustive, but potential outcomes could include:
- Upholding the original decision, sanction, or dismissal
 - Reducing the original sanction (i.e., to scale back or to reinstate)
 - Increasing the original sanction
 - Overturning a rejection of a flexible working request
 - Revising a response to a grievance outcome and/or making different determinations as to resolution.
- 7.2 If the decision of the Appeal Hearing Officer is to reinstate the employee, this will take effect from the date of the original decision, and if the notice period of termination has already been exhausted, the employee will receive back pay.

8. When will this policy be reviewed?

- 8.1 This policy will be reviewed every year or earlier in the event of changes in legislation.

Document Control:

Version no.	Effective Date	Reason	Review due
1.0	[DATE]	Introduction of policy; approved by [NAME]	[DATE]