

Wiltshire Council Human Resources

Appeals Policy and Procedure

This policy can be made available in other languages and formats such as large print and audio. Contact the Human Resources Policy team for further information.

What is it?

This policy outlines the Wiltshire Council appeal procedure. It ensures that the majority of policies with an appeal procedure will follow the same process. It informs employees how to make an appeal, and provides managers with a clear procedure to follow.

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Who does it apply to?

This policy applies to all Wiltshire Council employees, apart from teachers, non teaching staff appointed in accordance with the Schools Standards and Framework Act 1998 and the Education Act 2002.

In matters which involve chief officers and deputy chief officers (corporate directors and service directors) this policy must be read in conjunction with their terms and conditions of employment and [Wiltshire Council's constitution](#) and NJC Chief Officers.

Policies including the right of appeal covered by this policy are:

Grievance	Disciplinary
Flexible working	Flexible and age retirement
Capability	Dignity at work
Redeployment	Redundancy
Equal opportunities	Whistle blowing
Time to train	Absence management
Some other substantial reason termination	

The Appeal Process

1. To make an appeal, you will need to do so in writing, using the [appeal form](#), within 10 working days of receiving a written outcome or a decision made on your case.
2. You should send the appeal form to the appeal manager who was named in the letter confirming your case outcome. You should also send a copy of the form to Human Resources.
3. Your grounds for appeal should be reasonable, and it is your responsibility to clearly define the reason for your appeal within the [appeal form](#). You can make an appeal against the decision/matter/outcome of your case if you believe:
 - the decision was wrong
 - unfair or incorrect procedures were used
 - the sanction was unfair
 - new evidence has come to light
4. If the grounds for your appeal are not reasonable and/or clear, the appeal manager will seek advice from their HR Advisor, and will decide whether to allow the appeal to be heard.
5. The appeal manager, in conjunction with the HR Advisor, will determine the procedure for how the appeal will be heard as follows:
 - If your grounds for appeal is that the original hearing procedure was flawed your case may be re-heard by the appeal panel.
 - If your grounds for appeal are regarding a specific part of the original case, the appeal panel will consider that specific part, and the appeal will not be a re-hearing of your whole case.
6. The appeal manager will confirm receipt of your appeal [in writing](#), within 5 working days.

Preparation for the appeal hearing

7. The appeal hearing will be held within 25 working days of receipt of your appeal. Any extension on the time frames must be agreed in advance by both parties.
8. At least 5 days prior to the hearing you will be:
 - given written notice of the hearing time and place
 - informed how the case will be heard and by whom

- provided with any additional new management information /evidence that will be considered at the hearing.
9. You have the [right to be accompanied](#) by a representative at the hearing. This can either be a work colleague, a recognised union representative, or an official employed by a recognised trade union.
 10. At least 5 working days prior to the hearing you will also need to provide the hearing panel with the following:
 - any additional details to support your appeal form, if applicable
 - the details of your representative, if applicable
 - the details of your witnesses, if applicable
 11. It is your responsibility to ensure that your [witnesses](#) are available to attend the hearing.
 12. The manager of the appeal panel may either rely on the written management case or arrange for the original investigating manager, original hearing manager and other participants to attend the appeal hearing.
 13. You are not be permitted to record the hearing electronically, but you or your representative may want to take notes. The manager will also ensure notes of the appeal hearing are taken by a separate note taker, and you are provided with a copy of the notes.
 14. Provision will be made for any reasonable adjustments to accommodate the needs of a person with disabilities at the hearing. You will need to inform the panel of any requirements at least 48 hours before the hearing.

The appeal hearing

15. The hearing will be held by the appeal manager and an HR Advisor, both of whom have not been previously involved in your case. This is referred to as the Appeal Panel.
16. The manager holding the appeal hearing will introduce all present and provide a brief summary of the outcome of the original hearing.
17. You will then be asked to present your appeal case and call named witnesses if required.
18. You can confer with your representative during the hearing, and they are able to speak on your behalf, and participate as fully as possible. However, they are not able to answer questions for you.
19. The appeal panel will examine the original written management case and any further evidence that is presented.

20. The appeal panel will question you and any witnesses you have called to attend.
21. The appeal panel may also question the original investigating manager, hearing manager and management witnesses if they have been asked to attend. You will also be given the opportunity to question them.
22. You can then question the original investigating manager
22. The manager of the appeal panel may adjourn the appeal hearing if further investigation is required or to gain clarification on issues raised.
23. You are able to request an adjournment to the hearing, but this must be agreed by the manager of the appeal panel.
24. At the end of the hearing you will have the opportunity to summarise your points.

The decision

25. The appeal panel will adjourn and decide the next step. This could include one of the following:
 - dismiss the appeal and confirm the original management decision
 - allow the appeal and overturn the original management decision
 - allow the appeal and substitute a different outcome – e.g. implement a lesser sanction
26. You may be informed of the appeal panel's decision as soon as it has been made. Alternatively, the appeal panel may wish to consider their decision for longer. In both cases the decision will be confirmed in writing, within five working days. The letter will contain an explanation of the decision made.
27. There is no further right of appeal against the decision of the appeal panel.

Are there any exemptions?

- Politically restricted posts – refer to [Politically Restricted Posts policy](#) as appeals need to be referred to the Local Standards Committee.
- Job evaluation GLPC. You will need to complete the [JE appeal form](#).
- Flexible Working for Parents and Carers of Adults. You should appeal using the [FW2 – Flexible Working Appeal Form](#).
- Overpayments. You will need to follow the procedure outlined in the [Recovery of Overpayments policy](#).

Role of the manager hearing the appeal

- Refer to the appeal policy and procedure, and manager guidelines, which include details of how to conduct an appeal hearing.
- Ensure that the policy is followed and that timescales are adhered to, making sure that the employee is aware of these.
- Remind the employee that they have the right to be accompanied and that they need to name their representative in advance of the meeting.
- Call upon the original investigating manager and any other relevant participants should further information or clarity be required.
- Allow the employee time to state their case clearly.
- Pay particular attention to any new evidence introduced.
- If required, adjourn the meeting if more evidence, not previously discussed, has come to light, or if more information is required.
- Ensure notes of the meeting are taken and a copy sent to the employee.
- Inform the employee of the outcome as soon as possible, ensuring that all evidence has been carefully considered and confirm in writing within 5 working days.
- Make sure copies of all correspondence and notes relating to the case are sent to Human Resources.

More Information

Legislation you need to be aware of:

- Equal Pay Act 1970
- Sex Discrimination Act 1975
- Race Relations Act 1976
- Race Relations (Amendment) Act 2000
- Disability Discrimination Act 1995, 2005
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Age) Regulations 2006
- Employment Act 2002
- Human rights Act 1998
- Data protection Act 1998

Definitions

Working days: This term refers to council working days.

FAQs

- **What if I do not agree with the appeal decision?**
If you do not accept the appeal decision you could seek advice from an external expert.
- **What if relations have broken down between me and my manager? Do I stay in the same job whilst the appeal is going on?**
It is important to remain as professional as possible. If you have any concerns, you should discuss the situation with your manager or if not possible, a more senior manager.
- **What if I don't want to stay in the same team?**
You may be able to be temporarily assigned to another role within your department or be managed by a different manager in the short term. Mediation may be a consideration. You should discuss the situation with your manager or if not possible, a more senior manager.
- **What if my union representative, work colleague or myself are not available on the day scheduled for the appeal hearing?**
If there are genuine reasons why you or your representatives are unable to attend on the scheduled date, a further date will be arranged. Should this delay have an impact on timescales, your agreement to extend the hearing beyond the time limit will be expected.

What if I work part time and I don't think I have enough time to prepare my case?

Each appeal request will be dealt with on a case by case basis. Your manager will ensure that you are allowed time to prepare for your case.

What if I am appealing because I feel I have been treated unfairly in my original hearing?

You should give examples of the treatment you believe to be unfair within your appeal form.

Can the appeals panel consider new and/or related incidents that come to light in the appeal hearing?

The appeals panel can only consider matters considered during the original case. If substantial new information comes to light during the hearing this will need to be referred for separate investigation as a new case - in line with the relevant policy or procedure.

What happens if I do not attend and miss the appeal hearing?

If you miss the hearing for a genuine reason the meeting will be rescheduled. If you fail to attend more than once without reasonable cause, the manager hearing your grievance can decide to proceed in

your absence on the basis of the information available. You will be notified of the decision in writing.

For further advice

For further information please speak to your manager, corporate director or contact a member of your [human resources advisory team](#).

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