

Appeals Policy

Policy Statement

Somerset Council is committed to treating employees fairly and consistently and therefore recognises the importance of offering employees the right of appeal against a formal outcome of an employment process.

This policy applies to all employees apart from school-based employees employed under a Governing Body's delegated powers. **Please seek further advice from the Service Director - Workforce for appeals from officers in tiers 1-3**

This policy does not form part of the Somerset Council Terms and Conditions and may be subject to change.

Standard Appeals deal with appeals relating to:

- Formal Disciplinary Warnings
- Formal Capability Warnings
- Grievances (including bullying & harassment)
- Requests for Flexible Working
- Dismissal due to some other substantial reason (for example, the dismissal of an employee who was taken on as a temporary replacement for a worker who has returned after being absent for medical reasons or maternity leave)
- Dismissal during/at the end of the probationary period
- Ending of a fixed term contract
- Suspension of Contractual Sick Pay
- Action short of dismissal following a disciplinary hearing
- Redundancy (please note that while redundancy appeals are classed as standard appeals, a separate process applies, [see here](#))

Member Appeals deal with appeals relating to:

- Any dismissal resulting from the Disciplinary Policy, Capability Policy, Sickness Policy

This policy does not cover appeals relating to:

Ill Health Retirement or Job Evaluation. Please refer to the relevant policy for more information.

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Both Standard and Member appeal hearings are part of an

internal process. Therefore, employees / appellants lodging an appeal have the right to be accompanied during the appeal hearing by either their Trade Union Representative or an appropriate workplace colleague.

In any appeal hearing, the employee, or appellant may call witnesses and / or submit documents to be considered by the panel. The employee/appellant will be advised of the deadline for submitting documents and / or providing notification of their intention to call witnesses.

The appeal decision will be the final decision of the Council.

Notes will be taken at all appeal hearings by the Council and the employee/appellant and their representative will be provided with a copy upon request. Where appropriate and agreed, an appeal hearing may be tape recorded. This should be discussed with the panel in advance of the hearing. It is expressly forbidden for any employee to covertly record any hearing.

Process

Standard Appeals

An employee/appellant who wishes to appeal under the Standard Appeals Procedure should do so in writing within 10 working days of written receipt of the outcome/decision, stating whether they are appealing against the action taken, the process followed or both. The details of to whom this should be sent will be confirmed in the original outcome letter advising of the right of appeal. Receipt of the employee's/appellant's notification of their intention to appeal should be acknowledged by the receiving manager.

A Standard Appeal will be heard by an independent manager (not previously involved in the case), advised by a representative from the HR Service. The tier of manager involved should normally be one above the manager previously involved in the case.

The appeal will normally be heard within 21 days of the appeal being lodged. The employee/appellant should be kept informed if this is not possible and advised of a likely date.

The employee/appellant and/or their representative should also be given the opportunity of submitting a written statement in the formal appeal papers and calling witnesses to the appeal hearing.

The **HR Advisor** supporting the Chair will ensure that all relevant documentation is circulated to all parties at least five working days ahead of the meeting.

The outcome of the appeal should be confirmed in writing within 10 working day by the Chair of the panel. Wherever possible, the panel's decision will also be given verbally on the day of the hearing. The outcome will include one of the following

- The appeal is upheld
- The appeal is partially upheld – The Chair will provide further details on what part(s) of the appeal is/are upheld and any recommendations, resolutions, or subsequent proceedings required as appropriate.
- The appeal is not upheld

In appeal hearings, sanctions imposed will be reviewed but cannot be increased.

Please click [here](#) for further detailed guidance on the process to follow in a Standard Appeal Hearing.

Please click [here](#) for further detailed guidance on the process to follow in a Redundancy Appeal Hearing.

Member Appeals

An employee/appellant who wishes to appeal under the Member Appeals Procedure should do so in writing within 10 working days of written receipt of the outcome/decision, stating whether they are appealing against the action taken, the process followed or both. A 1-page summary should be included containing this information and the employee's desired outcome. The details of to whom this should be sent will be confirmed in the original outcome letter advising of the right of appeal. Receipt of the employee's/appellant's notification of their intention to appeal should be acknowledged by the receiving manager

A Members' Appeal will normally be heard by 3 Members of the Officer Appeals Committee, herein referred to as 'the panel'. Advice and assistance to the panel will

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be provided by the County Solicitor or their nominated

representative, and the Director of HR or their nominated representative.

The appeal will normally be heard within 28 days of the appeal being lodged and is arranged in conjunction with HR & Democratic Services. Where either party wish to request an extension of this deadline, written permission must be granted by the Director of HR.

Where the employee/appellant indicates that they will attend, and then fails to attend, the appeal will normally be heard in their absence unless the Committee is notified of extenuating circumstances and a postponement has been requested.

The HR representative advising the panel will ensure that all relevant documentation is collated and circulated to all parties 8 days in advance of the hearing. Late requests for submission of additional information are at the panel's discretion.

The outcome of the appeal should be confirmed in writing within 10 working days by the Chair of the panel. Wherever possible, the panel's decision will also be given verbally on the day of the hearing. The Committee has delegated authority from the Council in respect of appeals against dismissal and action short of dismissal to:-

- (a) uphold the appeal and reinstate the Appellant; or
- (b) dismiss the appeal and confirm the dismissal; or
- (c) impose one of the lesser sanctions outlined in the appropriate policy, in preference to confirming the dismissal.

If as a result of an appeal any dismissal decision is reversed any loss of normal earnings as well as regular/contractual overtime, or additional regular payments will be reimbursed and continuity of employment will be restored.

Please click [here](#) for the full Member Appeal Procedure which provides more detail on the above.

Version	1
Date	
Relevant Legislation	The Employment Act 2008 The Local Government Act 1972