

EMPLOYEE APPEALS

SUMMARY

1.1 At the annual Council meeting on 23 May 2012 it was agreed that an Employee Appeals Sub-Committee would be reinstated with immediate effect.

1.2 Following discussion with the Cabinet Member for Business, Finance and Democracy it is recommended that the Employee Appeal Sub-Committee will be responsible for dealing with the following, consistent with the role of the previous Sub-Committee:

- Appeals from employees, except the Chief Executive, against dismissal as an outcome of Disciplinary or Managing Attendance procedures
- Appeals against dismissal on the grounds of redundancy in individual situations that are not covered under collective consultation (as part of a Section 188 process)
- Regrading appeals
- Final stage hearings under the Grievance Procedure

The Appeals Policy has therefore been revised accordingly and is attached at Appendix 2.

1.3 There are currently three employee appeals pending, details of which are attached at Appendix 3.

1.4 Elected Members who will be required to hear employee appeals will be given the appropriate training, which is currently being arranged by the Strategic HR Support Manager and Legal Services.

RECOMMENDATIONS

2.1 To note and agree the changes to the Appeals Policy.

2.2 To progress the revised Appeals Policy to Corporate Joint Committee for ratification.

REASON FOR RECOMMENDATIONS

- 3.1 In order to implement the instruction the amended policy needs to be approved through the appropriate decision making framework.

SUPPORTING INFORMATION

- 4.1 A copy of the revised Appeals Policy is attached at Appendix 2.

OTHER OPTIONS CONSIDERED

- 5.1 None

This report has been approved by the following officers:

Legal officer	None
Financial officer	None
Human Resources officer	Rachel Squirrell
Service Director(s)	Karen Jewell
Other(s)	None

For more information contact:	Rachel Squirrell 01332 643717 e-mail rachel.squirrell@derby.gov.uk
Background papers:	Appendix 1 – Implications
List of appendices:	Appendix 2 – Revised Appeals Policy

IMPLICATIONS

Financial and Value for Money

1.1 None

Legal

2.1 None

Personnel

3.1 Employees will now have access to a Member Appeal in certain circumstances.

Equalities Impact

4.1 None

Health and Safety

5.1 None

Environmental Sustainability

6.1 None

Asset Management

7.1 None

Risk Management

8.1 None

Appeals Policy

Purpose

To allow employees to apply for a reconsideration of a decision following the outcome of one of the following procedures:

- consultation, restructuring and redundancy
- disciplinary and dismissals
- grievance
- managing attendance
- managing individual capability
- right to request flexible working

Document Control

Implementation date	1 February 2011
Author	Barbara Rusk
Equality impact assessment date	25 November 2010
Handbook/master list updated	
Revised/updated	31 May 2012 by Rachel Squirrell

1. Policy application

- 1.1 This policy applies to all Council employees except those employed under the delegated powers of Governing Bodies of community, voluntary controlled schools and trust schools. Governing bodies of these schools are strongly urged to adopt this policy for non-teaching staff within their delegated powers.
- 1.2 The policy does not apply to Chief Executive and Chief Officers for whom there are separate provisions.

2. Principles

2.1 Right of Appeal

- 2.1.1 All employees have a right to appeal against an employment decision following the outcome of one of the following procedures:
 - consultation, restructuring and redundancy
 - disciplinary and dismissals
 - grievance
 - managing attendance
 - managing individual capability
 - right to request flexible working
- 2.1.2 The opportunity to appeal against a decision is essential to natural justice, and appeals may be raised by employees on any number of grounds, for instance new evidence, undue severity or inconsistency of the penalty. An appeal cannot increase the severity of the original sanction.

2.2 The Appeal Process

- 2.2.1 An employee has seven calendar days of receiving a decision in respect of the above procedures to make an appeal, in writing, to the manager who made the original decision.
- 2.2.2 Appeals against the following decisions will be heard by an Appeals Committee consisting of 3 Elected Members
 - Dismissal as an outcome of the Disciplinary and Dismissals procedure
 - Dismissal as an outcome of the Managing Attendance procedure
 - Dismissal on the grounds of redundancy in individual situations that are not covered under collective consultation (as part of a Section 188 process)
 - Regrading appeals
 - Final stage hearings under the Grievance procedure

The Appeals Committee will be advised by a nominated representative of the Director of HR and Business Support.

2.2.3 The Personnel Committee will agree the appropriate arrangements for appeals relating to dismissals on the grounds of redundancy where these are part of a collective redundancy covered by Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992

2.2.4 Appeals against the outcome of other procedures will be heard by a Tier 1 or 2 Director.

2.2.4 Other than in exceptional circumstances, hearings will be held within 21 calendar days of receipt of the written request.

2.2.5 Employees:

- will have the right to be accompanied by another employee of the Council or a trade union representative plus any other support as required under the Equality Act 2010 at the Appeal Hearing.
- will be given a minimum of 7 calendar days notice of Appeal Hearing
- should make every effort to attend the Appeal Hearing as arranged. They may offer a reasonable alternative time within 7 calendar days of the original date if their companion cannot attend.

2.2.6 The Appeal Hearing decision will be made and the employee will be notified in writing within 7 calendar days.

2.2.7 This is the final stage of the internal appeal process.

3. Roles and Responsibilities

3.1 The roles and responsibilities of key stakeholders are summarised in Appendix One.

APPENDIX ONE
APPEALS – ROLES AND RESPONSIBILITIES

Employee Appeals Sub-Committee	Chief Executive and Chief Officers, Tiers 1 & 2	Manager who made the employment decision	Employee	HR including HR Operations
Every employee must use the procedure and guidance on Derbynet				
Fairness and Equality				
	To ensure this policy is implemented in a fair, consistent and non-discriminatory manner.	To provide reasonable adjustments as required.	To notify managers of reasonable adjustments required.	Provide advice and guidance to managers and employees.
General operation of the scheme				
	To ensure managers carry out their responsibilities.			Provide advice and guidance to managers and employees.
Making the appeal				
		Receives the appeal and acknowledges receipt	Makes appeal by completing appropriate form	Notes that employee has appealed
The appeal hearing				
Chairs the appeal hearing	Chairs the appeal hearing	Follows the appeal hearing process	Attends hearing and arranges for companion and any witnesses to be present	Attends and advises Appeals Committee/ Chair of appeal hearing
Follows the appeal hearing process	Follows the appeal hearing process			
Makes and communicates decision	Makes and communicates decision		Participates in hearing	

APPENDIX 3

Pending Employee Appeals

	Type of appeal	Appeal Submitted
Employee A	Final stage grievance hearing	18/06/12
Employee B	Final stage grievance hearing	18/06/12
Employee C	Final stage grievance hearing	14/05/12