

- the Appointing Officer acted in an unfair or biased manner;
- the processes and procedures specified in the Law or Regulations for that type of decision were not followed; or
- the substantive requirements of the Law or Regulations were not complied with (e.g. in relation to appointments to appoint the best candidate on the basis of merit with Caymanians given preference where two or more candidates rank broadly equal).

CAN NON-CIVIL SERVANTS APPEAL?

Under the PSML, only existing employees of government can lodge an appeal with the CSAC. The following are not eligible to lodge an appeal to the CSAC:

- persons who are not civil servants, and who have unsuccessfully applied for a position as a civil servant;
- employees of statutory authorities and government companies as they are not civil servants (and are therefore not covered by the CSAC appeals process);
- Royal Cayman Islands Police Service Officers as their employment conditions are otherwise governed within the remit of the Police Law; and
- Her Majesty's Cayman Islands Prison Officers relating to any disciplinary matter as this employment condition is governed within the remit of the Prisons Law and the Prison (Discipline) Regulations.

It is important to note that, providing he or she is a civil servant, the appellant does not have to work in the civil service entity whose decision he or she is appealing decision (e.g. a civil servant does not have to be working for the Portfolio of Legal Affairs to appeal a decision made on his or her application to work with the Portfolio of Legal Affairs).

WHERE CAN I GET MORE GUIDANCE?

The CSAC has created comprehensive guidance notes which explain whose decisions can be appealed as well as how an appeal can be lodged. These guidance notes are available on our website or at the offices of the Commissions Secretariat.

APPEALS VS GRIEVANCES

The PSML and Personnel Regulations draw a distinction between appeals and grievances.

Grievances are defined in Personnel Regulation 51(2) as concerns of a staff member relating to workplace conditions or safety, the behaviour of another staff member in the workplace, or compliance of other staff members with the Public Servant's Code of Conduct. **That Regulation also makes it clear that a grievance is not a matter which is the subject of the appeal process.**

In other words the grounds for a grievance are different from the grounds for an appeal. Grievances, and a Chief Officer's response to a grievance, cannot be appealed to CSAC and fall outside the CSAC's jurisdiction.

HELPFUL PARTNER AGENCIES

Other agencies which may be useful to a civil servant considering filing an appeal include:

- Complaints Commissioner's Office,
- Commission for Standards in Public Life,
- Information Commissioner's Office,
- Portfolio of the Civil Service,
- Cayman Islands Civil Service Association, and
- Employee Assistance Programme.

HOW CAN I CONTACT THE CSAC?

- Website: www.civilserviceappealscommission.ky
- E-mail: info@civilserviceappealscommission.ky
- Telephone: 244-3685
- Fax: 945-8649
- Mailing address: P.O. Box 391 Grand Cayman, KY1-1106
- Physical address: 2nd Floor, Artemis House, 67 Fort St.

DISCLAIMER

These materials are for informational purposes only and do not constitute legal advice. These materials are intended, but not promised or guaranteed to be current or complete and should in no way be taken as an indication of future results. Visit our website or office for more detailed information.



***I AM A CIVIL SERVANT...
How do I file an appeal?***

APPEALS BY STAFF MEMBERS

Section 54 of the Public Service Management Law (PSML) allows civil servants to appeal to the Civil Service Appeals Commission (CSAC) about a personnel-related decision of a Chief Officer.

Section 33 of the PSML allows a civil servant who has applied for the position of Chief Officer of a Ministry or a Portfolio to appeal against an appointment decision made by the Head of the Civil Service.

Below you will find information on how to lodge appeals to the CSAC under sections 33 and 54 of the PSML

LODGING APPEALS UNDER SECTION 33

When lodging appeals under section 33 the CSAC, the same grounds of appeal and validity of appeals is applied as in appeals under section 54. However, it is important to note that appeals under section 33 are made against decisions of the Head of the Civil Service, and the CSAC does not have final determination authority in relation to these appeals; but instead makes a recommendation to the Governor who is then responsible for making the final decision as he/she sees fit.

LODGING APPEALS UNDER SECTION 54

A staff member or civil servant may appeal about any decision of a Chief Officer made under Part VII of the PSML, other than a decision made under s.45 or s.46 (relating to delegated authority of personnel related decisions by a Chief Officer to a Head of Department), including a decision on an appeal made under s.53 (relating to decisions made by a Head of Department or other manager and appealed by a civil servant or staff member to a Chief Officer) of the PSML. Such decisions include:

- Appointment decisions (including transfers,

promotions and reappointments);

- Remuneration decisions;
- Terms and conditions decisions;
- Performance assessment ratings and comments;
- Performance remuneration decisions (after such date as the Cabinet may by Order specify);
- Disciplinary decisions;
- Dismissal decisions;
- Early retirement on medical grounds decisions;
- Retirement to improve the organisation decisions; and
- Other termination of employment decisions.

Only existing employees of government can appeal.

SECTION 54 APPEALS MUST BE ABOUT CHIEF OFFICER DECISIONS

In all cases, appeals lodged with the CSAC by civil servants or staff members **must be against a decision of a Chief Officer**. The PSML makes provisions for civil servants or staff members to seek to remedy a situation prior to filing an appeal with the CSAC. These provisions are enshrined in s.53(1) and s.53(2) of the PSML and are as follows:

- **Basis of Appeals lodged under s.53(1)**

A civil servant seeking appointment may appeal to the Chief Officer about any appointment decision (made under Part VII of the PSML) by a Head of Department or other Manager in the civil service entity. Such an appeal must be lodged within 30 calendar days of being notified that he or she was not appointed.

- **Basis of Appeals lodged under s.53(2)**

A staff member may appeal to his Chief Officer about any decision (made under Part VII of the PSML) of a Head of Department or other Manager in the civil service entity. Such an appeal must be lodged within 30 calendar days of the decision being notified in writing.

This internal appeal process is the responsibility of the Chief

Officer and is not a matter that involves the CSAC. The CSAC recommends, however, that the process be documented in the entity's Human Resources Policies and Procedures Manual.

GROUND OF APPEAL TO CHIEF OFFICER

Where appeals are lodged under sections 33 or 54 as detailed above, the civil servant or the staff member shall provide evidence to show that the Head of Department or other Manager in the civil service entity has acted in:

- an unfair or biased manner; or
- a manner inconsistent with the requirements of Part VII of the PSML.

WHEN DO I FILE A CSAC APPEAL?

In accordance with the PSML, appeals to the CSAC must be lodged within **30 calendar days** of the appellant being notified of the decision made by the Head of the Civil Service, Official Member, or Chief Officer.

Where a potential Appellant is engaged in discussion (generally of a without prejudice nature) with the potential Respondent, an extension to submit appeal materials may be allowed if the Appellant communicates with the CSAC during that legal timeframe indicating that such discussions are ongoing and requests an extension. Details on requesting such an extension must be read in the CSAC Guidance Notes found on our website.

VALIDITY OF CSAC APPEALS

Under the PSML, a decision can only be appealed if the Head of the Civil Service, Official Member or Chief Officer (as the case may be) has failed to comply with the requirements of the PSML or the Personnel Regulations, in making the decision. This means that Chief Officers and civil servants cannot appeal a decision merely because he/she does not like it. The only valid grounds for an appeal are where the appellant is able to demonstrate that either: