

Officer Appeals Committee

Wednesday 6 February 2019

10.45 am B3E6, County Hall, Taunton



To: The Members of the Officer Appeals Committee

Cllr J Lock, Cllr J Parham, Cllr C Paul, Cllr M Rigby, Cllr D Ruddle and Cllr R Williams

The appeal under Agenda item 6 will be heard by the following members: Josh Williams, John Parham and Clare Aparicio-Paul

Issued By Scott Wooldridge, Strategic Manager - Governance and Risk and Monitoring Officer- 6 February 2019

For further information about the meeting, please contact Scott Wooldridge or 01823 357500

Guidance about procedures at the meeting follows the printed agenda.

This meeting will be open to the public and press, subject to the passing of any resolution under Section 100A (4) of the Local Government Act 1972.

This agenda and the attached reports and background papers are available on request prior to the meeting in large print, Braille, audio tape & disc and can be translated into different languages. They can also be accessed via the council's website on www.somerset.gov.uk/agendasandpapers



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AGENDA

Item Officer Appeals Committee - 10.45 am Wednesday 6 February 2019

Current member Procedure

1 **Appointment of Chair**

To appoint a Chair for the meeting.

2 **Apologies for Absence**

To receive apologies.

3 **Declaration of Interest**

To receive any declarations.

4 **Minutes of the Meeting**

To authorise the Chair to approve and sign the Minutes of this meeting when available.

5 **Exclusion of Press and Public**

To consider passing a resolution under Section 100A(4) of the Local Government Act, 1972 that the public and press be excluded from the remainder of the meeting for the business specified in Agenda item 6 below on the grounds that if they were present for that item of business there would be a likelihood of disclosure to them of exempt information of the following description, as prescribed in The Local Government (Access to Information) (Variation) Order 2006:

- Information relating to any individual;
- Information which is likely to reveal the identity of an individual.

6 **Officer Appeal**

To hear and determine an appeal by an employee against dismissal.
The following document is attached:

- A copy of the procedure for the hearing of an appeal against dismissal.

A schedule of papers agreed between management and the appellant setting out a summary of events has been sent to all involved in the appeal. This schedule is printed on white paper but has 'pink' paper – confidential - status as it contains exempt information under the Local Government Access to Information Act 1972.

Version	2.1
Policy Author	HR Policy and Projects
Effective Date	21/10/14

PROCEDURE TO BE FOLLOWED AT A HEARING OF AN APPEAL TO THE MEMBER APPEALS COMMITTEE

1. GENERAL

The Member Appeals Committee of the Council hears appeals by employees against their dismissal (see point 3.0).

a) Membership

The full committee comprises 6 members of which 3 are chosen on each occasion of an appeal. Care is taken to ensure that the panel members chosen have no member responsibility for the Service where the employee works.

b) Administration

The Committee is assisted and advised by a solicitor from the Legal Services Department and is advised by the Director of HR & Organisational Development (OD) or his nominated representative on management issues. A Committee Administrator from the Council's Committee and Member Services Department organises the appeal hearing and HR&OD prepares and dispatches papers to all those attending. In some cases it may be necessary for an additional adviser to be present from the respondent Department to advise on any professional/technical issues arising during the appeal. The Director of HR & OD or a nominated representative will be present throughout appeal hearings to advise unless the appellant is an employee of the HR Service whereupon another Senior Leadership Team (SLT) Manager or their nominated representative may be asked to perform this role.

c) Powers

The Committee can for dismissal and action short of dismissal:-

- uphold the appeal and reinstate the appellant; or
- dismiss the appeal and confirm the dismissal; or
- impose one of the lesser sanctions outlined in the Council's Disciplinary Procedure, in preference to confirming the dismissal.

d) Methods of Operation

- Strict confidentiality will be observed with regard to the hearing and all related documentation.
- Care will be taken to ensure that the hearing takes place in accordance with the principles of natural justice.
- The appellant can arrange to be represented or supported, only by either a trade union representative or fellow SCC employee of their choice; to call witnesses and submit documents to the Committee.
- Hearings are conducted as informally as possible within the guidelines set out later in Section 3.

2. ACTION PRIOR TO THE APPEAL

The employee's notification of his/her intention to appeal will be acknowledged by the Director of HR & OD or their nominated representative. In lodging an appeal the individual should state whether they are appealing against the level of sanction imposed or against the process followed and set out the grounds for the appeal. A 1 page summary should be submitted containing this information and the employee's desired outcome. Without this information the appeal will not proceed.

On instruction from the Director of HR & OD, the Committee Administrator will:

- Arrange for the appeal to be heard, normally within 28 days of the appeal being lodged;
- Contact relevant officers (including the appellant and/or appellant's representative) to agree a timetable and process for the appeal hearing, within the framework of this procedure (see Notes 1 and 2);
- Invite brief written statements from the appellant and the Council's representative in support of their respective cases - with an instruction that he should receive these crucial documents at least 2 days prior to the circulation of the agenda, i.e. at least 9 days before the hearing, to allow circulation to all parties (see Note 4);
- Ensure that the agenda is published 8 days in advance of the appeal hearing;
- Give all parties to the appeal at least 7 days formal notice of the time and place of the hearing - such notification shall be sent to the appellant in writing, by Recorded Post (see Note 3);
- Table at the hearing any non-crucial documents received (see Note 5)

Important notes for all parties to the appeal:

- Note 1. If either side want an extension of the 28 day deadline, then written permission must be obtained from the Director of HR & OD (who will make the decision after consultation with the Chairperson).

- Note 2. In the event of difficulties over agreeing a date for the hearing, preference will be given to the Members diaries even if it means an evening meeting; the remainder of the participants will be expected to attend at the time chosen. Notice will be taken of any special needs that the employee may have.
- Note 3. Appellants will be asked whether they will attend the hearing. Where the appellant indicates that he/she will attend, and then fails to attend, the appeal will normally be heard in their absence.
- Note 4. The Committee has discretion as to whether or not to accept any subsequent papers received after agenda despatch.
- "Non-crucial" papers must be delivered to the HR&OD at least 2 days before the hearing. These are documents that are not central to the issues but might be felt to be useful. They can form a separate bundle for the table that could be used for information purposes only.

3.0 THE HEARING FOR APPEALS AGAINST DISMISSALS AND ACTION SHORT OF DISMISSAL

3.1 The Committee will agree its own procedure but should as far as practicable observe the following:-

- a) The Chairperson will introduce all those present, explain the purpose of the hearing, how it will be conducted, the role of the advisers, and the powers of the Committee.
- b) The Council's representative will present the management case in the presence of the appellant and his/her representative and may call appropriate witnesses to give evidence.

(NB: Normally, witnesses are only required to be present whilst giving evidence, although the Committee may ask key witnesses such as the representative of the respondent Department to remain throughout the duration of the hearing).
- c) The appellant (or his/her representative if the employee wishes) will be given the opportunity to ask questions of the Council's representative and any management witnesses.
- d) The Committee members may ask questions of the Council's representative and the management witnesses.
- e) The Council's representative will then have the opportunity to ask any supplementary questions of witnesses.
- f) The appellant (or his/her representative) will then be asked the grounds for the appeal in the presence of the Council's representative and call witnesses to give evidence, if appropriate.

- g) The Council's representative will then be given the opportunity to ask questions of the appellant and his/her witnesses.
- h) The Committee may ask questions of the appellant and his/her witnesses.
- i) The appellant or his/her representative will then have the opportunity to ask any supplementary questions of witnesses.
- j) The Committee members, the Council's representative and the appellant (or his/her representative) can ask any supplementary questions.
- k) The Council's representative, followed by the appellant (or his/her representative) can sum up their respective cases.
- l) Electronic recording of the hearing is not permitted.

After a thorough exploration of the relevant issues the meeting will be adjourned to allow the Committee, with a representative of the Legal Services and the Director of HR & OD or the appropriate nominated representative present to advise, to reach their decision in private. The Committee can recall the Council's representative or the appellant and their representative to clear points of uncertainty on evidence already given. If recall is necessary, both parties will be asked to return, even if only one is concerned with the point giving rise to doubt.

3.2 The Decision

The Committee will examine all of the issues fully before reaching a decision.

The Committee will not use new information coming to light to justify a new reason for dismissal in substitution for the original one.

Following the adjournment, the Chairman will inform both parties of the decision reached. This will be confirmed in writing by the County Solicitor within 10 working days.

The Committee's decision is final and therefore there is no further appeal process within the Council.

Document Change History		
Version	Date	Update
2.1	21/10/14	Removal of reference to member involvement in appeals against formal grievance.
2.2	26/07/2019	Membership updated

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