

TEIGNBRIDGE DISTRICT COUNCIL
REGULATORY & APPEALS COMMITTEE

WEDNESDAY 4 MARCH 2020

PART I

Report Title	Staff Appeals Procedure
Purpose of Report	<p>To recommend changes to the arrangements for hearing staff appeals under the Disciplinary, Capability, and Redundancy and Grievance policies. Currently appeals against dismissal and final grievance appeals are the responsibility of the Regulatory and Appeals Committee. The reasons for recommending these are delegated to the Managing Director (Head of Paid Service) are outlined in this report.</p> <p>This has previously been considered by the Committee in April 2019, when the Committee requested the matter be deferred by six months and brought back before the reconstituted Committee following the May 2019 elections.</p>
Recommendation(s)	<p>(a) appeals on personnel issues where the Council's internal procedure gives an employee a right of appeal, be delegated to the Managing Director (Head of Paid Service) and dealt with as outlined in paragraph 4.1 of the report; and</p> <p>(b) The Council's Constitution and associated staff Discipline, Capability, Redundancy and Grievance policies / procedures be amended accordingly.</p>

Financial Implications	None identified.
Legal Implications	None identified.
Risk Assessment	No risks identified with the proposals. The proposals will remove the anomaly of an element of staffing responsibility (appeals) sitting outside the Managing Directors Head of Paid Service responsibilities.
Environmental/ Climate Change Implications	None identified.
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Portfolio Holder	Cllr Gordon Hook (Leader of Council)
Appendices / Background Papers	Council Constitution. Staff Managing Change, Capability, Grievance and Disciplinary Policies

1. INTRODUCTION / BACKGROUND

- 1.1 The arrangements for grievances raised by staff and for managing staff disciplinary and capability issues are covered by existing policies and procedures based largely on the Advisory, Conciliation and Arbitration Service (ACAS) guidelines and good practice. These include provision for appeals against decisions. Although not part of the guidelines or good practice, currently the Regulatory and Appeals Committee hear all appeals against dismissal and the final appeal in relation to the grievance procedure. As a consequence of their involvement in appeals, members of the committee can be called to provide evidence at contentious Employment Tribunals where dismissal decisions are challenged.
- 2.2 Appeals of this nature are rare. In 2018 there were two appeals, one in February and one in March. In 2019 there was one in September. There have been none since then. Outcomes and learning from individual cases are dealt with through reviews by senior officers responsible for the policies and any significant action has been reported to the Managing Director as Head of the Paid service responsible for all staffing matters.

2. Reasons for changes proposed

- 2.1 Responsibility for staffing rests with the Managing Director in his capacity as Head of Paid Service, being the person who has statutory responsibility for the appointment of staff other than chief and statutory officers and also the non-executive role of officer appointments. That post-holder also has accountability to the Council for associated staffing matters, including performance and capability in the delivery of services and the effectiveness of and compliance with HR policies and procedures.
- 2.2 In contrast, Members have a strategic (rather than operational) role, focussing on setting, reviewing and monitoring corporate policy, making decisions on key areas including planning and regulation, and undertaking community leadership. The proposal in this report supports this important distinction between the strategic and operational role of members and officers respectively.
- 2.3 The Senior Leadership Team (SLT), has recently approved a revised staff performance management scheme and competency framework (which was rolled out across the organisation during 2019), and in line with this it is recommended that this most senior level of officers should be expected to hear final appeals in all staffing matters, and to take accountability for their decision making. This would include explaining the rationale for their decisions at employment tribunals if necessary rather than, as currently, being accountable up to a point and then expecting an individual member as chair of an Appeal Panel to assume accountability on behalf of the Council and the Head of the Paid Service.
- 2.4 As well as being consistent with the Head of Paid Service's statutory role, the management role of SLT and the strategic role of members, the recommended changes to the appeal process, would reinforce the role of the Managing Director as Head of Paid Service and SLT in both developing the culture of the organisation and the performance management approach needed to support it. Furthermore, it would overcome the potential for tensions regarding public accountability for staffing arrangements as a result of appeal decisions lying with members on the Appeals Panel.

3. Consultation

- 3.1 Consultation would take place with Unison and other representatives of staff affected ahead of implementation. There will be no change to the rights to appeal and the procedures through which appeals are managed.

4. Proposals

- 4.1 The proposal is to amend the current appeal arrangements for staffing matters other than those for the SLT members and any other statutory officer (see 5.2 below). In its place a panel would be established comprising one member of the

SLT. Panels of appeal would be drawn from this group to hear all final appeals within the grievance policy and all appeals against decisions to dismiss. Specific decision making would be delegated to the Managing Director (Head of Paid Service) although he would be permitted to sub-delegate this power to another member of SLT (e.g. in the case of conflict of interest or his absence). This will require a change in the Constitution.

- 4.2 In response to these amendments, appeals will be undertaken by persons with relevant expertise; consistency in decisions will be more readily secured; appeals may be convened more quickly; and the process should become less adversarial or intimidating to employees.
- 4.3 It should be noted that separate statutory arrangements apply in relation to disciplinary action concerning the Managing Director and members of the Senior Leadership Team (and Monitoring Officer) There is no plan to change these arrangements.

3. IMPLICATIONS, RISK MANAGEMENT & CLIMATE CHANGE IMPACT

3.1 Financial

None identified.

3.2 Legal

None identified.

3.3 Risks

No risks identified with the proposals.

The proposals will remove the anomaly of an element of staffing responsibility (appeals) sitting outside the Managing Directors Head of Paid Service responsibilities.

3.4 Environmental/Climate Change Impact

None identified.

4. ALTERNATIVE OPTIONS

None identified.

5. CONCLUSION

It is recommended to remove responsibility for staff appeals against dismissal and final grievance appeals from this Committee and add these to the Managing Director's responsibilities as Head of Paid Service.

