

## REGULATORY & APPEALS COMMITTEE

CHAIRMAN: Cllr Charlie Dennis

**DATE:** 25<sup>th</sup> April 2019  
**REPORT OF:** HR & OD Manager  
**SUBJECT:** Staff Appeal Hearings

### PART I

### RECOMMENDATION

The Committee recommends to full Council that:

- (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 5.1 of the report; and
- (b) the Council's Constitution and associated staff Discipline, Capability, Redundancy and Grievance policies / procedures be amended accordingly.

#### 1. Purpose

- 1.1 To recommend changes to the arrangements for hearing staff appeals under the Disciplinary, Capability, 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.

#### 2. Background

- 2.1 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

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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. 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.

### **3. Reasons for changes proposed**

- 3.1 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.
- 3.2 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.
- 3.3 The Senior Leadership Team (SLT), has recently approved a revised staff performance management scheme and competency framework (which will be 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.
- 3.4 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.

### **4. Consultation**

- 4.1 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.

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### 5. Proposals

- 5.1 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.
- 5.2 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.
- 5.4 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.

### 6. SUSTAINABILITY IMPLICATIONS

None

### 7. FINANCIAL IMPLICATIONS

None

#### Officer Name

Tim Slater

#### Officer Designation

HR & OD Manager

**The box below to be completed by the report author.**

<b>Wards affected</b>	Not applicable
<b>Contact for any more information</b>	Tim Slater
<b>Background Papers (For Part I reports only)</b>	None
<b>Key Decision</b>	N
<b>In Forward Plan</b>	N
<b>In O&amp;S Work Programme</b>	N
<b>Community Impact Assessment attached:</b>	Not applicable
<b>Appendices attached:</b>	None