

## **STAFFING AND APPEALS COMMITTEE - MINUTES**

**Date:** Wednesday, 23<sup>rd</sup> September 2015

**Time:** 2.00 p.m. – 3.30 p.m.

**Place:** Kreis Viersen Room, Shire Hall, Cambridge

**Present:** Councillors B Ashwood (substituting for M Leeke), P Bullen, D Brown, (substituting for P Brown), J Palmer (substituting for A Dent), P Reeve, P Sales (substituting for J Whitehead), J Schumann (Chairman) and S van de Ven (substituting for P Downes)

**Apologies:** Councillors P Brown, A Dent, P Downes, D Giles, M Leeke, M Rouse and J Whitehead

### **36. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **37. MINUTES – SEPTEMBER 2015**

The minutes of the meeting held on September 2015 were confirmed as a correct record and signed by the Chairman.

### **38. REVIEW OF APPEALS AGAINST DISMISSAL POLICY**

The Committee received a report on a review of the Appeals Against Dismissal Policy.

It was explained that the number of appeals against dismissal was relatively low for an organisation the size of the Council, totalling only 8 in the last three years, of which two were upheld, and in answer to a question raised, indicating that only a few of the others had gone on to appeal at a tribunal.

The Review principles were explained as being to enable the appeal process to become more efficient, whilst maintaining the principle of natural justice and had been in response to perceived barriers to dealing with employees with a performance record.

The reasons for the Review included:

1. The Council was shortly to implement a revised HR Policy “Improving Performance” which would facilitate a definite cultural shift where performing to the required standard “doing your job well” would be the expected norm, and would allow for performance concerns to be addressed quickly and firmly.
2. The current policy did not enable managers to swiftly resolve poor performance, with the current process taking a disproportionate amount of management time.
3. Strategic Management Team (SMT) wanted to deliver a clear message to all managers and directors that they were expected to manage employees who

were not meeting the required standard and that they would be held accountable for their actions.

4. In the context of Council resources reducing by 40% over the next five years, and the New Operating Model, the Council had identified that one of the key enablers to help the Council meet its agreed outcomes would be to “have .....officers who are equipped for the future”. .
5. The time and resources taken to arrange appeals (due to the number of participants and their seniority).
6. The panel size and composition was considered daunting for those employees who did not have regular contact with Councillors, and in many cases were unfamiliar with such formal meetings and settings, the former reason also applying to some managers.
7. Three options were outlined. Option 1 - All dismissal appeals to be heard by a Director sitting alone who would be completely independent of the case. Option 2 - All dismissal appeals to be heard by a Panel of 3, comprising of two members and a Director who it is proposed would act as chair of the panel (where currently these are heard by a panel of three members). Option 3 - No change (i.e. elected 3 members)

The report of the Chief Executive recommended Option 1 for approval. Advice provided from the Monitoring Officer and Democratic Services was that agreeing this Option would require referral on for approval by the Constitution and Ethics Committee and then Full Council, as it represented a change to terms of reference included in the Council Constitution.

In proposing the change, the following safeguards were proposed to ensure that the appeal process remained robust, transparent and fair:

- Training for Directors who hear appeals would be mandatory.
- A senior member of the HR Advisory Team would still be present to advise Directors at an Appeal, and Legal advice sought where necessary (in addition to when dismissal was being considered).
- Appeals would still be submitted to the Head of People for corporate oversight.
- An annual report would still be submitted to Staffing and Appeals Committee detailing the number of appeals, reasons, outcomes etc, to scrutinise the process and retain a strategic oversight.

It was reported that Northamptonshire County Council had agreed a similar change two weeks ago on the basis that the Committee would in future take an overview and scrutiny role.

Formal consultation with the Trade Unions was only to be undertaken if Staffing and Appeals Committee came to an agreement for change.

Issues raised by Members included:

- With regard to explaining the line for Option1 reading “The Policy will continue to exclude appeals from the Head of Paid Service and Chief Officers” it was

clarified that the dismissal of the Head of the Paid Service required to be a decision of Council, while appeals on the dismissal of Chief Officers would still be heard by an appeals committee.

- Several Members who were not in favour of Option 1 believed the current appeals panel membership was the most impartial and transparent for employees, as Members were the employer and as no officers sat on the panel, there could be no suggestion of officer collusion. Those Members supporting no change suggested the failings were both structural and cultural and down to managers not managing poor performing staff. They suggested that arguments regarding the time taken to hear appeals being a barrier to effective management of performance was being used as an excuse for inaction or the fear that the management case was not strong enough when presented to a truly, independent panel. It was suggested that it was the failing of the current structure to manage performance which was the real issues.
- Those arguing in favour of Option 1 taking the view that the Council employed officers to take decisions and that with the budget position requiring more staff reductions, the appeals process required to move to a flatter structure for speedier processing of appeals, as there would inevitably be more of them in the future. The view was also that as any change to the process would be reviewed by this Committee, if it was later found that the revised system was not working, the Committee would be able to change back to member panels. Officers in response to a question suggested that a measure of the revised system not working would be if there was a significant increase in successful appeals to tribunals. Those opposed to Option 1 suggested that increasing numbers appealing to tribunals would add to the Council's costs.
- In relation to the expression "officers who are equipped for the future" there was a request for a definition of what this meant. In response it was indicated that this was part of the ongoing work on the new Operating Model. Another Member made the point that she had taken the quote to mean to enable officers to be equipped to make cuts.
- One Member wished to see the evidence that setting up Member appeals panels caused undue delay and also asked for details of the numbers of dismissals made, compared to those going to appeal, as no statistics were provided in the report. The figure given was that one in ten dismissals did not go to appeal and that there were on average 5-6 dismissals on grounds of performance each year.

As the debate had been evenly divided, a vote was taken which was tied four votes in favour of Option 1 and four votes against from those who supported retaining the current three member appeals panel. As a result, the Chairman exercised his casting vote in favour of Option 1 and the proposal was carried.

It was resolved:

- a) To recommend Option 1 to the Constitution and Ethics Committee.
- b) To note Section 4 of the report detailing the safeguards that would be put in place to ensure an effective and robust decision making process, including

receiving a report in 12 months time to enable the Committee to adopt an overarching scrutiny approach to dismissal appeals.

### **39. EXCLUSION OF PRESS AND PUBLIC**

A Member queried why the public was being excluded in relation to the next two reports on the agenda. In relation to the support arrangements report, this was as it referred to individuals and potential additional remuneration relating to an appointment which had not yet been confirmed by either of the two relevant Councils, while the pay structures report was still the subject of ongoing negotiations.

Following a vote:

It was resolved that the press and public be excluded from the meeting on the grounds that the agenda contained exempt information under Paragraphs 1, 3 and 4 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended, and that it would not be in the public interest for this information to be disclosed information relating to any individual, information relating to the financial affairs of any particular person (including the authority holding that information) and information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority employees of, or office holders under, the authority.

Councillors Bullen and Reeve requested that their names be recorded as having voted against the resolution.

### **40. SUPPORT ARRANGEMENTS FOR THE CHIEF EXECUTIVE**

The Committee received a report to consider options relating to the creation of a Interim Deputy Chief Executive role or alternative approach to support the proposed shared Interim Chief Executive arrangement.

It was unanimously resolved:

To agree to establish a senior lead arrangement on a rotating basis should full Council and Peterborough City Council agree the shared Chief Executive role in October.

### **41. REVIEW OF LOCALLY AGREED PROFESSIONAL AND MANAGEMENT PAY**

The Committee considered a previous report on 29 June 2015 on the pay review that the Council has been undertaking. That report confirmed that:

- The Chief Executive/Strategic Management Team (SMT) was responsible for determining an appropriate pay structure and reward arrangements for employees who fell under locally agreed management/professional band and Heads of Service grades, but SMT wished to engage with the Committee to receive its views.
- The Council has previously communicated that it was looking to review the pay structure for the group, with the remit to ensure it met the business needs of the

Council in the future, was fit for purpose and due attention was given to equality considerations and complemented the Council's Performance and Appraisal scheme.

- formal consultation meetings had now been undertaken with the three recognised trade unions (GMB, UNISON and UNITE).

In summing up, the Chairman highlighted that while the Committee supported a simplified pay structure, their concerns were regarding the costs and any proposals that would widen the salary gap internally between the lowest paid and the highest paid and requested that a report should come back to an November meeting of the Committee. *(Note: the next meeting has now been scheduled for 27<sup>th</sup> October)*

It was resolved unanimously:

to note the report and receive an update report on the further discussions at SMT to come back to a Committee meeting in November.

Chairman