

REVIEW OF APPEALS AGAINST DISMISSAL POLICY

To: Council

Date: 15th December 2015

From: LGSS Director Law, Property and Governance

Purpose: To consider the recommendation of the Constitution and Ethics Committee as to whether the Constitution be amended in accordance with the recommendation of the Staffing and Appeals Committee, that all* appeals against dismissal will be heard by a Director sitting alone who would be completely independent of the case (*except for Chief Officers and whether procedures for statutory officers apply).

Recommendation: Council is recommended to consider whether the Constitution be amended in accordance with the recommendation of the Staffing and Appeals Committee, that all* appeals against dismissal will be heard by a Director sitting alone who would be completely independent of the case (* except for Chief Officers and where procedures for statutory officers apply).

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1.0 INTRODUCTION

- 1.1 On 23 September 2015, the Staffing and Appeals Committee considered a report outlining a recommendation to revise the Council's HR policy on "Appeals Against Dismissal". The report is attached at **Appendix C**. This report outlines the Staffing and Appeals Committee's recommendation and the resulting changes that are required to the Council's constitution.

2.0 BACKGROUND

- 2.1 Appeals against dismissal are currently heard by either:

- a Staffing and Appeals panel comprising three elected members
- an independent Corporate Director and a relevant adviser (*some redundancy situations and expiry of fixed contracts only*)

and this is set out in the Council's constitution.

- 2.2 The Staffing and Appeals Committee considered the reasons for a review including that the Council's constitution which states it is officers who are responsible for making decisions and to manage the day to day delivery of its services. Employment issues (other than for the most senior officers) are the responsibility of officers, therefore the Chief Executive (Mark Lloyd) asserted it would follow that senior managers and directors should be empowered and accountable for their actions for which they are remunerated appropriately for.

3.0 THE STAFFING AND APPEALS COMMITTEE'S RECOMMENDATION

- 3.1 The Staffing and Appeals Committee concluded to support the Chief Executive's recommendation (Section 3.2) subject to the safeguards recommended.

3.2 Recommendation

All dismissal appeals to be heard by a Director sitting alone who is completely independent of the case. The policy will continue to exclude appeals from The Head of Paid Service and Chief Officers.

The Staffing and Appeals Committee to provide an overarching scrutiny on employment matters.

Recommended Safeguards (to ensure a reasonable conclusion is reached)

Training for Directors who hear appeals will be mandatory.

- A senior member of the HR Advisory Team will still be present to advise Directors at an Appeal, and Legal advice can be sought where necessary (in addition to when dismissal is being considered).
- The Head of People will retain corporate oversight.
- An annual report will be submitted to Staffing and Appeals Committee detailing the number of appeals, reasons, outcomes etc, in order that the Staffing and Appeals Committee is able to scrutinise the process and retain an overarching scrutiny approach to dismissal appeals.

4.0 CONSTITUTION CHANGES REQUIRED

- 4.1 As the Staffing and Appeal Committee’s recommendation requires changes to the Council’s constitution, a report was presented to Constitution and Ethics Committee on 19th November 2015 asking it to consider the required changes in accordance with Part 3B Section 8 of the Council’s constitution. *“Authority to oversee the operation of the Council’s Constitution and authority to make recommendations to Full Council as to amendments and improvements to the Council’s Constitution, including the codes and protocols”.*
- 4.2 Amendments are also required to the terms of reference for the Staffing and Appeals Committee and Service Appeals Sub-Committee (Part 3B-11), and to the Scheme of Delegation to Officers (Part 3D). The proposed changes are set out in **Appendices A and B**; deleted text is shown struck through and new text underlined.
- 4.3 The Constitution and Ethics Committee considered the proposal in detail at its meeting on 19th November 2015. A number of members of the Committee could not support the proposal. However, it was noted that the recommendation had been made by the Staffing and Appeals Committee and it was not for the Committee to overturn it as its remit was to recommend constitutional changes to Council. The Committee therefore agreed that it should recommend that full Council consider whether the Constitution be amended in accordance with the recommendation of the Staffing and Appeals Committee.

Source Documents	Location
Constitution	http://www.cambridgeshire.gov.uk/info/20050/council_structure/288/councils_constitution
Constitution & Ethics Committee – 19 November 2015	http://www2.cambridgeshire.gov.uk/CommitteeMinutes/Committees/Meeting.aspx?meetingID=1085
Staffing and Appeals Committee – 23 September 2015	http://www2.cambridgeshire.gov.uk/CommitteeMinutes/Committees/Agendaltem.aspx?agendaltemID=12148 .