

13 SEPTEMBER 2013

NEW FOREST DISTRICT COUNCIL

APPEALS COMMITTEE AND GENERAL PURPOSES AND LICENSING COMMITTEE

Minutes of a special joint meeting of the Appeals Committee and the General Purposes and Licensing Committee held at Appletree Court, Lyndhurst on Friday, 13 September 2013.

Councillors:

p A R Alvey
p G C Beck
p Mrs S V Beeton
p Mrs S M Bennison
p S J Clarke
p W H Dow
ap Ms L C Ford
p A T Glass
p C J Harrison
ap D Harrison
p J D Heron
ap Miss A J Hickman
p A N G Kilgour
p Mrs A E McEvoy

Councillors:

p Mrs M McLean
N S Penman
p J Penwarden
ap L R Puttock
p Mrs A M Rostand
R F Scrivens
p A R Tinsley
p D B Tipp
ap S S Wade
p R A Wappet
p Mrs C V Ward
ap C A Wise
p P R Woods

Officers Attending:

Mrs R Rutins, Mrs M Sandhu and Ms M Stephens.

1. ELECTION OF CHAIRMAN

Cllrs Beck and Wappet were proposed and seconded for election as Chairman of the joint meeting.

Upon a vote it was

RESOLVED:

That Cllr Beck be elected Chairman for the meeting.

The Chairman, Cllr Beck, in the chair.

2. DECLARATIONS OF INTEREST

No declarations of interest were made by members in connection with an agenda item.

3. PUBLIC PARTICIPATION

No issues were raised during the public participation period.

4. PROPOSED CHANGES TO DISMISSAL APPEALS PROCEDURE (REPORT A)

Members considered a proposal to change the employee dismissal appeals procedure.

It was noted that disciplinary action against employees was undertaken by officers under specified delegated powers. Heads of Service and officers on Band 9 and above were also authorised to dismiss employees, with the exception of the Chief Executive, Executive Directors and Heads of Service.

Appeals by employees against dismissal were currently determined by an Appeals Panel of up to five (but usually three) councillors, drawn from the Appeals Committee. If the Appeals Panel upheld an officer decision to dismiss an employee, the employee concerned had a right of appeal to an employment tribunal. The member chairing the Appeals Panel was expected to be the Council's main witness at any resultant employment tribunal, and would be subject to cross-examination by Counsel.

The Industrial Relations Committee (IRC) had considered the proposals outlined in Report A on 6 September 2013. Members had been advised of the IRC's comments. Whilst they did not object to the principle of the proposals, the Employee Side had expressed the view that employees should retain the right to appeal to councillors against their dismissal. They therefore wished employees to be able to choose whether an appeal against dismissal was heard by a member or an officer panel.

The Head of Human Resources explained that the appeal process should be consistent for all employees and it was not practicable to allow employees to choose who should hear an appeal against dismissal. She emphasised that if employees had any concerns about the composition of an officer panel under the proposed new arrangements, these would be considered and, almost invariably, other Panel members would be sought.

In supporting the proposals some members expressed the view that officers were better placed than members to represent the Council at employment tribunals, in what was a complex legal environment. They saw the Councillor's role as one of setting policy, not being involved in operational matters. Furthermore, as members were not involved in the day to day management of employees, it was felt that member involvement in dismissal appeals was an anomaly. The position in regard to Heads of Service and above was different as, if appeals against their dismissal were conducted by officers, Heads of Service would have to take decisions in regard to their peers.

Other members felt strongly that employees should retain the opportunity to have any appeal against dismissal heard by a councillor panel. Some employees would consider managers to have predetermined views and that they would support decisions made by their peers rather than judge each case on its own merits. While this might not be the case, it was important that the perception of, as well as actual, bias was avoided. It was pointed out that members serving on Appeals Panels were supported by officers from both Human Resources and Legal Services and

were given thorough advice and information. For this reason they felt equipped to deal with complex hearings and employment tribunals. They found it difficult to accept that a member panel process was appropriate for Heads of Service and above, but not for those below Head of Service level. They felt that the current process worked well and that the status quo should be maintained.

Members were also concerned at the reduction in workload of the Appeals Committee if the proposals were agreed.

After discussing the matter at length, members considered that there should be no change to the current arrangements for dealing with appeals against dismissals.

Upon votes being taken by each Committee, it was:

RESOLVED (APPEALS COMMITTEE):

That it be recommended to the General Purposes and Licensing Committee that the current process for dealing with appeals against dismissals from employees remain unchanged.

RESOLVED (GENERAL PURPOSES & LICENSING COMMITTEE):

That the current process for dealing with appeals against dismissals from employees remain unchanged.

CHAIRMAN