

NOTICE OF MEETING

Meeting APPEALS PANEL

Date and Time FRIDAY, 2 SEPTEMBER 2011 AT 2.00 P.M.

Place COMMITTEE ROOM 1, APPLETREE COURT, LYNDHURST

Telephone enquiries to: Lyndhurst (023) 8028 5000
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Chief Executive

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This Agenda is also available on audio tape, in Braille, large print and digital format

AGENDA

PART I – PUBLIC SESSION

Apologies

1. Election of Chairman

To elect a Chairman for the meeting

2. Minutes

To confirm the minutes of the meeting held on 19 August 2011 as a correct record.

3. Declarations of Interest

To note any declarations of interest made by members in connection with an agenda item. The nature of the interest must also be specified.

Members are asked to discuss any possible interests with Democratic Services prior to the meeting.

4. Exclusion of the public and the Press

At the conclusion of this part of the Agenda, the Chairman of the Committee will move the following resolution:-

"That, under Section 100(A)(4) of the Local Government Act 1972, the public and the Press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part I of Schedule 12A of the Act and the public interest in maintaining the exception outweighs the public interest in disclosing it."

PART II - PRIVATE SESSION

Members are reminded that reports and information relating to this session are not for publication and should be treated as **strictly confidential**.

5. Appeal Against Dismissal (Report A)

To consider an Appeal against a decision to dismiss an employee.

6. Any other items which the Chairman decides are urgent

To: **Councillors:**
C J Harrison
R A Wappet

Councillors:
P R Woods
A R Alvey – Reserve.

(AP020911)

PROCEDURE AND GUIDANCE FOR MEMBER APPEAL PANEL

1. THE APPEALS PANEL

- 1.1 The Appeals Committee has been set up to hear appeals or objections against decision of the Executive, Committees and officers. This includes decisions on employment related issues, including on disciplinary, capability, sickness and redundancy.
- 1.2 A Panel of up to 5 members will be appointed to hear the appeal. They will be drawn from the membership of the Appeals Committee. The Panel members will usually be appointed in accordance with the political proportionality of the Council. Members will not be selected if they have already taken part in the original decision that is the source of the appeal, or where it may create any other duplication of interests.

2. ARRANGEMENTS FOR THE HEARING

- 2.1 The hearing must be held within a reasonable time of an appeal being lodged, in writing, with Personnel Services. The letter lodging the appeal must specify all the grounds of the appeal and it will not be possible to progress the arrangements for the hearing until this has been received. The hearing will normally be held within 28 days of formal notification of appeal being received. The date for the hearing will be agreed with the appellant, any representatives they wish to have present, the management representative(s) and the Head of Human Resources.
- 2.2 Meetings will normally be held in one of the Committee Rooms at Appletree Court, Lyndhurst or the Town Hall, Lymington.
- 2.3 All parties will be given as much notice as possible of the date – but such matters are often urgent, and therefore time-scales may be limited. Dates will always be mutually agreed to protect the interests of all parties.

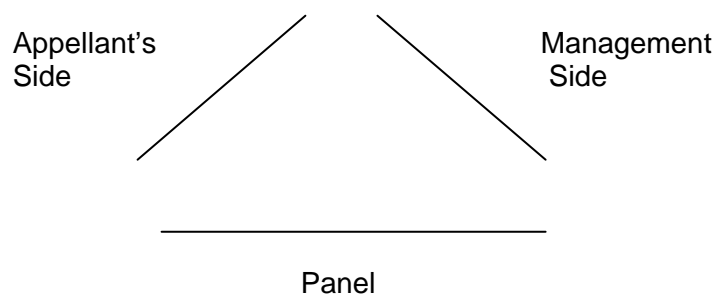
3. AGENDA FOR THE MEETING

- 3.1 The agenda will be sent out 6 working days before the meeting, or a shorter time-scale where agreed by all parties. There will be a brief report for the members hearing the appeal which will be prepared on behalf of the independent advisor to the Panel. This report will set out the background information and relevant policies. Both the appellant and relevant Service will be invited to submit written submissions 10 working days before the meeting. At the same time, a list of the witnesses to be called by both the appellant and the management representative should also be prepared and a copy given to the Committee Administrator for circulation with the agenda.
- 3.2 Guidance on the format of the evidence submission by both the appellant and the management is attached as an Appendix.
- 3.3 The agenda and supporting papers will be sent to the elected members hearing the appeal, the appellant and their representatives, the management representative, the Head of Human Resources, and any independent advisor to the Panel. The appellant's and management's cases should be as complete as possible to make sure that the members of the Appeals Panel have all relevant information from the outset.

- 3.3 Neither party will be able to submit documents at the hearing that have not been previously produced and circulated.
- 3.4 The supporting papers are strictly confidential, and all parties are requested to respect this.

4. THE APPEAL HEARING

- 4.1 The procedure at the hearing follows the custom and practice for all quasi-judicial appeals that the Council may hold. The process has been designed to give both parties a fair and equal chance to make their case, and to question the evidence put forward by the other party. The Human Rights Act 1998 requires that the appellant is entitled to a free and fair hearing, by an independent tribunal. This procedure is designed to protect that right. A copy of this procedure will be sent to everyone taking part in the appeal.
- 4.2 The Members hearing the appeal will be advised by the Head of Human Resources or his or her representative. A Committee Administrator will also be present. Additional legal advisors will be arranged if it is thought necessary. All of these officers will not have been involved in any way in the decision that is the subject of the Appeal. If the Head of Human Resources has been involved in the decision an alternative independent advisor will be brought in to advise on employment law and practices. This alternative independent adviser may be commissioned from an outside organisation, for example, the South East Employers' Organisation. The role of these officers is to provide a source of independent advice to the Members taking the decision, including New Forest District Council's procedures and external codes of practice.
- 4.3 Suggested room set up:



5. PROCEDURE

- 5.1 The Panel will select a Chairman from among their number.
- 5.2 The Chairman will ensure that there are no personal and prejudicial interests that must be declared.
- 5.3 The press and public will be formally excluded from the meeting.
- 5.4 The Chairman will introduce all those present.
- 5.5 The Panel, Appellant and their representatives, management and their representatives may be present throughout. Witnesses will be called into the meeting as necessary.

6. THE FORMAT FOR THE HEARING

6.1 The Appellant's Case

- 6.1.1 The appellant will explain the grounds of their appeal. They may be helped by their employee side representative or a work colleague who can either present the case directly, or support the appellant in presenting their own case. They may also call such witnesses as they feel necessary. This is subject to advance notification in accordance with paragraph 3.1.
- 6.1.2 The management representatives will have the opportunity to question the appellant, their representatives and witnesses.
- 6.1.3 The Members of the Panel will have the opportunity to question the appellant, their representative and witnesses.
- 6.1.4 The officers advising the Panel may also seek clarification on points raised in the Appellant's case.

6.2 The Management Case

- 6.2.1 The management representatives will explain the reasons for their original decision. They may be assisted by such other advisors and witnesses as they feel necessary. This advisors and witnesses are subject to advance notification in accordance with paragraph 3.1.
- 6.2.2 The appellant and their representative will have the opportunity to question the management representative, advisors and witnesses.
- 6.2.3 Members of the Panel will have the opportunity to question the management representative, advisers and witnesses.
- 6.2.4 The officers advising the Panel may also seek clarification on points raised in the management's case.

6.3 Any Additional Advice

- 6.3.1 The Members of the Panel may hear or seek such other professional advice or evidence as they feel necessary to allow them to take an informed decision. This evidence will be given within the hearing and both the appellant's and management's side will be able to ask questions and to comment.

6.4 Summing Up

- 6.4.1 The appellant, or the representative, will sum up the case they have presented. No new evidence may be introduced at this stage.
- 6.4.2 The management representative will sum up the case they have presented. No new evidence may be introduced at this stage.
- 6.4.3 The Chairman will declare that the hearing of representations is closed. No further representations may then be heard.
- 6.4.4 The appellant, their representatives and witnesses, the management representative, their advisers and witnesses will be asked to leave the

meeting.

6.5 The Decision

- 6.5.1 The Panel will make its decision on the basis of the factual information in its possession when the hearing is closed, and no additional information will be sought. The Panel may however receive legal and procedural advice, if they request it.
- 6.5.2 The Panel will normally reach a decision following their debate on the evidence, which is held after the closure of the hearing. In which case the Panel will call all parties back into the room to hear the decision once made. The Panel may however decide to adjourn their debate, for reflection or to seek further advice. In which case the appellant and management sides will be advised of this course of action and then sent notice of the decision as soon as possible. In any event the decision will be sent in writing to the appellant and to the Service as no later than 5 clear working days after the hearing.
- 6.5.3 The Panel's decision is final, and there are no further avenues of appeal available within the Council.