

**HR COMMITTEE – 8 JUNE 2023**

**COUNCIL – 10 JULY 2023**

## **CHANGE TO DISMISSAL APPEAL PROCESS**

### **1. RECOMMENDATIONS**

- 1.1 That the Council agree the proposal to change the internal Appeal process in relation to dismissals, outlined at section 6 of the report.
- 1.2 That authority be delegated to the Monitoring Officer to make the consequential changes arising to the Constitution, which include the Appeals Committee Terms of Reference.

### **2. INTRODUCTION**

- 2.1 Currently employment related dismissal decisions can be appealed by the outplaced employee. This can include dismissals arising from the disciplinary, capability, grievance, redundancy and absence management procedures and are heard by a panel of members selected from the Appeals Committee.
- 2.2 This process applies to all employees except those in their probationary period.

### **3. CURRENT APPEAL PROCESS**

#### **Dismissal Appeals**

- 3.1 An employee has 10 working days to submit an appeal against a dismissal decision.
- 3.2 The hearing is normally held within 28 days of the appeal being lodged. A panel of 3-5 members is agreed, supported by the Service Manager Human Resources with additional legal support as required. The panel is a formally constituted meeting of the local authority.
- 3.3 The panels appeal decision is final. There is no further avenue of appeal available within the Council.

#### **Appeals against other sanctions**

- 3.4 For other measures – for example a Disciplinary Hearing at a lower level where dismissal could not be a possible outcome, we have an Authority to Act schedule which shows the level of officer which can make the decision, and the level of officer that can hear the appeal.

### **4. CONSIDERATIONS**

- 4.1 We do not receive many appeals against dismissals however when we do, due to the involvement of members and diary commitments it takes a considerable time to set up the arrangements.
- 4.2 Due to the infrequency of the appeals, when they do occur it often requires a training session to be set up for members who are not necessarily trained in employment law or have any background in dealing with HR matters.

- 4.3 We have compared with other neighbouring authorities including running a survey through South East Employers in January this year to establish what others do.

The results can be seen here:

Authority	Member Involvement in Appeals	Procedures that include elected member involvement in the appeal process	How many elected members are involved in an appeal?	What is the role of the elected members in the appeal process?	Policy changed in the last 5 years	What were the reasons for making this change?
NFDC	Y	All dismissal Appeals	Up to 5	The panel decides whether to uphold the appeal or not	No	
Unitary 1	No				Yes	To allow for a speedier process
District Council 1	No				No	
District/Borough 2	No				No	
Unitary 2	Yes	All dismissal Appeals  All other appeals	2	To be part of a panel	No	
Unitary 3	Yes	Just dismissal	1	The member is part of the Employee Appeal Panel	No	
Borough Council	No				No	

- 4.4 As can be seen half of those that answered the survey do not involve members in their dismissal appeals at all. The two (other than us) that do, only use members as part of the panel.

## 5. CONCLUSIONS

- 5.1 We have a number of senior officers that are experienced in HR matters and would be able to provide an impartial view in an appeal situation.
- 5.2 It should also be remembered that if required, the chair of any dismissal appeal would be required to provide evidence in an Employment Tribunal.
- 5.3 We are in the minority when it comes to using members for our dismissal appeals.

## **6. PROPOSALS**

6.1 It is proposed that the Council changes its policies to facilitate the following:

All dismissal appeals up to and including Band 11 employees will be heard by a Strategic Director or above. The Strategic Director must not be responsible for the service area that the individual is employed within.

For Chief Executive, Strategic Directors and Assistant Directors it is proposed that an appeal panel would remain as it is now, with the appeal following the procedures as laid out in the Council's Standing Orders.

## **7. FINANCIAL IMPLICATIONS**

7.1 None.

## **8. CRIME & DISORDER IMPLICATIONS**

8.1 None.

## **9. ENVIRONMENTAL IMPLICATIONS**

9.1 None.

## **10. EQUALITY & DIVERSITY IMPLICATIONS**

10.1 All employees except those in probation would be covered by these changes.

## **11. EMT COMMENTS**

11.1 EMT are happy to support the proposals moving forward.

## **12. EMPLOYEE SIDE COMMENTS**

12.1 Employee Side had no issues or concerns with the changes proposed.

## **13. HR COMMITTEE COMMENTS**

13.1 At its meeting held on 8 June 2023, the HR Committee supported the recommendations, and noted that it was difficult for elected members to keep fully abreast of the constant changes in what was often complex employment law.

### **For further information contact:**

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### **Background papers:**

[HR Committee agenda, reports and minutes – 8 June 2023](#)