

# **GENERAL PURPOSES (APPEALS & STAFFING) COMMITTEE AGENDA**



**Monday, 17 August 2009**

**at 2.00 pm**

**in Committee Room C**

**MEMBERS: GENERAL PURPOSES (APPEALS & STAFFING) COMMITTEE:**

Councillor Pauline Laffey (Chair)  
Councillor Peter Jackson (Portfolio Holder)  
Councillors, Atkinson, G Lilley and Shaw

- 1. APOLOGIES FOR ABSENCE**
- 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
- 3. MINUTES**
  - 3.1 To confirm the minutes of the meeting held on 10 July 2009
- 4. ITEM FOR INFORMATION**
  - 4.1 Appeals Against Dis missal Procedure
- 5. LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006**

## **EXEMPT ITEMS**

Under Section 100(A)(4) of the Local Government Act 1972, the press and public 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 the paragraph referred to below of Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006

- 6. ITEMS REQUIRING DECISION**
  - 6.1 Appeal against Dis missal (para 1)
    - (a) Management Statement of Case
    - (b) Appellant Statement of Case (to follow )
  - 6.2 Request for payment of deferred pension benefits – Chief Personnel Officer (para 1)

6.3 Request for payment of deferred pension benefits – Chief Personnel Officer  
(para 1)

7. **ANY OTHER CONFIDENTIAL ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

**GENERAL PURPOSES  
(APPEALS AND STAFFING) COMMITTEE  
MINUTES AND DECISION RECORD  
10 July 2009**

The meeting commenced at 9.00 am in the Civic Centre, Hartlepool

**Present:**

Councillor Pauline Laffey (In the Chair)

Councillors Christopher Akers-Blecher, Bob Flintoff, Ged Hall, Cath Hill,  
Jane Shaw and Victor Tumilty

Officers: Joanne Machers, Chief Personnel Officer  
Denise Wimpenny, Principal Democratic Services Officer

**1. Apologies for Absence**

None

**2. Declarations of interest by members**

None

**3. Confirmation of the minutes of the meetings held on 22  
May, 2 June (9 am), 2 June (2pm) and 3 June 2009**

Confirmed.

**4. Local Government (Access to Information) (Variation)  
Order 2006**

Under Section 100(A)(4) of the Local Government Act 1972, the press and public were excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in the paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006.

Minute 5 – Application for Early Retirement linked to Voluntary Redundancy –  
(Para 1 – namely information relating to any individual)

**5. Application for Early Retirement Linked to Voluntary Redundancy** (Chief Personnel Officer)

The Committee considered an application for early retirement linked to voluntary redundancy, further details of which was set out in the exempt section of the minutes.

**Decision**

The decision was set out in the exempt section of the minutes.

The meeting concluded at 9.20 am.

CHAIRMAN

**(EXTRACT FROM THE CORPORATE DISCIPLINARY PROCEDURE)  
(as amended to reflect Finance & Performance Portfolio Decision in July 2009)**

**3. Appeals Against Dismissal**

**(A) Constitution of Appeals Committee**

Appeals against dismissal are heard by a duly convened and quorate General Purposes (Appeals and Staffing) of the Council. The Constitution defines the make up of the Committee and how many members constitute a quorum.

Members who have had any prior involvement in the case will be excluded from sitting. The Chief Personnel Services Officer or representative will attend appeals against dismissal to provide advice (including procedural and employment law advice) to the Committee and to assist members generally in establishing the arguments and facts being presented to them.

The Committee to deliberate in private with only the Chief Personnel Officer or representative and Secretary in attendance recalling the management representative, Human Resources representative, the employee and representative only if clarification of evidence already given is required. In such instances all parties should be recalled even though clarification may be required from only one party.

The Assistant Chief Executive or representative shall act as secretary to the Committee and shall be the only other officer to remain with members whilst they deliberate. The secretary shall record the decision of the Committee but is not present to provide any form of advice other than on administrative matters.

**(B) Written Statements**

Both management and the employee will be invited to submit written statements of case which will be forwarded to members 7 days before the hearing. Where both parties have provided statements these will also be exchanged 7 days before the hearing. If one party does not produce a statement then they will receive the other party's statement as early as practicable on the day of the hearing.

**(C) Representation and Attendance**

The normal procedure will be for the employee plus one representative, and the manager plus one personnel representative, to attend the hearing and present their cases. Witnesses will be called in, in turn, to give evidence and will then leave the hearing. It is at the discretion of the Committee to permit either party to bring additional representatives/managers and to decide whether they may attend in an observer or participant capacity.

**(D) Decisions**

On the basis of the evidence presented, the Committee may make any lawful decision it so decides.

Decisions generally will fall into two categories, namely:

- (a) not allowing the appeal in which case the employee's dismissal is confirmed.
- (b) allowing the appeal in which case the employee is reinstated. If the Committee are of the view that some disciplinary action is necessary, they may consider one or more courses of action such as:
  - (i) verbal warning in accordance with the Council's disciplinary procedure
  - (ii) formal warning in accordance with the Council's disciplinary procedure
  - (iii) final warning in accordance with the Council's disciplinary procedure
  - (iv) redeployment/demotion to another post,

although the above list is not exhaustive.

The Committee shall give its decision in full detail in the presence of both parties and clarification may be sought by any party.

**(E) Re-engagement**

In exceptional circumstances, where the appeal has not been allowed, the Committee may nonetheless decide to offer re-engagement, on whatever terms it chooses. If so the Committee will announce, when it gives its decision on the appeal, that it intends to exercise its discretion in this way. The terms of the re-engagement will be set out in a separate letter sent with confirmation of the Committee's decision. The offer must be accepted in writing before the employee can start work.

**(F) Procedure**

The procedure will be as follows:-

1. (a) The management representative and/or human resources representative shall state the case.
- (b) The management representative and/or human resources representative may call witnesses and the procedure for each witness shall be:-
  - Management and/or human resources representative to question.
  - Employee and/or representative to question.
  - Each member of the Committee and the Chief Personnel Officer or representative to be invited to ask any questions.
  - Management and/or human resources representative to re-examine.
  - Witness to retire.
- (c) The employee or representative may ask questions of the management representative and/or human resources representative.
- (d) The Committee members and the Chief Personnel Officer or representative may ask questions of the management representatives and/or human resources representative.
- (e) The employee or representative to state the case.
- (f) The employee or representative may call witnesses and the procedure for each witness shall be:-
  - Employee and/or representative to question.
  - Management representative and/or human resources representative to question.
  - Each member of the Committee and the Chief Personnel Officer or representative to be invited to ask any questions.
  - Employee and/or representative to re-examine.
  - Witness to retire
- (g) The management representative and/or human resources representative may ask questions of the employee.
- (h) The Committee members and the Chief Personnel Officer or representative may ask questions of the employee and/or representative.
- (i) The management representative and/or human resources representative to have the opportunity to sum up the case if wished.
- (j) The employee and/or representative to have the opportunity to sum up the case if wished.
- (k) The management representative and human resources representative, the employee and representative and the Chief Personnel Officer or representative to withdraw.
- (l) The Committee to deliberate in private with only the Chief Personnel Officer and Secretary in attendance.
- (m) The Committee to recall both parties if clarification of evidence is required even if this may be required from only one party.

## 4.1

- (n) The Committee shall announce its decision to both parties unless further time for deliberation is needed, in which case both parties will be advised of this.
- (o) The decision of the Committee and the terms of this will be notified to both parties in writing within 7 days of the hearing. Clarification of the decision may be sought at this stage.

- Note:**
- (i) The provision for summing up at (i) and (j) does not include the right to introduce new evidence at this stage in the procedure. If this becomes necessary, then the other party should be given the right of reply.
  - (ii) Any matters not covered by the above procedure will be for the Committee to determine.

2. Where a decision has been taken not to allow the appeal and this has been communicated to the member of staff as in (1)(n) above and the Committee wish to make an offer of re-engagement, such an offer would be made after stage (1)(n) of the procedure as a distinctly separate matter from the appeal.