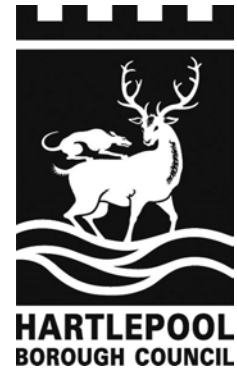


# GENERAL PURPOSES COMMITTEE AGENDA



**6 August 2012**

**at 2.00 pm**

**in Committee Room 'A', Civic Centre, Hartlepool**

MEMBERS: GENERAL PURPOSES COMMITTEE:

Councillors C Akers-Belcher, Cook, Fisher, James, G Lilley, Richardson, Simmons, Sirs and Wells.

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 25 June 2012.
4. **ITEMS REQUIRING DECISION**
  - 4.1 Appointment of Local Authority Representatives to Serve on School Governing Bodies – *Director of Child and Adult Services*
  - 4.2 Employment Tribunal Claims – Redundancy Dismissal – *Acting Chief Executive and Chief Solicitor*
  - 4.3 Appeals to General Purposes (Appeals and Staffing) Committee– *Acting Chief Executive and Chief Solicitor*
5. **ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

# GENERAL PURPOSES COMMITTEE

## MINUTES AND DECISION RECORD

25 June 2012

The meeting commenced at 2.00 pm in the Civic Centre, Hartlepool

**Present:**

Councillor: Rob Cook (In the Chair)

Councillors: Christopher Akers-Belcher, Keith Fisher, Marjorie James, Geoff Lilley, Carl Richardson, Chris Simmons, Kaylee Sims and Ray Wells

Also present Members of Constitution Committee:

The Mayor, Stuart Drummond  
Councillor Kevin Cranney

Officers:

Nicola Bailey, Acting Chief Executive  
Peter Devlin, Chief Solicitor  
Dave Stubbs, Director of Regeneration and Neighbourhoods  
Denise Ogden, Assistant Director, Neighbourhood Services  
Derek Gouldburn, Governor Support Officer  
Lorraine Bennison, Principal Registration and Members' Services Officer  
Angela Armstrong, Principal Democratic Services Officer

### **57. Apologies for Absence**

Councillor Stephen Akers-Belcher, Chair of Constitution Committee.

### **58. Declarations of interest by Members**

Councillor Rob Cook, Marjorie James, Geoff Lilley and Carl Richardson declared personal interests in minute 59.

### **59. Appointment of Local Authority Representatives to Serve on School Governing Bodies** *(Director of Child and Adult Services)*

The Governor Support Officer updated Members in respect of vacancies that currently existed for Local Authority (LA) representative governors, and to request Members to make recommendations to the Children's and Community Services Portfolio Holder in respect of the appointment of Local Authority representative governors to serve on school governing bodies. A schedule set out at as Appendix 1 to the report gave details of

vacancies which currently existed for LA representative governors, together with applications received in respect of the vacancies. The applications were included by way of confidential appendix to the report. **This appendix contained exempt information under Schedule 12A of the Local Government Act 1972, (as amended by the Local Government (Access to Information)(Variation) Order 2006) namely, information relating to any individual (para 1).**

Members considered the schedule of vacancies. Clarification was sought on whether there was a governor position, other than a LA governor that ex Councillor Mr Arthur Preece could be appointed to enable a LA governor position to be available for a sitting councillor. Whilst not wishing to displace Mr Arthur Preece this would enable the continuation of direct connection between the local authority and the school. The Governor Support Officer indicated that enquiries would be made with Manor College of Technology in this regard and reported to the next meeting of the General Purposes Committee.

Councillor Geoff Lilley indicated his wished to withdraw his application for the position of LA Governor at Seaton Carew Nursery School.

Members were disappointed to note that the Lynnfield Primary School LA Governor term of office had expired prior to this meeting. This had created difficulties for the Councillor appointed as LA Governor attending meetings and it was hoped that Governors would not be put in that position again as the frequency of meetings of General Purposes Committee should enable applications to be submitted prior to the term of offices expiring.

It was brought to Members' attention that there were more applications than vacancies for St Joseph's RC Primary School. It was agreed that Rachel Parker would be elected to that position.

### **Decision**

(1) The schedule of vacancies and subsequent nominations received for local authority representatives on governing bodies were approved for submission to the Children's and Community Services Portfolio Holder including the following:

- (i) St Joseph's RC Primary School – Mrs Rachel Parker be appointed.
- (ii) Seaton Carew Nursery School – In view of Councillor Geoff Lilley's withdrawal of his application, Councillor Paul Thompson be appointed.

(2) That Manor College of Technology be approached to explore the possibility of re-designating Mr Arthur Preece's appointment as a Governor to enable a LA representative to be appointed and continue the

link between the local authority and the school.

**60. Confirmation of the minutes of the meeting held on 16 April 2012**

Confirmed.

**61. Models of Senior Officer Management Structure – Options for Assessment** (*Corporate Management Team*)

The report set out the options for Members' consideration in respect of the future Tier 1 management of the authority. The background to the current temporary arrangements for the Acting Chief Executive was included within the report. There were six statutory roles to which the Council must appoint and they were identified within the report. The role of a Chief Executive was outlined within the report along with the following three options prepared by CMT for Members' consideration:

- (1) Appointment of a permanent Chief Executive
- (2) Directorship Models
- (3) Sharing a Chief Executive

The implications and timescales for each option were also detailed in the report. The report provided a number of detailed conclusions based on the options for Members' consideration.

All officers with the exception of the Democratic Services representative were asked to leave the meeting.

A lengthy discussion and debate took place with Members supporting Option 1, the appointment of a permanent Chief Executive. The appointment process was discussed as Members were conscious of ensuring the best candidate would be appointed to the post. To facilitate this, Members were keen to test the market and advertise externally to ensure maximum credibility was afforded to the successful candidate.

In relation to the salary to be attached to the post, Members discussed at length the options available including the possible reallocating the Head of Paid Service responsibility. Whilst Members were mindful of the need to move progress on this issue, they requested some accurate comparator Chief Executive salaries between Hartlepool as a small unitary authority and any near neighbours. The importance of tying any remuneration package offered to the newly appointed Chief Executive with the Councils pay policy statement was reiterated along with the need to ensure that the new Chief Executive undertook a review of the senior officer structure as a priority.

Members were mindful that this was an excellent opportunity to re-evaluate the Chief Executive's post and ensure best value was achieved

whilst ensuring the retention of the successful post-holder. It was suggested that any incremental salary range should be subject to agreed performance management measures in line with the Annual Governance Statement.

All offices rejoined the meeting.

It was noted that due to the additional information requested on this item, once all the other items had been considered, the meeting would be adjourned and reconvened on Monday 2 July 2012 at 9.15am. The Acting Chief Executive confirmed that representatives from Legal Services and Human Resources would be in attendance at the reconvened meeting to provide clarification and guidance where required.

Clarification was sought on the allocation of the savings identified from the current temporary Acting Chief Executive arrangements. It was suggested that this budgetary saving should be utilised to fund any shortfall identified in costs associated with the forthcoming referendum.

### **Decision**

- (i) Members confirmed that Option 1 – Appointment of Permanent Chief Executive be agreed.
- (ii) That the salary arrangements be considered at a reconvened meeting of General Purposes Committee on 2 July 2012 at 9.15am.
- (iii) That comparative data on other Chief Executive's salaries, including neighbouring local authorities be provided at the reconvened meeting for Members' consideration.
- (iv) That any budgetary savings identified from the current temporary Acting Chief Executive arrangements be allocated to fund any shortfall in the costs associated with the forthcoming referendum on the governance arrangements of the local authority.

## **62. Models of Senior Officer Structure** (*Corporate Management Team*)

The report provided Members with the professional views of Corporate Management in respect of models of senior officer structure report being considered at the meeting.

### **Decision**

The report was noted.

## **63. Recruitment Process** (*Acting Chief Executive*)

The report outlined the proposed process in relation to vacancy management and Members' involvement in the vacancy management

information process. It was proposed that information was provided on a fortnightly basis to elected Members at the point it was prepared for the Corporate Management Team (CMT) with an opportunity to feedback comments to the CMT meeting when decisions were made. It was noted that the previous arrangement of the Vacancy Monitoring Panel had lapsed.

During the discussions that followed, it was suggested that as staffing in general was included within the remit of the General Purposes Committee and it was a politically balanced Committee, that the relevant vacancy information was circulated to all Members of the General Purposes Committee and where necessary, comments would be forwarded direct to the Acting Chief Executive and subsequently CMT.

### **Decision**

That the vacancy monitoring information produced for CMT be circulated to all Members of the General Purposes Committee at the same time as CMT, to enable Members to forward any comments to the Acting Chief Executive to be subsequently reported to CMT.

## **64. Member Training** (*Acting Chief Executive*)

The report outlined the agreed programme of training for Members of the General Purposes Committee used in previous years and included:

- Final Stage Grievance
- Employee Pension Arrangements
- Appeals against Dismissal

Members' views were sought on any further training requirements for 2012/13.

During the discussions that followed it was noted that the majority of Members on the General Purposes Committee had undertaken the training during the last 2 years. However, it was imperative that any Members new to General Purposes Committee should be required to undertake the full training programme. In addition to this, it was suggested that a training session be scheduled for all Members on General Purposes Committee on Corporate Governance Structures.

Clarification was sought on the process for job evaluation appeals. The Acting Chief Executive confirmed that all appeals against the outcome of the job evaluation exercise were heard by a panel comprising an independent chair and trade union representatives. A Member suggested that this appeals process should be examined further through Constitution Committee as it was considered that there should be Member involvement.

In relation to the scheduling of the training sessions, it was suggested that a similar timescale be used as previously with all three topics being delivered separately as it was considered intense training.

A Member raised a number of concerns he had in relation to his participation in General Purposes (Appeals and Staffing) Committees and it was suggested that further clarification should be sought from the Chief Solicitor.

It was suggested that as part of the collective refresher training for all Members of General Purposes Committee, an update on equality and human rights is provided for Members' consideration.

### **Decision**

- (i) The training programme identified within the report be scheduled as in previous years, with three separate training sessions, with the emphasis that all Members new to General Purposes Committee attend.
- (ii) That a refresher training session be scheduled for all Members of the General Purposes Committee including updates on Corporate Governance Issues and Equality and Human Rights.
- (iii) That the process for Job Evaluation appeals be submitted to the Constitution Committee for consideration.

## **65. Borough Council Elections 2012 – St Aidan's Church of England Memorial Primary School Polling Station** *(Chief Solicitor)*

The report outlined that following the 'all out' Borough Council elections held on 3 May 2012, a number of representations had been received through St Aidan's Church of England Memorial Primary School which was located within the Foggy Furze Ward. Members were asked to consider the representations and subsequent discussions with the school and determine any appropriate action. Members were provided with a plan which identified the polling stations within the Foggy Furze Ward.

Members considered a number of alternative locations for a polling station including the possibility of amalgamating two polling stations. However, upon reflection it was suggested that the Shop at Tanfield Nurseries, Tanfield Road may be the most suitable location at the current time. The Director of Regeneration and Neighbourhoods confirmed that this location would be suitable. It was suggested that a possible change in the boundaries may assist this change. A number of polling district configurations were put forward by Members and the Principal Registration and Members' Services Officer indicated that these would impact on electorate numbers. Alternative polling district electorate figures to be calculated and reported back to Members.

It was noted by several Members that a number of other issues had arisen at the recent elections in relation to the siting of polling stations. The Principal Registration and Members' Services Officer confirmed that a full review of all polling stations would be undertaken and Presiding Officers had been asked for any feedback they had received whilst managing the polling stations at the recent elections. This would be reported to a future meeting of the General Purposes Committee.

### **Decision**

- (i) That the Shop at Tanfield Nurseries, Tanfield Road be utilised as an alternative polling station to St Aidan's Memorial Primary School for future elections.
- (ii) That the suggested boundary changes noted above be explored further and the electorate numbers for each new area be reported to a future meeting of General Purposes Committee.

## **66. Any Other Items which the Chairman Considers are Urgent**

The Chairman ruled that the following items of business should be considered by the Committee as a matter of urgency in accordance with the provisions of Section 100(B) (4)(b) of the Local Government Act 1972 in order that the matter could be dealt with without delay.

## **67. Any Other Business – Governance Options**

The report provided an update to Members on the different governance options available to local authorities. The process for changing the governance arrangements within a local authority was detailed within the report. It was noted that at the meeting of Council on 21 June 2012, a resolution was approved to hold a referendum on 15 November 2012 to be combined with the ordinary election in respect of the Police Commission, subject to recommendations from Constitution/General Purposes Committee back to Council on proposed constitutional changes. The statutory questions which may be asked as part of a referendum on changes to governance arrangements were listed within the report.

Whilst the Council does not have a statutory obligation to consult the public on governance options available, due to the impact of any governance changes it was suggested that the Neighbourhood Forums be utilised to encourage public debate and discussion. It was recognised that there were other forums that could also be utilised to canvass the public's views, including the Council's website.

During the discussion that followed, Members suggested that the community and voluntary sector and residents' associations should be



utilised as a method of consulting with residents as well as survey monkey, viewpoint and the website. The importance of full engagement with the public to ensure they were fully aware of the implications of all the options was reiterated. Due to the importance of the issue, it was suggested that additional Neighbourhood Forums be scheduled to deal with this matter in isolation to other neighbourhood issues.

The Chief Solicitor highlighted the necessary timetable to ensure the referendum could be held alongside the elections for the Police Commissioner, which would include a final report to Council on 2 August 2012 on the options for a referendum. It was suggested that looking at how other authorities operate, in particular Brighton, may be a good starting point and it was suggested that prior to the Constitution Committee on 12 July 2012, a joint meeting of the General Purposes and Constitution Committee is scheduled to enable further consideration of this issue, including looking at how other local authorities operate.

The Assistant Director, Neighbourhood Services indicated that examples of Frequently Asked Questions in relation to the governance issues will be provided at the joint meeting for Members' consideration.

### **Decision**

- (i) A joint meeting of General Purposes and Constitution Committee be scheduled on 12 July 2012 immediately prior to Constitution Committee, subject to agreement with the Chair of Constitution Committee.
- (ii) That information on other local authority's governance arrangements, including Brighton, be provided for Members' consideration at the joint meeting.
- (iii) That a list of Frequently Asked Questions on the governance arrangements be provided for Members' consideration at the joint meeting.

The meeting was adjourned at 4.43 pm to be reconvened on Monday 2 July 2012 at 9.15am in Committee Room A.

### **Upon reconvening the meeting on Monday 2 July 2012 at 9.15am in the Civic Centre, Hartlepool the following were present:**

Chair: Rob Cook

Councillors: Christopher Akers-Belcher, Marjorie James, Chris Simmons and Carl Richardson

Officers: Peter Devlin, Chief Solicitor  
Alison Swann, HR Business Partner  
Angela Armstrong, Principal Democratic Services Officer

## 68. Apologies for Absence

Apologies for absence were received from The Mayor Stuart Drummond, Councillor Stephen Akers-Belcher, Chair of Constitution Committee, Councillors Keith Fisher, Geoff Lilley and Ray Wells..

## 69. 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 items of business on the grounds that they involved the likely disclosure of exempt information as defined in the paragraphs 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.

Minute 70 – Models of Senior Officer Management Structure – Options for Assessment – *Corporate Management Team* This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely – Information relating to the financial or business affairs of any particular person (including the authority holding that information) (para 3)

## 70. Models of Senior Officer Management Structure – Options for Assessment (*Corporate Management Team*) This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely – Information relating to the financial or business affairs of any particular person (including the authority holding that information) (para 3)

The additional information requested, minute 61 refers, was provided for Members' consideration. Details were included within the exempt section of the minutes.

### Decision

Details were included within the exempt section of the minutes.

Meeting concluded at 10.42 am

CHAIR

**GENERAL PURPOSES COMMITTEE**

**6<sup>th</sup> August, 2012**



**Report of:** Director of Child & Adult Services

**Subject:** APPOINTMENT OF LOCAL AUTHORITY REPRESENTATIVES TO SERVE ON SCHOOL GOVERNING BODIES

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**1. PURPOSE OF REPORT**

To update members of the General Purposes Committee in respect of vacancies that currently exist for Local Authority representative governors serving on school governing bodies where some interest has been expressed in the vacancies, and to request members to make recommendations to the Children's and Community Services Portfolio Holder in respect of the appointments to school governing bodies.

**2. BACKGROUND**

Applications are invited from members of the general public, elected members and those governors whose term of office is about to expire or has expired and who are interested in serving, or wish to continue to serve as a LA representative governor on school governing bodies.

The following criteria were agreed by the Borough Council for the recruitment of LA representative governors in 2000. LA governors should be able to show:

- demonstrable interest in and commitment to education;
- a desire to support the school concerned;
- a commitment to attend regular meetings of the governing body (and committees as appropriate) and school functions generally;
- good communication/interpersonal skills;
- ability to work as part of a team;
- a clearly expressed willingness to participate in the governor training programme.

### 3. PROPOSAL

A schedule (**Appendix 1**) is attached setting out details of vacancies which currently exist for LA representative governors, where interest has been expressed in the vacancies together with applications received in respect of the vacancies (**Appendix 2**). **This item contains exempt information under Schedule 12A of the Local Government Act 1972, (as amended by the Local Government (Access to Information) (Variation) Order 2006) namely, information relating to any individual (para 1)**

Member's attention is drawn to the decision of the General Purposes Committee on 25<sup>th</sup> June, 2012 in respect of the appointment of a LA Governor for Manor College of Technology. The General Purposes Committee is requested to give consideration to the appointment to this vacancy.

### 4. RECOMMENDATIONS

That the recommendations for the appointments set out in the confidential section of the minutes, of LA representative governors be referred to the Children's and Community Services Portfolio Holder for approval.

### 5. BACKGROUND PAPERS

- Schedule of vacancies
- Applications
- General Purposes decision record 25<sup>th</sup> June, 2012.

### 6. CONTACT OFFICER:

**Ann Turner, Governor Support Officer, telephone 523766  
email [ann.turner@hartlepool.gov.uk](mailto:ann.turner@hartlepool.gov.uk)**

# Child and Adult Services Department



## VACANCIES LOCAL AUTHORITY REPRESENTATIVES ON GOVERNING BODIES

JULY, 2012

Contact Officer: Ann Turner  
01429 523766

**VACANCIES FOR LOCAL AUTHORITY REPRESENTATIVES ON  
GOVERNING BODIES**

<b>SCHOOL INCLUDING LA GOVERNORS</b>	<b>VACANCIES</b>	<b>POSSIBLE INTEREST</b>	<b>RECOMMENDED FOR APPOINTMENTS</b>
<b>Brougham Primary School</b>  Mr. S. Thomas Mrs. S. Marshall	1 Vacancy	No interest expressed	
<b>Catcote School</b>  Mr. J. Bryant Mr. S. Wallace	1 Vacancy	No interest expressed	
<b>Eldon Grove Primary School</b>  Mrs. P. Vaughan Mrs. J. Butterworth	1 Vacancy	No interest expressed	
<b>Fens Primary School</b>  Mr. A. Preece Mrs. P. Heward	1 Vacancy	No interest expressed	
<b>Golden Flatts Primary School</b>  Councillor M. Turner Councillor C. Hill	2 Vacancies including Councillor M. Turner Term of office expires 2 <sup>nd</sup> November, 2012	Councillor Michael Turner	
<b>Jesmond Gardens Primary School</b>  Mrs. S Saint Mr. M. Ward	2 Vacancies	No interest expressed.	

<b>SCHOOL INCLUDING LA GOVERNORS</b>	<b>VACANCIES</b>	<b>POSSIBLE INTEREST</b>	<b>RECOMMENDED FOR APPOINTMENTS</b>
<b>Lynnfield Primary School</b> Mr. J. Bryant Councillor C. Richardson Councillor C. Simmons Recommended for appointment Portfolio Holder 14 <sup>th</sup> August, 2012.	1 Vacancy	No interest expressed	
<b>Manor College of Technology</b> Mr. A. Preece	1 Vacancy Mr. A. Preece – Term of office Expires 31 <sup>st</sup> August, 2012.	Mr. A. Preece – submitted Application to G.P. Committee 25 <sup>th</sup> June, 2012.	
<b>Owton Manor Primary School</b> Councillor M. James Mrs. M.P. Raine Mrs. J. Thompson	1 Vacancy	No interest expressed	
<b>Rift House Primary School</b> Councillor S. Tempest Councillor M. James	1 Vacancy	No interest expressed	
<b>Rossmere Primary School</b> Mrs. M. Smith Councillor P. Thompson – appointment to be confirmed	1 Vacancy	No interest expressed	
<b>Springwell School</b> Mrs. L. Barraclough	1 Vacancy	No interest expressed	

SCHOOL INCLUDING LA GOVERNORS	VACANCIES	POSSIBLE INTEREST	RECOMMENDED FOR APPOINTMENTS
<b>Federated Governing Body St. Peter's Elwick C.E. and Hart Primary Schools</b>  Mr. G. Newbury	1 Vacancy	Councillor Keith Fisher	
<b>St. Teresa's R.C. Primary School</b>	1 Vacancy	Mr. J. G. Maurice Brown	
<b>Stranton Primary School</b>  Mr. P. Gleeson Mr. P. Ingham	1 Vacancy	Mrs. Gillian Slimings	
<b>West Park Primary School</b>  Councillor R. Wells Mrs. M. Boddy	1 Vacancy	No interest expressed	



# GENERAL PURPOSES COMMITTEE

6th August 2012



**Report of:** Acting Chief Executive and Chief Solicitor

**Subject:** EMPLOYMENT TRIBUNAL CLAIMS –  
REDUNDANCY DISMISSAL

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## 1. PURPOSE OF REPORT

- 1.1 At a meeting of the General Purposes Committee on 14th April 2012, Members requested information in relation to the number of applications to the Employment Tribunal in relation to redundancy dismissal. Members also requested information upon the number of claims that had been successful and associated settlement costs of such claims.
- 1.2 Members will appreciate the sensitivity behind a case where an employee is made redundant and particularly where that individual has proceeded with a claim to an Employment Tribunal, which if settled, will undoubtedly have been through a compromise agreement and which would remain confidential between the parties. Consequently, in their discussion upon this item Members may need to pass a formal resolution by virtue of the confidentiality of the item or as otherwise being exempt from disclosure under Part 1 of Schedule 12A of the Local Government Act, 1972 as amended by the Local Government (Access to Information) (Variation) Order, 2006.
- 1.3 At the meeting on 14th April, 2012, it was indicated that some statistical information could be supplied which would indicate the number of applications dealt with through the Northern Region of Tribunals over a specified period, which would provide some indication as to the cases and their description being conducted through the Employment Tribunal system. This information is appended to the report (Appendix 1).

## 2. BACKGROUND

- 2.1 An employee is dismissed by reason of redundancy if the dismissal is wholly or mainly attributable to;
  - the fact that his employer has ceased or intends to cease (i) to carry on the business for the purposes of which the employee was employed by

him, (ii) to carry on that business in the place where the employee was so employed; or

- the fact that the requirements of that business (i) for employees to carry out work of a particular kind, or (ii) for employees to carry out work of a particular kind in the place where the employees were still employed, had ceased or diminished or expect to cease or diminish (Section 139(1) of the Employment Rights Act, 1996).

2.2 Therefore three redundancy situations can be identified from the above statutory definition being either the closure of the entire business or the closure of the employee's workplace or a diminishing need for employees to carry out work of a particular kind. To satisfy the definition of redundancy, an employee needs to prove that he/she has in fact been formally dismissed. Redundancy is among the statutory potentially fair reasons for a dismissal and an employer may dismiss for redundancy but could still be liable for unfair dismissal in the following circumstances;

- The dismissal, or selection for dismissal is for an inadmissible reason which makes the dismissal automatically unfair or
- The employer has not acted reasonably in treating redundancy as a sufficient reason for dismissal. This could include (by way of example) where an employer has failed to follow a fair procedure.

### 3. REDUNDANCY DISMISSALS

3.1 The Borough Council have adopted (revised February, 2011) a policy entitled "Procedure for Managing Reorganisation, Redeployment and Redundancy". Such policies should be consistently applied and can be contractual in nature or be guidelines, which could be incorporated with the general information provided to employees. Where a procedure is agreed with a Trade Union or employee representative, this can have a status of a formal redundancy agreement. It is recognised that such procedures should have some degree of flexibility, not least to take account of different redundancy situations and the possibility of changing economic circumstances, and such procedure documents should be reviewed periodically in order to ensure they will operate fairly.

3.2 The number of applications to the Employment Tribunal by former employees of Hartlepool Borough Council is shown in the table below. Where a case has been 'settled' a confidentiality clause within a compromise agreement will exist. Therefore the level of detail disclosed in this report has been necessarily limited so as to protect the authority against claims of breaches of confidentiality.

<b>Year of Application</b>	<b>Application Submitted</b>	<b>Settlement (£)</b>
2009	1	Yes
2010	2	Yes
2011	6	Yes – 5 No – 1
	<b>TOTAL</b>	<b>£45,750</b>

- 3.3 Members will appreciate that any settlement figure is determined by the particular features of each individual case. The tabulation above incorporates one particular claim having a higher settlement figure than the other claims and consequently some caution attaches to the information provided. Furthermore, the total amount of legal expenses incurred over the three years as documented, amounted to £12,350 (plus VAT) and again, a cautionary note in that one case attributed to the vast majority of those fees and occupied some eleven days at the Employment Tribunal and related to particular complex areas of employment law going beyond claims for unfair dismissal.

#### **4. STATISTICAL INFORMATION**

- 4.1 Provided herewith (**Appendix 1**) is some information provided through the Employment Tribunal User Group which covers the number of applications registered through the Newcastle Upon Tyne Employment Tribunal over the periods as indicated on this document. The Employment Tribunals have a performance target of having a first hearing within 26 weeks (single cases only) and during the period 1st October, 2010 – 31st December, 2010 57% of cases met that target. By way of comparison for the period 1st October, 2011 – 31st December, 2011 the figure was 72%.

#### **5. RECOMMENDATIONS**

- 5.1 To note the contents of this report.

#### **6. APPENDICES AVAILABLE ON REQUEST, IN THE MEMBERS LIBRARY AND ON-LINE**

Appendix 1

#### **7. BACKGROUND PAPERS**

- 7.1 None

**8. CONTACT OFFICER**

Nicola Bailey  
Acting Chief Executive  
[Nicola.bailey@hartlepool.gov.uk](mailto:Nicola.bailey@hartlepool.gov.uk)  
01429 523001

Peter Devlin  
Chief Solicitor  
[Peter.devlin@hartlepool.gov.uk](mailto:Peter.devlin@hartlepool.gov.uk)

**NUMBER OF APPLICATIONS REGISTERED BY JURISDICTION**

DESCRIPTION OF JURISDICTION	CODE	No. Reg'd 1/7/10 – 31/12/2010	No. Reg'd 01/01/11- 30/4/11
Suffer a detriment and/ or dismissal resulting from a failure to allow an employee to be accompanied or to accompany a fellow employee at a disciplinary/grievance hearing	ADG	12	6
Application by an employee, their representative or trade union for a protective award as a result of an employer's failure to consult over a redundancy situation	APA	623	47
Breach of Contract	BOC	1931	502
Age Discrimination	DAG	48	39
Suffered a detriment, discrimination and/or dismissal on grounds of disability or failure of employer to make reasonable adjustments	DDA	216	105
Discrimination or victimisation on grounds of religion or belief	DRB	5	4
Discrimination or victimisation on grounds of sexual orientation	DSO	17	8
Application by the Secretary of State for Trade & Industry to prohibit a person from running an Employment Agency	EAP		
Failure to provide equal pay for equal value work	EQP	5853	1903
Failure of the employer to consult with an employee rep. or trade union about a proposed transfer	FCT	73	7
Suffer a detriment and/or dismissal for claiming under the flexible working regulations or be subject to a breach of procedure	FLW	24	9
Failure to provide a written statement of terms and conditions and any subsequent changes to those terms	FTC	155	119
Suffered less favourable treatment and/or dismissal as a fixed term employee, than a full time employee	FTE	7	2
Failure to allow time off for trade union activities or duties, for ante-natal care or for public duties	FTO	1	1
Failure to provide a written pay statement or an adequate pay statement	FWP	57	38
Failure to provide a written statement of reasons for dismissal or the contents of the statement are disputed	FWS	33	22
Appeal against an enforcement, improvement or prohibition notice imposed by the HSE or Environmental Health Inspector, or by the Environment Agency	HAS	3	1
Failure to pay for or allow time off to carry out Safety Rep duties or undertake training	HSD		
Suffer a detriment, dismissal or redundancy for health and safety reasons	HSR	29	15
Application for interim relief	IRF		
Failure by the SOS to make an insol. payment in lieu of wages and/or redundancy	ISV		
Appeal against the levy assessment of an Industrial Training Board	LEV	1	1
Loss of office as a result of the reorganisation of a statutory body	LSO		
Suffer a detriment and/or dismissal on grounds of pregnancy, child birth or maternity	MAT	33	27
Appeal against an enforcement or penalty notice issued by the Inland Revenue	MWA	3	
Suffer a detriment and/or dismissal related to failure to pay the minimum wage or allow access to records	MWD	2	1
Suffered a detriment and/or dismissal due to exercising rights under the Public Interest Disclosure Act	PID	56	22
Suffer a detriment and/or dismissal due to requesting or taking paternity or adoption leave or time off to assist a dependant	PLD	2	3

Suffer less favourable treatment and/or dismissal as a result of being a part time employee by comparison to a full time employee	PTE	8	9
Failure to pay a redundancy payment	RPT	556	191
Failure of the SOS to pay a redundancy payment following an application to the NI fund	RPT(S)		
Discrimination or victimisation on grounds of race or ethnic origin	RRD	41	30
Suffer a detriment and/or dismissal for refusing to work on a Sunday	SUN		
Discrimination or victimisation on grounds of sex, marriage or transgender	SXD	4108	68
Suffer discrimination in obtaining employment due to membership or not-membership of a trade union	TUE	2	1
Suffer a detriment and/or dismissal relating to being, not being or proposing to become a trade union member	TUM	15	13
Suffered a detriment and/or dismissal due to exercising rights under the Tax Credits Act	TUX		
Unfair dismissal after exercising or claiming a statutory right	UDC	8	6
Unfair dismissal on grounds of capability, conduct or some other general reason including the result of a transfer of an undertaking	UDL	1404	810
Unfair dismissal in connection to a lock out, strike or other industrial action	UIA		
Failure of employer to pay or unauthorised deductions have been made	WA	4947	525
Failure to limit weekly or night working time, or to ensure rest breaks or annual leave entitlement	WTR	26	8
Failure to pay annual leave entitlement	WTR(A/L)	685	423

# GENERAL PURPOSES COMMITTEE

6 August 2012



**Report of:** Acting Chief Executive and Chief Solicitor.

**Subject:** APPEALS TO GENERAL PURPOSES (APPEALS & STAFFING) COMMITTEE

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## 1. PURPOSE OF REPORT

- 1.1 The General Purposes Committee have previously considered arrangements for the hearing of appeals against (redundancy) dismissal from employees. At the meeting of the Committee on 16 April 2012 members requested consideration for a change to the policy of the Council which would require such appeals to be concluded before any dismissal took effect.
- 1.2 This report sets out a proposal for amending the relevant Council policy for members' consideration. Any proposed amendment would then be consulted upon with the recognised trade unions/employee representatives in line with normal consultation arrangements and be presented to the relevant Portfolio Holder in accordance with the Council's constitution, namely; *'Any matters within the terms of existing personnel and staff policies, practices and procedures'* (para 9.2 Part 3 Responsibility for Functions').

## 2. CURRENT POLICY PROVISION

- 2.1 The Council's 'Procedure for Managing Reorganisation, Redeployment and Redundancy' (revised February 2011) sets out in some detail the arrangements which apply when change is proposed and implemented which impacts on the structure of the organisation and employees of the Council.
- 2.2 An extract of the relevant section of the policy which deals with the process for the consideration of appeals against dismissal is set out below.

## 2.2. APPEALS

### Reorganisation Appeal

- 22.1 Any member of staff who feels that any part of this procedure has been unfairly applied should raise their concerns informally to the Head of Service involved in the reorganisation normally within five working days of the date of having received notification of a decision. There are very clear and tight deadlines surrounding the process of dealing with “at risk” posts and redeployment which means that in these particular circumstances, any concerns must be dealt with as quickly as possible.
- 22.2 If the employee is not satisfied with the outcome of the informal stage then they will send their appeal to the Chief Personnel Officer. The Chief Personnel Officer will arrange for the employee’s appeal to be considered by a Chief Officer or Director within the employing department. The employee will be invited to a meeting with the relevant Chief Officer or Director together with the designated lead manager for the particular restructuring and the lead HR Officer. The employee may be accompanied at that meeting by either a trade union or work colleague. This meeting will take place as soon as is reasonably practicable.
- 22.3 The Chief Officer or Director will notify the employee in writing of their decision within five working days of the meeting. This decision will be final and there will be no further right of appeal.

Appeals Against Dismissal – General Purposes (Appeals and Staffing) Committee

- 22.4 In the case of a Chief Officer then the Chief Personnel Officer will arrange for the appeal to be heard by the General Purposes (Appeals & Staffing) Committee.
- 22.5 Where a member of staff feels that they have been unfairly dismissed, by reason of redundancy, they have the right of appeal. The employee should write to the Chief Personnel Officer within ten working days of their receipt of the written confirmation of the termination of their employment, setting out their grounds for appeal. The appeal will be heard by the General Purposes (Appeals and Staffing) Committee of the Council. The hearing will normally take place within twenty working days of the receipt of the employee’s letter of appeal. The procedure to be followed will be as set out in the Council’s Redundancy Dismissals Appeals Procedure. The redundancy notice shall not be suspended during the appeal process, but shall be revoked if the appeal is successful.
- 22.6 Appeals against any pension decision made under this procedure will be managed in accordance with the Teesside Pension Fund Internal Dispute Resolution Procedure.
- 2.3 Members will note that there is currently no requirement to ensure that any appeal is considered and concluded before the effective dismissal date.



Members were assured at their previous meeting that all necessary procedures were undertaken in order to avoid any detriment to an employee by ensuring that an appeals process was concluded before the expiry of an individual's relevant period of notice. The Committee acknowledged this position but did indicate that even as an exception, there could be cases where an appeal had not been concluded and an individual's notice period had expired, which would be seen as being unfair and unjust in those circumstances. However, the Committee acknowledged that any amendments to the applicable policy needed to safeguard against any deliberate misuse by an individual to simply prolong their period of notice through being vexatious. This would therefore require a determination upon each individual case, on its own particular merits and which would require a decision away from the Committee to ensure there was no impropriety or interference with the Committees own consideration of the actual appeal. Suggested amendments to the applicable policy have therefore been proposed against this background.

### **3. PROPOSED POLICY AMENDMENT**

3.1 Proposed amendments to the policy for the Committee's consideration and comment are set out below;

New

22.6 Appeal hearings should be scheduled and concluded before the effective dismissal date. If the Authority cannot schedule a suitable date before the effective dismissal date, notice should be extended with the consent of the Chief Executive Officer (or through his/her nominee) until the next working day following the scheduled hearing date. If the hearing is not concluded in one day, the General Purposes (Appeals & Staffing) Committee should proceed to schedule a date to conclude the appeal and notification should be provided to the Chief Executive Officer (or through his/her nominee) to consider extending the employees' notice period until the next working day following the conclusion of the appeal. For the avoidance of doubt, the Chief Executive Officer (or his/her nominee) shall have absolute discretion in whether to provide consent to the extension of an individual's period of notice, but such consent shall not be unreasonably withheld or delayed.

New

22.7 The provisions of 22.6 shall not apply in the event that the employee is considered to be acting unreasonably in delaying the scheduling of an early hearing date or otherwise unreasonably defers the hearing after a hearing date has been scheduled.

22.8 Original 22.6

### **4. RECOMMENDATIONS**

- 4.1 Members are asked to consider and comment on the proposed amendments so that the necessary consultation process may be undertaken and final proposals reported to the relevant Portfolio Holder for consideration.
- 4.2 That a subsequent report be brought to the Committee as to the outcome of consultation and the determination by the Portfolio Holder.

**5. APPENDICES AVAILABLE ON REQUEST, IN THE MEMBERS LIBRARY AND ON-LINE**

- 5.1 None

**6. BACKGROUND PAPERS**

- 6.1 None

**7. CONTACT OFFICER**

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