

PERSONNEL SUB-COMMITTEE

AGENDA



Tuesday 4 September 2018

at 9.30 am

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

MEMBERS: PERSONNEL SUB-COMMITTEE

Councillors Belcher, Hall and Loynes.

- 1. APOLOGIES FOR ABSENCE**
- 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
- 3. TO CONFIRM THE MINUTES OF THE MEETINGS HELD ON –**
 - (i) 18 July 2018
 - (ii) 19 July 2018
 - (iii) 31 July 2018
- 4. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT**
- 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 items of business on the grounds that it involves 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

- 6. ITEMS FOR DECISION**
 - 6.1 Discipline Dismissal Hearing – *Director of Adult and Community Based Services (para 1)*
- 7. ANY OTHER CONFIDENTIAL BUSINESS WHICH THE CHAIR CONSIDERS URGENT**

APPEAL PROCESS FOR APPEAL AGAINST DISMISSAL

Constitution of Appeals Committee

Appeals against dismissal are heard by a duly convened and quorate Personnel Sub Committee of the Council. The Constitution defines the make up of the Committee and how many Members constitute a quorum.

Members who have had any direct prior involvement in the case will be excluded from sitting. The Human Resources Adviser to the Committee 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.

Normal Council Democratic Services support will be provided to the Committee. The Democratic Services Officer shall record the decision of the Committee but is not present to provide any form of advice other than on administrative matters.

Written Statements

Both management and the employee will be invited to submit written statements of case which will be forwarded to Elected 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, they will receive the other party's statement as early as practicable on the day of the hearing.

Representation and Attendance

The normal procedure will be for the employee plus one representative, and the dismissing manager, the relevant service manager, plus one Human Resources 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.

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 employees 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. First Written Warning in accordance with the Council's disciplinary procedure
 - ii. Final Written Warning in accordance with the Council's disciplinary procedure
 - iii. 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 the Human Resources Adviser to the Committee, and clarification may be sought by any party.

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.

Procedure

The procedure will be as follows, however Committee members can ask questions at any stage of the process:

Management Case

1. The management representative and/or Human Resources representative shall state the case.
2. The management representative and/or Human Resources representative may call witnesses and the procedure for questioning 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 Human Resources Adviser to the Committee to be invited to ask any questions
 - Management and/or Human Resources representative to re-examine
 - Witness to retire
3. The employee or representative may ask questions of the management representative and/or Human Resources representative.
4. The Committee Members and the Human Resources Adviser to the Committee may ask questions of the management representatives and/or Human Resources representative.

Employee Case / Response

5. The employee or representative shall state the case.
6. The employee or representative may call witnesses and the procedure for questioning 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 Human Resources Adviser to the Committee to be invited to ask any questions.
 - Employee and/or representative to re-examine.
 - Witness to retire
7. The management representative and/or Human Resources representative may ask questions of the employee.
8. The Committee Members and the Human Resources Adviser to the Committee may ask questions of the employee and/or representative.

Summing Up

9. The management representative and/or Human Resources representative to have the opportunity to sum up the case, if they choose to.
10. The employee and/or representative to have the opportunity to sum up the case, if they choose to.
11. The management representative and Human Resources representative, the employee and representative to withdraw.
12. The Committee to deliberate in private with only the Human Resources Adviser to the Committee and Democratic Services Officer 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.

Decision

13. 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.
14. The decision of the Committee and the terms of this will be notified to both parties in writing within 7 calendar days of the hearing.

General Notes

1. The provision for summing up at (9) and (10) 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.
2. Any matters not covered by the above procedure will be for the Committee to determine.
3. The employee representative must be a Trade Union representative or colleague from work
4. When advising the Committee, the Human Resources Adviser to the Committee shall not have had any involvement in the original decision to dismiss.
5. Where a decision has been taken not to allow the appeal and this has been communicated to the member of staff as in (13) above and the Committee wish to make an offer of re-engagement, such an offer would be made after stage (13) of the procedure as a distinctly separate matter from the appeal.

PERSONNEL SUB COMMITTEE

MINUTES AND DECISION RECORD

18 JULY 2018

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

1. Abandonment of Meeting

Due to an error in the calling of the sub committee the meeting was abandoned. All parties had been informed of the error and a new date and time circulated.

Decision

The meeting was abandoned.

CHAIR

PERSONNEL SUB COMMITTEE MINUTES AND DECISION RECORD

19 JULY 2018

The meeting commenced at 9.30 am in the Civic Centre, Hartlepool

Present:

Councillor Brenda Loynes (Chair)

Councillors: Rob Cook and Lesley Hamilton.

Officers: Jane Young, Assistant Director, Children and Families
Karen Douglas-Weir, Head of Service, Looked After Children
and Care Leavers
Becky Enderwick, HR Advisor (Management)
Rachel Clark, HR Business Partner (Sub Committee Advisor)
David Cosgrove, Democratic Services Team

2. Apologies for Absence

None.

3. Declarations of interest by members

None.

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 items of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 2 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 – Grievance Appeal (Stage 3) – Director of Children’s and Joint Commissioning Services - 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 a particular employee, former employee or applicant to become an employee of the Council (para 1).

- 5. Grievance Appeal (Stage 3)** (Director of Children's and Joint Commissioning Services) (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 a particular employee, former employee or applicant to become an employee of the Council (para 1)

The Committee was convened to consider a Stage 3 Grievance Appeal received from a Council employee in the Children's and Families Division. The meeting followed the approved procedure as set out in the Council's approved HR Policies and Procedures. Further details are set out in the exempt section of the minutes.

Decision

The decision of the Committee is set out in the exempt section of the minutes.

- 6. 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.

The meeting concluded at 2.40 pm.

CHAIR

PERSONNEL SUB COMMITTEE MINUTES AND DECISION RECORD

31 JULY 2018

The meeting commenced at 9.30 am in the Civic Centre, Hartlepool.

Present:

Councillor Brenda Loynes (in the Chair)

Councillor: Lesley Hamilton.

Also Present: Councillor Rob Cook as substitute for Councillor Paul Beck in accordance with Council Procedure Rule 5.2.

Officers: Denise Ogden, Director of Regeneration and Neighbourhoods
Andrew Carter, Assistant Director, Economic Growth and Regeneration
Chris Pendlington, Senior HR Advisor (Management Advisor)
Rachel Clark, HR Business Partner (Sub Committee Advisor)
David Cosgrove, Democratic Services Team

7. Apologies for Absence

Councillor Paul Beck.

8. Declarations of interest by members

None.

9. Previous Minutes

The minutes of the meetings of 18 and 19 July 2018 were deferred.

10. 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 it involved the likely disclosure of exempt information as defined in paragraph 2 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 11 – Grievance Appeal (Stage 3) – Director of Regeneration and Neighbourhoods - 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 a particular employee, former employee or applicant to become an employee of the Council (para 1).

- 11. Grievance Appeal (Stage 3)** *(Director of Regeneration and Neighbourhoods)* (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 a particular employee, former employee or applicant to become an employee of the Council (para 1)

The Committee was convened to consider a Stage 3 Grievance Appeal received from a Council employee in the Regeneration and Neighbourhoods Department. The meeting followed the procedure as set out in the Council's approved HR Policies and Procedures. Further details are set out in the exempt section of the minutes.

Decision

The decision of the Committee is set out in the exempt section of the minutes.

- 12. Any Other Items which the Chairman Considers are Urgent**

None.

The meeting concluded at 3.10 pm.

CHAIR