

Governance Committee

7 September 2020

Staff Appeals Annual Report 2019/20

Report by Interim Director of Human Resources and Organisational Change and Director of Law and Assurance

Electoral divisions: All

Summary

The Governance Committee receives an annual report on the activity of the Appeals Panel from which Boards of Appeal are drawn to consider final appeals from staff against dismissal or the final stages of staff grievances. This report summarises the role of the Panel and the outcomes of Boards which have heard cases in the last year. These are shown in the appendix.

In 2019/20 three Boards of appeal were held. All were appeals against dismissal and in all three cases the appeals were dismissed. There were a further two appeals submitted but subsequently withdrawn prior to any hearing taking place.

Recommendation

That the Staff Appeals Annual Report 2019/20 be noted.

Proposal

1. Background and context

- 1.1 The County Council's Human Resources policies and procedures make provision for staff who have been dismissed to appeal against that decision to members via an Appeals Panel. Subject to meeting the agreed criteria (determined by the Director for Law and Assurance) staff may also appeal to the Panel as the final stage of a grievance. The Boards of Appeal drawn from the Panel have the power to uphold management decisions or to reverse a dismissal decision or uphold or alter a grievance outcome. They may also make recommendations for improvements to Council procedures. The Appeals Panel also hears appeals against school transport decisions.
- 1.2 It was agreed by the Governance Committee in January 2010 that an annual report be presented setting out:
 - An overview of the cases heard;

- A summary of any recommendations arising from the hearings and any comments or feedback relating to them;
- Any comments or observations from the annual training session for Panel members; and
- Any recommendations for the future.

- 1.3 Boards of Appeal comprise between three and five members. Hearings are scheduled on fixed dates throughout the year and cancelled if not required. Members are usually allocated to four hearings each year and Boards of Appeal are scheduled every three to four weeks to ensure that all appeals can be heard in a timely fashion. As many dates are cancelled due to a lack of business it cannot be guaranteed that all members of the Panel will sit on any board of appeal.
- 1.4 The membership of the Panel changes from time to time and are appointed at full Council meetings. Currently the Panel comprises 14 members and there are four vacancies. The Panel does not include members of the Cabinet.

2. Boards of Appeal during 2019/20

- 2.1 In 2018 the Committee agreed to a small change to the staff appeal arrangements to provide for the Chief Executive to sit on Boards of Appeal to advise and assist the members who retain the authority to take the decision. The Chief Executive cannot vote or take part in the decision.
- 2.2 During 2019/20 there were five appeals against dismissal submitted to the Director for Law and Assurance. Two appellants withdrew their appeals prior to any hearing taking place. Three hearings were held and in all three cases the appeals were dismissed. No final stage school transport appeals were received during this period. Two requests for stage three grievance hearings were made but declined on the basis that the criteria were not met.
- 2.3 For one of the Boards of Appeal the Chief Executive was in attendance to advise. In all seven members were involved in hearing the three appeals (two members heard two of the appeals and the other five members heard one appeal each). A summary of the hearings and recommendations is provided at Appendix 1.

3. 2019/20 Annual meeting and training

- 3.1 All newly appointed members to the Panel have received a bespoke training session delivered by Diane Henshaw, Principal Solicitor who usually advises Boards of Appeal. An annual meeting was in the process of being arranged when member meetings were put on hold due to the Covid-19 outbreak. The intention was to deliver chairmanship training to all members along with refresher training on Staff Boards of Appeal and School Transport Appeals. This will be rescheduled for the winter.

4. Arrangements for Boards of Appeal during 2020/21

- 4.1 In January 2020 the Committee received a report on Officer delegations (Constitutional provisions). The report explained that there is no requirement

for the Chief Executive or nominee to sit on the Board of Appeal and the current proposal is that, save in exceptional cases, the Chief Executive will not sit on Boards of Appeal but will ensure that the Board is fully and properly advised. At the present time Boards of Appeal needing to be heard during 2020/21 are likely to be heard by a virtual Board meeting with members appointed to them as the need arises. These arrangements will be kept under review and a return to physical or hybrid meetings (some persons present physically but with the option to join virtually) will occur when it is considered safe to do so. An annual meeting of the Panel will be held during 2020/21 and training delivered as necessary.

5. Consultation

- 5.1 All members of the Appeal Panel have had the opportunity to comment on the report.

6. Resources

- 6.1 Boards of Appeal are overseen jointly by Legal Services and Democratic Services. Officers from Human Resources are involved in preparing and presenting the management case to the Board of Appeal. Resources are currently managed within existing budgets.

7. Risk implications and mitigations

- 7.1 One of the more important functions of the Appeals Panel is to identify shortcomings in the Council's procedures or their application and to make recommendations for action. This should help reduce the risk of challenge to decisions.

8. Policy alignment and compliance

- 8.1 There are no crime and disorder or social value implications because this report deals with internal or procedural matters only. Both equality duty and human rights assessments are addressed in individual hearings.
- 8.2 In relation to the Council's Climate Change obligations, the confidential nature of the process means that hard copy papers need to be provided to those involved in the hearing. However recycled paper is used. Members are encouraged to use public transport and car-sharing where practicable. Virtual hearings lead to a reduction in travel.

Members of the Appeals Panel

Cllr Arculus
Cllr Barnard
Cllr Barton
Cllr Bradbury
Cllr Bradford
Cllr J Dennis
Cllr Duncton
Cllr High
Cllr M Jones
Cllr Millson
Cllr R Oakley

Cllr Patel
Cllr Purnell
Cllr Smytherman

Sue Evans

Interim Director of Human Resources and Organisational Change

Tony Kershaw

Director of Law and Assurance

Contact Officer: Amanda Drinkwater, Democratic Services Officer, 0330 22 22521, amanda.drinwater@westsussex.gov.uk

Appendices

Appendix 1 – Summary of Board hearings

Background papers

None