

Governance Committee

25 June 2018

Part I

Staff Appeals Panel Annual Report 2017/18

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

Executive Summary

Four Boards of Appeal were convened from the Staff Appeals Panel in 2017/18.

- Three were staff appeals against dismissal. One appeal was dismissed and the other two were upheld
- One was a school transport appeal which was dismissed.

There was also:

- A further appeal against dismissal which was withdrawn prior to any hearing being arranged and
- One request for a final stage grievance appeal which was declined by Officers - and so not referred to members.

Appeal hearings are scheduled on fixed dates throughout the year and meetings are cancelled if necessary. As a consequence of this six of 16 members were not involved in staff appeals throughout 2017/18.

A record of recommendations emerging from the Boards of Appeal has been kept for 2017/18 and the actions taken as a result.

Recommendation

That the Appeals Panel Annual Report 2017/18, including the recommendations and actions taken, be noted.

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 of 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.

1.2 The Appeals Panel also hears appeals against school transport decisions.

- 1.3 The Appeals Panel currently comprises 16 members of the County Council and is currently carrying two vacancies. It does not include members of the Cabinet. Boards of Appeal comprise between three and five members.
- 1.4 Members are allocated to four Appeal Boards each year and Boards of Appeal are scheduled approximately every three weeks to ensure that all appeals can be heard in a timely fashion. Some of these dates are cancelled due to a lack of business, so it cannot be guaranteed that all members of the Appeals Panel will sit on any boards of appeal.
- 1.5 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.

2. **Review of Staff Appeals Panel in 2017/18**

- 2.1 As explained in the report to the Governance Committee on 27 November 2017, due to the timing of the election the annual meeting for 2017 was held later than usual, on 23 June 2017, and took the form of induction training. Of the current remaining cohort of members on the Staff Appeals Panel, eight members were previously Panel members, and eight were newly appointed to the Panel.
- 2.2 Twelve members attended the annual training meeting on 23 June 2017 and one-to-one training was subsequently arranged for those newly elected members who were unable to attend the induction event. During the course of the year there have been a couple of changes to those appointed to the Panel, as a result of Cabinet Member appointments. There remain two vacancies on the Panel at this time.
- 2.3 One staff appeal was carried out prior to the election in May 2017 and was heard by three members who were not subsequently re-elected, and one member who remains on the current Panel. Following the election, 10 of the 16 panel members were involved in at least one hearing and six members were not. All those involved in a Board of Appeal had been trained before they were asked to attend a Board. A summary is attached at Appendix 1.
- 2.4 There were four appeals against dismissal submitted to the Staff Appeals Panel in 2017/18.
- One appellant withdrew their appeal
 - Three hearings took place. Two of the three appeals were upheld and the employees re-instated. The other appeal was dismissed.

A further request for a final stage grievance appeal was received but declined and so not referred to members. Recommendations to management were made following conclusion of the hearings.

A summary of the hearings is set out at Appendix 2 for members of the Committee only.

2.5 Specific training is provided to the Panel for hearing school transport appeals. These appeals are very rare and, in the calendar year 2017/18, there was only one school transport appeal, which was not upheld.

3. **Recommendations from the Boards of Appeal**

Recommendation	Commentary
Investigations should be more robust, in this instance, to ask IT to look at a Blackberry to identify text messages.	<p>A range of steps have been taken to address the overall quality of disciplinary casework:</p> <ul style="list-style-type: none"> • On 1 February 2018 the County Council in-sourced the employee relations casework function, from Capita, for all services other than schools. Casework is now being undertaken within the WSCC HR function and a training programme is in place to support this; • Arrangements are being made to have in place a panel of disciplinary investigating officers who will be trained and who can be drawn upon at short notice when required. • A panel of external disciplinary investigating officers is being set up. These IOs will be called upon to investigate more complex disciplinary issues resulting in shorter timescales. • The HR function has been restructured with effect from 1 April 2018 with a new operating model which will provide a greater level of HR support to investigations and hearings. • The quality and speed with which disciplinary casework is undertaken should improve as a result of these steps.
Legal Services should be present at disciplinary hearings where dismissal is a possibility	Steps being taken (described above) should make this unnecessary.

Recommendation	Commentary
Disciplinary processes should be completed more quickly	Steps being taken (described above) will result in shorter timescales.
<p>More care should be taken in the presentation of appeal documents and in the presentation of the case.</p> <p>Review the role of HR (HRMA) in the appeal hearing process.</p> <p>Review the role of the dismissing manager/head of service in the appeal process.</p>	Steps being taken (described above) will result in an improvement in the presentation of appeals. The way in which appeals are presented, including roles, is under review and the management case will in future be presented by more senior HR professionals than has recently been the case.
To ensure that rules on late papers are clear and adhered to.	Noted.
Management of children's homes should be improved.	<p>A wide range of improvement measures has been put in place, including:</p> <ul style="list-style-type: none"> • The creation of 12 new staff positions; • Management training; • Additional, dedicated HR resource; • Teambuilding workshops; • Secondment of an experienced manager to the Service Manager role; • All staff receiving training in record keeping; • CCTV retention policy updated in line with GDPR.
Use of agency staff in children's homes should be reduced.	Measures have been taken which resulted in a 26% reduction in agency usage in 2017 compared to 2016.
FRS to review their practice of allowing social functions with alcohol present on FRS premises which are also operational.	The policy has been changed. Social functions are no longer permitted on operational premises.

4. **Options for Changes to the Staff Appeals Panel**

- 4.1 Following one of the dismissal hearings which resulted in a reinstatement, the Chief Executive met the members of that Board of Appeal to consider the constitutional, HR, management responsibilities and member roles and expectations in connection with HR practice policy and procedure. This

led to a discussion about options to revise the Member Appeal Panel arrangements in relation to staff dismissal and grievance appeals.

- 4.2 Those options were further considered at the annual meeting of the Appeals Panel on 15 May 2018. A separate report on this agenda addresses the conclusions and recommendations arising from that discussion.

5. **Risk Management Implications**

None identified.

6. **Equality Duty**

An Equality Impact Report is not required for this decision for the following reason:

It is a report dealing with internal or procedural matters only.

7. **Crime and Disorder Act Implications**

None identified.

8. **Human Rights Implications**

None identified.

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Appendices

Appendix 1 – Member attendance during 2017/18

Appendix 2 – Table of 2017/18 Appeal Hearings (Part II – not for publication)

By virtue of the paragraph(s) of Part I of Schedule 12A of the Local Government Act 1972, having agreed that, in all the circumstances of the case, the public interest in maintaining the exemption of that information outweighed the public interest in disclosing the information.

Exempt: paragraph 2, Identity of an individual

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Background Papers

None