

Report to Governance Committee

27 September 2022

Appeals Panel Annual Report 2021/22

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

Electoral division(s): N/A

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 a grievance or from parents in respect of Stage 2 Transport Appeals. These are shown in Appendix A.

In 2021/22 four Boards of Appeal were convened. In addition, two requests to appeal against the outcome of Stage 2 grievance appeals were made but declined on the grounds that they did not meet the criteria for a Stage 3 appeal.

Recommendation

That the Appeals Panel Annual Report 2021/22 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 the 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. They may also make recommendations for improvements to Council procedures.
- 1.2 The Appeals Panel also hears appeals against Officer decisions made regarding eligibility for school transport. The Home to School Transport Policy sets out the Council's position with regard to providing transport assistance to those of statutory school age and post-16 students of sixth form age. The panel can hear cases where a parent/carer believes the Policy has not been applied correctly, or where the circumstances are so exceptional that transport assistance should be provided. School or college students may be

attending mainstream schools/colleges or specialist placements for young people with special educational needs and/or disabilities (SEND).

- 1.3 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.
- 1.4 Boards of Appeal comprise between three and four members. Hearings are scheduled on fixed dates throughout the year and cancelled if not required. Members are usually allocated to three or four each year and Boards of Appeal are scheduled every four to five 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 Boards of Appeal.
- 1.5 The membership of the Panel changes from time to time and appointments are made either at County Council or Governance Committee. The Panel currently comprises 15 members and there are three vacancies, it does not include members of the Cabinet.

2 Boards of appeal during 2021/22

- 2.1 Until April 2021 all formal meetings were required to be held virtually in accordance with legislation and government guidance due to the Covid-19 public health emergency. During 2021/22 there was one appeal against dismissal which was held virtually, the appeal was dismissed. There were also three Stage Two Transport Appeals, two of which were allowed and one which was not. A summary of the hearings and recommendations is provided at Appendix A.
- 2.2 There were two requests from members of staff seeking to pursue a Stage Three Appeal against a grievance outcome. These requests are considered initially by the Director of Law and Assurance who determines whether the grounds of appeal meet the criteria within the policy. In each case, following consideration of the appeal as submitted and the record of the earlier consideration of the grievance the decision was that the grounds for appeal were not met.
- 2.3 A final stage grievance appeal stage is only available to employees where:
- A new piece of information, pertinent to the outcome of the appeal, has come to light since the previous meetings, or
 - The employee believes that there has been an error in the procedures which materially affected the outcome of the appeal, or

- Some other substantial reason can be demonstrated.

3 2021/22 Annual Meeting and training

- 3.1 All members appointed to the Panel in May 2021 had either attended one of the two induction training sessions held or received bespoke training delivered by Fiona Gardiner, Acting Principal Solicitor, these sessions covered the role of the Chairman if an appeal was to be referred to a tribunal (as requested at the Annual Meeting in 2020). At the Annual Meeting on 30 June 2022, members present reviewed a case study and discussed how to manage different scenarios that could arise during an appeal.

4 Consultation, engagement and advice

- 4.1 At the Annual Meeting on 30 June 2022 members of the Appeals Panel had the opportunity to comment on a draft of this report and Appendix A.

5 Finance

- 5.1 Boards of Appeal are overseen jointly by Legal Services and Democratic Services. The manager who either heard the grievance, made the decision to dismiss or not to award school transport provision presents the management case to the Board of Appeal and is supported in this by an officer from Human Resources (as appropriate).
- 5.2 Any additional costs and resources as a consequence of upholding an appeal are currently managed within existing budgets. Upholding an appeal and giving transport assistance may mean that a coach, bus or rail pass is ordered or a specialist taxi/minibus with passenger assistant/escort is put in place. The costs of this are met through the home to school transport budget. In some cases the additional cost to the Council may be nil, such as when a coach is already running and there is a space available for the child. It should be noted that the cost implications of upholding an appeal do not form part of the Appeal Panel's consideration.

6 Risk implications and mitigations

- 6.1 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.

7 Policy alignment and compliance

- 7.1 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.
- 7.2 In relation to the Council's Climate Change obligations, the virtual hearing led to a reduction in travel.

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Appendices

Appendix A – Summary of Board of Appeal hearings

Background papers

None