

Leicester
City Council

WARDS AFFECTED
ALL

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
Cabinet

8 November 2004

Member Involvement in Operational Personnel Management

Report of the Town Clerk & Corporate Director of Resources, Access & Diversity

1. Purpose of Report

- 1.1 This report sets out proposals to devolve responsibility, for certain human resource appeals processes, from elected Members to senior officers.

2. Summary

- 2.1 In June 2004 members asked that a review of their involvement in operational personnel management processes, with the exception of Chief Officer appointments, Redundancy and Early Retirement Panels (above agreed financial thresholds), and the Employee Consultative Forum be undertaken.
- 2.2 Accordingly, Members have asked for proposals regarding future arrangements for the types of appeals described in Section 3 below.
- 2.3 This review provides an opportunity to reset the balance between elected Members' role in setting policy and the political direction of the Council; and their involvement in day to day operational management. The appeals processes in question are examples of operational resource management, more appropriately carried out by officers.

3. Recommendations

- 3.1 That appeals, presently heard by elected Members under the City Council's Disciplinary, Attendance Management, Capability, and Harassment and Discrimination Procedures, be heard by senior officers, as set out in Section 5 of the attached report.
- 3.2 That Grievance appeals, relating to the interpretation or application of one of the Schemes of conditions of service, be heard by senior officers, as set out in Section 5 of the attached report.
- 3.3 That appropriate notice of these changes be given to the workforce, prior to implementation.

3.4 That Guidelines for Managers should be issued to ensure consistency across the Council throughout the Appeals process.

3.5 That the Council be recommended to amend the scheme of delegation accordingly.

4. **Headline Financial and legal Implications**

4.1 **Financial Implications.** These proposals do not incur the cost of additional officer time. This is because appeals heard by elected Members are already supported by a Chief Officer adviser and a Personnel adviser. (Alison Mapp x7059).

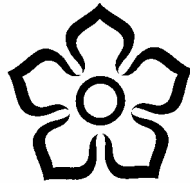
4.2 **Legal Implications.** The Dispute Resolution Regulations 2004 , which came into force on 1 October, require employers to deal with appeals without unreasonable delay. These proposals place the Council in a better position to fulfil this obligation. (Mark Noble x7411)

5 **Report Author/Officer to contact:**

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DECISION STATUS

Key Decision	Yes
Reason	Part of the policy and budget framework
Appeared in Forward Plan	No
Executive or Council Decision	Council



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8 November 2004

Member Involvement in Operational Personnel Management

SUPPORTING INFORMATION

1. Report

- 1.1 This report sets out proposals to devolve responsibility, for certain human resource appeals processes, from elected Members to senior officers.

2. Recommendations:

- 2.1 That appeals, presently heard by elected Members under the City Council's Disciplinary, Attendance Management, Capability, and Harassment and Discrimination Procedures, be heard by senior officers, as set out in Section 5 below.
- 2.2 That Grievance appeals, relating to the interpretation or application of one of the Schemes of conditions of service, be heard by senior officers, as set out in Section 5 below.
- 2.3 That appropriate notice of these changes be given to the workforce, prior to implementation.
- 2.4 That Guidelines for Managers should be issued to ensure consistency across the Council throughout the Appeals process.

2.5 That the Council be recommended to amend the scheme of delegation accordingly.

3. Background

3.1 In June 2004 members asked that a review of their involvement in operational personnel management processes, with the exception of Chief Officer appointments, Redundancy and Early Retirement Panels (above agreed financial thresholds), and the Employee Consultative Forum be undertaken.

3.2 Accordingly, Members have asked for proposals regarding future arrangements for the types of appeals described in Section 2 above.

4. Reasons for Change

4.1 This review provides an opportunity to reset the balance between elected Members' role in setting policy and the political direction of the Council; and their involvement in day to day operational management. The appeals processes in question are examples of operational resource management, more appropriately carried out by officers.

4.2 In the two year period August 2002 to July 2004, Members heard a total of eighteen appeals. Each appeal would have occupied three elected Members for a minimum of one day, together with a Chief Officer adviser and a Personnel adviser.

4.3 Due to pressures on Members' time, it has traditionally proven difficult to convene Member panels in a timely way. This has caused delays in hearing appeals. During the period August 2003 to July 2004, the time-lapse between lodging and hearing appeals ranged from 1.5 months to 6 months. The average period was 3.5 months.

4.4 These delays create stress for the appellant, which the Council should seek to avoid, as well as uncertainty for the department, which waits to manage the outcome of the appeal.

4.5 Such delays may invite criticism from the Employment Tribunal. The statutory Dispute Resolution Regulations 2004, which came into force on 1 October, require employers to deal with appeals without unreasonable delay. The Council's ability to fulfil this requirement may be compromised at present.

4.6 Members involvement in appointments is confined through regulations to that of Corporate and Service Directors, a consistent approach would be maintained if members were involved only at the same level for application of the procedures named in this report.

5. Officer Arrangements to hear Appeals

5.1 In place of elected Members, it is proposed that the appeals in question be heard by an appropriate senior officer, together with a Personnel Adviser.

- 5.2 The officer will have had no material involvement in the incidents which are the subject of appeal, and will be in a position to hear the matter impartially.
- 5.3 The Personnel adviser will assist the officer in conducting the appeal in a way that complies with procedures and other relevant standards (e.g. ACAS guidance).
- 5.4 Additionally, for appeals lodged by a complainant under the Harassment and Discrimination Procedure, the officer will also be advised by an equalities adviser appropriate to the nature of the complaint.
- 5.5 In keeping with the ACAS Code for disciplinary and grievance procedures, appeals will be dealt with by a more senior manager than attended the first hearing, where reasonably practicable.

6. Grievances Relating to Joint Agreements

- 6.1 Although it is proposed that officers hear grievance appeals relating to conditions of service, It is proposed that Members retain responsibility for hearing appeals which relate to issues of principle relating to joint agreements. This would be consistent with Members' stated preference to retain involvement in the Council's Employee Consultative Forum.
- 6.2 Such grievance appeals have wider ramifications for the Council (as opposed to conditions of service grievances, which typically concern an individual employee's belief that they have been treated incorrectly in relation to their terms and conditions of employment).
- 6.3 By remaining responsible for appeals relating to joint agreements, Members have the opportunity to determine a collective principle, and to resolve a disagreement before it might otherwise be referred onward to Regional level.

7. Stakeholder Consultation

- 7.1 These proposals have been developed following consultation with a number of relevant stakeholders.
- 7.2 Human Resource Managers have expressed support for the proposed changes. They feel the proposals support the balance between Member responsibility for policy; and officer responsibility for operational management.
- 7.3 Corporate Directors Board and Strategic Resources Group also support these proposals, as they clarify managers' responsibilities for managing employees' performance.
- 7.4 The recognised trade unions do not support the proposed changes. They have been consulted via a series of meetings, and their comments are summarised as follows:

- The appeals workload is not significant, and therefore Members should be able to make time to hear these without delay. The unions wonder if Members' experience/ability is a factor in the delays in setting up appeals panels, in which case training should be provided. In light of workloads, the unions are not convinced that officers will be able to hear appeals any more quickly than Members.
- Members are ultimately 'The Employer', yet in this capacity have very little contact with the workforce. The unions feel it is appropriate that an employee who has "reached the end of the line" should have direct access to Members. If officers were to hear appeals they would like the effectiveness of this to be reviewed after one year.
- Members are neutral and decide the outcome of appeals solely on the evidence given to them. The unions feel there will be a perception that officers will collude if given responsibility for hearing appeals, and deny the appellant a fair hearing.
- The unions point out that different norms exist in departments, in terms of the level of officer that deals with initial dismissals. They believe that this in turn will introduce inconsistencies in the level at which appeals will be heard. The unions feel that Member panels tend to be representative, and that this would be lost through officer appeals. If officers are to hear appeals, the unions believe this should be no lower than Corporate Director level. The unions would object to the use of consultants, other than to give specialist advice.
- The unions would support the continued role of Members in hearing grievance appeals relating to joint agreements, but only in the context of Members hearing all appeals.

8. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

8.1 Financial Implications.

8.1.1 These proposals do not incur the cost of additional officer time. This is because appeals heard by elected Members are already supported by a Chief Officer adviser and a Personnel adviser. (Mark Noble x7411)

8.2 Legal Implications

8.2.1 The Dispute Resolution Regulations 2004, which came into force on 1 October, require employers to deal with appeals without unreasonable delay. These proposals place the Council in a better position to fulfil this obligation. (Alison Mapp x7059).

9. Other Implications

Equal Opportunities Implications

9.1 The Council is committed to treating all members of its workforce fairly in matters relating to their employment. The appeals processes affected by these proposals will continue to be conducted in a way that ensures fairness.

OTHER IMPLICATIONS	YES/NO	Paragraph Within Supporting information	References
Equal Opportunities	NO		

Policy	NO	
Sustainable and Environmental	NO	
Crime and Disorder	NO	
Human Rights Act	NO	
Elderly/People on Low Income	NO	

7. Report Author

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