

Leicester  
City Council

WARDS AFFECTED  
ALL

**FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:**  
**REOPPS Scrutiny Committee**  
**Cabinet**  
**Council**

**22 September 2005**  
**30 January 2006**  
**30 March 2006**

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## **Member Involvement in Operational Personnel Management**

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### **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. Section 5 of the Supporting Information proposes an officer arrangement to hear appeals. This, together with the recommendations in section 3 below, has been prepared in consultation with the Cabinet Lead for Resources. Section 5 has been modified in acknowledgment of views expressed by REOPPS Scrutiny Committee in November 2004.
- 2.3 This review provides an opportunity to reset the balance between elected Members' role in setting policy; 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.
- 2.4 This report was deferred by Cabinet at their meeting of the 26<sup>th</sup> September. It is represented at today's meeting as requested.

### 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.
- 3.6 That the proposed appeal arrangements be reviewed one year after implementation.

### 4. Headline Financial and legal Implications

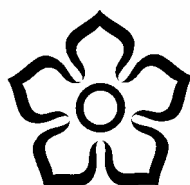
- 4.1 **Financial Implications.** None. (Mark Noble x 7411).
- 4.2 **Legal Implications.** The Dispute Resolution Regulations 2004, which came into force on 1 October, require employers to deal with appeals without unreasonable delay. These proposals place the Council in a better position to fulfil this obligation. (Alison Mapp x 7059).

### 5 Report Author/Officer to contact:

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### DECISION STATUS

<b>Key Decision</b>	No
<b>Reason</b>	Policy and Budget Framework
<b>Appeared in Forward Plan</b>	No
<b>Executive or Council Decision</b>	Council



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## **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.

2.6 That the proposed appeal arrangements be reviewed one year after implementation.

### **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.

3.3 This report was originally presented to Cabinet on the 28<sup>th</sup> September. It was deferred at the meeting and is represented at today's meeting as requested.

### **4. Reasons for Change**

4.1 This review provides an opportunity to reset the balance between elected Members' role in setting policy; 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 An unsuccessful appellant may then take their claim to the Employment Tribunal. At present, the Members' Personnel Adviser gives evidence to the Tribunal. This is unsatisfactory, as the Tribunal prefers to hear directly from the decision-maker (i.e. the Chair of the Appeal Committee). These proposals create a more satisfactory situation, whereby Officers would account for their own decision to the Tribunal.

- 4.7 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 two Service Directors, together with a Personnel Adviser. One of these Service Directors would be drawn from outside of the dismissing department. If the appellant is a former direct report of a Service Director, the Corporate Director would participate in the appeal. Such appeals panels will offer sufficient experience, objectivity, breadth of perspective and technical expertise to ensure a fair hearing. Furthermore, because such panels may have to account for their decision at the Employment Tribunal, this will provide a check and balance to ensure officer panels act to the standards required by the Council.
- 5.2 The officers 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 officers 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 officers will also be advised by an equalities adviser appropriate to the nature of the complaint.

## **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.
- 7.5 REOPPS Scrutiny Committee considered these proposals on 11 November 2004, and recommended that:
- i Members are kept involved in the appeals process
  - ii Meetings be scheduled for a year in advance and cancelled if they are not needed
  - iii Restrictions on who can sit on appeals be relaxed
  - iv Procedures be redrafted
  - v Restrictions on who can chair the meeting be removed, providing they have received appropriate training; and
  - vi The timescale from the start of an appeal to it being heard be shortened

- 7.6 In recognition of some of the points made by the trade unions and REOPPS Scrutiny Committee, the report now recommends the use of a second Service Director who will be from outside the department where the dismissal occurred. This is intended to ensure that the appeals process is seen to be objective. This, together with the maintenance of standards set out in the relevant Personnel procedures, the ACAS guidance, and the potential need to account to the Employment Tribunal, will ensure that appeals are conducted fairly and objectively.
- 7.7 The report also proposes a one year review of the officer appeal mechanism, as requested by the trade unions.

## **8. FINANCIAL, LEGAL AND OTHER IMPLICATIONS**

### **8.1 Financial Implications.**

8.1.1 None. (Mark Noble x 7411).

### **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 x 7059).

## **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**

Nim Rajagopalan /	Jay Webb
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