

GOVERNANCE (APPEALS) SUB-COMMITTEE

AGENDA

9.45am

Monday
28 November 2005

CEME
Marsh Way
Rainham

COUNCILLORS:

**Conservative Group
(2)**

Eric Munday (Chairman)
Roger Ramsey

**Residents' Group
(1)**

Ivor Cameron

**Labour Group
(1)**

Wilf Mills

For information about the meeting please contact:
Grant Söderberg (01708) 433091
e-mail grant.soderberg@havering.gov.uk



NOTES ABOUT THE MEETING

1. HEALTH AND SAFETY

The Council is committed to protecting the health and safety of everyone who attends meetings of its Committees.

At the beginning of the meeting, there will be an announcement about what you should do if there is an emergency during its course. **For your own safety and that of others at the meeting, please comply with any instructions given to you about evacuation of the building, or any other safety related matters.**

2. MOBILE COMMUNICATIONS DEVICES

Although mobile phones, pagers and other such devices are an essential part of many people's lives, their use during a meeting can be disruptive and a nuisance. Everyone attending is asked therefore to ensure that any device is switched to silent operation or switched off completely.

3. CONDUCT AT THE MEETING

Although members of the public are welcome to attend meetings of the Committee, they have no right to speak at them. Seating for the public is, however, limited and the Council cannot guarantee that everyone who wants to be present in the meeting room can be accommodated. When it is known in advance that there is likely to be particular public interest in an item the Council will endeavour to provide an overspill room in which, by use of television links, members of the public will be able to see and hear most of the proceedings.

The Chairman of the meeting has discretion, however, to invite members of the public to ask questions or to respond to points raised by Members. Those who wish to do that may find it helpful to advise the Committee Officer before the meeting so that the Chairman is aware that someone wishes to ask a question.

PLEASE REMEMBER THAT THE CHAIRMAN MAY REQUIRE ANYONE WHO ACTS IN A DISRUPTIVE MANNER TO LEAVE THE MEETING AND THAT THE MEETING MAY BE ADJOURNED IF NECESSARY WHILE THAT IS ARRANGED.

If you need to leave the meeting before its end, please remember that others present have the right to listen to the proceedings without disruption. Please leave quietly and do not engage others in conversation until you have left the meeting room.

AGENDA ITEMS**1 CHAIRMAN'S ANNOUNCEMENTS**

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

**2 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS
(if any) - receive.****3 PROCEDURE FOR CONDUCTING APPEALS HEARINGS (Attached)****4 EXCLUSION OF THE PUBLIC**

To consider whether the public should now be excluded from the remainder of the meeting on the grounds that it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public were present during those items there would be disclosure to them of exempt information within the meaning of paragraphs 8 and 9 of Schedule 12A to the Local Government Act 1972; and, if it is decided to exclude the public on those grounds, Cabinet to resolve accordingly on the motion of the Chairman.

5 TO CONSIDER THE CHIEF EXECUTIVE'S REPORT CONTAINING EXEMPT INFORMATION

Stephen Evans

Governance (Appeals) Sub-Committee - 28 November 2005

Chief Executive

Governance (Appeals) Sub-Committee - 28 November 2005

**GOVERNANCE (APPEALS)
SUB-COMMITTEE**

SUPPLEMENTARY AGENDA

28 November 2005

3A PROCEDURE FOR HEARING APPEALS – future appeals

This report supplements agenda item 3 circulated previously.

Stephen Evans
Chief Executive

Governance Committee, 20 September 2005



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REPORT OF THE CHIEF EXECUTIVE

SUBJECT: PROCEDURE FOR HEARING APPEALS

SUMMARY

The Council does not have a procedure that sets out the manner in which it considers appeals referred to this Sub-Committee. Set out here are proposals which are consistent with the procedures established for officer-chaired staff appeals.

RECOMMENDATIONS

1. That it be noted that the events outlined in paragraphs 1.1 to 1.4 have taken place in respect of the appeals before the Sub-Committee.
2. That the procedures set out in paragraphs 1.5 and 1.6 be adopted.
3. That the powers of the Sub-Committee as set out in paragraph 2 be noted.
4. That the appeal hearing procedure set out in paragraph 3 be adopted for the appeals brought before this meeting.

REPORT DETAIL

1. Preamble

- 1.1 An employee wishing to invoke this procedure must write to the Assistant Chief Executive (Human Resources) within ten working days of being notified of the decision against which s/he intends to appeal, stating the grounds of appeal.
- 1.2 When acknowledging receipt of the letter of appeal, the Assistant Chief Executive (Human Resources) will notify the Appellant of the date by which s/he must submit her/his case statement.
- 1.3 Upon receipt of the Appellant's case statement, this will be forwarded to the relevant Council officer to enable a response to be prepared to a notified deadline.
- 1.4 The papers for the Appeal Hearing should normally be despatched with the agenda for the meeting of the Appeals Panel, subject to the condition that the Appellant is entitled to receive the papers and the details of any witnesses at least three working days before the date of the Appeal Hearing.
- 1.5 The Appellant is entitled to be accompanied by a workplace colleague or her/his trade union representative.
- 1.6 The Assistant Chief Executive (Human Resources) or his representative shall attend all meetings of the Appeals Panel in an advisory capacity.

2. POWERS OF THE APPEALS SUB-COMMITTEE (From Governance Committee 20 September 2005)

- 2.1 Where an appeal under the auspices of the Managing Organisational Change and Redundancy Procedure is upheld, the matter shall be remitted to the Appointments Committee for appropriate action.
- 2.2 Where an appeal relating to added pension years is upheld, the Appeals Panel shall also determine the awarding of any additional years. In doing so, the Appeals Panel shall be advised by the Head of Exchequer Services or his representative on the Regulations and local policies that may affect an award.
- 2.3 The decisions of the Appeals Panel is final and there is no further right of appeal within the Council.

3. Appeal Procedure

- 3.1 The Chairman will confirm the presence of the parties to the Appeal and satisfy her/himself that the Appellant is aware of her/his right to be represented.
- 3.2 The Appellant shall present her/his case first and may call witnesses to give evidence, provided that at least 3 working days' notice has been given.
- 3.3 The Council Representative(s), the Appeals Panel and the Assistant Chief Executive (Human Resources) may ask questions of the Appellant and her/his witness(es).
- 3.4 The Council Representative(s) shall present a formal response to the Appeal and may also call witnesses to give evidence, provided that at least three working days' notice has been given.
- 3.5 The Appellant, the Appeals Panel and the Assistant Chief Executive (Human Resources) may ask questions of the Council Officer and her/his witness(es).
- 3.6 The Appellant and the Council Representative(s) shall have the opportunity to sum up their cases, with the Appellant having the right to speak last. No new or additional evidence may be submitted at this stage.
- 3.7 The Appellant and the Council Representative(s) shall withdraw whilst the Appeals Panel deliberates the merits of the appeal. The Assistant Chief Executive (Human Resources) shall remain in an advisory capacity.
- 3.8 The Appeals Panel shall be entitled to recall the parties to the Appeal to seek clarification or additional information. Both parties shall be recalled even if the point(s) at issue affect only one party.
- 3.9 The Appeals Panel shall notify the Appellant of its decision on the Appeal in writing within ten working days of the date by which it concluded its deliberations.

Financial Implications and Risks:

None arising directly, however the work to support this arrangement will need to be absorbed by reprioritising work and any financial matters arising from decisions will need to be met from existing budgets.

Legal Implications and Risks:

The procedure adopted by the Council must be fair and allow the appellant a reasonable opportunity to put his/her case and question the Council's case. The suggested rules should achieve that object. In reaching it's decision the panel must fairly consider & weigh the evidence presented to it and base it's decision on that evidence. The panel will have to explain it's reasoning for the decision reached. Failure to apply any of these could well lead to an adverse finding in any subsequent Employment Tribunal case.

Human Resources Implications and Risks:

For the purpose of these hearings, because of the prior involvement in matters under appeal at this meeting by the ACE Human Resources, arrangements have been made for HR advice to be the Sub-Committee to be provided by an external HR advisor..

Equalities and Social Inclusion implications:

The procedure adopted for hearing appeals by officers selected for redundancy must be applied in a consistent and non-discriminatory manner and must be free from any unlawful bias on the grounds of gender, race, disability or other material factor set out in the relevant employment and equalities legislation.

**Stephen Evans
Chief Executive**

**Staff Contact: David Ede, Assistant Chief Executive Human
Resources**
Telephone: 01708 432233

Background Papers

None.



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REPORT OF THE CHIEF EXECUTIVE

SUBJECT: PROCEDURE FOR HEARING APPEALS – future appeals

SUMMARY

This report supplements item 3 previously published and proposes that the processes and procedures due to be in place for this meeting (as set out in agenda item 3) be adopted for use in respect of any future appeals.

RECOMMENDATION

That the appeals procedures etc. set out in the Appendix be adopted for any future appeals.

APPENDIX

APPEALS PROCESSES AND PROCEDURES

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