

Non-Executive Report of the: General Purposes Committee 5 th July 2017	 TOWER HAMLETS
Report of: Zena Cooke, Corporate Director, Resources	Classification: Unrestricted
Employment Appeals	

Originating Officer(s)	Stuart Young, Interim HR, OD & Transformation Manager
Wards affected	(All Wards);

Summary

This report updates Members about progress towards hearing employment appeals and seeks to identify Panels to hear outstanding cases.

Recommendations:

The General Purposes Committee is recommended to:

1. Note the significant delay in hearing employment appeals
2. Agree Panel members to attend to hear outstanding appeals. To agree that a schedule of six employment appeal panels should be arranged for the municipal year 2017/18 and nominate Members to attend.
3. To receive a review of Employment Policies and Procedures later in this municipal year including arrangements for appeals.

1. REASONS FOR THE DECISIONS

- 1.1 Appeal hearings should be held in a timely manner and this report seeks to ensure that meeting dates are scheduled in advance to minimise the time taken to hear appeals.

2. ALTERNATIVE OPTIONS

- 2.1 The Committee could choose not to set hearing dates nor appoint members, but this would lead to further delays to appeal hearings, which is not in line with best practice.

3. DETAILS OF REPORT

- 3.1 The table below provides detail of the number and timescale for employment appeals over the last 3 years. The information demonstrates that Council performance on the timely arrangement of appeals is generally very poor and not in line with best practice. The Council has also been criticised at Employment Tribunal for the delay in completing its employment procedures and continues to incur risks as a result.

Appellant	Hearing Date	Appeal letter date	Days	Decision	ET submitted
a	15 June 2017	9 Oct 2016	246	Re-instated	No
b	13 June 2017	18 Nov 2016	192	Upheld	No
c	11 May 2017	29 April 2016	377	Adjourned	No
d	9 May 2017	9 August 2016	270	Upheld	Yes
e	29 March 2017	10 th Oct 2016	169	Upheld	Yes
f	15 Dec 2016	7 May 2016	217	Upheld	No
g	15 Nov 2016	6 June 2016	159	Upheld	Yes
h	9 Nov 2016	16 May 2016	173	Reinstated	No
i	25 Oct 2016	27 April 2016	181	Upheld	No

j	27 th Sept 2016 (adjourned from 27 April 2016)	23 Feb 2016	214	Upheld	Yes
k	23 August 2016	8 March 2016	165	Upheld	Yes
l	25 May 2016	1 March 2016	84	Re-instated	No
m	26 April 2016 (adjourned from 20 Oct 2015)	22 April 2015	369	Upheld	Yes
n	2 March 2016	10 Nov 2015	112	Upheld	No
o	24 Nov 2015	4 June 2015	170	Upheld	Yes
p	12 Nov 2015	3 July 2015	129	Reinstated	No
q	9 Nov 2015	20 May 2015	169	Upheld	No
r	2 Nov 2015	20 May 2015		withdrew	No
s	22 Oct 2015	16 May 2015	153	Upheld	No
t	19 Oct 2015	17 May 2015	152	Upheld	No
u	5 Oct 2015	7 May 2015	150	Reinstated	No
v	21 Sept 2015	29 Jan 2015	235	Upheld	No
w	26 Jan 2015	1 Dec 2014	N/A	Withdrew	No
x	8 Dec 2014 (adjourned from 12 May 2014)	12 Dec 2013	361	Reinstated	No

- 3.2 The table below identifies appeals awaiting a hearing. These also pose a risk and require Member panels to hear. Throughout the year further employment appeals will arise. Their timely organisation would benefit from scheduling panels in advance in the same way that committees are managed.

Directorate	Date of Dismissal	Appeal Rec'd	Days Outstanding	Planned Appeal Date
Place	04/04/16	07/06/2016	315	10/07/17 9.30 am
Place	21/12/16	12/01/2017	98	10/07/17 3.30 pm
Place	08/02/17	03/03/2017 resubmitted 04/04/17	50	
Place	06/03/17	28/03/2017	19	

- 3.3 There have been a number of lessons learnt from appeals over the last year. The Chair of GP Committee raised a list of issues which were used by the HR service to engage with managers and occupational health. Further, a review of employment procedures nears completion. Recommendations will be brought back to the Committee in this municipal year.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 There are no financial implications arising directly from this report

5. LEGAL COMMENTS

- 5.1 The primary risk to the Council of delay in the hearing of appeals against dismissal is the potential for an Employment Tribunal to consider that there has been a failure to follow the ACAS Code of Practice in respect of hearing an appeal within a reasonable time frame. Although not every dismissal leads to a claim and the circumstances of each case will be considered in determining what is reasonable, a finding that there has been an unreasonable failure to comply with the ACAS Code could lead to a potential uplift in any compensation ordered of up to 25%.
- 5.2 An employee may also seek to add additional claims or additional grounds of complaint in any existing Tribunal claim regarding any breach of procedure or failure to act within a reasonable timeframe (which could include claims of discrimination)

6. ONE TOWER HAMLETS CONSIDERATIONS

6.1 Appeal panels are constituted to be representative wherever possible. The appeal stages of any employment process serves as a check of procedural adherence.

7. BEST VALUE (BV) IMPLICATIONS

7.1 There are no best value implications arising directly from this report.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

8.1 There are no environmental issues arising directly from this report.

9. RISK MANAGEMENT IMPLICATIONS

9.1 The Council is incurring risk by delaying the hearing of employment appeals. Employment Tribunals take a dim view of such delays and may infer procedural irregularity thus weakening the Council's defence.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

10.1 There are no crime and disorder issues arising from this report.

Linked Reports, Appendices and Background Documents

Local Government Act, 1972 Section 100D (As amended) List of "Background Papers" used in the preparation of this report

List any background documents not already in the public domain including officer contact information.

- Exempt appeal report

Officer contact details for documents:

- Stuart Young, interim HR, OD & Transformation Manager, 020 7364 5918