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| Non-Executive Report of the: General Purposes Committee 12 October 2017 |  TOWER HAMLETS |
| Report of: Heather Daley, Divisional Director, Human Resources and Transformation | Classification: Unrestricted |
| Employment Appeals Against Dismissal to Members | |

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| Originating Officer(s) | Jacinta Gasson-Mulcahy Senior Manager Consultancy |
| Wards affected | (All Wards); |

Summary

This report updates Members about progress towards hearing outstanding employment appeals in the period July to mid-September.

It also follows the General Purposes Committee meeting of July this year where it was agreed to receive a review of Employment Policies and Procedures later in this municipal year including arrangements for appeals.

Recommendations:

The General Purposes Committee is recommended to:

1. Note the conclusion since 30 August 2017 of 4 outstanding employment appeal hearings; and the 3 still to convene based on the current employment procedures.
2. Note the arrangements agreed for a schedule of 3 further employment appeal panels for the municipal year 2017/18 and nominate Members to attend.
3. Agree a further 4 meetings to be held by 31 March 2018 to consider future appeals and ensure there is no further backlog.

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 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 In July this Committee was advised of the following appeals awaiting a hearing – the reason for dismissal has been added in italics:

| Directorate | Date of Dismissal | Appeal Rec'd | Days Outstanding | Planned Appeal Date |
|-------------|-------------------------------------|---------------------------------------|------------------|--|
| Place | 04/04/16 <i>Sickness</i> | 07/06/2016 | 315 | 10/07/17 9.30 am <i>Withdrew</i> |
| Place | 21/12/16 <i>Gross Misconduct</i> | 12/01/2017 | 98 | 10/07/17 3.30 pm Re-instated |
| Place | 08/02/17 <i>Sickness</i> | 03/03/2017 resubmitted 04/04/17 | 50 | 30/08/17 Upheld |
| Place | 06/03/17 <i>Gross Misconduct</i> | 28/03/2017 | 19 | 10/07/17 Upheld |

3.2 Since that report, 1 of these people withdrew their appeal and 4 hearings have been held which has now concluded all the cases above, plus one other which was omitted from the table (in error), which was a dismissal for gross misconduct.

3.3 There are 3 appeals against dismissal cases left to hear and dates have been set for the appeals panels to sit to consider these. These are:

| Directorate | Date of | Appeal Rec'd | Days | Planned |
|-------------|---------|--------------|------|---------|
|-------------|---------|--------------|------|---------|

| | Dismissal | | Outstanding | Appeal Date |
|------------|---|----------|--------------------|--------------------|
| Place | 13/07/16 <i>Gross Misconduct</i> | 20/07/16 | 398 | 20/11/2017 |
| Children's | 30/05/17 <i>Gross Misconduct</i> | 27/06/17 | 65 | 03/10/2017 |

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|------------|-----------------------------|----------|----|------------|
| Children's | 12/07/17 <i>Sickness</i> | 13/07/17 | 49 | 30/10/2017 |
|------------|-----------------------------|----------|----|------------|

3.3 The case which has been delayed for over a year; and that should have been on the list in the paper to General Purposes in July but was omitted in error; was delayed in the main as a result of the backlog of Member appeal hearings. It had been expected that the case would be heard earlier but when a date was eventually set the appellant was on leave. A number of appeals have taken between 6 months to a year to be heard; however this backlog should not continue if regular appeal hearing dates are scheduled in advance.

3.4 Currently there are no additional outstanding employment dismissal appeals; however there are 5 disciplinary cases to be held in the next couple of months which will be considering allegations of gross misconduct. Should any of these result in dismissal then there may be further appeals submitted.

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.
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Linked Reports, Appendices and Background Documents

- None

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:

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