

APPEALS COMMITTEE

Monday, 16 June 2014 at 7.30 p.m.

Committee Room 1, 1st Floor, Town Hall, Mulberry Place, 5 Clove
Crescent, London, E14 2BG

This meeting is open to the public to attend.

Members:

MEMBERSHIP TO BE APPOINTED AT ANNUAL COUNCIL ON 11 JUNE 2014

Deputies:

[The quorum for this body is 3 Members]

Contact for further enquiries:

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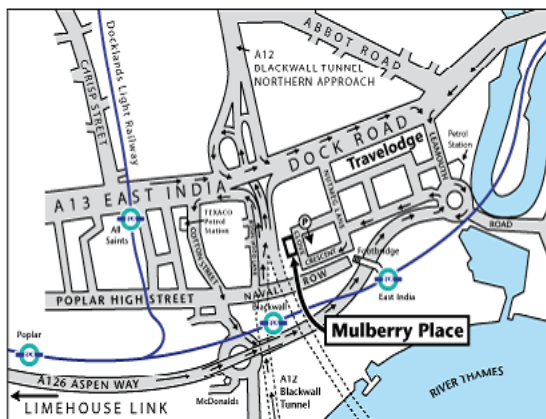
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APOLOGIES FOR ABSENCE

1. ELECTION OF VICE - CHAIR FOR THE MUNICIPAL YEAR 2014/2015

To elect a Vice-Chair of the Appeals Committee for the Municipal Year 2014/15.

2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS

1 - 4

To note any declarations of interest made by Members, including those restricting Members from voting on the questions detailed in Section 106 of the Local Government Finance Act, 1992.

See attached note from the Monitoring Officer.

3. MINUTES OF THE PREVIOUS MEETING

5 - 6

To confirm as a correct record the minutes of the meeting of the Appeals Committee held on 24th June 2013.

3.1 REPORTS FOR CONSIDERATION

3.2 Appeals Committee Terms of Reference, Membership and Quorum (AP/001/1415)

7 - 10

Recommendation:

To note the Terms of Reference, Membership and Quorum of the Appeals Committee.

3.3 Establishment of Employee Appeals Sub Committee (AP/002/1415)

11 - 20

Recommendation:

That the Appeals Committee establish an Employee Appeals Sub Committee for the municipal year 2014/15 with the attached terms of reference (Appendix A) and hearing structure.

4. ANY OTHER BUSINESS WHICH THE CHAIRS CONSIDERS TO BE URGENT

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Agenda Item 2

DECLARATIONS OF INTERESTS - NOTE FROM THE MONITORING OFFICER

This note is for guidance only. For further details please consult the Members' Code of Conduct at Part 5.1 of the Council's Constitution.

Please note that the question of whether a Member has an interest in any matter, and whether or not that interest is a Disclosable Pecuniary Interest, is for that Member to decide. Advice is available from officers as listed below but they cannot make the decision for the Member. If in doubt as to the nature of an interest it is advisable to seek advice **prior** to attending a meeting.

Interests and Disclosable Pecuniary Interests (DPIs)

You have an interest in any business of the authority where that business relates to or is likely to affect any of the persons, bodies or matters listed in section 4.1 (a) of the Code of Conduct; and might reasonably be regarded as affecting the well-being or financial position of yourself, a member of your family or a person with whom you have a close association, to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected.

You must notify the Monitoring Officer in writing of any such interest, for inclusion in the Register of Members' Interests which is available for public inspection and on the Council's Website.

Once you have recorded an interest in the Register, you are not then required to declare that interest at each meeting where the business is discussed, unless the interest is a Disclosable Pecuniary Interest (DPI).

A DPI is defined in Regulations as a pecuniary interest of any of the descriptions listed at **Appendix A** overleaf. Please note that a Member's DPIs include his/her own relevant interests and also those of his/her spouse or civil partner; or a person with whom the Member is living as husband and wife; or a person with whom the Member is living as if they were civil partners; if the Member is aware that that other person has the interest.

Effect of a Disclosable Pecuniary Interest on participation at meetings

Where you have a DPI in any business of the Council you must, unless you have obtained a dispensation from the authority's Monitoring Officer following consideration by the Dispensations Sub-Committee of the Standards Advisory Committee:-

- not seek to improperly influence a decision about that business; and
- not exercise executive functions in relation to that business.

If you are present at a meeting where that business is discussed, you must:-

- Disclose to the meeting the existence and nature of the interest at the start of the meeting or when the interest becomes apparent, if later; and
- Leave the room (including any public viewing area) for the duration of consideration and decision on the item and not seek to influence the debate or decision

When declaring a DPI, Members should specify the nature of the interest and the agenda item to which the interest relates. This procedure is designed to assist the public's understanding of the meeting and to enable a full record to be made in the minutes of the meeting.

Where you have a DPI in any business of the authority which is not included in the Member's register of interests and you attend a meeting of the authority at which the business is considered, in addition to disclosing the interest to that meeting, you must also within 28 days notify the Monitoring Officer of the interest for inclusion in the Register.

Further advice

For further advice please contact:-

Meic Sullivan-Gould, Monitoring Officer, 020 7364 4801; or

APPENDIX A: Definition of a Disclosable Pecuniary Interest

(Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, Reg 2 and Schedule)

Subject	Prescribed description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the election expenses of the Member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to the Member's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to the Member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

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LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE APPEALS COMMITTEE

HELD AT 7.30 P.M. ON MONDAY, 24 JUNE 2013

**COMMITTEE ROOM 1, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5
CLOVE CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Mizan Chaudhury
Councillor John Pierce
Councillor Gloria Thienel
Councillor Lesley Pavitt
Councillor Zara Davis

Officers Present:

David Galpin – (Head of Legal Services (Community), Legal Services, Chief Executive's)
Jacinta Gasson-Mulcahy – (Senior Manager – HR Consultancy)
Evelyn Akoto – (Committee Officer)

1. ELECTION OF VICE - CHAIR FOR THE MUNICIPAL YEAR 2013/2014

RESOLVED

That Councillor John Pierce be appointed Vice-Chair of the Appeals Committee for the remainder of the Municipal Year 2013/14.

2. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Bill Turner and Khales Uddin Ahmed.

3. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS

There were no declarations of disclosable pecuniary interests.

4. UNRESTRICTED MINUTES

RESOLVED

That the unrestricted minutes of the meeting of the Appeals Committee held on 21 June 2012 be agreed as a correct record.

5. REPORTS FOR CONSIDERATION**5.1 Appeals Committee Terms of Reference, Membership and Quorum (AP/001/1314)**

The Committee Officer presented the paper highlighting the important points in the report.

RESOLVED:

That the Terms of Reference, Membership and Quorum for the Appeals Committee, set out in appendices 1 and 2 to the report **(AP/001/1314)** be noted.

5.2 Establishment of Employee Appeals Sub Committee (AP/002/1314)

The Committee considered a report regarding the establishment of an Employee Appeals Sub Committee, its Terms of Reference and hearing structure.

Councillor Pavitt highlighted that it was agreed at the last Appeals Committee meeting on 21 June 2012, that start times for hearings be agreed in consultation with the Chair of the Panel.

RESOLVED:

That an Employee Appeals Sub Committee be established for the municipal year 2013/14 with the terms of reference and hearing structure as set out in the attachments to the report (AP/002/1314).

6. ANY OTHER BUSINESS WHICH THE CHAIRS CONSIDERS TO BE URGENT

There were none.

The meeting ended at 7.40 p.m.

Chair, Councillor Bill Turner
Appeals Committee

Agenda Item 3.2

Committee	Date	Classification	Report No.	Agenda Item No.
Appeals Committee	16 June 2014	Unrestricted	(AP/001/1415)	
Report of: Service Head, Democratic Services		Title : Appeals Committee Terms of Reference, Membership and Quorum		
Originating Officer(s) : Zoe Folley, Democratic Services		Ward(s) affected: N/A		

1. Summary

- 1.1 This report sets out the Terms of Reference, Quorum and Membership arrangements of the Appeals Committee for the Municipal Year 2014/15 for information.

2. Recommendation

- 2.1 To note the Terms of Reference and Quorum of the Appeals Committee and the Membership (to be appointed at the Annual General Meeting of Full Council on 11 June 2014).

3. Background

- 3.1 At the Annual General Meeting of the full Council, the Authority will approved the proportionality, establishment of the Committees and Panels of the Council and appointment of Members thereto.
- 3.2 It is traditional that following the Annual General Meeting of the Council at the start of the Municipal Year, that the various committees note their terms of reference, Membership and Quorum for the forthcoming Municipal Year.
- 3.3 The terms of reference and Quorum of the Appeals Committee are set out at Appendix 1 for information.
- 3.4 The Membership of the Committee will be appointed at the Council meeting on 11 June 2014 and will be circulated to the Committee after that meeting.

4. Comments of the Chief Financial Officer

There are no specific comments arising from the recommendations in the report.

5. Concurrent report of the Head of Legal Services

The information provided for the Committee to note is in line with the Council's Constitution and the resolutions made by the Council meeting on 11 June 2014.

6. One Tower Hamlets Considerations

There are no specific One Tower Hamlets considerations arising from the recommendation in the report.

7. Sustainable Action for a Greener Environment

There are no specific SAGE implications arising from the recommendations in the report.

8. Risk Management Implications

There are no specific Risk Management implications arising from the recommendations in the report.

9. Crime and Disorder Reduction Implications

There are no Crime and Disorder Reduction implications arising from the recommendations in the report.

**LOCAL GOVERNMENT ACT, 1972 SECTION 100D (AS AMENDED)
LIST OF "BACKGROUND PAPERS" USED IN THE PREPARATION OF THIS REPORT**

None.

APPENDIX 1

3.3.9 Appeals Committee

Membership: Nine Members of the Council. Up to three substitutes may be appointed for each Member	
Functions	Delegation of Functions
<p>To consider and determine any appeal in respect of any function for which the Council is responsible except where statutory arrangements exist or where the appeal function is delegated elsewhere in the Constitution including:</p> <p>Education awards appeals Appeals by governing bodies Appeals by employees under human resources procedures requiring a Member level decision Appeals in respect of refusals to register premises under the Marriage Act 1994 or the attachment of any condition to an approval. Appeals from a decision of the Human Resources Committee</p> <p>Or to agree the criteria for the establishment of Employee Appeals Sub-Committees and other Appeals Sub Committees as appropriate to be convened by the Director of Law, Probity and Governance for determination of the above appeals. Such Sub Committees to comprise a maximum of five Members of the Council with a quorum of three and as far as possible to reflect ethnicity and gender balance.</p>	No delegations
Quorum Three Members of the Committee	

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Agenda Item 3.3

COMMITTEE: Appeals Committee	DATE: 16 June 2014	CLASSIFICATION: Unrestricted	REPORT NO: (AP/002/1415)	AGENDA ITEM:
REPORT OF/ORIGINATING OFFICER(S): Service Head, Democratic Services		TITLE: Establishment of Employee Appeals Sub Committee Wards Affected: All		

1. SUMMARY

- 1.1 This report recommends the establishment by the Appeals Committee of an Employee Appeals Sub Committee, to discharge functions on its behalf.

2. RECOMMENDATIONS

That the Appeals Committee establish an Employee Appeals Sub Committee for the municipal year 2014/15 with the attached terms of reference (Appendix A) and hearing structure.

3. BACKGROUND

- 3.1 The Council's Constitution (Part 3 - Responsibility for Functions, Section 3.3 – Council and Statutory Bodies, Paragraph 3.3.9) makes provision for the Appeals Committee to agree the criteria for the establishment of Appeals Sub Committees to discharge functions on its behalf, and sets out the required membership and quorum thereof.
- 3.2 On 18th June 2007, the Appeals Committee authorised the Assistant Chief Executive to convene an Appeals Sub Committee, in accordance with the requirements of the Constitution, to determine any appeal in respect of any function for which the Council is responsible (except where statutory arrangements exist or where the appeal function is delegated elsewhere in the Constitution).
- 3.3 For appeals by employees under human resources procedures that require a Member-level decision, the Employee Appeals Sub-Committee comprises of an ad hoc panel for each appeal dependent on availability. This panel will include in each case a Chair and two other Councillors drawn from the Committee Members

and their appointed substitutes. Once appointed for a particular appeal, the membership of the Sub-Committee must remain the same throughout all stages of that appeal.

- 3.4 Members can only sit on an Appeals Sub – Committee if they have received annual training at this Council on policies and procedures relevant to the consideration and determination of the appeal which the sub – committee is charged.
- 3.3 The Terms of reference and membership arrangements for the Employee Appeals Sub-Committee are attached at Appendix A. Also attached is the Appeals hearing structure and the calendar of dates for the 2014/15 meetings of the Sub – Committee.
- 3.4 Meetings are scheduled to take place at 6.30pm in accordance with the programme of meetings for principal meetings.

4. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 4.1 There are no direct financial implications arising from this report. The costs of administering the Employee Appeals Sub-Committee and related training requirements will continue to be contained within existing budgets.

5. CONCURRENT REPORT OF THE HEAD OF LEGAL SERVICES

- 5.1 As the sub-committee acts in a quasi-judicial capacity it is imperative that all its proceedings are conducted strictly in accordance with the provisions of the law and the Council's Constitution in order to obviate any procedural challenge in the courts.

6. IMPLICATIONS FOR ONE TOWER HAMLETS

- 6.1 It is essential that in relation to appeals by employees under the authority's human resources procedures that best practice is adhered to in terms of equalities. As far as possible panels are appointed that are representative of gender and ethnic diversity; and Members must be fully equipped and trained to ensure that all relevant issues are given proper consideration.

7. ANTI POVERTY IMPLICATIONS

- 7.1 There are no immediate anti-poverty implications arising from this report.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT (SAGE)

8.1 There are no immediate SAGE implications arising from this report.

9. RISK ASSESSMENT

9.1 The proposals seek to minimise the risk to the authority both of any possible safeguarding failure in relation to children or vulnerable adults; and of adverse Employment Tribunal findings should the process for employee appeals not be sufficiently robust.

LOCAL GOVERNMENT ACT, 2000 (SECTION 97)

LIST OF “BACKGROUND PAPERS” USED IN THE PREPARATION OF THIS REPORT

Brief description of “background paper”

Name and telephone number of holder and address where open to inspection

None

EMPLOYEE APPEALS SUB-COMMITTEE

Terms of reference:

1. That the Appeals Committee establish an Employee Appeals Sub-Committee with the following terms of reference:-
 - To consider and determine appeals by employees under human resources procedures requiring a member level decision.

Membership:

2. That the membership of the Employee Appeals Sub-Committee comprise:-
 - 2.1 A panel of three members to be appointed by the Director of Law, Probity and Governance on an ad hoc basis for each employee appeal from a pool of all Members of the Appeals Committee or, should they be unavailable, their appointed substitutes.
 - 2.2 The first item of business at each Employee Appeals Sub-Committee shall be to appoint, from amongst the Sub-Committee Members, a Chair for the appeal hearing.
 - 2.3 The quorum for the Employee Appeals Sub-Committee shall be three Members.
 - 2.4 Members may serve on an Employee Appeals Sub-Committee panel only after they have received annual training at this Council on policies and procedures relevant to the consideration and determination of the appeal with which the Sub-Committee is charged.
 - 2.5 In the case of an appeal which gives rise to any issues relating to safeguarding of adults or children, no Member may sit on the Employee Appeals Sub-Committee to consider that appeal unless they have previously received training in safeguarding matters to the satisfaction of the Director of Law, Probity and Governance and the Corporate Director, Children Schools and Families or the Corporate Director, Adults Health and Wellbeing as appropriate.
 - 2.6 The Director of Law, Probity and Governance shall be authorised to convene meetings of the Employee Appeals Sub-Committee, established by the Appeals Committee, to discharge functions on its behalf, subject to the criteria set out in paragraphs 2.1 to 2.5 above.

APPEAL HEARING STRUCTURE

1. **Introduction of parties and explanation of structure.**
 - In attendance:
 - Members hearing the Appeal
 - Human Resources Adviser
 - Legal adviser to the Panel
 - Committee Clerk or other note taker
 - Manager presenting case.
 - Appellant
 - Appellant's Representative (only one representative will be allowed to attend the hearing and this may be a Trade Union Representative or a work colleague.
2. **APPELLANT'S CASE** will be put first using supportive evidence, documentation and witnesses.
3. **MEMBERS HEARING THE APPEAL** will ask any points regarding the Appellant's case, including questions to witnesses.
4. **THE MANAGER PRESENTING THE CASE may ask** points of clarification of Appellant or witnesses. If either side does not wish to check any points with the witnesses, they may leave the hearing at this stage.
5. **THE MANAGER** will then present his / her case, explaining why the original decision was considered appropriate.
6. **MEMBERS HEARING THE APPEAL MAY ASK** questions of the Manager and his / her witnesses.
7. **THE APPELLANT** (or his / her representative) may ask for points of clarification from the Manager or his / her witnesses.
8. **APPELLANT'S CONCLUDING REMARKS** (if any)
9. **MANAGER'S CONCLUDING REMARKS** (if any)
10. **AFTER AN ADJOURNMENT** if the Members are able to come to a decision within a reasonable timescale the Chair of the Sub Committee hearing the Appeal will give the decision. If the decision is likely to take some time the parties will be offered the option of being notified of the decision the following working day by the Human Resources Adviser. The decision will be confirmed in writing to the Appellant.

APPEALS UNDER THE DISCIPLINARY PROCEDURE

1. The function of the Appeal is to consider the evidence in the light of the submissions made by the Appellant, together with the Council's response and to decide upon the fairness and reasonableness of the decision. It is not a rehearing. It is a review process.
2. In reaching a decision, the Panel of Members should consider the following: -
 - (i) Has any new evidence been presented which was not heard by the Chair of the original Panel? New evidence will only be considered if it was not available to the deciding officer and is relevant to the matter.
 - (ii) Was the decision procedurally correct.
3. If the Appeal grounds are on procedural irregularities, the Panel must decide whether there were any such irregularities and, if so, whether these prejudiced the disciplinary decision to such an extent that a fair hearing was not possible.
4. Appeals against disciplinary action will only be considered on one or more of the following reasons:
 1. The PROCEDURE, - the grounds of appeal should detail how procedural irregularities prejudiced the disciplinary decision.
 2. The FACTS, - Failure to take account of material evidence.
 3. The DECISION, The decision did not justify the level of disciplinary sanction imposed. The Panel will decide if the decision was a decision a reasonable employer could reasonable make.

APPEALS UNDER THE SICKNESS PROCEDURE

APPEALS AGAINST DISMISSAL UNDER THE SICKNESS PROCEDURE:

THE STRUCTURE OF THE HEARING FOLLOWS THE DISCIPLINARY CODE.

THE GROUNDS FOR APPEAL ARE: -

1. That the medical opinion was wrong
2. That redeployment was a viable option
3. That having regard to operational requirements, financial constraints and personal circumstances, it would have been reasonable to allow a longer period to recover before a final decision was made.
4. That there were procedural irregularities by the Council in the operation of the scheme, and these irregularities prejudiced the case to such an extent that a fair hearing was not possible.

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APPENDIX 3

EMPLOYEE APPEALS SUB - COMMITTEE

SCHEDULE OF MEETING DATES 2014-15

- Monday 16 June 2014
- Monday 30 June 2014
- Monday 14 July 2014
- Monday 11 August 2014
- Monday 15 September 2014
- Monday 13 October 2014
- Monday 17 November 2014
- Monday 15 December 2014
- Monday 12 January 2015
- Monday 16 February 2015
- Monday 16 March 2015
- Monday 13 April 2015
- Monday 11 May 2015

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