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# NORTH AYRSHIRE COUNCIL

19 May 2020

## Emergency Governance Decisions (Covid-19 Outbreak)

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**Title:** Arrangements for Appeals against Dismissals

**Purpose:** To outline the interim arrangements for Appeals against Dismissal and gain approval from the Chief Executive to delegate powers.

**Recommendation:** That the Chief Executive, following appropriate consultation, agrees on behalf of the Council that:

- The interim arrangement for Appeals against Dismissals will be implemented.
- Delegated powers on decision making are given to the interim Panel, which will be chaired by the Head of Service with responsibility for Human Resources

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## 1. Executive Summary

- 1.1 The Covid-19 lockdown measures on social distancing continue, and as a result there is a requirement to make alternative arrangements to progress to outcome Appeals against Dismissal.
- 1.2 Appeals against Dismissal are normally heard by a panel of three Elected Members. This report proposes that Dismissal Appeals are, on an interim basis, considered by a panel chaired by the Head of Service with responsibility for Human Resources supported by the Senior Manager (Legal Services) and the Senior Manager (HR & OD). The panel would consider written submissions from the Service and the Appellant and determine an outcome.

## 2. Background

- 2.1 In light of the current Covid-19 outbreak, meetings of the Council and its committees have been suspended until 30 June 2020. During this period, the Scheme of Delegation to Officers already allows the Chief Executive to consider and deal with any urgent issues, howsoever arising, subject to reporting back to the Cabinet for information at the first available opportunity. This power is to be exercised in consultation with the relevant Chief Officer and the relevant portfolio holder. Please see Section 5 for further details of the consultation which has been undertaken in the preparation of this report.

- 2.2 The Appeals Committee – Any Appeals against Dismissal are considered by a panel of 3 Elected Members supported by a representative from Legal Services and Human Resources. This is a face-to-face panel which takes place in Cunninghame House. The Appellant normally attends with their Trade Union representative and provides a verbal submission as to the reason for their appeal. The Management Representative attends with an HR Adviser and provides a verbal submission on the reasoning for dismissal. Parties are then dismissed, and the panel of Elected Members consider the appeal outcome in private.
- 2.3 Consideration has been given to the use of technology by Elected Members for this activity, and it is recognised that the Council will need to have committees which allow for remote access, whether to deal with urgent regulatory business, or because certain Members are shielding, however, this is not yet sufficiently developed and tested. In the interim we need to have a solution which allows appeals to be determined, and to do this via written submissions to a panel of Senior Officer(s) who have had no previous involvement in the case ensures that the rules of natural justice can be complied with.
- 2.4 It is recommended that Officers are given delegated authority during the emergency to deal with all appeals which would otherwise be heard by the Appeals Committee. This would be subject to such appeals being determined by a panel chaired by Head of Service responsible for Human Resources) supported by the Senior Manager (Legal Services) and the Senior Manager (HR &OD). Where any of the parties have prior involvement in the case then an alternative would be sought. This will require to be reviewed on a case by case basis.
- 2.5 It is also recommended that power is given to determine such appeals by written submissions, providing all the rules of natural justice relating to fair hearings are complied with.

### **3. Proposals**

- 3.1 The Chief Executive, following appropriate consultation, is invited on behalf of the Council to:
- 3.2 Agree the interim arrangements for Appeals against Dismissals.
- 3.3 Agree delegated powers and decision making to the interim Panel, which will be chaired by the Head of Service with responsibility for Human Resources.

### **4. Implications/Socio-economic Duty**

#### **Financial**

- 4.1 None.

## **Human Resources**

- 4.2 Failure to deal with Appeals against Dismissal in a timely manner is important for the Council. It is also important for the well-being of the appellant to resolve as soon as possible.

Employment legislation provides that employees are entitled to appeal against dismissal and that they should have an opportunity for a fair hearing. The key components of this are fair notice of the case against them and the opportunity to state their case. Pre-COVID this was satisfied by a hearing with parties physically present. However, one which relies on written submissions is equally compliant with the rules of natural justice.

## **Legal**

- 4.3 These are detailed in the preceding paragraph.

## **Equality/Socio-economic**

- 4.4 None.

## **Environmental and Sustainability**

- 4.5 None.

## **Key Priorities**

- 4.6 Effective management of appeals is a key component of good governance and good employee relations. Accordingly, it supports the Council Plan priority of A Valued Workforce that delivers high quality services.

## **Community Wealth Building**

- 4.7 None.

## **5. Consultation**

- 5.1 Trade Unions have been consulted in the preparation of these interim arrangements which feed into this report and its recommendations.

- 5.2 Unison, Unite and GMB have all agreed these arrangements.

- 5.3 The EIS and SSTA require the proposals to be agreed at the LNCT. A report setting out these proposals will be considered at the LNCT on the 3<sup>rd</sup> June 2020. There are currently no appeals involving EIS or SSTA members to which the new procedure might apply. If approved at the LNCT any future appeals would fall into line with delegated powers.

- 5.2 Consultation has also been undertaken with Head of Democratic Services regarding Employment Law requirements.

Fiona Walker  
Head of Service (People & Transformation)

For further information please contact **Jackie Smillie, Senior Manager (HR & OD)**, on email: [jackiesmillie@north-ayrshire.gov.uk](mailto:jackiesmillie@north-ayrshire.gov.uk).

**Background Papers**

None