

Report to the Constitution and Members Services Standing Scrutiny Panel



Date of meeting: 25 September 2012  Epping Forest District Council

Subject: Staff Appeals Panel – Terms of Reference

Responsible Officer: Paula Maginnis (01992 564536)

Democratic Services Officer: Mark Jenkins (01992 564607)
Democratic Services Officer

Recommendations:

- (1) To consider amendments to the terms of reference of the Staff Appeals Panel (paragraph 2(a)) so as to delete references to appeals concerning re-grading, disciplinary action and redeployment;
- (2) To note that as a result of the changes recommended in (1) above, the Staff Appeals Panel will only have jurisdiction over appeals by staff against dismissal, including selection for redundancy or in connection with grievances, all remaining appeals being dealt with under existing management policies at officer level;
- (3) That the views of staff representatives and the Chairman of the Staff Appeals Panel be sought at this meeting before decisions are made; and
- (4) That, subject to (1)-(3) above, a report be submitted to the Council recommending that these changes be approved and published in the Constitution with any consequential amendments elsewhere in the Constitution delegated to the Assistant to the Chief Executive.

Report

1. Introduction

1.1 This report deals with the terms of reference of the Staff Appeals Panel and proposes changes in relation to its jurisdiction in respect of appeals by staff. In respect of re-grading appeals, these proposals derive from a recent review of the Council's job evaluation scheme (by which salaries applicable to staff posts or groups of posts are determined) and in particular the question of a staff member's right of appeal.

1.2 In addition, the report includes proposals for removing from the Panel's responsibilities some of the other staff appeals for which it is currently responsible. These

are brought forward as a result of advice sought from Counsel on these matters.

1.3 The proposals have been agreed by the Cabinet which has asked this Panel to review the terms of reference of the Staff Appeals Panel to ensure that they accord with the new policy.

2. Job Evaluation

2.1 The Job Evaluation Maintenance Policy and the Job Evaluation Appeals Procedure were introduced in 2003 following the implementation of the national Job Evaluation Scheme as part of the Single Status Agreement. Implementation of the Job Evaluation process is subject to a Collective Agreement that was agreed by management, the trade unions and Members.

2.2 In 2004, a Job Evaluation Maintenance Policy was discussed by the Joint Consultative Committee, which submitted recommendations to the Cabinet on 15 March 2004 for the adoption of the Scheme (including appeal arrangements). This policy was adopted. Since 2003, the Policy has stated that the employee has the right of appeal to an officer/trade union Appeal Panel and that the decision of the Appeals Panel is final.

2.3 No changes were sought for the Terms of Reference of the Staff Appeals Panel, which has since 1974 included responsibility for hearing staff appeals about re-grading. That responsibility has continued to be shown under the Panel's Terms of Reference.

2.4 Due to organisational changes the Job Evaluation Maintenance Policy became out of date and at JCC in January 2012 a number of amendments to this document, the Job Evaluation Maintenance Proforma and Additional Information Sheet were agreed.

2.5 It recently came to light that the Council's Constitution continued to include re-grading matters within the Terms of Reference for the member Staff Appeals Panel. Four posts, involving 7 members of staff (1 post was a benchmark post which covered 4 employees) appealed under these terms. Those appeals have been heard and concluded.

2.6 In response, concerns were raised by Unison's Regional Officer on the implementation of the Policy and specifically the Appeals Procedure. As a result both Unison and GMB representatives have withdrawn their support from the Job Evaluation process until matters are clarified.

2.7 Therefore the policies, guidelines, procedures and proformas relating to job evaluation were reviewed further by the Job Evaluation Panel and the proposed amendments have now been agreed by the Cabinet.

2.8 The Staff Appeals Panel has indicated that it does not wish to consider job evaluation matters in the future. The opinion of the Unison Regional Organiser is that job evaluation appeals should not be submitted to a member Appeals Panel.

2.9 The Council recently obtained legal advice on the Terms of Reference for the Staff Appeals Panel regarding Job Evaluation at the same time. Any amendment to the Terms of Reference for the Staff Appeals Panel will be a matter for consideration by the Constitution and Member Services Scrutiny Standing Panel.

2.10 Counsel's opinion on job evaluation can be summarised as follows:

- (a) the original job evaluation scheme precludes any appeal to the Staff Appeals Panel;
- (b) job evaluation reviews which were not part of the original process can be referred to the Staff Appeals panel;
- (c) notwithstanding (b) above, the Staff Appeals Panel is not an appropriate forum to hear such appeals since Members are not trained in or hold expertise in the Job Evaluation process, and a second avenue of appeal against job evaluation decisions is not required.

2.11 The local Unison Branch Secretary has informed the Council that until all matters of concern regarding the Job Evaluation Policy are resolved they will continue to withdraw their support from the process.

2.12 The Cabinet, in agreeing changes to the Job Evaluation Scheme has asked this Panel to look at the wording in the Constitution. It is for the Cabinet to determine its policy on job evaluation and to conduct employer/employee discussions through the Joint Consultative Committee.

3. Jurisdiction of the Staff Appeals Panel

3.1 As part of the review of the job evaluation scheme, Counsel was asked to give legal advice on the list of possible staff appeals shown in the Panel's terms of reference and whether it is preferable to rely on existing procedures managed at officer level to deal with these matters.

3.2 Paragraph 2(a) of those terms of reference state as follows:

"(a) The Panel shall be empowered to consider and determine appeals by employees of the Council for the following matters.

- (i) regrading;
- (ii) grievance;
- (iii) disciplinary;
- (iv) re-deployment;
- (v) redundancy; and
- (vi) dismissal.

3.3 Many Councils limit the involvement of member Panels to item (vi), relying on operational policies at officer level which have their own appeal mechanisms to deal with the other listed appeals. In response, Counsel advised as follows:

"13. There has been a suggestion that the remit of the Staff Appeal Panel be further limited, in the context of disciplinary decisions, to appeals against decisions which only involve dismissal.

14. This is a suggestion which has merit as it would ease the workload on member panels and would focus such panels on the most serious of cases leaving less serious disciplinary matters to be dealt with by those with managerial authority and experience. I do not think that the time and expense of arranging such a Panel is really justified when what is at issue is, for example, a written warning."

4. Grievances

3.4 Counsel was asked to clarify his views in relation to grievances. His view was that serious grievances (e.g. sexual or racial harassment for example) could be reserved to the Staff Appeals Panel whilst less serious cases could be dealt with at management level. However, Counsel pointed to the possibility of disputes arising over what constituted a "serious grievance" and took the view that the Council should either completely exclude grievance appeals or allow all to be dealt with by the Panel. Counsel advised that, on balance, all grievance appeals should, in his view, remain within the jurisdiction of the Staff Appeals Panel.

5. Consultees

4.1 As stated above the Cabinet has asked that staff union representatives and the

Chairman of the Staff Appeals Panel should attend this meeting to give their views on these Constitution changes. Appropriate invitations have therefore been extended.

Z:/CSS/BUREAU/C/CONSTITUTION AND MEMBERS SERVICES/2011/25 September 2012 - Staff Appeals Panel -
Terms of Reference