

Procedure for hearing and considering disputes

SUMMARY

- 1.1 The Disputes Resolution Committee was granted authority to consider disputes relating to Terms and Conditions of Employment by a decision of Council on 17 July 2013. While the committee was formally constituted and its composition agreed at this point, there have been no cases for it to consider during the intervening period.
- 1.2 The most recent case considered by an equivalent committee was in 2009, when a matter was heard by the Disputes Resolution Sub Committee, at that stage a sub-committee of the Personnel Committee.
- 1.3 As the procedure for considering disputes has not been agreed since the Personnel Committee agreed a process in 2008, and as this committee is no longer a sub-committee of Personnel Committee, an updated version of that procedure is now presented for consideration and approval.
- 1.4 The procedure has also been enhanced to denote events before and after the hearing, as well as including provisions for the meeting itself.

RECOMMENDATION

- 2.1 To approve the updated Dispute Procedure at Appendix 2.

REASONS FOR RECOMMENDATION

- 3.1 To bring the council's procedures up to date in advance of the recently raised dispute being considered.

OTHER OPTIONS CONSIDERED

- 5.1 While the existing procedure is useable, it would require assumptions to be made as certain posts detailed within it no longer exist. Updating the procedure, and taking the opportunity to include relevant information about processes before and after the meeting, is considered more appropriate.

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| IMPLICATIONS |
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Financial and Value for Money

1.1 None.

Legal

2.1 An up-to-date procedure ensures robustness of the decisions made by the committee.

Personnel

3.1 None.

IT

4.1 None.

Equalities Impact

5.1 None specifically relating to equalities in the sense of groups with protected characteristics, though the proposed procedure at Appendix 2 naturally seeks to ensure equality of opportunity for parties involved in a dispute.

Health and Safety

6.1 None.

Environmental Sustainability

7.1 None.

Property and Asset Management

8.1 None.

Risk Management

9.1 None.

Corporate objectives and priorities for change

10.1 Ensure procedures are up-to-date strengthens the governance of the committees affected by those procedures.

Dispute Procedure

Procedure for summoning of a Disputes Resolution Committee following a referral by the Chief Executive

Pre-hearing

1. An appropriate officer, such as the Appeals Panel Officer or another solicitor within the organisation who is not involved in the subject of the dispute, shall act as Clerk to the Disputes Resolution Committee.
2. The Clerk to Committee shall contact both parties in relation to the dispute, identifying the points which have been raised requiring determination by the committee and sharing this procedure.
3. An appropriate deadline will be set by the Clerk to the Committee by which point both parties must submit a statement of case for consideration by the committee.
4. The Clerk to the Committee shall receive both submissions and supply an agenda to all parties five clear working days before the date of the meeting.
5. Any communication or submission of information between either party and members of the committee shall take place through the Clerk to the Committee rather than directly.

Parties and evidence at the hearing

6. Parties present shall include:
 - The Disputes Resolution Committee (throughout)
 - The Clerk to the Disputes Resolution Committee (throughout)
 - A Democratic Services Officer, or equivalent, for the purpose of taking notes (throughout)
 - Representative(s) of the trade union (except during deliberation)
 - Representative(s) of the authority (except during deliberation)
 - Witnesses (only during submission of evidence and resultant questioning).
7. Written evidence considered will normally solely consist of paperwork submitted at paragraph 4 and shared with both parties in advance of the meeting.
8. In exceptional circumstances, such as where there has been insufficient notice of the meeting or where the committee request it, additional written evidence may be considered at the discretion of the committee.

The Hearing

9. The trade union will put its case in the presence of the council's representative(s), and may call witnesses.
10. The council's representative may question the trade union and witnesses.
11. Elected members may question the trade union and their witnesses.
12. The council's representative will put the authority's case in the presence of the trade union, and may call witnesses.
13. The trade union may question the council representative and witnesses.
14. Elected members may question the council representative and their witnesses.
15. Any witness will withdraw after they have given their evidence and been questioned by both sides and elected members. Either side may recall them, as may the committee should it wish to do so.
16. The trade union will then sum up their case.
17. The council's representative will then sum up the authority's case.
18. Both sides will retire.

Deliberation

19. The committee will deliberate in private, supported by the Clerk to the Committee and any officer tasked with taking notes and recording the decision.
20. Should any party be recalled at the committee's request, both sides must be given opportunity to return even if only one is concerned with the point in doubt.

Following deliberation

21. The decision shall be communicated in writing within five working days of the meeting.
22. In the event of either party wishing to communicate with members of the committee between the deliberation concluding and the decision being formally communicated in writing, such contact shall be made through the Clerk to the Dispute Resolution Committee, and not directly.