



## **Notice of a meeting of**

### **Corporate Appeals Panel**

**To:** Councillors Firth, Fraser and Galvin

**Date:** Friday, 12 December 2014

**Time:** 10.00 am

**Venue:** West Offices, Station Rise, York, YO1 6GA

### **AGENDA**

#### **1. Election of Chair**

To elect a Member to act as Chair of the meeting.

#### **2. Exclusion of Press and Public**

To consider excluding the public and press from the meeting during consideration of agenda item 5, as provided by paragraphs 1 and 2 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006.

#### **3. Declarations of Interest**

At this point, Members are asked to declare any:

- personal interests not included on the Register of Interests,
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

#### **4. Minutes (Pages 3 - 8)**

To approve and sign the minutes of the meeting held on 24 July 2014 and 21 August 2014.

## 5. Appeal Against Dismissal

To consider an appeal against dismissal under the Council's Attendance Management Policy and Procedure.

**a) Management Case** (Pages 9 - 126)

Papers in support of Management's case.

**b) Appellant's Case** (Pages 127 - 144)

Papers in support of the appellant's case.

Democracy Officers:

Name: Catherine Clarke and Louise Cook (job share)

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(If contacting us by e-mail, please send to both democracy officers named above)

For more information about any of the following please contact the Democracy Officers responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

**This information can be provided in your own language.**

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

**CITY OF YORK COUNCIL**  
**CORPORATE APPEAL PANEL**  
**(Dismissal appeal)**

**Procedure**

The procedure for the appeal will be as follows:

- The appellant and/or his/her representative and the Management (officer(s) appearing for the Council) are invited into the meeting.
- The Chair of the Panel will introduce all parties present and explain procedural matters.
- Management will present the Council's case and will call and question any supporting witnesses he/she considers necessary.
- Following the presentation of the Council's case, the Chair will invite the appellant/representative to put questions to Management/witnesses.
- The appellant or his/her representative will present his/her case and will call and question any supporting witnesses he/she considers necessary.
- Following the presentation of the appellant's case, the Chair will invite Management to put questions to the appellant or his/her representative/witnesses.
- Members will ask both parties to sum up (please note that no new evidence can be introduced at this stage)
- Members can ask questions of both parties at any stage during the appeal.
- Any party may call for a reasonable recess during the appeal hearing.

- Once the case for and against the appeal has been heard, the Chair will call for an adjournment for the panel to make their decision.
- Both parties will leave the room while Members, advised by Human Resources, make their decision.

### **Decision**

- Members will decide whether or not to uphold the decision to dismiss the appellant.
- The reasons for Members' decision will be recorded.
- The outcome of the appeal will be communicated in writing to all parties within five working days of the decision being made.

City of York Council		Committee Minutes
Meeting	Corporate Appeals Panel	
Date	24 July 2014	
Present	Councillors Fraser, Horton and Galvin	

#### **14. Election of Chair**

Resolved: That Councillor Fraser be elected to chair the meeting.

#### **15. Exclusion of Press and Public**

Resolved: That the press and public be excluded from the meeting during consideration of agenda item 4 (Appeal Against Dismissal) on the grounds that it contains information relating to an individual and information which is likely to reveal the identity of an individual. This information is classified as exempt under paragraphs 1 and 2 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006).

#### **16. Declarations of Interest**

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they may have in respect of business on this agenda. Councillor Fraser declared a personal interest as a retired member of UNISON and Unite (TGWU/ACTS sections).

#### **17. Appeals against Termination of Employment**

The Panel met to consider four appeals against termination of employment under the legal definition of 'Some Other Substantial Reason' and the offer of re-engagement on new terms and conditions of employment, following a formal review of the terms and conditions of employment of all staff employed under the 'Craft Terms & Conditions of Employment'.

The hearing was attended by the Assistant Director of Housing and Community Safety who presented the management case and an HR Business Partner to advise management. All four appellants were in attendance at the hearing and were supported by their respective GMB and Unite union representatives. A HR Business Partner was also in attendance to provide HR advice to the Panel.

The Panel felt that this was a collective dispute and expressed the opinion that all four appeals should be heard together. The Assistant Director of Housing and Community Safety stated that as the City of York Council did not have a policy/process for collective appeals, he understood that the correct course of action was to hear each appeal separately. The Unite representative advised he would prefer for the cases of his three appellants to be heard together. The GMB representative felt that his appellant's case was different to the other three and should be heard separately.

The Panel adjourned to take further advice on this matter from the HR advisor supporting Members and the council's solicitor. The HR advisor advised the Panel that as the council had not been able to pursue the resolution of the proposals as a collective agreement, they had had to consult with individual employees on their terms and conditions. The Council's Solicitor confirmed that as the appeals dealt with individual contracts of employment, only the employer and employee should be able to comment on the individual contract. Based on the advice provided, the Panel agreed to hear the common management case first with all appellants present followed by each case individually.

The Panel heard the common management case which was applicable to all four appellants with all appellants present. Each appellant was then invited into the meeting in turn and the Panel heard the management case specific to that appellant followed by the appellants case.

The Panel considered all the evidence provided in the agenda papers and verbally at the hearing by all parties, as well as some additional information which was presented on the first appellant's behalf at the hearing. No witnesses were called.

Resolved: That all four appeals not be upheld.

Reason: The Panel agreed that the decision taken by management was correct in each case as they considered that the

Council's policies and procedures had been fairly and correctly applied throughout the process.

Councillor Fraser, Chair

[The meeting started at 9.30 am and finished at 3.45 pm].

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Meeting	Corporate Appeals Panel
Date	21 August 2014
Present	Councillors Fraser, Horton and Galvin

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**18. Election of Chair**

Resolved: That Councillor Fraser be elected to Chair the meeting

**19. Exclusion of Press and Public**

Resolved: That the press and public be excluded from the meeting during consideration of agenda item 5 (Appeal against Dismissal) on the grounds that it contains information relating to an individual and information which is likely to reveal the identity of an individual. This information is classified as exempt under paragraphs 1 and 2 of Schedule 12A to Section 100A of the Local Government Act 1972, as revised by the Local Government (Access to Information) (Variation) Order 2006.

**20. Declarations of Interest**

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they may have in respect of business on this agenda. Councillor Fraser declared a personal interest as a retired member of UNISON and Unite (TGWU/ACTS sections).

**21. Minutes**

Resolved:

- (i) That the minutes of the following meetings of the Corporate Appeal Panel be approved and signed by the chair as a correct record.
- 9 May 2014
  - 23 May 2014
  - 27 June 2014

- 2 July 2014
- 11 July 2014

- (ii) That in relation to a previous appeal determined by the Corporate Appeals Panel on 24<sup>th</sup> July 2014, Members agreed to recommend to management that a collective joint dispute procedure be put in place.

## **22. Appeal against Dismissal**

The Panel considered an appeal against dismissal on the grounds of compulsory redundancy under the Council's Supporting Transformation (Management of Change) Policy resulting from the decision to delete the appellant's post as part of a service wide restructure.

The hearing was attended by the Assistant Director, Housing and Community Safety, who presented the management case and an HR Business Partner advising management. The appellant was in attendance at the hearing and was represented by the UNISON General Convenor and Equalities Officer. An HR Business Partner was also in attendance to provide HR advice to the Panel.

The Panel considered all the evidence provided in the agenda papers and verbally at the hearing by both parties, including two pieces of additional information which were presented at the meeting, one in support of management's case and one in support of the appellant's case. No witnesses were called.

The Panel noted that the decision to restructure was due to legitimate business reasons and the scope of the restructure was justified. They agreed that the post had legitimately been declared redundant. The Panel however recommended that continued efforts should be made by management to seek further suitable alternative employment, with reasonable adjustments if necessary, during the remainder of the appellant's notice period.

Resolved: That the appeal not be upheld.

Reason: The Panel agreed that the council's Supporting Transformation (Management of Change) Policy had been correctly followed throughout the process.

Councillor Fraser, Chair

[The meeting started at 10.00 am and finished at 6.00 pm].

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of the Local Government Act 1972.

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