

Notice of a public meeting of

Corporate Appeals Panel

To: Councillors Gillies, Gunnell and Reid

Date: Friday, 22 April 2016

Time: 10.00 am

Venue: The Craven Room - Ground Floor, West Offices (G048)

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 (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 amended by the Local Government (Access to Information) (Variation) Order 2006.

3. Minutes (Pages 3 - 6)

To approve and sign the minutes of the meetings held on 12 February and 8 April 2016.

4. 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.

5. Appeal against Dismissal

To consider an appeal against dismissal under the City of York Council Disciplinary Procedure.

a) Management Case (Pages 7 - 16)

Papers in support of management's case

b) Appellant's Case (Pages 17 - 30)

Papers in support of the appellant's case

c) Joint Supporting Papers (Pages 31 - 218)

Supporting papers relevant to both cases

Democracy Officers:

Name: Catherine Clarke and Louise Cook (job share)

Contact Details:

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- E-mail – catherine.clarke@york.gov.uk and louise.cook@york.gov.uk

(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

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CITY OF YORK COUNCIL
CORPORATE APPEALS PANEL
(Disciplinary Dismissals)

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.
- The Chair will invite the appellant/representative to confirm the reason(s) for the appeal.
- 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 asks 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 debate the case and decide which one or more of the four legal reasons for appeal are applicable.
- Depending on the reason for appeal, Members will decide whether the grounds for appeal are sustained and whether or not to uphold the original decision that the employee did commit a disciplinary offence.
- Members will decide whether or not to uphold the original penalty.
- The reasons for Members decisions 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	12 February 2016
Present	Councillors Galvin, Gunnell and Waller

16. Election of Chair

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

17. 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.

18. 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 disclosable pecuniary interests which they may have in respect of the business on the agenda. None were declared.

19. Minutes

Resolved: That the minutes of the meeting held on 16 October 2015 be approved and signed by the chair as a correct record.

20. Appeal Against Dismissal

The Panel considered an appeal against dismissal under the Council's Disciplinary Procedure.

The hearing was attended by the Assistant Director, Adult Social Care, who presented the management case and an Employee Relations Advisor advising management. The appellant was in attendance at the hearing and was accompanied by their Union representative. 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. They also took into account evidence provided at the hearing by one witness who was called in support of management's case.

Having considered all the available information and the mitigation presented by the appellant, the Panel agreed that the decision taken by management was fair, proportionate and within the band of reasonable responses. They noted that, in the absence of any reasonable mitigation, the normal penalty for gross misconduct was summary dismissal.

Resolved: That the appeal not be upheld.

Reason: The Panel felt that the decision taken by management to dismiss the appellant was fair and reasonable in all the circumstances of the case and in accordance with the Council's Disciplinary Procedure.

Councillor J Galvin, Chair

[The meeting started at 10.00 am and finished at 1.20 pm].

Meeting	Corporate Appeals Panel
Date	8 April 2016
Present	Councillors Galvin, Gunnell and Waller

21. Election of Chair

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

22. 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.

23. 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 disclosable pecuniary interests which they may have in respect of the business on the agenda. None were declared.

24. Appeal Against Dismissal

The Panel considered an appeal against dismissal under the City of York Council Attendance Management Policy and Procedure.

The hearing was attended by the manager who chaired the Final Formal Review Hearing, who presented the management case and an Employee Relations Advisor advising management. The appellant was in attendance at the hearing and was accompanied by their union representative. 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. They also considered some additional pieces of evidence which were presented at the hearing in support of the appellant's case which were accepted as additional evidence.

Having considered all the available information, the Panel concluded that the decision taken by management to terminate employment on the grounds of the employee's inability to attend work on a regular basis was reasonable in the circumstances of the case.

Resolved: That the appeal not be upheld.

Reason: The Panel felt that the decision taken by management to dismiss the appellant was fair and reasonable in all the circumstances of the case and in accordance with the Council's Attendance Management Policy and Procedure.

Councillor A Waller, Chair

[The meeting started at 10.00 am and finished at 12.00 pm].

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of the Local Government Act 1972.

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