

Committee: Establishment Committee	Date: 16 th September 2016
Subject: Staff Appeal Committee	Public
Report of: Joint report of the Comptroller and City Solicitor, the Director of Human Resources and the City Surveyor	For Decision

Summary

This report explains the current practices of the Staff Appeal Committee in relation to the notification of their decisions as requested by the Committee at its last meeting.

1. Recommendations

That the Committee consider the report and the suggested options and give such instructions to Officers and the Staff Appeal Committee as it considers appropriate.

2. The Staff Appeals Committee

The Establishment Committee's terms of reference include responsibility for the grievance, disciplinary, capability and appeal procedures for employees (and for making recommendations to Court in relation to the disciplinary process for statutory chief officers).

The Staff Appeal Committee, which comprises one member of the Establishment Committee as chairman, a chief officer and a deputy chief officer, is created by the Disciplinary and Appeals Procedures. It is a hybrid body, comprising as it does a member and officers, and not a committee in the technical local government sense. It is not therefore a sub-committee of the Establishment Committee.

All appeals against dismissal for posts graded I and J are heard by the Appeals Committee with those below Grade I having the option of an appeal to the Committee or a Chief Officer.

In simple terms the process involves both sides, the employee and management, submitting their case (grounds of appeal and management case) and supporting documents in advance of the hearing which is conducted on conventional lines i.e. presentation of case, calling of witnesses, questions by other party and summing up with the appellant going first.

As staffing matters are confidential appeal hearings are conducted in private (as the Committee is not a local government committee the access to information provisions of the Local Government Act 1972 are not engaged) and correspondence is limited to the parties, and where necessary the Establishment Committee.

3. Current Communication of Decisions

Decisions of the Staff Appeal Committee are communicated to the parties i.e. the management side and the member of staff orally and then followed up with a detailed

decision letter or alternatively, simply by a detailed decision letter where the Committee considers that to be appropriate. Decisions letters set out the detailed reasoning for the decision including appropriate findings of facts but they do not currently include a general summary of the facts or the cases presented by both parties. This is because they are intended for the parties to the proceedings only who are familiar with the opposing cases and expect to be able to get to the decision and the reasons for it quickly and easily.

However this approach means that non-participating members of the Establishment Committee cannot necessarily get a complete picture of the case from the decision letter alone, particularly in complex cases.

This has now become an issue because the Establishment Committee has in recent times asked for Staff Appeal Committee minutes and decision letters to be reported to it for information in order to ensure that elected members who may be called upon to chair the Staff Appeals Committee are familiar with its work etc. In this context therefore the decision letters and minutes are not designed to fulfil this secondary role that they are now being applied to.

4. Options for Change

Officers consider that there are two principal options for change, both of which would include the pairing down of the Staff Appeal Committee minutes to simply deal with the parties present, time the meeting was open and closed, brief description of the matter to be determined and the decision taken.

Option 1 – Including a “Case Summary” in the Decision Letter

Under this option the decision letter would be expanded to include a summary of the facts in dispute and both sides’ cases and would enable members to understand the background and facts and matters in dispute together with the decision and the reasons for it. The advantage of this approach is that there would be a single document which tells the whole story.

The disadvantages of this approach are firstly that it will lengthen the decision letter for the parties who are familiar with the facts in issue and who simply want to get straight to the decision and the reasons for it and secondly the summary will require careful drafting, and therefore more time and professional advice, in order to ensure that there can be no suggestion that the Committee has ignored relevant considerations in its summary of the facts in dispute. Nor, if simply reported to Establishment Committee in that form, will it be as effective a learning tool.

5. Option 2 – A Free Standing Report to Establishment Committee

Under this option Establishment Committee would receive a bespoke report on the case and its outcome, which would include any lessons to be learned by the Corporation to improve practices and procedures and to avoid pitfalls in the future. The parties would continue to receive a decision letter as now. The advantage of this approach is that it will be a more effective learning tool for the organisation and enable members to develop a shared understanding of approach by facilitating debate. It could also be used to drive any required improvement in management practices in Departments. It can also serve as an on-going case based review process for the Corporations engaged HR procedures.

It also avoids the disadvantages of Option 1 in allowing a tailored approach to informing members and participants who have different interests and responsibilities and it can tackle head on any difficulties encountered on a confidential and privileged basis..

The disadvantage of this approach is that in order to be effective it is likely to require more officer time to ensure that the exercise is a worthwhile one.

Where appropriate legal advice is being given in order to avoid or mitigate tribunal claims then legal professional privilege and/or litigation privilege will afford appropriate protection from disclosure in proceedings.

6. Conclusion

The current approach has evolved over time and involves documents prepared for one purpose being used for another with mixed results. Members are invited to consider how they wish to be informed as to the operation of the Staff Appeal Committee in future.

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