

APPEALS COMMITTEE

Agenda

Date Tuesday 29 October 2019

Time 2.00 pm

Venue Crompton Suite, Civic Centre, Oldham, West Street, Oldham, OL1 1NL

Notes 1. DECLARATIONS OF INTEREST- If a Member requires any advice on any item involving a possible declaration of interest which could affect his/her ability to speak and/or vote he/she is advised to contact Paul Entwistle or Sian Walter-Browne in advance of the meeting.

2. CONTACT OFFICER for this Agenda is Sian Walter-Browne Tel. 0161 770 5151 or email sian.walter-browne@oldham.gov.uk

4. FILMING - The Council, members of the public and the press may record / film / photograph or broadcast this meeting when the public and the press are not lawfully excluded. Any member of the public who attends a meeting and objects to being filmed should advise the Constitutional Services Officer who will instruct that they are not included in the filming.

Please note that anyone using recording equipment both audio and visual will not be permitted to leave the equipment in the room where a private meeting is held.

Recording and reporting the Council's meetings is subject to the law including the law of defamation, the Human Rights Act, the Data Protection Act and the law on public order offences.

MEMBERSHIP OF THE APPEALS COMMITTEE IS AS FOLLOWS:
Councillors C. Gloster, Harrison and Taylor

Item No

1 Election of Chair

The Panel is asked to elect a Chair for the duration of the meeting.

2 Apologies For Absence

3 Urgent Business

Urgent business, if any, introduced by the Chair

4 Declarations of Interest

To Receive Declarations of Interest in any Contract or matter to be discussed at the meeting.

5 Dismissal Appeal Procedure (Pages 1 - 2)

6 Exclusion of the Press and Public

That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they contain exempt information under paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, and it would not, on balance, be in the public interest to disclose the reports.

7 Exclusion Appeal (Pages 3 - 122)

Procedure in Appeals Against Dismissal

1. Preamble

- 1.1 Appeals against dismissal will be heard by a Panel of three Members, one of whom will act as Chair and who will have a casting vote.
- 1.2 The Appellant must have set out their reasons for appeal beforehand. This will dictate the extent to which the Panel **review** the decision to dismiss. At this stage new grounds for appeal would not normally be allowed unless there are exceptional circumstances not known when the appeal was submitted.
- 1.3 The purpose of the Appeal Hearing is to:
 - i Assess the grounds for appeal as presented by the Appellant or their representative, together with the case which will normally be presented by the dismissing officer.

And

 - ii Judge the fairness of the original decision in the light of all the available evidence, having regard to equity and the substantial merits of the case i.e. be fair in all the circumstances.
- 1.4 Any documentation to be presented at the hearing will be copied to each member and party at least 5 working days before the hearing. Where exceptionally, additional evidence comes to light after this time and it is wished to be presented to the appeal, this must be shared with all parties at the earliest opportunity and proper time allowed for consideration by the other party and the panel. This may result in the appeal being delayed or re-scheduled.
- 1.5 The Panel will have the option of requesting reading time before the start of the hearing.
- 1.6 Witnesses will not be permitted to remain in the room after evidence submission and questioning unless circumstances dictate otherwise.
- 1.7 In the event the employee or their representative do not show for the hearing, the chair will make the decision, with advice from the advisor whether to go ahead in their absence or to postpone.
- 1.8 The Chair will control the procedure with the advice and assistance of the advisor who will normally be a People Services Business Partner.
- 1.9 The Chair will ensure that the procedure is followed, and the evidence presented is relevant.
- 1.10 The Chair will make it clear that the decision of the Panel is final.
- 1.11 The Panel may adjourn at any point in the proceedings.
- 1.12 There will be a full review of the decision to dismiss and any evidence which was not before the dismissing officer but which is relevant to the dismissal will be taken into account.

- 1.13 The Panel has the power to overturn or reduce a decision, or to return it to the dismissing officer, in exceptional circumstances where significant new and relevant evidence has come to light which would require further investigation and /or a re-hearing.
- 1.14 In coming to a decision the Panel must decide on the basis of what a reasonable employer with knowledge of those facts and properly advised in law would have done.
- 1.15 The standard of proof with regard to the facts of the case is the civil standard, 'on the balance of probabilities', that is, 'more likely than not' that the allegation is proven.

2. Order of Presentation

- 2.1 The Chair introduces the participants and outlines the procedure to be used.
- 2.2 The Appellant/their representative presents the case for the Appellant who may present documentary evidence and call witnesses who may be questioned in the following order:
- (a) By the Appellant/their representative
 - (b) By the dismissing officer/management representative
 - (c) By the Panel and Advisor
 - (d) The dismissing officer/management representative has the right to re-examination
- 2.3 The dismissing officer/management representative presents the management case and may present documentary evidence and call witnesses who may be questioned in the following order:
- (a) By the dismissing officer/management representative
 - (b) By the Appellant/their representative
 - (c) By the Panel and Advisor
 - (d) The Appellant/representative has the right to re-examination
- 2.4 The dismissing officer/management representative summarises the case for management.
- 2.5 The Appellant/representative summarises the case for the Appellant.
- 2.6 The Chair requests the parties to withdraw but may call upon either party in the presence of the other to clarify a point.
- 2.7 Having clarified all points both parties will be given permission to leave.
- 2.8 The decision will be confirmed in writing to both parties with reasons as soon as is reasonably practical, but in any event within 5 working days of the close of the hearing.

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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