

EAST RENFREWSHIRE COUNCIL26 June 2024Report by Director of Business Operations and PartnershipsCHANGE TO SCHEME OF ADMINISTRATION  
APPEALS COMMITTEE MEMBERSHIP**PURPOSE OF REPORT**

1. To amend the Scheme of Administration to provide for increased membership of the Appeals Committee to ensure that final determination of disciplinary appeals may take place within an appropriate timeframe.

**RECOMMENDATION**

2. The Council is asked to amend paragraph 2 of the Scheme of Administration to change the membership of the Appeals Committee from “5 Elected Members” to “All Elected Members save for, in any given case, those members holding convenerships reflective of the service to which the appellant belongs or belonged prior to dismissal”.

**BACKGROUND**

3. The Appeals Committee is established in terms of the Council’s Scheme of Administration to hear appeals against certain disciplinary sanctions (final written warnings and dismissals) and forms the Council’s last internal consideration of a disciplinary case. Membership currently comprises a pool of 5 elected members from which 3 are required to ensure that the committee are quorate on any given sitting. Members on the committee fulfil a quasi-judicial role and are not involved in the development of policy.

4. The Council is expected to address conduct issues in a fair and reasonable procedural manner and this includes an expectation that disciplinary processes will be conducted without undue delay. As the final internal consideration of a disciplinary matter, the Appeals Committee is expected to sit within a reasonable timeframe of the appeal being received. A failure to do so can give rise to adverse findings or critical comment if the matter ultimately proceeds to Tribunal.

**REPORT**

5. Over the preceding two years the Council has seen a rise in the number of appeals against disciplinary sanction which require to be adjudicated by the Appeals committee. This has placed some pressure on officers of Democratic Services in identifying suitable dates for hearings which accommodate the availability of all parties concerned including appellants and their representatives, witnesses and committee members. In some cases, hearings have required to be delayed for periods of up to 3 months. While the availability of members is not the unique cause of this delay it is a relevant factor.

6. To minimise the potential for delay in such proceedings it is proposed that the pool from which committee members are drawn is extended to encompass all elected members. It is not proposed to change the quorum for any such committee meeting and it is therefore considered that this will provide staff of Democratic Services with greater flexibility in scheduling hearings as the likelihood of finding sufficient numbers of available members will be enhanced.

7. Training in relevant employment matters will be provided to all elected members to ensure that they have relevant knowledge prior to sitting on the Committee.

8. The fairness of a disciplinary sanction can also be affected by any suggestion of bias or partiality. With an increase in the membership pool, there will be greater flexibility to ensure that committee members are sufficiently removed from any perceived conflicts of interest such that employees pursuing Employment Tribunal claims cannot suggest that this was a factor in their dismissal. It is therefore also proposed that conveners of services are excluded from sitting in respect of any appeals for officers employed or formerly employed within those services.

## **FINANCE AND EFFICIENCY**

9. There are no financial implications arising from the proposal. Training of members will be accommodated within existing training provision.

## **CONSULTATION**

10. The report has been discussed with the Director of Business Operations and Partnerships, the Head of Human Resources and Corporate Services and the Democratic Services Manager.

## **CONCLUSION**

11. Approval of the proposed change will enhance the likelihood that hearings will take place within shorter timeframes and so minimise the potential for adverse Tribunal findings or negative comment regarding the Council's actions. Potential challenge to any decisions of the committee on the basis of bias will also be diminished. It will also reduce the period during which Appellants face stress and uncertainty pending their appeals being determined.

## **RECOMMENDATION**

12. The Council is asked to amend paragraph 2 of the Scheme of Administration to change the membership of the Appeals Committee from "5 Elected Members" to "All Elected Members save for, in any given case, those members holding convenerships reflective of the service to which the appellant belongs or belonged prior to dismissal".

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Background papers – none