

MAIDSTONE BOROUGH COUNCIL

STANDARDS COMMITTEE

REPORT OF THE MEETING HELD ON 2 SEPTEMBER 2009

PRESENT: Councillors J Batt, Mrs W Hinder, D Marchant,
J Verrall and B Vizzard

Independent Members: Mr D Wright (Chairman),
Mrs D Phillips and Mr M Powis

**Parish Council
Representatives:** Councillor B Stead

Also Present: Councillor Garland

Apologies: Councillors Mrs A Rollinson and
I Younger (Parish Council
Representatives)

1. **HUMAN RESOURCES POLICY – DISCIPLINE, CAPABILITY AND GRIEVANCE
PROCEDURES**

The Committee was asked to evaluate a proposal by the Employment and Development Panel that the Constitution be amended to reflect changes in the role of the Appeals Committee/Employment and Development Panel and the Chief Executive following the revision of the Council's Grievance, Capability and Disciplinary Procedures.

It was noted that there had been a change in employment law with the implementation of the Employment Act 2008 in April 2009. Prior to the implementation of the Act, although employees needed to raise a claim with an Employment Tribunal within three months of dismissal, the time period was almost automatically extended. However, the Act would restrict the ability of employees to have the time extended for appeal to an Employment Tribunal. Councils were, therefore, reviewing their existing processes to ensure that their policies and procedures did not impact on the employment rights of staff. The Council's dismissal appeal process had been established several years ago and required an Appeals Committee to be set up to hear the appeal. From past experience, the time taken between the decision to dismiss and the date of the appeal ranged from eight weeks to fourteen weeks. In order to achieve much shorter timeframes and to be consistent with best practice, it was proposed that the Chief Executive as the Head of the Paid Service should hear appeals in consultation with the Leader of the Council and the Leader of the Opposition (or their nominated representatives) who would attend the appeal hearing. This necessitated the deletion of paragraph (a) of the functions of the Appeals Committee as set out in Part 3 of the Constitution and the amendment of the terms of reference of the Chief Executive.

The Officers suggested that, in addition to evaluating these proposed amendments, the Committee should consider making a comment in relation to appeals against decisions taken by or about the Chief Executive under the Disciplinary, Grievance or Capability Procedures whereby the appeals would be heard and determined by a Member Panel which would be a three person Sub-Committee of the Employment and Development Panel. This would necessitate the addition of a further paragraph (f) to the functions of the Employment and Development Panel as set out in Part 3 of the Constitution.

The relevant sections of the Constitution (as existing) are attached as an Appendix to this report.

In principle, the Committee supported the proposed amendments to the Constitution believing that their implementation would help to ensure that the aims and principles of the Constitution were given full effect by facilitating more efficient and effective decision making. However, the Committee felt that the wording of the paragraph which it was proposed to add to the terms of reference of the Chief Executive should be amended as follows:-

“To hear and determine appeals, in consultation with the Leader of the Council and the Leader of the Opposition (or their nominated representatives) who will attend the appeal hearing, under the Grievance, Capability or Disciplinary (Level 4) Procedures for all categories of employees except those staff on JNC Conditions of Service for Chief Officers of Local Authorities.”

RECOMMENDED:

That the Constitution be amended as follows to reflect changes in the role of the Appeals Committee/Employment and Development Panel and the Chief Executive following the revision of the Council’s Grievance, Capability and Disciplinary Procedures:-

(a) The deletion of paragraph (a) of the functions of the Appeals Committee as set out in Part 3 of the Constitution.

(b) The addition of the following paragraph to the terms of reference of the Chief Executive:-

“To hear and determine appeals, in consultation with the Leader of the Council and the Leader of the Opposition (or their nominated representatives) who will attend the appeal hearing, under the Grievance, Capability or Disciplinary (Level 4) Procedures for all categories of employees except those staff on JNC Conditions of Service for Chief Officers of Local Authorities.”

(c) The addition of the following to the functions of the Employment and Development Panel as set out in Part 3 of the Constitution:-

COMMITTEE AND MEMBERSHIP	FUNCTIONS	DELEGATION OF FUNCTIONS
Employment and Development Panel	f) To hear and determine appeals against decisions taken by or about the Chief Executive under the disciplinary, grievance or capability procedures.	Sub-Committee comprising 3 Members.