

## **BARNSLEY METROPOLITAN BOROUGH COUNCIL**

**This matter is not a Key Decision within the Council's definition and has not been included in the relevant Forward Plan.**

### **Report of the Director of Human Resources, Performance and Communications**

#### **Proposed Changes to the Appeals against Dismissal Procedure**

#### **1. Purpose of Report**

- 1.1 The purpose of this report is to seek Member approval to change the current procedure for appeals against dismissal from employment.

#### **2. Recommendations**

- 2.1 **It is recommended that with effect from 1 October 2015, the requirement for appeals against dismissal to be heard by a panel of Elected Members should cease.**
- 2.2 **It is recommended that with effect from 1 October 2015, appeals against dismissal from employment should be heard by a panel of officers consisting of the Director of Legal and Governance; the Director of Human Resources, Performance and Communications, together with an Executive Director who has no prior involvement with the appeal being considered.**
- 2.3 **Appeals against the dismissal of the Chief Executive Officer, Monitoring Officer or Section 151 Officer are dealt with in accordance with The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.**

#### **3. Introduction**

- 3.1 The Council's Constitution at Section (1) Page 16 – Appeals, Awards and Standards Regulatory Board (b) states that "...the Board will deal with appeals relating to the discipline of staff but only in cases of appeals against dismissal, or in such other cases as may be delegated to it from time to time....."
- 3.2 In essence, this position has been unchanged since 1974 despite the significant transformation that has taken place across the Council in terms of modernisation, including our governance arrangements.

- 3.3 The current scale, scope and complexity of employment and other European and sovereign legislation around employment can result in these cases taking months/ years to conclude and the weight of detailed evidence together with the need to have at least a rudimentary knowledge of the legislation can be challenging for decision makers who are not routinely dealing with these matters.
- 3.4 Members of any appeals panel are drawn from the Appeals, Awards and Standards Regulatory Board, appointed by Annual Council. Essentially for appeals against dismissal the determining factors are achieving political proportionality, and then the availability of Members.
- 3.5 Whilst it is possible to train Members in the Council's policies and procedures, it is not possible to give Members who do not operate in this field, the background knowledge of all of the different pieces of legislation that comes into play when determining whether the dismissal is fair or unfair.
- 3.6 Notwithstanding that the appeal panels are clerked by the Director of Legal and Governance, or his representative, it is ultimately the decision of Members as to whether to uphold the dismissal or not and that decision to a great extent creates precedent for future cases of a similar nature.

#### **4. Consideration of Alternative Approaches**

- 4.1 There are in essence 3 approaches;
- 4.1.1 Do nothing and leave all appeals against dismissal with Members.
- 4.1.2 Amend the Constitution of the Council transferring the responsibility for all appeals against dismissals from Members to a panel of officers (Recommended Option).**
- 4.1.3 Amend the Constitution of the Council, transferring the responsibility for appeals against dismissal on the grounds of Ill-health and Performance in Employment to a panel of officers and leave the appeals against dismissal on the grounds of conduct with Members.

#### **5. Proposal and Justification**

- 5.1 It is recommended that with effect from 1 October 2015 all appeals against dismissal from employment should be considered by an officer panel consisting of the Director of Legal and Governance; the Director of Human Resources, Performance and Communication, together with an Executive Director who is independent of the case under consideration.

5.2 Other authorities from the region have already moved away from Member to Officer appeal panels, i.e.

- Doncaster
- Harrogate
- Kirklees
- Wakefield
- East Riding
- Hambleton
- Leeds
- Selby

With many others currently considering their position.

## **6. Impacts on Local People**

6.1 None directly arising from this report.

## **7. Financial Implications**

7.1 None directly arising from this report.

## **8. Employee Implications**

8.1 Having a standing panel of highly trained and experienced officers should ensure consistency of approach and decision making, leading to a robust but fair process for considering appeals.

## **9. Communication Implications**

9.1 None directly arising from this report.

## **10. Consultations**

10.1 Consultations have taken place with the Senior Leadership Team who endorse the proposal.

10.2 Discussions have taken place with the Trade Unions who do not support the proposal.

10.3 The Director of Human Resources, Performance and Communications has consulted the Secretary of the Local Government Yorkshire & Humberside, who has confirmed that across the region there are authorities who no longer have Members involved in appeals against dismissal as described at 5.2.

## **11. The Corporate Plan and the Council's Performance Management Framework**

11.1 None directly arising from this report.

## **12. Tackling Health Inequalities**

12.1 None directly arising from this report.

**13. Climate Change & Sustainable Energy Act 2006**

13.1 None directly arising from this report.

**14. Risk Management Issues**

14.1 None directly arising from this report.

**15. Health, Safety and Emergency Resilience Issues**

15.1 None directly arising from this report.

**16. Compatibility with the European Convention on Human Rights**

16.1 This proposal supports the ethos of Article 6 and directly supports Article 8.

**17. Promoting Equality, Diversity and Social Inclusion**

17.1 This proposal supports the principles of equality, fairness and transparency.

**18. Reduction of Crime and Disorder**

18.1 None directly arising from this report.

**19. Conservation of Biodiversity**

19.1 None directly arising from this report.

**20. Glossary**

20.1 Not applicable.

**21. List of Appendices**

21.1 None.

**22. Background Papers**

22.1 Background papers are available from Julia Bell, Director, Human Resources, Performance and Communications.

**Officer Contact: Julia Bell Telephone No: 773304 Date: July 2015**

Financial Implications / Consultation ..... Date: .....

Consultations have taken place with representatives of the Executive Director, Finance